

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

Case No. 26 of 2024

Tata Steel Limited..... Petitioner

**CORAM: HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)
HON'BLE MR. ATUL KUMAR, MEMBER(TECHNICAL)**

For the Petitioner: Mr. Saket Upadhyay, Advocate

Date – 20th December, 2024

1. The Petitioner-Tata Steel Limited (TSL) has filed the instant petition under clause A-41 of JSERC(Conduct of Business),Regulations, 2016, Section 94 (1) (f) of the Electricity Act 2003 and order 47 of civil procedure code, 1908 for review of Commission case (Tariff) No. 08 of 2023 for true-up for FY 2022-23, Annual Performance Review for FY 2023-24 and Aggregate Revenue Requirement for FY 2024-25.
2. Considering the submission of the petitioner on the issues with respect to facts available on record, the issues prayed for have been discussed and dealt as hereunder: -

A. Treatment of capital contribution capitalized and its effect on Depreciation, Interest on Loan and Return on Equity for FY 2022-23.

Submissions of the Petitioner

3. The Learned Counsel for the petitioner has submitted that it had filed a petition dated 30.11.2023 which was registered as case (Tariff) No. 08 of 2023 with respect to approval of True-up of FY 2022-23, Annual Performance Review for FY 2023-24 and Annual Revenue Requirement for FY 2024-25 which was passed by the Hon'ble Commission on June 26, 2024.
4. It was further submitted that the Hon'ble Commission has deducted the consumer contribution (CC) received instead of Consumer contribution capitalized during the True-up for FY 2022-23 to determine the said part of Gross Fixed Assets (i.e. Value of GFA minus asset created out of consumer contribution) on which the normative RoE, Interest on Loan and Depreciation is allowed.
5. The Counsel for the petitioner has further submitted that once the Consumer Contribution is received by the licensee, the necessary expenditure is incurred by the licensee for extending the power supply to the prospective consumer. It is important to note that until the work is completed and energized, the Consumer Contribution amount is not added to the Gross Fixed Asset (GFA) of the petitioner. The contribution is utilized only when the process of providing the individual power connection begins, and until then, it remains under Capital Work in Progress (CWIP). In some cases, the work may be delayed for extended periods due to various issues, such as Right of Way (RoW) challenges, the readiness of the customer's installation, or other

complications, resulting in the CWIP remaining active for a longer duration.

6. It was further submitted that normative RoE, Interest on Loan and depreciation is not allowed on the CWIP; and therefore, reducing such part of consumer contribution (i.e. CWIP, which is not yet added into the GFA) from GFA: for allowing normative RoE, Interest on Loan and Depreciation warrants reconsideration of the Hon'ble Commission. Such consideration shall reduce the lawful return of the petitioner and shall deprive the petitioner from staking its legitimate claim on Return on Equity, Interest on Loan and Depreciation.
7. It was further submitted that normative Return on Equity (RoE), Interest on Loan, and Depreciation are not allowed on the CWIP. Therefore, excluding the portion of the Consumer Contribution (i.e., CWIP not yet added to the GFA) from the GFA for the purpose of allowing normative RoE, Interest on Loan, and Depreciation requires reconsideration by the Hon'ble Commission. Such an exclusion reduces the petitioner's lawful return and deprive it of its legitimate entitlement to claim RoE, Interest on Loan, and Depreciation.
8. The Counsel highlighted that the Consumer Contribution received amounted to Rs. 2.16 crore, while the Consumer Contribution capitalized was Rs. 1.90 crore for FY 2022-23. This disparity has led to a lower allowance of normative RoE, Interest on Loan, and Depreciation by Rs. 0.21 crore for FY 2022-23, as illustrated below: -

Particulars	As Claimed in Petition (A) in Rs. Cr.	As allowed in Order dated June 26, 2024 in Rs Cr.	Less allowed (A-B) in Rs Cr.
RoE (incl. Tax)	30.38	30.37	0.01
Interest on Loan	1.81	1.81	0.00
Depreciation	16.93	16.73	0.20
Total	59.12	58.91	0.21

9. The Counsel for the petitioner further submitted that treating the capital contribution received, instead of the capital contribution capitalized, during FY 2022-23 has adversely impacted the approvals for net depreciation, Interest on Loan, and Return on Equity. This treatment has resulted in a reduction of the petitioner's reasonable returns, normative interest, and depreciation claims.
10. The Counsel emphasized that the consumer contribution is not required to be deducted from the original cost of the project. In this context, it is pertinent to note that only completed and energized projects should be considered for this issue, as the work on other projects involving consumer contribution is still in progress, and their value is not yet reflected in the GFA. Only the completed projects, i.e., assets created from consumer contributions, are added to the GFA. Therefore, only the value of the assets created from consumer contributions (i.e., Consumer Contribution Capitalized) should be deducted from the GFA to determine the net GFA addition, excluding assets created through consumer contributions.
11. The Counsel for the petitioner further submitted that the purpose of reducing the assets created from consumer contributions is to exclude the portion funded by the consumer. However, there is often a time gap between when the

consumer contribution is received and when the corresponding amount is added to the GFA. The petitioner reiterates that only after receiving the consumer contribution is the necessary expenditure incurred to extend the power supply to the prospective consumer. Until the work is completed and energized, the consumer contribution amount is not added to the Gross Fixed Asset (GFA) of the petitioner. During the interim period, once the work to provide an individual power connection begins, the corresponding consumer contribution is utilized to meet the expenditure and remains under Capital Work in Progress (CWIP) until the project is completed

Commission's Observation and findings

12. The Commission has observed that the petitioners in true-up petition of FY 2022-23 had prayed to this Commission for consideration of Consumer Contribution on “capitalized basis” rather than on “received basis”. The Commission has to encourage efficiency and economical use of resources as per Section 61(d) of the Electricity Act, 2023. Partial utilization of available consumer contribution cannot be allowed as the same will result in non-utilization of the funds available with the petitioner and burdening the consumers with financing costs through interest on loan (IoL) and return on equity (RoE). This issue is well settled and the Commission in previous tariff order has reiterated its view on this matter. Therefore, review sought by the petitioners again on the same issues does not satisfy the conditions for review of the impugned order as per Regulation A41 of the provision of JSERC (Conduct of Business), Regulations, 2016. Further, the Commission has also observed that the petitioners in true-up petition for FY 2018-19, FY 2019-20, FY 2020-21, and FY 2021-22 has not raised the issue of treatment of non-utilization of Consumer Contribution during the year in Non-Tariff Income.
13. Further, the petitioners themselves have acknowledged that consumer contributions are earmarked for specific works. In such cases, the petitioner should have maintained separate accounts and provided complete data and details regarding the parking of unutilized funds and their treatment, along with a policy for managing such funds.
14. The Commission firmly believes that any claim made by the petitioner must be substantiated with specific data. The Commission cannot accept generalized justifications for admitting claims that are not adequately supported by relevant data and records. This approach has been consistently adopted in all previous True-up Orders dated 29.09.2023, 29.09.2022, 29.09.2020, which have attained finality. Accordingly, the Commission decides not to reopen settled issues in the present Review Order.
15. Furthermore, the petitioner has sought the review on the grounds of error apparent. In this regard, the Commission is of view that the error apparent means any computational error on the face of record. While in this issue, it is matter of methodology adopted by the Commission. The error apparent does not apply to the methodology or principles adopted while issuing the Order.
16. As there is no error apparent, clerical or arithmetical mistake on the face of record issue (A), as raised by the petitioners, hence the said issue does not warrant any intervention through a review process, and as such, it is hereby dismissed.

B. Approval of Interest on Security deposit for FY 2022-23

Submissions of the Petitioner

17. The counsel for the Petitioner has submitted that the security deposits are being deposited by consumer throughout the year. Interest on Security deposit is provided once in a year during April for whole of the last financial year to all consumers with Security deposits.
18. The Counsel further submitted that there are two kinds of Security deposit balances. One kind of Security deposit balance which is available for whole financial year (Security deposits available as on 1st April of the True up year till 31st March of next year), and other kinds of Security deposit balance which has been received during the True up year from 1st April to 31st March.
19. The Counsel highlighted that the retention time of second type of Security deposit balance may vary from 1 day to 365 days. The Interest is paid based on the number of days of retention of Security deposit amount to different consumers. Accordingly, the total payment made for Security deposit consumer wise is summed up and accounted in the audited accounts. Such consumer wise security deposit amount is also checked by the Statutory auditors while the audited accounts gets signed.
20. The counsel for the petitioner has submitted that the petitioner has claimed Interest on Security deposit based on the amount shown in audited accounts for True up for FY 2022-23. Accordingly, it has paid Rs. 2.74 Crores to the consumers, and the same is claimed in Table 2-32 of the TSL Petition dated 24.11.23.
21. Further, the Petitioner has submitted consumer-wise details of the Interest on Security Deposit payment amounting to Rs. 2.74 crores, attached as **Annexure 2** in the review petition. This amount has been verified by the Statutory Auditors during the signing of the audited accounts for FY 2022-23.
22. Furthermore, The Counsel for the Petitioner has pointed out that the Hon'ble Commission in Impugned order has approved Rs. 2.65 crores as deposit the amount of interest on security based on the prevailing interest rate as on 1st April 2022. However, Petitioner has paid interest on all kind of security deposit balance which has been received during the True up year from 1st April to 31st March which is to the tune of Rs. 2.74 crores. Accordingly, the Petitioner has prayed to allow the actual amount tuned to Rs. 2.74 crores.

Commission's Observation and findings

23. Ongoing to the impugned Order, it is evident that the aforesaid issue has been deliberated and discussed in the Commission Order dated June 26, 2024 in para 7.16 which reads as under:

5.72 On scrutinizing and analyzing the annual audit account for FY 2022-23, the Commission has observed that interest on consumer security deposit tuned to Rs 2.74 crore, while calculating the interest on security deposit at a rate specified (7.55% interest payable at SBI Base Rate as on April 01 of the Financial Year) in the provision of JSERC Electricity Supply code regulation 2015 it would be Rs 2.65

crores. Accordingly, the Commission approves the interest on consumer security deposit tuned to Rs 2.65 crores.

24. However, due to non availability of adequate data on the interest of security deposit that has been given to the Consumers. Accordingly, the Commission has not allowed it. The petitioner is at liberty to clearly demonstrate how much interest on security deposit was required to be given and how much interest has been actually disbursed to the consumers in the next tariff determination process along with all facts and figures for consideration by the Commission on merit.
25. Thus issue No B is not allowed at this stage in view of the above observation.

C. Approval of Funding Cost of DPS for FY 2022-23

Submissions of the Petitioner

26. The Counsel for the petitioner has submitted that the Hon'ble Commission normally considers the 'Delayed Payment Surcharge' as part of power income (under NTI or part of revenue from sale of power) to Compute net ARR. As DPS payment is already considered as non-tariff income by Hon'ble Commission, its funding cost therefore need to be considered and allowed to Petitioner appropriately.
27. The petitioner has further submitted that the Hon'ble Commission has considered the same based on the APTEL order in similar matter wherein Hon'ble APTEL had allowed working capital requirement for funding of Delayed Payment Surcharge at SBI PLR in ARR.
28. As approved in the earlier orders, the petitioner has computed funding cost for FY 2022-23 also, as given in Table 2-34 of Petition dated 24.11.2023. Same table is reproduced below.

S.No.	Particulars	UoM	Amount	Remarks
A	DPS	Rs. Crs	1.78	A
B	Principle amount on which DPS was charged	Rs. Crs	9.88	B=A/18%
C	Interest rate for funding of Principal of DPS	%	10.50%	C
D	Interest amount on funding of Principle amount of DPS	Rs. Crs	1.04	D=B*C

29. The Petitioner has prayed to consider the funding cost of DPS of Rs 1.04 Crs for FY 2022-23, as has been approved in previous True-up orders of FY 2019-20, FY 2020-21, and FY 2021-22.

Commission's Observation and findings

30. Ongoing to the impugned Order, it is evident that the aforesaid issue has been deliberated and discussed in the Commission Order dated June 26, 2024 in para 5.86, 5.87 which reads as under:

5.86 The Commission is of the opinion that there is no provision in JSERC (Terms & Condition of Determination Distribution Tariff) Regulation 2020 with respect to approval of financing cost for corresponding receivables under clause 10.53 & clause 10.54.

5.87 The Commission further opines that the Working Capital requirement as stipulated in the provision of JSERC (Distribution Tariff) Regulation 2020 and amendment thereof is being allowed as per normative to cater the day to day working capital requirements of the Utilities. Hence, the Commission does not approve any financing cost for corresponding receivables.

31. In view of the above, Issue No-C, as raised by the petitioner, does not warrant any intervention through a review process, and as such, it is hereby dismissed.

ORDER

32. The review petition stands disposed off with the above observations.

Sd/-
Member (Tech.)

Sd/-
Member (Law)