IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION AT RANCHI

Miscellaneous Petition No. 02 of 2026 along with Case (Tariff) No. 07 & 08 of 2022

Damodar Valley Corporation (DVC)…… ………………………………Petitioner

Vrs.

Association of DVC HT Consumers of Jharkhand ……………………Respondent

CORAM: HON'BLE MR. JUSTICE NAVNEET KUMAR, CHAIRPERSON
HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)

For the Petitioner: Mr. Sanjay Sen, Sr. Advocate, Mr. Nihal Bhardwaj and Ms. Surbhi Kapoor, Advocates
For the Respondent: Mr. Saket Upadhyay, Advocate

ORDER

Date – 31st July, 2026

1. The instant miscellaneous petition has been filed by the petitioner DVC pursuant to the remand order dated 24.04.2026, passed by the Hon'ble APTEL in Appeal No.227 of 225 with respect to order dated 22.01.2024 passed by this Commission in Case (Tariff) Nos. 07 & 08 of 2022 pertaining to the True-up for FY 2020-21, which has already been reviewed by this Commission by its Order dated 30.01.2026.
2. The Tariff Order dated 30.01.2026 was passed by the Commission pursuant to and in compliance with the Judgment and Remand Order dated 29.11.2024 rendered by the Hon'ble Appellate Tribunal for Electricity (APTEL) in Appeal No. 135, whereby the matter arising out of the Commission's Order dated 22.01.2024 passed in Case (Tariff) Nos. 07 & 08 of 2022 pertaining to the True-up for FY 2020-21 was remanded to the Commission for fresh consideration in accordance with law. The said Order dated 30.01.2026 was expressly rendered as a provisional determination, having regard to the fact that the issue relating to the determination of Non-Tariff Income (NTI) attributable to the Distribution Business of Damodar Valley Corporation (DVC) in the State of Jharkhand was sub judice before the Hon'ble APTEL in Appeal No. 332 of 2024, arising out of the Commission's Order dated 23.07.2024 passed in Case (Tariff) No. 09 of 2020 pertaining to the True-up for FY 2006-07 to FY 2011-12, as well as in Appeal No. 227 of 2025 arising out of the Commission's Order dated 27.05.2025 passed in Case (Tariff) No. 13 of 2024 pertaining to the True-up for FY 2023-24.Subsequent to the pronouncement of the Judgment dated 24.04.2026 by the Hon'ble Appellate Tribunal for Electricity in Appeal No. 227 of 2025 read with I.A. No. 1092 of 2025, wherein the legal position governing the treatment of Non-Tariff Income (NTI) has been authoritatively settled, the Commission considers it necessary to revise the aforesaid Order to bring it in conformity with the said Judgment. Accordingly, for the purpose of determination of the Aggregate Revenue Requirement (ARR), only the Delayed Payment Surcharge (DPS), together with such other income, if any, directly attributable and incidental to the licensed distribution function, shall be reckoned as Non-Tariff Income (NTI), in accordance with the findings and directions contained in the aforesaid Judgment of the Hon'ble APTEL.
3. The said Hon'ble APTEL judgement dated 24.04.2026, that states that the captioned Appeal No. 227 of 2025 is allowed only to a limited extent with respect to the issue relating to determination of Non-Tariff Income (NTI), is reproduced here:

(i) *The findings of the JSERC in the Impugned Order dated 27.05.2025 in Case (Tariff) No. 13 of 2024, insofar as they relate to the determination and computation of NTI for items j) to y) of table 63 of the Impugned Order are hereby set aside.*

(ii) *The JSERC is directed to re-compute the tariff by considering Delayed Payment Surcharge (DPS) alone as NTI.*

(iii) *The JSERC shall carry out the process of identifying DVC's assets forming distribution system within the state of Jharkhand and determination of its tariff with effect from 01.04.2027 in accordance with directions contained in this judgement.*

(iv) *DVC shall carry out segregation of its accounts into distribution, transmission and generation within the activity of "electrical energy" w.e.f. 01.04.2027 in consultation with CAG.*

(v) *Insofar as the other issues raised in the present Appeal are concerned, liberty is granted to the Appellant to institute a fresh appeal, if so desired.*

Brief History

1. The Petitioner, Damodar Valley Corporation (DVC) had filed a tariff Petition vide Case (Tariff) No.: 07 & 08 of 2022, dated 21.09.2022 for approval of *True up of FY 2020-21, Annual Performance Review for FY 2021-22, and Annual Revenue Requirement for FY 2022-23* for the distribution of electricity in its licensed area in the State of Jharkhand.

2. After considering the submission of the Petitioner and facts available on record, the Commission had passed the tariff order in the case, i.e. Case (Tariff) No.: 07 & 08 of 2022 on 22.01.2024, which was challenged by the Petitioner before Hon'ble APTEL vide Appeal no 135 of 2024.

3. Thereafter the Hon'ble APTEL remanded back the matter to this Commission vide order dated 29.11.2024 directing it to determine the Appellant's non-tariff income only to the extent of its retail supply business in the State of Jharkhand

4. After that fresh proceeding was conducted, and this Commission had issued the order dated 30.01.2026, while computing the Non – Tariff Income as per the methodology adopted in truing up of FY 2023-24 vide "Order on True-up for FY 2023-24, Annual Performance Review for FY 2024-25, and Aggregate Revenue Requirement & Tariff for FY 2025-26 for Damodar Valley Corporation (DVC)" dated 27.05.2025 passed in the Case (T) No. 13 of 2024. The said tariff order dated 27.05.2025 had been challenged before Hon'ble APTEL under Appeal No. 227 of 2025 (True up of FY 2023-24) by the Petitioner and the same is now disposed of by Hon'ble APTEL dated 24.04.2026.

5. Since the Commission's new methodology for computation of Non-Tariff income of DVC in Jharkhand as enunciated in the order dated 27.05.2025, as above, was pending before the Hon'ble Tribunal in Appeal No. 227 of 2025 with respect to True Up of FY 2023-24, therefore, the Commission had passed that said order on the basis of new methodology for computation of Non – Tariff income of DVC as adopted by this Commission in Case (T) No. 13 of 2024 vide order dated 27.05.2025. It is not out of place to mention that the Commission had been passing the said order in line with its affidavit dated 11.11.2025 filed before the Hon'ble Tribunal in OP No. 1 of 2025 for the purposes of calculation of Revenue Gap for the period under consideration. The relevant excerpt is reproduced as under:

> *"In so far as the second period is concerned, it relates to the remand order passed by this Tribunal on 05.08.2024 in Appeal No. 80 of 2024, and the order passed in Appeal No. 135 of 2024 dated 29.11.2024, relating to the financial years 2020-21 and 2021-2022. The JSERC has already filed an affidavit stating that an order would be passed, consequent on remand, by 16.01.2026. Instead of determining the issue*

piecemeal, in so far as the remand order passed by this Tribunal is concerned, we deem it appropriate to defer hearing with respect to the 2nd period, till 22.01.2026"

6. In the said order, the Commission observed that the Non-Tariff Income (NTI) of the Petitioner had remained unaccounted for in the retail supply tariff of Jharkhand over the years. Accordingly, for the True-up of FY 2020–21, the Commission considered the entire NTI as reflected in the Petitioner's audited accounts and computed NTI of Rs. 1,355.48 Crore for FY 2020–21, as against the Petitioner's claim of Rs. 90.38 Crore.

7. Aggrieved by the Commission's order dated 22.01.2024 passed in Case (T) No.7 and 8 of 2022, the Petitioner had preferred an Appeal bearing No. 135 of 2024 before the Hon'ble APTEL challenging the computation of NTI and interest on temporary financial accommodation.

8. Thereafter, the Hon'ble APTEL vide its order dated 29.11.2024 in Appeal No. 135 of 2024 placed reliance on its earlier judgment dated 05.02.2024 in Appeal No. 845 of 2023, arising out of JSERC Case(T) No. 9 of 2020 dated 31.10.2023, which pertained to the category-wise retail supply tariff from FY 2006-07 to FY 2011-12. The brief summary of aforesaid order is as hereunder:

> *"The 1st Respondent Commission's jurisdiction to determine the tariff is confined only to the retail supply business of the Appellant within the State of Jharkhand, and not beyond. Consequently, the 1st Respondent Commission lacked jurisdiction to include the non-tariff income of the Appellant arising from its generation, transmission and other businesses as its non-tariff income with respect of its distribution business. The tariff of the Appellant, with respect to its generation and transmission business, is determined by the CERC in terms of its Regulations; determination of the tariff for its distribution business in the State of West Bengal falls within the jurisdiction of WBERC, and in the State of Jharkhand within the jurisdiction of the 1st Respondent Commission. Even if the CERC had not taken into consideration the non-tariff income derived by the Appellant from its generation, transmission and other businesses, in determining its tariff, such an error could only have been corrected by the CERC; and the mere fact that it may have a bearing on the input cost, while determining the tariff of the Appellant's distribution business in the State of Jharkhand, would not confer jurisdiction on the 1st Respondent to reduce such non-tariff income from the annual revenue requirement of the Appellant for its distribution business in State of Jharkhand.*
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> *..........*
>
> *We consider it appropriate, in such circumstances, to set aside the impugned order and remand the matter to the 1st Respondent Commission to ascertain the break-up of the non- tariff income of the Appellant, as reflected in the audited accounts for FY 2006-07 to FY 2011-12, between its generation, transmission, distribution and other businesses; and treat only the non-tariff income, relating to the Appellant's distribution business in the State of Jharkhand, as its nontariff income which is required to be reduced from its ARR for FY 2006-07 to FY 2011-12, and then pass an order afresh in accordance with law.*
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> *........*
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> ***In the light of the earlier order passed by this Tribunal in Appeal No. 845 of 2023 dated 05.02.2024, the order under appeal is set aside and the matter is remanded to the JSERC directing it to determine the Appellant's non-tariff income only to the extent of its retail supply business in the State of Jharkhand, and not beyond. While so determining the Appellant's non-tariff income, the JSERC shall also re-examine the issue of interest on temporary financial accommodation, since the said issue is intrinsically connected with the Appellant's claim with respect to non-tariff income."***

9. Pursuant to the Hon'ble Tribunal's Order dated 29.11.2024, the Commission initiated fresh proceedings in the matter on 08.04.2025.

10. On 23.05.2025, the matter was reserved for order, however, the Petitioner had filed an application dated 08.09.2025, seeking rehearing on the grounds of alleged double accounting of NTI and the Commission's jurisdiction to reconsider the issue.

11. Subsequently, the matter was heard on 14.10.2025 and 02.12.2025. By order dated 02.12.2025, the Commission granted the parties a final opportunity to file their written submissions, after which the matter was reserved for orders.

DVC's Miscellaneous Petition no 02 of 2026 before the Commission regarding implementation of the Hon'ble APTEL Order dated 24.04.2026 in Appeal No. 227 of 2025

12. Pursuant to the Order dated 24.04.2026 passed by the Hon'ble APTEL in Appeal No. 227 of 2025, whereby the Hon'ble Tribunal directed the Commission to re-compute the tariff by considering only the Delayed Payment Surcharge (DPS) as Non-Tariff Income (NTI), DVC filed Miscellaneous Petition No. 02 of 2026, before this Commission seeking implementation of the said Order dated 24.04.2026 passed in Damodar Valley Corporation v. Jharkhand State Electricity Regulatory Commission & Ors.

13. Through the said Petition, DVC sought revision and modification of the Order dated 30.01.2026 passed in Case (Tariff) No. 07 & 08 of 2022, to the extent of revising the determination of Non-Tariff Income (NTI) by considering only Delayed Payment Surcharge (DPS) as NTI.

14. The case was heard on 07.07.2026 by the Commission. Mr. Saket upadahay appeared on behalf of sole respondent DVC. Both the parties have been given full liberty to present their argument. The order was reserved on 07.07.2026 with the direction to the parties to submit notes, if any, within three days. However, no such objections/notes have been submitted by the respondent.

Current/Revised Approach of this Commission after the Hon'ble APTEL judgement dated 24.04.2026, in Appeal No. 227 of 2025

15. The Commission had passed an order dated 30.01.2026, wherein the Commission had taken into consideration the other income as per accounts of the Petitioner and proportionate some of the components into NTI income of the Petitioner. In the earlier order the approach followed is due to the pendency of the case in Appeal no 227 of 2025 in Hon'ble APTEL. As this case is disposed of now, the Commission considered to revise the earlier order with the approach to determine the Non-Tariff Income as directed by the Hon'ble APTEL.

16. The relevant portion of the aforesaid Judgment is extracted and reproduced herein below:

"

(i) The findings of the JSERC in the Impugned Order dated 27.05.2025 in Case (Tariff) No. 13 of 2024, insofar as they relate to the determination and computation of NTI for items j) to y) of table 63 of the Impugned Order are hereby set aside.

(ii) The JSERC is directed to re-compute the tariff by considering Delayed Payment Surcharge (DPS) alone as NTI.

(iii) The JSERC shall carry out the process of identifying DVC's assets forming distribution system within the state of Jharkhand and determination of its tariff with effect from 01.04.2027 in accordance with directions contained in this judgement.

(iv) *DVC shall carry out segregation of its accounts into distribution, transmission and generation within the activity of "electrical energy" w.e.f. 01.04.2027 in consultation with CAG.*

(v) *Insofar as the other issues raised in the present Appeal are concerned, liberty is granted to the Appellant to institute a fresh appeal, if so desired."*

17. To allow the current order only to the limited extent of the issue relating to the determination of Non-Tariff Income (NTI), NTI is recomputed by the Commission by considering Delayed Payment Surcharge (DPS) for the Jharkhand area alone as NTI, i.e. 90.38 Crores only. Accordingly, the below-mentioned table will be revised.

18. The approved Standalone Revenue Gap calculated as per order dated 30.01.2026 is tabulated as follows:

Particulars	Formula	Amount (Rs Crore)
Old Aggregate Revenue Requirement	A	3,652.89
Add: Old Non-Tariff Income	B	1,355.48
Less: Old Interest on Temporary Financial Accommodation	C	735.61
Add: New Interest on Temporary Financial Accommodation	D	58.50
Less: New Non-Tariff Income	E	114.65
New Aggregate Revenue Requirement	F = A + B – C + D - E	4,216.61
Revenue Billed	G	3,101.71
Gap	**H = F - G**	**1,114.90**

19. The re-computation sheet for standalone Revenue Gap is shown in the following table:

Re-computation of Standalone Revenue Gap for FY 2020-21

Particulars	Formula	Amount (Rs.Cr.)
ARR as computed by the Commission in Table 4 of Order Dated 30.01.2026	A	4,216.61
NTI as computed by the Commission in Table 4 of Order Dated 30.01.2026	B	114.65
New NTI (Consider only as DPS in Jharkhand after Hon'ble APTEL's judgement in appeal No 227 of 2025	C	90.38
ARR updated	D = A + B - C	4,240.88
Revenue Billed	E	3,101.71

Particulars	Formula	Amount (Rs.Cr.)
Gap	**F = D - E**	**1,139.17**

Conclusion

20. In view of the foregoing discussion and in due compliance with the Order dated 24.04.2026 passed by the Hon'ble APTEL in Appeal No. 227 of 2025, the Commission has revisited and re-determined the treatment of Non-Tariff Income (NTI) by restricting the same to the Delayed Payment Surcharge (DPS) alone, in accordance with the findings and directions contained therein. Consequently, the standalone Revenue Gap has been re-computed and re-determined for FY 2020-21 by revising its earlier tariff Order dated 30.01.2026 passed in Case (Tariff) No 07 & 8 of 2022 as shown in the table herein above i.e. Rs.1139.17 Crores.

Sd/-	Sd/-
Member (Law)	Chairperson