

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Review Petition No. 26/RP/2021
in Petition No. 560/MP/2020**

Subject : Review Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking review of the order dated 24.10.2021 passed by the Central Electricity Regulatory Commission in Petition No. 560/MP/2020.

Date of Hearing : 29.3.2022

Coram : Shri P. K. Pujari, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Review Petitioner : Jindal Power Limited (JPL)

Respondent : Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO)

Parties Present : Shri Venkatesh, Advocate, JPL
Shri Ashutosh K Srivastava, Advocate, JPL
Shri Abhishek Nangia, Advocate, JPL
Ms. Isnain Muzamil, Advocate, JPL
Shri Souvik Khamrui, JPL

Record of Proceedings

Case was called out for virtual hearing.

2. Learned counsel for the Review Petitioner, JPL submitted that the present Review Petition has been filed seeking review of the Commission's order dated 24.10.2021 passed in Petition No. 560/MP/2020 ('Impugned order') whereby the Commission has erroneously disallowed JPL's claim for compensation on account of increase in entry tax on coal. Learned counsel mainly submitted the following:

(a) In terms of liberty granted by the Commission vide Record of Proceedings for the hearing dated 20.1.2022, JPL has placed on record the invoices for entry tax dated 4.10.2016, 14.6.2017 and 15.6.2017, calculation of entry tax along with tabulation of details of coal price break-up of the said invoices.

(b) As evident from the invoices, entry tax is levied @ 1% on the assessable value of coal which comprises of basic price of coal, royalty, National Mineral Exploration Trust ('NMET'), District Mineral Fund ('DMF'), Sizing Charges, Stowing Excise Duty, Paryavaran Upkar, Vikas Upkar, Forest fees, Excise Duty and Clean Energy Cess.

(c) However, due to increase in the value of components viz. NMET, DMF, Paryavaran Upkar, Vikas Upkar, Excise Duty & Clean Energy Cess, which has already been held as Change in Law by the Commission, there is a consequential increase in entry tax.

(d) The impugned order, while disallowing the claim of JPL, observes that no documents proof has been placed to show that entry tax has been increased by promulgation/ amendment of any statute or any governmental instrumentality. However, the Impugned order does not consider JPL's submission that it had not claimed the compensation towards increase in rate of entry tax rather it had claimed compensation on account of consequent impact on entry tax due to increase in the value of components on which entry tax is levied.

3. In response to the specific query of the Commission regarding competent authority for determining the assessable value and components for levy of entry tax, learned counsel for the Review Petitioner submitted that while the entry tax is being levied under the Chhattisgarh Entry Tax Act, 1976 (State Act), its levy is included in the coal invoices raised by the coal companies. He further added that JPL's present claim is not regarding inclusion of any additional components in the assessable value for levy of entry tax but increase in the values of existing components due to Change in Law (NMET, DMF, Paryavaran Upkar, Vikas Upkar, Excise Duty & Clean Energy Cess), leading to the consequent increase in the assessable value and levy of entry tax. Learned counsel submitted that in the Impugned order, the Commission has allowed the Change in Law compensation on account of increase in assessable value of taxes for the Excise Duty and VAT. Reliance was also placed on the order dated 31.5.2018 in Petition No. 170/MP/2016 (KSK Mahanadi Power Co. Ltd. v TANGEDCO).

4. After hearing the learned counsel for the Review Petitioner, the Commission reserved the order on 'admission'.

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Law)**