

**Sub:**In the matter of petition under section 62 of Electricity Act 2003 seeking clarification in Tariff order FY2019-20 under tariff schedule HV3.4(P.No. 58 /2020)

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**Order**

(Hearing through Video Conferencing)

Date of Motion hearing: 02.11.2020

Date of order: **03.02.2021**

M/s Ramnik power & Alloys pvt. Ltd. Balaghat:**Petitioner**

V/s

MP Poorv KVVCL, Jabalpur ( East Discom) :**Respondent**

Shri Enosh George Carlo, Advocate appeared on behalf of the petitioner.

2. The petitioner has filed instant petition under section 62 of the Electricity Act 2003, seeking rebate for captive power plant in accordance with Retail supply Tariff Order FY2019-20 subsequent to denial by Respondent due to petitioner's ineligibility in availing such rebate under the prescribed provisions of Retail supply Tariff order. The petitioner has made following prayer:
  - i. To clarify the provisions of Tariff schedule HV3.4 (f) Rebate for captive power plant consumers so that the petitioner gets the rebate of Rs 2 per unit ;
  - ii. Issue directions to the respondent company to give HT connection of the appropriate requested load along with a discount of Rs 2 per unit to the petitioner as provided by the tariff order FY2019-20.
3. The petitioner has stated in the petition that it has a Ferro Alloys plant along with 06 MW Captive Biomass based power plant . The plant was registered under MP Urja Vikas Nigam Ltd. Bhopal on 18.08.2010. The petitioner's ferro alloys plant was initially run by electricity generated by the captive power plant for about 1 year. After which the petitioner shifted its load to respondent's distribution system in January 2012. Subsequently, the connection was surrendered by the petitioner in Oct 2019 due to high electricity rate .In a subsequent development, based on the provisions of Retail supply tariff order FY2019-20, the petitioner applied to the State Govt. for consideration of a rebate of Rs 2 per unit against the surrender of 06 MW Captive Power Plant . According to the petitioner, the State Govt. vide its letter dated 26.11.2019 has stated that a rebate of Rs 2 per unit is applicable upon petitioner company in accordance with provisions of Retail supply Tariff order FY2019-20 on incremental consumption from Distribution Licensees, subject to reduction

in captive generation in any month of current year compared to same month in base year .  
The petitioner further stated that the State Govt. also clarified that base year shall be the financial year preceding the year during which consumer has applied for switching the consumption from its captive power plant to the licensee.

4. It is further stated in the petition that the petitioner's company approached the Respondent Company & requested to grant electricity with a rebate of Rs 2 per unit on consumption. The respondent MPPoorvKVVCL expressed its inability to give the rebate of Rs 2 per unit stating that incremental consumption of petitioner company cannot be calculated by taking base year as prescribed by Tariff order 2019-20 since the petitioner's Captive plant remained closed, during that period.
5. The petitioner has stated in the petition that in view of above circumstances, it has made a request to clarify the provisions of Tariff schedule HV3.4 (f) of Retail supply Tariff order FY2019-20 & provide appropriate measures to grant rebate of Rs 2 per unit to the petitioner's plant which is willing to discontinue drawal of power from the captive power plant and avail entire power from the respondent company.
6. The petitioner has submitted that its ferro alloys plant was initially run by using electricity generated by the captive power plant for about one year after which the load was shifted to DISCOM's system in January 2012. Thereafter, the connection was also surrendered in October 2019. The petitioner has submitted that the tariff order provides for considering base year to be the financial year preceding the year during which the consumer has applied for switching consumption from his captive power plant to the licensee but there is no provision for such consumers whose plants were shut down and who wish to re-start their plants with option to take connection from licensee instead of restarting their own captive power plant.
7. During the hearing held on 02.11.2020, the Commission after hearing the petitioner, decided to examine the petition in light of arguments put forth by the counsel for the petitioner and then to pass an appropriate order on maintainability of the subject petition.
8. On examining the petition, the Commission observed that, following criteria has been specified in the Tariff order for FY2019-20 in regard to reckoning "base year" for providing rebate to Captive power plant consumers who want to switch their consumption from Captive Power plant to License :

Clause (f) of specific terms & condition under Tariff Schedule HV3 :

*i.* .....

*ii.*.....

*iii. The **base year** shall be the financial year preceding the year during which the consumer has applied for switching consumption from his captive power plant to the licensee.*

*e.g., If a consumer applies for switching his consumption from captive power plant to Licensee in August, 2018, then his base year for calculation of incremental consumption would be FY 2017-18.*

*iv. ....*

*v. A rebate of Rs 2 per unit shall be applicable on incremental units of the consumers subject to reduction in captive generation. (Methodology also given in this clause).*

9. The Commission observed that the petition has been filed under Section 62 of the Electricity Act 2003 which provides for determination of tariff. The Commission has determined the tariff for FY2019-20 by following the procedure laid down under section 64 of the Electricity Act 2003. The petitioner has prayed to clarify the above mentioned provisions of Tariff Schedule HV3.4(f) regarding rebate for Captive Power Plant Consumers.

10. The Commission observed that the provision with regard to the rebate on switching consumption from captive use to the licensee's supply is very clear. The rebate for captive power plant consumers in the tariff order is applicable only to those consumers who have been meeting their demand either fully or partially in base year through their captive power plants located in Madhya Pradesh. This rebate of Rs 2 per unit has been applicable only on recorded incremental consumption i.e. an increase in units consumed from the Licensee in any month of the current year (FY 2019-20) compared to the same month in the base year subject to reduction in corresponding captive unit consumption .

The petitioner's captive plant was not operational during the base year as specified in the retail supply tariff order and also the Petitioner does not meet the other applicability criteria of the Tariff Order. The rebate clause in the tariff is explicitly clear and needs no further clarification. The petitioner himself stated in the petition that the tariff order provides for considering the base year to be the financial year preceding the year during which the consumer has applied for switching consumption from his captive power plant to the licensee but it does not make any provision for such consumers whose captive plant was shut down and who wants to restart his plant or to take connection from the licensee instead of restarting its own captive power plant.

The Commission has determined the retail supply tariff order under Section 62 of the Electricity Act 2003 by following due procedure laid down under section 64 of the Act. The provision on which petitioner has sought clarification is explicitly clear and serving the intent of the rebate provided for, hence does not require any further clarification. With this the Petition being not maintainable is dismissed.

**(Shashi Bhushan Pathak)**  
**Member (Law)**

**(Mukul Dhariwal)**  
**Member**

**(S.P.S. Parihar)**  
**Chairman**