



ORDER

OF THE

**WEST BENGAL ELECTRICITY REGULATORY
COMMISSION**

IN THE MATTER OF

CASE NO: TP(R)-38/21-22

IN REGARD TO PETITION SUBMITTED BY HIRANMAYE ENERGY LIMITED FOR REVIEW OF MYT ORDER DATED 25.08.2021 FOR THE YEAR 2020 – 2021 TO 2022 – 2023 ISSUED BY THE COMMISSION IN CASE NO. TP-97/20-21.

PRESENT:

**DR MALLELA VENKATESWARA RAO, CHAIRPERSON
SRI PULAK KUMAR TEWARI, MEMBER**

DATE: 03.05.2023



FACTS IN BRIEF

1. This is in regard to the petition submitted by Hiranmaye Energy Limited (HMEL) on 7th October, 2021 in terms of section 94(1)(f) of the Electricity Act, 2003 read with regulation 3.3 of the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013 for review of Multi Year Tariff (MYT) for the years 2020 – 2021, 2021 – 2022 and 2022 - 2023 issued by the Commission vide dated 25.08.2021 in case no. TP-97/20-21.
2. In their review petition, HMEL has sought review on the following points:
 - a) Clerical / Arithmetical mistakes in Coal and Ash Handling Charges;
 - b) Non-consideration of Escalation in Transportation Charges;
 - c) Consideration of basic price of Coal in FY 2021 2022 and FY 2022 - 2023;
 - d) Treatment of Fixed Charges / Final Project Cost;
 - e) Treatment of Employee Cost;
 - f) Treatment of Operation and Maintenance Expenses;
 - g) Wrong application of norms of Sagardighi TPS, Stage – I;
 - h) Treatment of Interest on Working Capital;

OBSERVATIONS OF THE COMMISSION

3. The Commission observed that, after filing the review petition before the Commission, HMEL has preferred an appeal before the Hon'ble Appellate Tribunal for Electricity (APTEL) in DFR No. 44 of 2022 and IA No. 214 of 2022. Under Section 114 and Rule 1(2) of Order 47 of the Code of Civil Procedure, review of the issues is not allowed on which an appeal has been filed before the higher Court.
4. Issues raised in appeal before the Hon'ble APTEL are same as are raised in the review petition pending before this Commission both in terms of letters and spirit. Therefore, the Commission has no jurisdiction to entertain the review petition in respect of which the appeal is pending before higher court of law, in terms of Section 114 and Order 47 rule 1(2) of the Code of Civil Procedure.



सत्यमेव जयते

Review order against petition submitted by Hiranmaye Energy Limited for review of TP order for the years 2020 – 2021 to 2022 – 2023 issued by the Commission vide dated 25.08.2021 in case no. TP-97/20-21.



ORDER OF THE COMMISSION

5. In view of the above, the Commission dispose of the review petition in the negative.
6. HMEL is to take note of this order.
7. HMEL shall download the copy of the order from the website of the Commission and act on it. Certified copy of the order, if applied for, be given to the parties on completion of formalities laid down in the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013, as amended and on submission of necessary fees.

Sd/-

**(PULAK KUMAR TEWARI)
MEMBER**

Sd/-

**(MALLELA VENKATESWARA RAO)
CHAIRPERSON**

DATED: 03.05.2023

**Sd/-
SECRETARY**