

**IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION
AT RANCHI**

Case (Tariff) No. 01 of 2023

Damodar Valley Corporation (DVC)..... Petitioner

Versus

Association of DVC HT Consumers of Jharkhand..... Respondent

CORAM: HON'BLE MR. JUSTICE NAVNEET KUMAR, CHAIRPERSON

HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)

HON'BLE MR. ATUL KUMAR, MEMBER (TECHNICAL)

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 – 30th January, 2026

1. This Order is passed in pursuant to Hon'ble APTEL remand order in Appeal No. 80 dated 05.08.2024 against our order in Case (T) 01 of 2023, dated 22.01.2024 for the True-up order FY 2021-22. It is provisional order in view of the fact that the determination of Non – Tariff Income for DVC distribution activities in the state of Jharkhand is subject matter to pending Appeal 332 of 2024, against our order in Case (T) 09 of 2020, dated 23.07.2024 for the True-up order FY 2006-07 to FY 2011-12 and Appeal 227 of 2025 against our order Case (T) 13 of 2024, dated 27.05.2025 for the True-up order FY 2023-24.
2. In fact, DVC (hereinafter “the Petitioner”) had filed a tariff Petition vide Case (Tariff) No.: 01 of 2023, dated 30.12.2022, for approval of *True up of FY 2021-22, Annual Performance Review for FY 2022-23, and Annual Revenue Requirement for FY 2023-24*.
3. Upon considering the submissions of the Petitioner and facts available on record, the Commission passed the tariff order in Case (Tariff) No.: 01 of 2023 on 22.01.2024, which was challenged by the Petitioner before Hon'ble APTEL vide Appeal no 80 of 2024.
4. In the present order in hand, this Commission has computed 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 Petition Case (T) No. 13 of 2024. Currently, the said tariff order dated 27.05.2025 has 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 pending for consideration by Hon'ble APTEL.

5. Since the Commission's new methodology for computation of Non-Tariff income of DVC in Jharkhand as enunciated in our order dated 27.05.2025, as above, is pending before the Hon'ble Tribunal in Appeal No. 227 of 2025 for True up of FY 2023-24, therefore, the Commission has passed this 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 has been passing this 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/(Surplus) for the period under consideration. The relevant excerpt of order in OP No. 1 of 2025 dated 11.12.2025 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"

6. The Commission in the Order dated 22.01.2024 has approved the unassessed Non-Tariff Income (NTI) from FY 2006 onwards in line with the directions issued to DVC in the true-up orders for the past period. The entire 'Other Income' as per the audited Annual Report of the Petitioner was approved as NTI for its distribution business for the period from FY 2006-07 to FY 2021-22 as extracted hereunder:

5.41 The Commission has observed that the value claimed by the Petitioner as Non-Tariff Income is restricted to the Delayed Payment Surcharge (DPS) by firm consumers of DVC distribution licensee.

5.42 The Commission in its order on True-up from FY 2006-07 to FY 2013-14 and APR for FY 2014-15 dated 19.04.2017, has observed as shown below-

"5.51 The Commission observed that the Petitioner has claimed non-tariff income only to the extent of the Delayed Payment Surcharge (DPS). Further, the NTI, as reflected in the audited annual accounts, was in excess of the non-tariff income as claimed by the Petitioner. The Commission also notes that DVC, being a vertically integrated organization, also carries out the business of generation and transmission of electricity besides distribution. Accordingly, the

Commission directed the Petitioner to submit information on non-tariff income, as per audited accounts, segregated into generation, transmission and distribution business.

.....

5.53 The Commission has taken note of the fact that entire capital expenditure of the Petitioner is attributable to the generation and transmission business as the Petitioner does not claim any capital expenditure for the distribution business. Accordingly, the non-tariff income, other than the Delayed Payment Surcharge, may be attributable to the generation and transmission business.

5.54 However, the Commission also notes that non-tariff income attributable to the generation and transmission business ultimately impacts the end-use consumer as the costs (net of any revenue) for generation and transmission business become the input costs for distribution business which drive the retail tariffs applicable for the end-consumer. Hence, the Commission directs the Petitioner to submit, within one month of notification of this Order, whether such non-tariff income has been accounted for in costs for the generation and transmission business of the Petitioner. Based on the justification provided by the Petitioner, the Commission may take an appropriate view on the same and pass suitable Orders to the effect.

5.55 Accordingly, at the moment, the Commission approves the non-tariff income pertaining to delayed payment surcharge as Rs. 7.65 Cr., Rs. 12.22 Cr., Rs. 24.26 Cr., Rs. 1.89 Cr., & Rs. 7.63 Cr. Respectively for the aforementioned years based on actuals.

.....

6.46 As detailed in Paras 5.51 to 5.54 of this Order, the Commission, at present, approves the non-tariff income pertaining to delayed payment surcharge as Rs.28.54 Cr., Rs.231.60 Cr., Rs. 20.79 Cr. & Rs.71.57 Cr. respectively for the aforementioned years, as per audited annual accounts of the respective years.” (FY 2011-12, FY 2012-13, FY 2013- 14, FY 2014-15). ”

5.43 DVC in reply to the direction given by the Commission in Order dated 19.04.2017, vide Letter No. Comml/Tariff/JSERC/516 dated 17.05.2017 has reiterated the fact that it is a vertically integrated organization. The same is quoted below for immediate reference,

“...DVC is a vertically integrated organization and has got generation, transmission and distribution activity in the entire Damodar Valley Area spread over in the state of Jharkhand and West Bengal. Therefore, DVC maintains its accounts which is integrated and covers all the aforesaid activities and also some other activities as mandated in DVC Act 1948. The accounting procedure followed by DVC is also approved and audited by Comptroller & Auditor General of India.

It is, however, confirmed that other than Delay Payment Surcharge (DPS), there is no other Non-Tariff Income (NTI) under the distribution business of DVC and year-wise amount of DPS, as NTI has already been furnished to the Hon’ble Commission...”

So far as electricity business of DVC is concerned it is to submit that the capital expenditure is made in respect of its generation and deemed unified inter-state transmission network only. As such DVC does not incur any capital expenditure for its distribution activity. Accordingly, non- tariff income for the distribution activity of DVC is only the delay payment surcharge. In the previous tariff orders of DVC dtd.22.12.2012 & 04.09.2014 this Hon'ble Commission accepted the submission of DVC in this regard and considered only the delay payment surcharge (DPS) as non-tariff income after prudence check. In the instant tariff order dtd. 19.04.2017 also this Hon'ble Commission considered delay payment surcharge as non-tariff income as per the audited book of accounts of DVC.

DVC submits that since it is a vertically integrated organization, unified accounting for generation, transmission and distribution activity is maintained. DVC further submits that tariff regulation of the Hon'ble Central Commission for determination of generation and transmission tariff is based on some specific elements of fixed charges and energy charge. The said regulation does not have any provision to account for the non-tariff income. The only provision for late payment surcharge is available as per the tariff regulation of the Central Commission according to which late payment surcharge is levied as and when applicable. The entire DPS as non-tariff income considered by this Hon'ble Commission in the distribution tariff of DVC is inclusive of that late payment surcharge for its generation activity as well.

DVC therefore submits before this Hon'ble Commission to kindly consider the delay payment surcharge (DPS) as non-tariff income so far as the distribution activity of DVC is concerned.”

5.44 *It is evident that at this stage, no adjustment of Non-Tariff Income attributable to the DVC's Generation and Transmission has been undertaken in the input cost for the FY 2019-24 as well as the period prior to it. Such Non-Tariff Income ultimately impacts the end consumers (i.e., Retail consumers of Jharkhand) as the cost for the Generation and Transmission business becomes the input cost which drives up the retail ARR/ Tariff. Since, section 61 of EA, 2003, inter alia, only mandates reasonable recovery of cost, it is necessary that the entire Non-Tariff income as per the audited accounts shall be adjusted in the retail supply tariff of Jharkhand.*

5.45 *As such, the Commission is of the view that throughout the years, the Non-Tariff Income of the Petitioner has been left un-accounted in the retail supply tariff of Jharkhand. Thus, consumer interest in terms of Section 61, needs to be safeguarded by providing for the legitimate deductions in the ARR as per the regulatory framework in place. Accordingly, in this Order, the entire Non-Tariff Income as per the Audited Accounts is being approved.*

.....

5.46 *Furthermore, the treatment of the unassessed Non-Tariff Income from FY 2012-13 to FY 2021-22 is provided for in assessing the Cumulative Gap/(surplus) up to FY 2023-24 in para 7.4 to para 7.8 of the instant Order.*

.....

7.3 *The Commission is of the view that in assessing the Cumulative Gap/(Surplus) upto FY 2023-24 also provides for the impact of the unassessed Non-Tariff Income from FY 2012-13 to FY 2019-20, in line with the observation recorded in Para 5.41 to Para 5.45 in respect of admittance of Non-Tariff Income as per the audited books of accounts.*

7.4 *The Commission has viewed that the Non-Tariff Income as approved previously by the Commission from FY 2012-13 to FY 2019-20 has not been allowed as per the audited books of accounts. In order to reflect the impact of the unassessed Non-Tariff Income from FY 2012-13 to FY 2019-20 on the Cumulative Gap/(Surplus) upto FY 2023-24, and in order to maintain parity with methodology adopted in the Order for True-up of FY 2020-21, and True-up of FY 2021-22 as approved earlier in this Order, the Commission has assessed the admissible Revenue Gap/(Surplus) from FY 2012-13 to FY 2020-21. The Commission has observed that the net Gap/(surplus) upto FY 2015-16 has been nullified in the Order dated 18.05.2018 by reducing the tariffs by approximately 13% besides making changes in the tariff structure. Hence, in the instant Order, for the period FY 2012-13 to FY 2015-16, the Commission has only considered the impact of the unassessed admissible Non-Tariff Income as the Gap/(surplus) for the respective financial years.*

7.5 *For the period FY 2016-17 to FY 2019-20, since, there was no nullification of gap/surplus, the Commission has taken the impact of the unassessed admissible Non-Tariff Income on the approved Gap/(surplus) for the financial years*

7.6 *Consequently, the impact of the unaccounted Non-Tariff Income based on the audited accounts has been considered up to FY 2023-24 with Carrying Cost on the Gap/(Surplus). For the calculation of Carrying Cost on the Gap/(Surplus), the Commission has considered the Rate of Interest equivalent to the rate of working capital approved by the Commission for the respective years, which is short-term Prime Lending Rate of State Bank of India as on 1st April for the respective year from FY 2012-13 to FY 2015-16. Further, the Base Rate of State Bank of India plus 350 basis points as on 1st April for the respective year has been considered from FY 2016-17 to FY 2020-21, and MCLR of State Bank of India plus 350 basis points as on 1st April for the respective year has been considered from FY 2021-22 to FY 2023-24.*

7.7 *The Commission is of the view that the Petitioner has a Net Surplus of Rs. 13,248.78 Cr. as of FY 2023-24, and as such no tariff hike is required in this instant Order.”*

7. Aggrieved by the Order dated 22.01.2024 passed by this Commission in Case (T) No. 1 of 2023, the Petitioner had filed Appeal No. 80 of 2024 before the Hon'ble APTEL challenging the determination of NTI from FY 2006-07 onwards on the ground that it was passed without complying with the rule of *audi-alteram-partem*.
8. Thereafter, the Hon'ble APTEL vide its order dated 05.08.2024 disposed of Appeal No. 80 of 2024, setting aside the impugned order to the limited extent of unilateral determination of NTI from FY 2006-07 onwards, without

complying with the rule of *audi-alteram-partem* and the matter was remanded to the Commission with a direction to pass the order afresh, in accordance with law, after giving all parties a reasonable opportunity of being heard, relevant portion extracted hereunder:

“Viewed from any angle, the impugned order, to the extent the appellant’s non-tariff income was unilaterally determined by the JSERC from FY 2006-07 onwards, necessitates interference, for failure of the JSERC to put the appellant on notice, and to give them an opportunity of being heard. As the appellant has raised other grounds in challenge to the impugned order, and as those issues are not being examined in the present order, we may not be justified in granting stay of the impugned order in its entirety. Instead of keeping the Appeal pending on the file of this Tribunal on this score, we consider it appropriate to set aside the impugned order to the limited extent the appellant’s non-tariff income was determined from 2006-07 onwards without complying with the audi-alteram-partem rule. The appellant is hereby granted liberty to subject the other grounds, raised in challenge to the validity of the impugned order in the present appeal, to challenge by way of a separate appeal. Needless to state that we have not examined the impugned order on its merits, and the JSERC shall, after putting the appellant on notice and after giving both parties (i.e. the appellant and the 2nd Respondent) a reasonable opportunity of being heard, pass orders afresh, with respect to the appellant’s non-tariff income, in accordance with law.

The Appeal stands disposed of accordingly. All pending IAs shall also stand disposed of.”

9. Pursuant to the Hon’ble Tribunal’s Order dated 05.08.2024, the Commission initiated remand proceedings in the matter, which were listed for hearing on 20.12.2024, 31.01.2025, and 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. Thereafter the case was posted for order on 14.01.2026 but due to unavoidable circumstances, the same was adjourned to 30.01.2026 for order.

Brief History of the Remand Proceedings in Appeal No. 80 of 2024 in Case (T) No. 1 of 2023

12. The matter was listed on 20.12.2024, wherein the Petitioner sought time to file break-up of NTI attributable to the distribution business of DVC along with adequate justification and auditor’s certificate. Subsequently, Petitioner had

filed additional submission on 31.01.2025 and submitted as follows:

- a) The true-up exercise for the period FY 2012-13 to FY 2019-20 already stands concluded, wherein, the Commission had only considered DPS as NTI. Copy of audited accounts were also made available during the exercise of tariff determination in the respective orders. Therefore, any revision of tariff for the said period would amount to an amendment of the tariff which can only be done under Section 64(6) of the Electricity Act, 2003, placing reliance on the Hon'ble Supreme Court in *BSES Rajdhani Power Limited vs. DERC* (2023) 4 SCC 788. Retrospective revision in the tariff for which the relevant period is already over is impermissible in law.
- b) The provisions of the Damodar Valley Corporation Act, 1948, particularly Part-IV thereof, continue to remain applicable insofar as they are not inconsistent with the Electricity Act, 2003 in terms of the Ld. Tribunal's Judgement dated 23.11.2007 passed in Appeal No. 271 of 2007 & batch (in the case of Maithan Alloys Ltd. & Ors. vs. Central Electricity Regulatory Commission & Ors.)
- c) DVC does not possess any capital assets attributable to its distribution business and that all assets, capital expenditure and employee-related costs pertaining to its power business relate to generation and transmission activities, the tariffs for which are determined by the Hon'ble CERC. It has been contended that DVC is a functionally integrated utility and that its transmission system constitutes a unified deemed inter-State transmission system, as recognized in judgment dated 23.11.2007 passed in Appeal No. 271 of 2007& batch (in the case of Maithan Alloys Ltd. & Ors. vs. Central Electricity Regulatory Commission & Ors.). DVC maintains a unified manpower structure without segregation across its business segments. On this basis, the Petitioner has contended that only DPS qualifies as Non-Tariff Income for its distribution business and that settled tariff orders for past financial years ought not to be reopened.
- d) DVC does not claim any separate profit margins i.e., RoE while proposing its distribution tariff in addition to the RoE approved by CERC for its Generation and Transmission business. Any profit from sale of power, if any, is attributable to Generation and Transmission business within the jurisdiction of CERC.
- e) The 'Other Income' from Petitioner's Generation and Transmission business cannot be allocated to its Distribution business in light of the

Ld. APTEL's judgement dated 05.02.2024 passed in Appeal No. 845 of 2023. Further, in the interim order dated 15.10.2024 passed in Appeal No. 332 of 2024, the tribunal has reaffirmed the principles settled in its judgement dated 05.02.2024 and held only DPS can be considered as NTI.

- f) As per the applicable JSERC Regulations, 2010; JSERC Regulations, 2015 & JSERC Regulations, 2020, only such 'Other Income' generated via the licensed business (i.e., distribution business) can be considered as NTI. Since, DVC has no asset pertaining to its distribution business, barring DPS, no 'Other Income' can be considered as NTI for the period from FY 2006 onwards.
- g) The auditor certificate for 'Other Income' as per Note-24 of Annual Accounts for FY 2012-13 to FY 2023-24 (without segregation within power vertical) was provided as Annexure- A/3 of additional submissions.
- h) The head-wise segregation of 'Other Income' as per audited accounts between Generation/Transmission and Distribution for items under Table-1 was provided as Annexure- A/2 of additional submissions made by DVC on 20.12.2024. Items under Table-2 (without segregation) along with justification was also provided as Annexure- A/2. The justification furnished by the Petitioner for the non-consideration of 'Other Income' for the period from FY 2012-13 to FY 2019-20 and FY 2021-22 is tabulated as follows:

Heads of Other Income	Justification for non-consideration of such Income as NTI
Interest from employee loan and advance	The income is related to interest received from loans and advances to employees as an employee welfare measure and funded through the normative O&M expense allowed in the tariff determined by CERC for the generation and transmission businesses. In the distribution tariff, no employee related expenditure is approved, however, the generation and transmission charges determined by CERC becomes an input cost in RST, hence, does not qualify as NTI for distribution business.
Interest from Non - Current Investment	This consists of interest earned from advances to agencies/contractors for Railway/Water Treatment Plant infrastructure works at generating stations, as it pertains solely to generation activities and thus should not be considered as NTI for the distribution business.
Interest on IT Refund	Interest accrued on advance income tax payments, over and above the actual taxes incurred. Entire Income Tax of DVC is considered by CERC in the generation and transmission tariff while allowing the RoE, therefore, does not qualify as NTI for distribution business.

Heads of Other Income	Justification for non-consideration of such Income as NTI
Interest on advance to contractors and suppliers	DVC provided advances for completing the task given to the contractors within the scheduled time based on its urgency. This work is related to the generating stations and transmission networks. The parties against this amount provided some interest to DVC. Thus, this income is totally related to the generation and transmission system. As the tariff of generating stations and transmission system is determined by the Hon'ble CERC, the income under this head is also having no impact for the determination of tariff for distribution business.
Profit on disposal of fixed assets	This pertains to income generated out of disposal of fixed asset. As these scrap materials are related to its Generation and Transmission assets (no asset is allocated to distribution activity of DVC), hence does not qualify NTI for distribution.
Provision written back doubtful debts	The provision created for doubtful debt in the past year is now been written back and booked as an income item in the previous year. This is merely a book adjustment, hence does not qualify NTI for distribution.
Misc. recoveries from employees and outsiders	There are many amenities i.e. Schools, Hospitals, Transport Services, Quarters, Marriage Ceremony halls, Guest house etc. Such amenities are being hired out to DVC's employees or outsider/visitors, guest. The charges collected for use of the same are booked under this head. As, there are no distribution assets hence does not qualify NTI for distribution.
Rental	The entire assets base is allocated to the Generation and Transmission business of DVC, whose tariff is being determined by CERC, hence, does not qualify NTI for distribution business.
LD Recoveries	This income arises from the LD recovered from vendors as per the contract agreement. The entire assets base is allocated to the Generation and Transmission business of DVC, whose tariff is being determined by CERC, hence, does not qualify NTI for distribution business.
Sale of scrap	Income received from selling of scrap material of different projects of DVC. As these scrap materials are related to its Generation and Transmission assets (no asset is allocated to distribution activity of DVC), hence does not qualify NTI for distribution
Sale of Tenders / Papers / Forms	The income is arising from the sale of Tender/Papers /forms submitted by various vendor during tendering process. The Income is not related to the distribution business of DVC hence this income also does not qualify as NTI.
HD 6	
HD 5	
Common Service	The income booked under this head pertains to the share of income from overhead activities (income from guest house, training institutes, etc.) and thus such income do not relate to the income from distribution business activities.
Capitalized	
HD 1	
HD 4	
Interest on short term deposits and others	This income is on account of the interest earned from investing own fund of DVC in the short term fixed deposit. This has no bearing on tariff determination process. Further, the Hon'ble APTEL in the judgement dated 30.07.2010 passed in Appeal No. 153 of 2009 held that the interest income from the surplus fund cannot be considered as incidental to electricity business.

Heads of Other Income	Justification for non-consideration of such Income as NTI
Dividend Non – current investment	DVC formed joint venture companies with Tata Power, BPSCL. DVC also has equity participation in PTC. Such equity has been provided out of own fund of DVC. The dividend earned from such JV companies and PTC are booked under this head. Accordingly, any dividend received on this account has no bearing on any tariff determination process. No information has been sought out of own fund of DVC.
Interest on security deposit – Purchase of Power	DVC maintains payment security mechanisms in the form of cash deposit to PTC (Power Trading Corporation) as well as in the form of Letter of Credit (LC) for NTPC, NHPC, MPL and available transmission service from PGCIL for power purchase. Against such cash security deposit, DVC has earned interest from PTC. The cash held with PTC as payment security mechanism was arranged from DVC's own fund for which any additional expenditure was not allowed in distribution tariff. If such amount had been deposited in the bank account or invested somewhere, DVC would have earned interest. It is also to be noted that, for maintaining LCs, DVC has incurred substantial amount as Bank Charges which has not been booked as the Power Purchase Cost. If the interest on Security Deposit for Power Purchase to be considered as Non-Tariff Income, for the sake of justice the charges for the LCs maintained by DVC for other source of Power Purchase also needs to be considered as part of Power Purchase Cost. Hence, such interest incurred on account of security deposit has not been considered as part of Non-Tariff income of DVC in its distribution business.
Commission on Electricity Duty	In the state of West Bengal, DVC received Commission for collection and depositing electricity duty to the state authority on behalf of the Consumers. For this additional work, DVC has assigned additional manpower and other associated expenditure. DVC performs such activities as mandated in the relevant West Bengal Electricity Duty Act. Risks associated with such activity is also borne by DVC. No assets of Distribution Business of DVC are utilized to recovery of this additional income therefore this income also does not qualify as the Non-Tariff of Distribution Business of DVC
Income from service charge – REP	Rural Electrification Corporation Limited (RECL) has been appointed as implementing agency by the Govt. of India, Ministry of Power for rural electrification work. The funds were disbursed by RECL for rural electrification to various CPSUs including DVC. Under this scheme, DVC was entitled for service charge to be reimbursed for the expenses already incurred. Hence cannot be considered as NTI for distribution business.
Revenue from non – core activities	The income is related to the fishery, tourism etc. pertaining to the different generating stations / field formations of DVC. Hence cannot be considered as NTI for distribution business.
Provision income tax written back	Provision created during the previous year has been written back in this year (book adjustment) against earlier expenditure provisions.
Interest on CLTD	The Interest income under this head is due to the opening of 'Corporate Liquid Term Deposit'. Account opened by DVC at some field formations to defray the regular operational expenses. Such insignificant earnings occur due to existence of small amount of surplus cash maintained in these accounts for the obvious reason as explained. This income, related to operational expenses, is not

Heads of Other Income	Justification for non-consideration of such Income as NTI
	linked to determination of distribution tariff as the same is not allowed separately in the distribution tariff of DVC. Hence, cannot be considered as NTI for distribution business.
Gain on FERV	The income is on account of variation of exchange rate for sale to Bangladesh. The cost of sale to Bangladesh is not included in the ARR of the distribution activity. Hence, cannot be considered as NTI for distribution business.
Income from energy certificate	This income arises from the sale of such energy certificate from operation of generating projects. hence this income is related to the Generating Business of DVC. Hence, cannot be considered as NTI for distribution business.
Interest on Bonanza account	The income booked under this head is the amount related to PSDF for better development of the power system stability and better optimization of its performance. The fund was established based on the Hon'ble CERC guidelines, hence, cannot be considered as NTI for distribution business.
Income from service charge	DVC sometimes provide consultancy and supervision service for construction of infrastructures by other agencies utilizing its own manpower. DVC claims service charges for such activities. Since, the entire employee cost is catered by CERC in generation and transmission tariff and the state Commissions do not allow any manpower cost separately. Therefore, this income does not qualify as NTI for distribution business. The manpower cost allowed by CERC on normative basis, does not cover the actual employee cost incurred by DVC and as such there is no net gain on this account to DVC.
Tariff adjustment Fixed Assets	This provisional amount created for tariff adjustment in the past year is now been written back and booked as an income item in the FY 2019-20. Tariff adjustment is not a pass-through in Distribution Tariff and is merely a book adjustment. Hence, any provision of the amount related to the adjustment of tariff for earlier period has been withdrawn in the event of true-up which now is being written back on the certainty of the recovery, cannot be construed as NTI.
Remission of liability no longer required	The longstanding unclaimed liability has been reversed in this financial year. While determining the Tariff, CERC approve the same on cash basis. Therefore, the liability which was provisioned earlier was not made part of Tariff. Therefore, now, when it is reversed, the same cannot be construed as real income of DVC and rather should be treated as book adjustment against earlier expenditure provision and does not qualify as NTI
Provision written back employee benefits	The provision created for doubtful debt in the past year is now been written back and booked as an income item in the FY 2022-23. Hence, any provision of the doubtful debt which now is being written back on the certainty of the recovery, cannot be construed as NTI.
Provision written back fixed assets& Provision written back stock current assets	Provision on account of fixed assets was not allowed by CERC since tariff is determined based on cash expenditure. Therefore, when such provision is written back now, it cannot be construed as real income of DVC and rather should be treated as book adjustment against earlier expenditure provision.
Govt. Grant PM Kusum grant	The income was booked in the annual accounts of FY 2021-22 which is not reversed in FY 2022-23. Therefore, this income

Heads of Other Income	Justification for non-consideration of such Income as NTI
	cannot be construed as real income of DVC and rather should be treated as book adjustment
Forfeiture of SD / EMD	The income arises from forfeiture of the security deposit or earnest money deposited by various vendors for breach of contract agreement. This income is not related to the distribution business of DVC hence this income also doesn't qualify as the Non – Tariff of distribution business of DVC
From Others (Tariff adjustments)	DVC has made an investment out of its own fund in National High Power Testing Laboratory in the form of Loan. The investment is in no way related to the Distribution business of DVC and has not been made from the earnings out of the distribution business. Accordingly, this income also does not qualify to be considered as non-tariff income of DVC for its distribution business.
Interest from sale of Gypsum	As Gypsum is a bi-product material related to the generation of power at different generating stations of DVC, the generation tariff is determined by the Hon'ble CERC. It is therefore, the income arises out from its sale does not qualify as the Non-Tariff income of DVC's distribution business.

13. The Respondent filed its counter affidavit dated 08.04.2025, wherein it was submitted that, by not furnishing the segregation of NTI, the Petitioner was seeking to avoid the due pass-through of such income to the end consumers in the States of Jharkhand and West Bengal. It was further submitted that, in the absence of the requisite segregation of NTI, the Commission was left with no alternative but to consider the entire NTI as reflected in the audited accounts.
14. The Petitioner filed its rejoinder to the above said counter affidavit on 22.05.2025. The Commission reserved the matter for orders on 23.05.2025.
15. The Petitioner thereafter filed a re-hearing application dated 08.09.2025, wherein reliance was placed on the judgment of the Hon'ble Supreme Court in *K.K. Veluswamy v. N. Palanisamy* (2011) 11 SCC 275, holding that the practice of not entertaining applications after conclusion of arguments and reservation of judgment is not an inflexible or rigid rule. The Petitioner contended that NTI attributable to its generation and transmission businesses had already been accounted for under the tariff framework of the Ld. CERC and that any further adjustment of the same at the distribution stage would result in impermissible double recovery.
16. The Commission, by order dated 14.10.2025, heard both the parties and, thereafter, by order dated 02.12.2025, granted a final opportunity to the parties to file their written notes of arguments.
17. Pursuant thereto, the Respondents filed their written submissions on

22.12.2025, contending that DVC does possess distribution assets and that the Petitioner's claim to the contrary is contrary to settled law. In support of the said contention, reliance was placed on a catena of judgments, including the judgment dated 15.09.2025 passed by the Hon'ble APTEL in Appeal No. 275 of 2015 & batch against the Hon'ble WBERC's TP-62/14-15, dated 24.08.2015 for the tariff application of DVC for the FY 2009– 2010, FY 2010 – 2011, FY 2011– 2012, FY 2012– 2013 and FY 2013– 2014. The relevant portion reads as hereunder:

“83. It is the submission of DVC that it does not account for any capital expenditure in its distribution business, and the capital expenditure for the entire power system is approved by CERC. For this reason, it has been submitted that only DPS has to be considered as NTI in the retail tariff determination by the WBERC.

85. DVC is supplying power to its firm consumers in its command area through a system of wires and associated facilities; therefore, it does have a distribution system as defined under Section 2 (19). The capital cost of such a distribution system should have been accounted for and approved by the WBERC while undertaking retail tariff determination, even if it falls under the total T&D system.

86. Therefore, it cannot be said that DVC does not have a distribution asset base, as also held by this Tribunal vide judgment dated 23.11.2007 passed in Appeal No.271 of 2007& batch (in the case of Maithan Alloys Ltd. & Ors. vs. Central Electricity Regulatory Commission & Ors.) as under:

“all transmission systems of DVC be considered as unified deemed inter-state transmission system, insofar as the determination of tariff is concerned and as such regulatory power for the same be exercised by the Central Commission”

87. Nowhere has this Tribunal expressed any findings in favour of the nonexistence of distribution assets. Further, this Tribunal's judgment dated 23.11.2007 recognizes DVC's distribution asset base and the need to get the cost of such asset base approved as part of retail tariff determination:

K.1 One of the Respondents (GoWB) has challenged the capital base adopted by the CERC while determining the tariff. GoWB has contended that certain assets should have been treated as part of the distribution network and hence should have been taken out of the purview of tariff determined by the CERC. While the impact of the above would be revenue neutral on DVC as assets forming part of the distribution network would be eligible for tariff determination at the retail end. However, it would impact the power purchase bills of the beneficiary states. We feel that when the process of tariff determination for distribution segment of DVC takes place, the appropriate Commission would also determine the distribution network capital base. At that time DVC may approach the CERC again for adjustment of its revenue requirement and corresponding tariff.”

88. The provisions dealing with NTI under the Tariff Regulations do not lay down any capital expenditure criteria, considering, the Tariff Regulations are binding and DVC was required to provide all the specific heads of income delineated in Form 1.26. DVC cannot withhold information that is required to be submitted under Form 1.26, which forms part of the Tariff Regulations.

94. Considering that the matter relates to the year 2013-14, we deem it appropriate to direct WBERC to apportion the total NTI between the transmission and distribution business of DVC. Since DVC also supplies power to licensees outside the command area, it would be appropriate to apportion only such NTI attributable to distribution business as per the ratio between the revenue from retail supply to consumers in the command area and DVC's total revenue from its power business."

18. Reliance was also placed on the judgement dated 14.12.2012 in Appeal No. 30 of 2012(Orissa Power Transmission Corporation Limited Janpath, Bhubaneswar, Orissa Versus Orissa Electricity Regulatory Commission & Ors.) passed by Hon'ble APTEL. The relevant portion is extracted as hereunder:

"35. According to these provisions the Distribution network is a system of wires between delivery point on the transmission lines or generating station and point of connection to the consumer's installation. It also includes the electric line, sub-station and electric plant that are primarily maintained for the purpose of distributing electricity notwithstanding that such line is high pressure cables or overhead lines. We have to examine as to whether an EHT line emanating from an EHT substation of the transmission licensee and connects a consumer's installation fits in to this definition of distribution network or not. Evidently, the last mile connection is a line is between delivery point on the transmission line and point of connection on the consumer's premises and is primarily used for distribution of electricity to such consumer. Therefore, it qualifies to be part of distribution network.

...

38. Next requirement for a line to be a transmission line is that the line must be transmitting electricity. Can supply to consumer be treated as transmission of electricity? The answer is 'no'. Supply of electricity to a consumer is universal service obligation casted upon distribution licensee under section 43 of the Act and accordingly, supply to a consumer is distribution and cannot be termed as transmission of electricity."

19. It was also submitted that the Petitioner has failed to comply with its statutory obligation under Sections 41 and 51 of the Electricity Act, 2003 to maintain segregated accounts for its generation, transmission and distribution businesses. In this regard, reliance was placed on the judgment dated 30.09.2019 passed by the Hon'ble Appellate Tribunal for Electricity in Appeal No. 246 of 2014 (*Tata Power Delhi Distribution Ltd. v. DERC*), wherein it was held that maintenance of separate books of accounts is a mandatory statutory requirement and not discretionary.

20. The Respondents further submitted that the Commission itself has, on more than one occasion, directed the Petitioner to separate the accounts of its distribution business, including by Order dated 22.01.2024 passed in Case (Tariff) No. 01 of 2023 and reiterated in the Order dated 30.09.2024 passed in

Case (T) No. 12 of and Case (T) No. 01 of 2024, and that the Petitioner cannot be permitted to derive any benefit from its continued non-compliance with such statutory and regulatory directions.

21. The Petitioner filed an additional submission dated 23.12.2025, wherein it reiterated that the truing-up of previous financial years, having already been concluded, cannot be reopened or undertaken again, as the same would amount to impermissible retrospective revision of tariff. Reliance was placed on the judgment of the Hon'ble Supreme Court in *Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan (2010) 9 SCC 596*, emphasizing that a quasi-judicial authority is required to record cogent reasons in support of its conclusions.

Commission's Observations and findings

22. The Commission has considered the submissions made by the Petitioner and respondent in light of the provisions of the applicable Tariff Regulations and the catena of judgements passed by the Ld. Tribunal for determination of NTI attributable to DVC's distribution business.
23. The entire 'Other Income' for power vertical as per the audited accounts has to be allocated between Generation/ Transmission and Distribution business of the Petitioner. It is noteworthy, that the Ld. Tribunal in its judgement dated 05.02.2024 passed in Appeal No. 845 of 2023 against our order in Case (T) 09 of 2020, dated 31.10.2023 for the True-up of FY 2006-07 to FY 2011-12 has directed the Commission to ascertain such allocation attributable to distribution in light of undertaking given by DVC to furnish such information in the manner as sought by the Commission for the period FY 2006-12. The relevant excerpt of the Order dated 05.02.2024 is reproduced as follows:

"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 Page 7 of 7 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.

We may not be required to delve into the issue whether or not the Appellant had failed to comply with the request of the 1st Respondent Commission in its earlier letters seeking information, in view of the undertaking, furnished on behalf of the Appellant by Mr. Shri Venkatesh, learned Counsel, that, within two weeks of receipt of intimation by the 1st Respondent Commission

of whatever information or records they seek, the Appellant would forthwith furnish the required information/documents, in the manner sought for by the Commission."

The judgement dated 05.02.2024 has attained finality with respect 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 Page 7 of 7 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. In accordance with the judgement dated 05.02.2024, the Commission passed an order in Case (T) 2020 dated 10.12.2024. Therefore, income attributable to DVC's distribution business has been allocated as detailed hereinafter.

24. The Commission notes, that the Petitioner has repeatedly failed to comply with the directions issued in various proceedings related to segregation of 'Other Income' within its power vertical, duly certified by the auditor, right from the 1st control period i.e., FY 2006 onwards and for the period presently under consideration, in violation of its own undertaking to do so as recorded in its judgement dated 05.02.2024. In this regard, following is noteworthy:

- A. The audited accounts submitted by the Petitioner from FY 2012 onwards is bereft of any segregation of such 'Other Income' between Generation/ Transmission and Distribution;
- B. In response to Commission's query for segregation of such 'Other Income' within the power vertical, duly certified by the auditor, Petitioner filed the additional submissions dated 31.01.2025. Therein, the auditor has certified the 'Other Income' for the entire power vertical (without any further bifurcation) from FY 2012-13 to FY 2023-24.
- C. The Petitioner has failed to submit auditor certificate in support of its justification furnished for certain heads of 'Other Income' (in Table-1 of Annexure-A/3 of Additional submissions dated 31.01.2025). Instead, it has reiterated that since, it does not have any capital asset base or expenditure on manpower attributable to distribution business, hence, only DPS qualifies as NTI, without any adequate reasoning/ details in support of its claims.
- D. Such heads of 'Other Income' relating to 'Income from Investment' as per the regulations, has neither been segregated within the power vertical nor the Petitioner has furnished any details/documents to substantiate its claim

that such 'own funds' were not created/linked to its distribution/licensed business in any manner. Only investment made out of RoE are excluded from NTI, and the Petitioner has failed to meet the statutory obligation to showcase that such funds were made out of its RoE, to claim any such exclusions.

E. The Commission has time and again directed- '*...the Petitioner to separate the balance sheet for distribution business from other power business and direct the Petitioner to submit the same along with the next tariff petition*'. The Commission in the Order dated 22.01.2024 in the present Case (T) No. 1 of 2023 had observed that the Petitioner was in continuous non-compliance of the above directives and was also re-directed to comply with the same. These finding has neither been interfered with by the Ld. Tribunal's remand order dated 05.08.2024 and therefore, have attained finality with respect 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 Page 7 of 7 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.

25. The applicable Tariff Regulations provides for such heads of income which has to be treated as NTI. However, in case of DVC there is no segregation in the revenue and expenditure between the licensed business (distribution) and other business, for allocation of such 'Other Income' towards licensed business on actuals. The Section 51 of Electricity Act, 2003 mandates the Distribution Licensee to maintain separate account between its licensed (distribution) and other businesses (generation & transmission in the present case), in order to avoid any misinterpretation of income and expenditure incurred between all such businesses. Furthermore, Regulation 3.1 specifically defines Accounting Statement to consist of- '*Reconciliation Statement, duly certified by the Statutory Auditors, showing the reconciliation between the total expenses, revenue, assets and liabilities, of the entity as a Company and the expenses, revenue, assets and liabilities, separately for each Business regulated by the Commission and unregulated business operations*'.

26. The Hon'ble Tribunal has noted that since DVC supplies power to licensees outside the command area, NTI apportioned to distribution business as per the ratio between revenue from supply to consumers in the command area is appropriate as per Appeal No. 275 of 2015, dated 15.09.2025 against the Hon'ble WBERC's TP-62/14-15, dated 24.08.2015 for the tariff application of

DVC for the FY 2009– 2010, FY 2010 –2011, FY 2011– 2012, FY 2012– 2013 and FY 2013– 2014. The relevant extract of the order is reproduced as follows:

“94. Considering that the matter relates to the year 2013-14, we deem it appropriate to direct WBERC to apportion the total NTI between the transmission and distribution business of DVC. Since DVC also supplies power to licensees outside the command area, it would be appropriate to apportion only such NTI attributable to distribution business as per the ratio between the revenue from retail supply to consumers in the command area and DVC’s total revenue from its power business.”

27. The Hon’ble Tribunal’s vide its interim order dated 15.10.2024 passed in Appeal No. 332 of 2024 against our order in Case (T) 09 of 2020, dated 23.07.2024 for the True-up of FY 2006-07 to FY 2011-12 has directed the Commission to consider DPS as NTI, in determination of Retail Supply Tariff for FY 2006-12, subject to the final adjudication of the main appeal. Therefore, the unassessed NTI for said control period i.e., FY 2006-12 has been excluded in view of the stay and shall be subject to the disposal of main appeal. The issue with respect to segregation of account as mandated under Section 51 of Electricity Act, 2003, in light of the judgement dated 30.09.2019 in *Tata Power Delhi Distribution Limited Vs DERC*, has been left open to be dealt with in the proceedings in the main appeal. However, the Ld. Tribunal in its order dated 15.10.2024 in Appeal No. 332 of 2024 was of the view that to ascertain such income attributable to distribution business, an approximation exercise, on any rational basis, could have been undertaken by this Commission in absence of segregation of ‘Other Income’ within the power business.
28. In this regards, the Ld. Counsel for the Respondent submitted that the submissions made are restricted to IA No. 1282 of 2024 under Appeal No. 332 of 2024. The relevant extract of the order dated 15.10.2024 passed in IA No. 1282 of 2024 in connection with Appeal No. 332 of 2024 is reproduced as follows:

“JSERC vide remand order was directed to ascertain the component of NTI which is attributable to distribution business, there is no deliberation on this issue in the impugned order as well as whether some or all component of NTI shown under Generation and Transmission head by Appellant could be assigned to Distribution Business. The JSERC could also have undertaken the exercise of approximation on any rational basis which they choose not to do. Initially we contemplated remanding the matter again to the JSERC to undertake a rational exercise of approximation to determine the non-tariff income of the Appellant relating to its distribution business. However, Mr. Rajiv Yadav, learned Counsel for the Respondent made it clear that their submissions were confined to the IA, and they reserved their right to put forth elaborate submissions during the final hearing of the main appeal.”

29. In light of the observation of the Hon’ble Tribunal judgement dated 05.02.2024

in Appeal No. 845 of 2023 against our order in Case (T) 09 of 2020, dated 31.10.2023 for True-up of FY 2006-07 to FY 2011-12 and the interim Order dated 15.10.2024 in Appeal No. 332 of 2024 & IA No. 1282 of 2024 against our order in Case (T) 09 of 2020, dated 31.10.2023 for True-up of FY 2006-07 to FY 2011-12 and in absence of any segregation of 'Other Income' within the power vertical, duly certified by the auditor, the Commission now proceeds to prudently check/ascertain such heads of 'Other Income' that can be reasonably attributed to its distribution business for consideration of NTI, in exercise of its regulatory powers.

30. It cannot be accepted that the Petitioner is a deemed distribution licensee under Section 14 of the Electricity Act, 2003, in the state of Jharkhand and West Bengal, and does not have any distribution asset base inasmuch as, for DVC to undertake retail supply of power to end consumer, a "Distribution System" in terms of Section 2(19) of the Electricity Act, 2003 is required. Section 2(17) defines a "Distribution Licensee" as a *'licensee authorised to operate and maintain a distribution system for supplying electricity to consumers'*. Therefore, without a distribution asset base, DVC cannot be said to qualify as a distribution licensee under Section 14 of Electricity Act, 2003. The provisions of Electricity Act, 2003 cannot be overridden by provisions of DVC Act, 1948 in case of any inconsistency thereon, the provision of the former shall prevail, which is a settled principle in terms of the Tribunal's judgement dated 23.11.2007 passed in Appeal No. 271 of 2007 & batch (in the case of Maithan Alloys Ltd. & Ors. vs. Central Electricity Regulatory Commission & Ors.).
31. It is noteworthy, that DVC's contention as to it does not have any distribution asset base or that the entire capital expenditure is under CERC's jurisdiction, therefore only DPS qualifies as NTI for its distribution business has been categorically set aside by the Hon'ble Tribunal vide its judgement dated 15.09.2025 in Appeal No. 275 of 2015 & batch in the matter of *Damodar Valley Power Consumers Association (DVPCA) and Shree Ambey Ispat Pvt. Ltd. Versus West Bengal State Electricity Regulatory Commission and Damodar Valley Corporation*. It was held that, Tariff Regulations (West Bengal) does not provide any capital expenditure criteria for determination of NTI and therefore, DVC cannot withhold information and is obligated to submit all heads of 'Other Income' as required under the tariff regulations, which it failed to do so. Furthermore, it was noted that the Ld. Tribunal's judgement dated 23.11.2007 in Appeal No. 271 of 2007 (in the case of Maithan Alloys Ltd. & Ors. vs. Central Electricity Regulatory Commission & Ors.) recognizes DVC's distribution asset base and the need to get the cost of such asset base approved as part of retail tariff determination in light of the observations made in Para K.1 of the judgement dated 23.11.2007 and as upheld by the Supreme Court vide its

judgement dated 23.07.2018 in the matter of *Bhaskar Shrachi Alloys Limited and Others v. Damodar Valley Corporation and Others*where Hon'ble Supreme Court observed as under:-

*"55. Insofar as the issue of allowance of cost relating to other activities of the Corporation to be recovered through tariff on electricity is concerned, we have taken note of the objection(s) raised in this regard which in sum and substance is that Sections 32 and 33 of the Act of 1948 are in direct conflict with Sections 41 and 51 of the 2003 Act and, therefore, recovery of cost incurred in "other works" undertaken by the Corporation through power tariff is wholly untenable. Apart from reiterating the basis on which we have thought it proper to affirm the findings of the learned Appellate Tribunal on the purport and scope of the fourth proviso to Section 14 of the 2003 Act and the continued operation of the provisions of the Act of 1948 which are not inconsistent with the provisions of the 2003 Act, we have also taken note of the specific provisions contained in Sections 41 and 51 of the 2003 Act which, *inter alia*, require maintenance of separate accounts of the other business undertaken by transmission/distribution licensees so as to ensure that the returns from the transmission/distribution business of electricity do not subsidize any other such business. Not only Sections 41 and 51 of the 2003 Act contemplate prior approval of the Appropriate Commission before a licensee can engage in any other business other than that of a licensee under the 2003 Act, what is contemplated by the aforesaid provisions of the 2003 Act is some return or earning of revenue from such business. In the instant case, the "other activities" of the Corporation are not optional as contemplated under Sections 41/51 of the 2003 Act but are mandatorily cast by the statute i.e. Act of 1948 which, being in the nature of socially beneficial measures, *per se*, do not entail earning of any revenue so as to require maintenance of separate accounts. The allowance of recovery of cost incurred in connection with "other activities" of the Corporation from the common fund generated by tariff chargeable from the consumers/customers of electricity as contemplated by the provisions of the Act of 1948, therefore, do not collide or is, in any manner, inconsistent with the provisions of the 2003 Act. We will, therefore, have no occasion to interfere with the findings recorded by the learned Appellate Tribunal on the above score.*

56. Having dealt with all the issues raised/arising in the appeals under consideration in the manner indicated above, we deem it proper to dismiss all the appeals and affirm the judgment and order dated 23rd November, 2007 passed by the learned Appellate Tribunal. We order accordingly."

32. A parallel feature can also be drawn in the JSERC and WBERC Tariff

Regulations, which does not per se provide for determination on NTI on basis of capital expenditure approved for licensed (distribution) business rather provides for all such income that is '*related to*' the regulated business other than tariff.

33. Furthermore, without prejudice to above-mentioned, generally the charges determined by Hon'ble CERC for the generating stations and transmission network are recoverable in terms of the applicable CERC regulations. However, in case of DVC, the fixed charges determined by Hon'ble CERC can only be recovered once the same become input cost in the RST approved by the state Commission in line with its own regulations. Since, NTI is not an item of expenditure but a reduction in revenue requirement of DVC's distribution business, therefore, it is governed under the JSERC Tariff Regulations. Therefore, it cannot be said that the entire asset base being serviced through Generation/Transmission tariff in case of command area consumers. In fact, DVC earns revenue on sale of power to its retail consumer based on the distribution tariff determined by the respective SERCs.
34. In light of the afore-mentioned facts and circumstances, the Petitioner has clearly failed to maintain segregated accounts between its licensed business i.e., distribution and between the other business in the power vertical i.e., Generation and Transmission. The segregation of 'Other Income' between the power vertical as per audited accounts, duly certified by the auditor, has also not been provided to ascertain the NTI attributable to DVC's distribution business. Furthermore, Petitioner has repeatedly evaded directions of this Commission to submit separate balance sheet for its distribution business. The justification furnished for non-consideration of such income is either insufficient or cannot be accepted for the reasons stated herein-above.
35. The Commission notes that the Order on "*Category-wise Retail Supply Tariff from FY 2006-07 to FY 2011-12 for Damodar Valley Corporation (DVC)*" was issued on 31.10.2023 in Case (T) No.: 09 of 2020. In the said Order dated 31.10.2023, the Commission considered the Non-Tariff Income as per the Audited Annual Accounts, which had not been admitted earlier, for the period from FY 2006-07 to FY 2011-12. Thereafter, in the Order dated 22.01.2024 on "*True-up for FY 2021-22, Annual Performance Review for FY 2022-23, and Aggregate Revenue Requirement & Tariff for FY 2023-24*", in Case (T) No. 01 of 2023 the Commission adopted a similar methodology. In order to maintain uniformity and consistency across the years, the Commission included the unassessed Non-Tariff Income for the period from FY 2012-13 to FY 2021-22 in the Order dated 22.01.2024 in Case (T) No.: 01 of 2023. Accordingly, the Commission considers it appropriate to assess the Non-Tariff Income for the

period from FY 2012-13 to FY 2021-22 in the present Order as well.

36. Now, in order to apportion the 'Other Income' attributable to the distribution business of the Petitioner, a reasonable approach can be prudently adopted in exercise of the Commission's regulatory power as enshrined under the Electricity Act,2003. Accordingly, without prejudice to the made of segregation of accounts of the licensed business from the other business under Section 51 of Electricity Act,2003 and the tariff regulations, the Commission apportions the 'Other Income' attributable to the distribution business, as follows:

Firstly, items such as Interest on IT refund; Provision Written Back Employee Benefits; Provision Written Back Fixed Assets; Provision written back stock current assets; Commission for deposit of Electricity Duty; Income from Energy Certificates; Income from Sale of Gypsum; Remission of Liability no longer required; Gain on FERV; Provision Written Back- Doubtful debts; Provision - Income Tax - Written Back; Tariff Adjustment Fixed Assets; Revenue from non-core Activities; Interest on Bonanza Account, Income from service charge – REP cannot be construed as Non-Tariff Income attributable to the Distribution Business of DVC, in light of justification furnished by Petitioner. The same either does not have any nexus to the distribution activity or is just a notional adjustment in books of account, therefore, has no correlation to NTI attributable to distribution segment.

Secondly, Delayed Payment Surcharge attributable only to the extent of the command area consumers of Jharkhand is considered in entirety in accordance with the regulations. Further, Delayed Payment Surcharge attributable to non-firm consumers has been excluded.

Thirdly, except for the afore-mentioned items, all other subheads of 'Other Income' are apportioned to the distribution business in proportion to revenue derived from retail supply of power (firm sale) as to the total revenue derived from the sale of power (including retail/bi-lateral export/cross-border/exchange). The items considered herein qualifies as 'Other Income' attributable to the distribution business in light of the JSERC Tariff Regulations.

37. The ratio of Revenue from Firm Sale (i.e., Distribution) to the total Revenue (from power vertical) from FY 2012-13 to FY 2019-20 and for FY 2021-22 is tabulated as under.

Table 1: Revenue from Firm Sales (Rs. Cr.)

Particulars	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 21-22
Firm sale	6568	7095	7751	8517	8682	9025	8121	6932.24	11344.55
Bilateral export	4161	4600	3486	4085	5634	4911	5361	9168.63	8880.35
Bangladesh	40	34	72	56	164	314	1258	900.65	1178.32
Sale through exchange and others	165	57	12	-18	19	616	749	868.78	396.09
Total	10,934.00	11,786.00	11,321.00	12,640.00	14,499.00	14,866.00	15,489.00	17,870.30	21,799.31

38. The sales in Jharkhand as percentage of total distribution business sales is tabulated as under.

Table 2: Ratio of sales in Jharkhand Area

Particulars	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 21-22
Sales in Jharkhand (%)	56.93%	57.13%	58.43%	58.58%	57.17%	57.11%	55.31%	44.82%	45.50%

39. Accordingly, the Commission in line with the above methodology has provisionally considered the Non-Tariff Income out of the total ‘Other Income’ as reflected in audited accounts, attributable to the distribution business of Jharkhand for FY 2012-13 to FY 2019-20 and for FY 2021-22 is tabulated as under.

Table 3 (a) Other income as per Accounts (A) (Rs. Cr.) as tabulated below

Particulars	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 21-22
Intt on IT Refund	4.63		7.28	2.41	75.17	123.87		0.52	0.4
Remission of Liability no Longer required									89.47
Income from Energy Certificate						4.16			
Income from Sale of Gypsum									
Commission on deposit of Electricity Duty		4.43	0.52	1.95	2.76	4.58	2.55	2.54	3.04
Delayed Payment Surcharge (Other than command area of JH)					423.17	150.2	35.4	182.91	513.85
Revenue from Non-Core Activities			0.01	0.02					
Gain on Foreign Exchange Rate Variance					1.03	0.09		0.6	0.001
Provision- Written back - Doubtful debts	5.64	121.81	49.24	61.86		58.86			142.4
Provision - Income Tax - Written Back					117.27	228.75			13.75
Tariff Adjustment Fixed Assets								146.56	
Interest on Bonanza Account							0.61		
Income from Service Charge - REP		74.65							
Delayed Payment Surcharge (JH)	231.6	20.79	71.57	28.27	198.25	466.76	288.68	21.74	48.47
Interest from Employees Loan and Advances	0.63	0.79	0.5	0.47	0.75	0.59	0.45	0.28	0.12

Particulars	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 21-22
Interest from Non-current investments	51.74	38.25	25.72	12.54	1.4	1.36	1.7	1.1	1.15
Interest on CLTD					0.51			0.02	0.05
Profit on disposal of Fixed Assets	0.12	0.25	3.02	4.91	0.87	0.79	3.9	2.45	34.22
Income from service charge						0.04	0.05	0.19	59.32
Misc Recovery from employees and outsiders	15.86	9.29	11.98	12.69	5.89	9.82	10.11	14.99	9.77
Rental	0.17	3.77	3.76	6.95	1.09	1.51	0.19	3.32	0.35
LD recoveries	0.71	4.52	6.12	8.21	2.3	2.67	0.64	4.36	5.7
Sale of scraps	29.83	21.57	3.65	9.61	26.53	30.42	20.55	12.6	10.55
Sale of Tender/Papers/Forms	0.25	4.03	3.93	7.17	1.15	1.51	0.03	3.22	2.12
Capitalized	-5.79	-3.57	-5.78	-33.98	-0.66	-0.11	-1.2	-0.43	-4.34
Inter Head Transfer							13.72	10.61	26.95
Interest on Short Term Deposit	1.43	33.55	0.23	0.09	5.36	0.04	0.67	0.12	0.17
Dividend Non-Current Investments	2.85	2.98	4.71	29.19	45.14	27.28	54.14		19.9
Interest on Security Deposit - Power Purchase		0.43	0.04	0.06	0.23	0.19			
Intt on Adv to Contractors & Suppliers	7	0.05		0.6	0.02			0.15	
Revenue from non-core Activities		0.01		0.02	0.02	0.02		94.99	
Common Service	-0.01	-0.01	-0.02	-0.05	-0.06	-0.06	-0.1	-0.07	
HD6	0.66	4.89	6.06	12.84	9.71	8.62			
HD5	0.19	0.14	0.18	0.81	0.2	0.18			
HD4	0.23	0.59	0.26	0.68	0.52	1.11			
HD1	-0.27	0.04	-0.01	-0.01	-0.01	0			
From Other					0.32			1.52	1.84
Total	347.47	343.25	192.97	167.31	918.93	1123.25	432.09	504.29	979.25

Table 3(b) NTI Admitted (Rs. Cr.)

Particulars	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 21-22
Not considered									
Intt on IT Refund	-	-	-	-	-	-	-	-	-
Provision-Written back employee benefits	-	-	-	-	-	-	-	-	-
Provision-Written back fixed assets	-	-	-	-	-	-	-	-	-
Remission of Liability no Longer required	-	-	-	-	-	-	-	-	-
Income from Energy Certificate	-	-	-	-	-	-	-	-	-
Income from Sale of Gypsum	-	-	-	-	-	-	-	-	-

Particulars	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 21-22
Commission on deposit of Electricity Duty	-	-	-	-	-	-	-	-	-
Delayed Payment Surcharge (Other than command area of JH)	-	-	-	-	-	-	-	-	-
Revenue from Non-Core Activities	-	-	-	-	-	-	-	-	-
Gain on Foreign Exchange Rate Variance	-	-	-	-	-	-	-	-	-
Provision- Written back - Doubtful debts	-	-	-	-	-	-	-	-	-
Provision - Income Tax - Written Back	-	-	-	-	-	-	-	-	-
Intt on IT refund	-	-	-	-	-	-	-	-	-
Provision Written Back - Stock current asset	-	-	-	-	-	-	-	-	-
Tariff Adjustment Fixed Assets	-	-	-	-	-	-	-	-	-
Interest on Bonanja Account	-	-	-	-	-	-	-	-	-
Income from Service Charge - REP	-	-	-	-	-	-	-	-	-
Considered In entirety									
Delayed Payment Surcharge (JH)									48.47
Others - Based on apportionment									
Interest from Employees Loan and Advances	0.22	0.27	0.20	0.19	0.26	0.20	0.13	0.05	0.03
Interest from Non-current investments	17.69	13.15	10.29	4.95	0.48	0.47	0.49	0.19	0.27
Interest on CLTD	-	-	-	-	0.17	-	-	0.00	0.01
Profit on disposal of Fixed Assets	0.04	0.09	1.21	1.94	0.30	0.27	1.13	0.43	8.10
Income from service charge	-	-	-	-	-	0.01	0.01	0.03	14.05
Misc Recovery from employees and outsiders	5.42	3.19	4.79	5.01	2.02	3.40	2.93	2.61	2.31
Rental	0.06	1.30	1.50	2.74	0.37	0.52	0.06	0.58	0.08
LD recoveries	0.24	1.55	2.45	3.24	0.79	0.93	0.19	0.76	1.35
Sale of scraps	10.20	7.42	1.46	3.79	9.08	10.55	5.96	2.19	2.50
Sale of Tender/Papers/Forms	0.09	1.39	1.57	2.83	0.39	0.52	0.01	0.56	0.50
Capitalized	1.98	1.23	2.31	13.41	0.23	0.04	0.35	0.07	1.03
Inter Head Transfer	-	-	-	-	-	-	3.98	1.84	6.38
Interest on Short Term Deposit	0.49	11.54	0.09	0.04	1.83	0.01	0.19	0.02	0.04
Dividend Non-Current Investments	0.97	1.02	1.88	11.52	15.45	9.46	15.70	-	4.71

Particulars	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 21-22
Interest on Security Deposit - Power Purchase	-	0.15	0.02	0.02	0.08	0.07	-	-	-
Intt on Adv to Contractors & Suppliers	2.39	0.02	-	0.24	0.01	-	-	0.03	-
Revenue from non-core Activities	-	0.00	-	0.01	0.01	0.01	-	16.52	-
Common Service	0.00	0.00	0.01	0.02	0.02	0.02	0.03	0.01	-
HD6	0.23	1.68	2.42	5.07	3.32	2.99	-	-	-
HD5	0.06	0.05	0.07	0.32	0.07	0.06	-	-	-
HD4	0.08	0.20	0.10	0.27	0.18	0.38	-	-	-
HD1	0.09	0.01	0.00	0.00	0.00	-	-	-	-
From Other	-	-	-	-	0.11	-	-	0.26	0.44
Total	36.11	41.81	25.74	28.74	34.67	29.81	30.41	25.98	88.22

It is to note, the DPS has not been considered under NTI from FY 2012-13 to FY 2019-20 as it was already included in the NTI calculation of the respective year.

40. Needless to state that the methodology adopted herein is a subject matter in Appeal No. 227 of 2025 against our order in Case (T) 13 of 2024, dated 27.05.2025 for True-up of FY 2023-24 which is pending for disposal before the Hon'ble Tribunal.
41. In line with the Ld. Tribunal's remand order dated 05.08.2024, the unassessed NTI has been considered from FY 2012-13 to FY 2019-20 and FY 2021-22. The period from FY 2006-07 to FY 2011-12 has been excluded in light of the Tribunal's interim Order dated 15.10.2024 in Appeal No. 332 of 2024. The unassessed NTI considered herein above for FY 2012-13 to FY 2019-20 is provisional and will be subject to disposal of APL No. 198 of 2017; APL No. 306 of 2018 and APL No. 387 of 2019 pending before APTEL for the aforesaid period as under:-

S. No.	Appeal No.	Financial Years
1.	Appeal No. 198 of 2017	True-up for FY 2006-07 to FY 2013-14 and APR for FY 2014-15 by order dated 19.04.2017
2.	Appeal No. 306 of 2018	True-up for FY 2015-16 and ARR for FY 2016-17 to 2020-21 by order dated 18.05.2018
3.	Appeal No. 387 of 2019	True-up for FY 2016-17, APR for FY 2017-19 and ARR & Tariff for FY 2019-20 by order dated 28.05.2019

42. Furthermore, for FY 2019-20 and FY 2021-22, till date no Order has been

passed by Ld. CERC approving NTI for DVC's Generation and Transmission business. The same becomes the basis for input cost to be considered for determination of the distribution tariff. Also, the head of 'Other Income' have been apportioned (on approximation basis) so as to exclude any NTI attributable to Generation and Transmission business. Since, Ld. CERC is still in the process of carrying up the true-up exercise for the aforesaid period, adjustments, if any, on account of the same can only be carried out on culmination of such proceedings, as and when the CERC true-up orders are passed.

43. The recalculated Interest on Temporary Financial Accommodation is as follows:

Table 4: Recalculated Interest on Temporary Financial Accommodation

Particulars	FY 21-22
DPS Approved	48.47
Principal Amount Outstanding (DPS/18%)	269.28
Interest Rate	10.50%
Interest on Temporary Financial Accommodation	28.27

44. As per the above calculation, the Revenue Gap/ (Surplus) for FY 2021-22 is tabulated as follows:

Table 5:Standalone Revenue Gap / (Surplus) for FY 2021-22 (inclusive of NTI impact from FY 2012-13 to FY 2019-20) (Rs. Cr.)

Particulars	Formula	Amount as per Tariff Order dated 22.01.2024	Amount as per Current Order
Old Aggregate Revenue Requirement	A	4,073.27	4,073.27
Add: Old Non-Tariff Income	B		979.25
Less: Old Interest on Temporary Financial Accommodation	C		328.02
Add: New Interest on Temporary Financial Accommodation	D		28.27
Less: New Non-Tariff Income	E		88.22
Less: Unassessed Non-Tariff Income (FY 2012-13 to FY 2019-20) from Annexure 3(b)	F		253.27
New Aggregate Revenue Requirement	$G = A + B - C + D - E - F$	4,073.27	4,411.29
Revenue Billed	$H = F - G$	3,614.24	3,101.71
Gap / (Surplus)	I = G - H	459.03	1,309.58

CONCLUSION

45. In view of the aforesaid discussion and in compliance with Hon'ble APTEL order, this Commission has apportioned 'Other Income' based on the matters relevant

to the Distribution Business as NTI as shown in the Table 3 (a) & 3 (b) proportionately related to distribution business of DVC within the State of Jharkhand. Furthermore, the impact of Interest on Temporary Financial Accommodation has been recalculated as per Table 4 above and the Revenue Gap / (Surplus) for FY 2021-22 (including NTI impact from FY 2012-13 to FY 2019-20) is tabulated in Table 5 above.

46. The Commission is passing this order in pursuance of the affidavit dated 11.11.2025 filed by the Commission before Hon'ble APTEL in Case No. OP 01 of 2025, stating therein that the Commission shall dispose the pending Remand Orders in Appeal No. 135 of 2024 and 80 of 2024 by 15.01.2026 after giving due opportunity of hearing to all the parties concerned including Petitioner and Respondent. The order in this case is passed, subject to final disposal of Appeal No. 332 of 2024 and 227 of 2025.

Sd/-

Member(T)

Sd/-

Member(L)

Sd/-

Chairperson