



DAMODAR VALLEY CORPORATION

Submissions on behalf of DAMODAR VALLEY CORPORATION, the petitioner to the submissions by the objector -DVPCA in Petition No. 575/GT/2020 for truing up of annual fixed charges for the 2014-19 tariff period and for determination of tariff for the 2019-24 tariff period in respect of Raghunathpur Thermal Power Station (RTPS), Phase-I, Units-1 and 2 (1200 MW)

**BEFORE THE HONOURABLE CENTRAL ELECTRICITY
REGULATORY COMMISSION**

**3RD& 4TH FLOOR, CHANDERLOK BUILDING,
36, JANPATH, NEW DELHI-110 001**

Petition No. **575/GT/2020**

IN THE MATTER OF:

Submissions on behalf of DAMODAR VALLEY CORPRATION, the petitioner to the submissions by the objector -DVPCA in Petition No. 575/GT/2020 for truing up of annual fixed charges for the 2014-19 tariff period and for determination of tariff for the 2019-24 tariff period in respect of Raghunathpur Thermal Power Station (RTPS), Phase-I, Units-1 and 2 (1200 MW)

AND IN THE MATTER OF:

Damodar Valley Corporation
DVC Towers, VIP Road,
Kolkata -700 054

----- Petitioner

VERSUS

1. Haryana Power Purchase Centre
(Erstwhile Haryana Power Generation Corporation Limited)
Shakti Bhawan, Sector-6, Panchkula-134109
2. Punjab State Power Corporation Limited
(Erstwhile Punjab State Electricity Board)
Interstate Billing, Shed No. TI-A, Patiala- 147 001
3. Kerala State Electricity Board
8th Floor, Vydyuthi Bhawan
Thiruvananthapuram-695004
4. West Bengal State Electricity Distribution Company Limited
Block 'DJ' Sector-11, Salt Lake City, Kolkata-700 091

----- Respondents



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Samit Mandal

उप मुख्य अभियंता (वा.)
Dy.Chief Engineer (Comml.)
वाणिज्यिक विभाग/Comml. Dept.
दा.घा.नि., कोल-54/DVC, Kol-54

Deputy Chief Engineer (Commercial)
For and on behalf of
Damodar Valley Corporation

Date: 11-May-22

Place: Kolkata



**BEFORE THE HONOURABLE CENTRAL ELECTRICITY
REGULATORY COMMISSION**

**3RD & 4TH FLOOR, CHANDERLOK BUILDING,
36, JANPATH, NEW DELHI-110 001**

Petition No. **575/GT/2020**



IN THE MATTER OF:

Rejoinder on behalf of the petitioner, Damodar Valley Corporation to the objection filed by Damodar Valley Power Consumer Association (DVPCA) in Petition No. 575/GT/2020 for truing up of annual fixed charges for the 2014-19 tariff period and for determination of tariff for the 2019-24 tariff period in respect of Raghunathpur Thermal Power Station (RTPS), Phase-I, Units-1 & 2 (1200 MW).

AND

IN THE MATTER OF:

Damodar Valley Corporation
DVC Towers, VIP Road,
Kolkata -700 054

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Thiruvananthapuram-695004
4. West Bengal State Electricity Distribution Company Limited,
Block 'DJ' Sector-11, Salt Lake City, Kolkata-700 091 -----
Respondents

10 MAY 2022

BEFORE THE NOTARY PUBLIC
AT BIDHANNAGAR
DIST.-NORTH 24 PARGANAS

SL. NO. 187/2022

AFFIDAVIT

I, Samit Mandal, son of Shri Biman Mandal aged about 47 years and resident of F-II/27 Kanishka Road, Post-Durgapur, DS Township, A-Zone, PIN-713204, do hereby affirm and state as under:

1. I am the Deputy Chief Engineer (Commercial) of Damodar Valley Corporation, the Petitioner and well conversant with the facts of the case, hence competent to swear this affidavit. I am duly authorized to do so.
2. I say that in response to the objection raised by DVPCA against tariff Petition No. 575/GT/2020, the Petitioner Damodar Valley Corporation (DVC) is filing herewith the rejoinder relating to petition for truing up of annual fixed charges for the 2014-19 tariff period and for determination of tariff for the 2019-24 tariff period in respect of Raghunathpur Thermal Power Station, Phase-I, Units-1 and 2 (1200 MW).
3. I say that I have read and understood the contents of the accompanying rejoinder along with all annexures. Further, I say that the same are based on the records maintained by the Petitioner in the normal course of business and believed by the deponent to be true.


Deponent

Verification,

I, the deponent above named, do hereby verify that the contents of the above affidavit are true to the knowledge of the deponent and believed by the deponent to be true, no part of it is false and nothing material has been concealed there from.

Verified at Kolkata

On the Date: 10-05-22


S. CHAUDHURI
★ NOTARY ★
GOVT. OF INDIA
Regd. No.-6584/08
Bidhannagar Court
Dist.-North 24 Pgs.


Deponent

Identified By Me

MANOJ BASU
Advocate
Enrolment No.-F-247/2006
Bidhan Nagar Court
Kolkata-700091

10 MAY 2022

BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION

3RD AND 4TH FLOOR, CHANDRALOK BUILDING,

36, JANPATH, NEW DELHI - 110 001

PETITION NO. 575/GT/2020

IN THE MATTER OF:

Damodar Valley Corporation - Petitioner

Versus

Haryana Power Purchase Centre & Others - Respondents

**SUBMISSIONS ON BEHALF OF DAMODAR VALLEY CORPRATION, THE PETITIONER
TO THE SUBMISSIONS BY THE OBJECTOR -DAMODAR VALLEY CONSUMER
ASSOCIATION**

MOST RESPECTFULLY SHOWETH:

1. In the Written Note Of Submissions dated 02.05.2022 the Objector-Damodar Valley Consumer Association has primarily raised issues on the following three aspects, in regard to tariff of Damodar Valley Corporation (hereinafter referred to as DVC):-
 - a) Contribution to sinking fund;
 - b) Additional O&M Expenses; and
 - c) Contribution to Pension and Gratuity Fund



2. The issue (b) and (c), in the present case, are largely related and therefore being dealt together in these submissions.
3. At the outset it is stated that DVC has made detailed submissions on the above aspects in Petition no. 564/GT/2020 and the copy of the submission dated 31.03.2022 in Petition no. 564/GT/2020 is attached as Annexure A.
4. The objector is raising the same issues again and again before the Hon'ble Commission in one form or the other, despite the issues have been decided earlier by the Hon'ble Appellate Tribunal for Electricity and the Hon'ble Supreme Court.

RE: CONTRIBUTION TO SINKING FUND

5. The objector has raised the following aspects in regard to the above issue (Pages 2 to 35 of the Written Note of Submissions):-
 - a. The objector states that it is not impugning the allowance of sinking fund contribution as a pass through in tariff, but is only aggrieved by allowance of depreciation, which the objector claims to be additional and constitutes double allowance over and above the repayment of loan;
 - b. the objector states that the sinking fund cannot be allowed as an additional tariff element under the DVC Act, 1948 read with the Electricity Act, 2003 and the Tariff Regulations notified thereunder;



6. The submissions of DVC are as under:-

- a. the contention of the Objector that depreciation and loan repayment are the same thing and cannot be considered together is fundamentally wrong, as already decided by the Hon'ble Appellate Tribunal in its decision dated 13.06.2007 in Appeal No. 139 of 2006 in the matter of NTPC Limited -v- Central Electricity Regulatory Commission and the Hon'ble Supreme Court in Civil Appeals no. 5622 of 2007 and other connected appeals vide the order dated 10.04.2018 (the relevant extract quoted herein);
- b. the allowance of depreciation is a specific tariff element under the Tariff Regulations. Repayment of loan is in fact not a tariff element under the said Tariff Regulations;
- c. by the Tariff Regulations, this Hon'ble Commission had only considered for the purposes of computing the reducing balance on which the tariff element of interest on loan is to be allowed by equating depreciation as deemed repayment. It is only a measure to consider the loan outstanding on year on year basis for the reasons given in the Tariff Regulations including the Statement Of Object And Reasons in regard to the Tariff Regulations, 2009 which has been extensively quoted by the Objector in its submissions.
- d. DVC does not dispute that for computing the loan outstanding, depreciation amount is to be considered as deemed repayment in accordance with the tariff regulations.



- e. The objector however is mixing up the aspect of contribution to sinking fund admissible under Section 40 of the Damodar Valley Corporation Act, 1948 with depreciation admissible to DVC under the Tariff Regulations 2014 and Tariff Regulations 2019.
- f. the sinking fund contribution is a special element allowed under the DVC Act, 1948 and has been upheld by the Hon'ble Supreme Court in Bhaskar Shrachhi Alloys Ltd. v. Damodar Valley Corporation (2018) 8 SCC 281 and the Hon'ble Appellate Tribunal in decision dated 23.11.2007 in Appeal no. 271 of 2006 and batch which decision was upheld fully in the above decision of the Hon'ble Supreme Court. There was no reservation, condition etc. in these decisions or otherwise in the DVC Act,1948 that in view of the Sinking Fund, depreciation as a tariff element shall not be allowed. This Hon'ble Commission has incorporated special provisions in the Tariff Regulations, 2014 and 2019 for giving effect to the above decisions and again there is no reservation or condition of the above nature in the Tariff Regulations.
- g. In fact in the above decisions the Hon'ble Appellant Tribunal and the Hon'ble Supreme Court has besides approving the contribution of Sinking Fund as a pass through in the tariff in terms of Section 40 of the DVC Act,1948 simultaneously had also approved the higher depreciation rate admissible to DVC under the DVC Act,1948 again with reference to the same provision of Section 40 of the DVC Act,1948. It is therefore patently



erroneous for the Objector to raise the issue that depreciation should not be allowed once sinking fund is allowed and that the same has not been considered in the above decisions. The judgement dated 23.7.2018 of the Hon'ble Supreme Court in Bhaskar Shrachi Alloys Ltd. v. Damodar Valley Corporation, (2018) 8 SCC 281 reads as under:

50. Insofar as the questions under the last two issues at (g) and (h) above is concerned, the same have already been dealt with in the present order. Of the remaining heads of tariff fixation, it appears that so far as the 'depreciation rate' and 'sinking fund' is concerned it is the provisions of Section 40 of the Act of 1948 which have been held to be determinative. We have gone through the reasoning adopted by the learned Appellate Tribunal in this regard. Having clarified the manner in which the fourth proviso to Section 14 of the 2003 Act has to be understood, we do not find the reasoning adopted by the learned Appellate Tribunal on the issues relating to 'depreciation' and 'sinking fund' to be fundamentally flawed in any manner so as to give rise to substantial question of law requiring our intervention/interference under Section 125 of the 2003 Act.

7. The Civil Appeal no. 971-973 of 2008 arose out of the order dated 23.11.2007 passed by the Hon'ble Tribunal in Appeal no. 271 of 2006 and batch, wherein it was held as under:

82. The Second set of the provisions namely Sections 12(b), 30, 31, 34, 35, 37 to 42 and 44 of the DVC Act, referred to before are the ones which can be read along with the Act without being inconsistent and repugnant to the Act and both can be given effect to. The Sections 30, 31, 34, 35, 37 to 42 and 44 are contained in Part IV of the DVC Act and are plenary



in nature and not subject to framing of any rule or regulation by any authority except by the legislature.”

E. Revenues to be allowed to DVC under the DVC Act

.....

“E.14 The Appellant has submitted that certain provisions of the DVC Act, particularly under Part IV dealing with Finance, accounts and Audit can always be read harmoniously with the provisions of the Act and both can be given effect to without there being any inconsistency or repugnancy.

E.15 As regards sinking funds which is established with the approval of Comptroller and Accountant General of India vide letter dated December 29, 1992 under the provision of Section 40 of the DVC Act is to be taken as an item of expenditure to be recovered through tariff, as brought out in para 82 earlier.”

.....

F. Depreciation Rate

F.1 Section 40 of DVC Act provides for the Comptroller and Auditor General of India (C&AG) to prescribe depreciation, reserve and other funds in consultation with the Central Government. The aforesaid provision neither quantifies nor limit the rate of depreciation to be allowed.

F2. The Appellant has claimed depreciation at rate prescribed by the C&AG and submits that all along till the Electricity



Act, 2003 came into effect, it has been factoring the prescribed depreciation rate in formulating the tariff. It is relevant to point out that the Act does not make any provision for factoring rate of depreciation in tariff determination. Thus, in our opinion, the DVC Act insofar as the depreciation is concerned is not inconsistent with the Act and shall continue to apply to the corporation.

F3. The depreciation, in respect of useful life of a substantial portion of generation capacity of DVC being aged out and redeemed, leaves little or no impact on the tariff of such plants. However, the impact of depreciation rate on the tariff of the balance generation capacity shall be significant as the rate of depreciation prescribed by the C&AG is higher than what is fixed by the Regulations, 2004. For the aforesaid reason, it is essential for the Central Commission to carry out reasonable assessment of the capital cost of each power plant individually at COD (if the authentication of approved cost is not available/traceable) and apply the prescribed rate of depreciation for each successive year since then to arrive at adjusted fixed cost for each plant for consideration in tariff determination. The depreciation is to be allowed and computed only on aggregate sum of gross capital asset of each plant qualifying for the depreciation and not regardless of it.

F4. We, therefore, direct the Central Commission to adopt rate of depreciation as prescribed by C&AG for computation of tariff for the asset based on the principle outlined above while keeping in view our remarks in respect of Dept-Equity ratio in para 112(A) above.



8. It has been held in the above cases that contribution to sinking fund is independent of tariff elements under the Tariff Regulations and further in the later Judgement dated 17.05.2019 of the Hon'ble Appellate Tribunal in Appeal No. 17 of 2014 (Paras 8.5 to 8.8) also relating to DVC, the Hon'ble Appellate Tribunal has rejected the contentions of the very same objector that there has been any double counting or double allowance to DVC in regard to the contribution to the Sinking Fund.
9. The Hon'ble Appellate Tribunal for Electricity in its decision dated 13.06.2007, in Appeal No. 139 of 2006, in the matter of NTPC Limited -v- Central Electricity Regulatory Commission, decided as under on the aspect of depreciation being equivalent to deemed repayment of loan:

III. Treating depreciation available as deemed repayment of loan
Learned counsel for the appellant stated that the Commission proceeded on the basis that depreciation allowed is for repayment of the loan and, therefore, to the extent of the depreciation available there will be deemed repayment of loan.

Learned counsel contended that in view of the orders dated November 14, 2006 and January 24, 2007 passed by the Tribunal in regard to computation of outstanding loan, namely, it should be on normative basis only (instead of normative or actual whichever is higher), the issue of adjusting the depreciation amount as deemed repayment of the loan will not arise. The computation of outstanding loan for all intent and purposes should be on normative basis only. Even otherwise the principle adopted by the Commission that depreciation allowed is for repayment of loan is wrong. The depreciation is admissible notwithstanding any loan is taken or not.

Learned counsel stated that the concept of depreciation is not to enable the utilities to repay the loan obligations. The depreciation is available to utility whether any loan amount exists or not or



whether there is any refinancing, swapping or rearrangement of any nature. The depreciation amount, unlike Advance against Depreciation, is to be allowed notwithstanding the consideration whether there is any liability to pay loan or not. He cited commentaries in the Financial Accounting on 'depreciation' as under:

**“Financial Accounting - Foundation Course Study Material-
The Institute of Company Secretaries of India**

It is a common experience that whenever an asset is used in business its value is getting reduced and sooner or later the asset will become useless. Thus depreciation is a permanent, continuing and gradual shrinkage in the book value of a fixed asset. As the asset is used for business purpose, the annual loss in the value of the asset is like any other expense hence the cost of asset should be treated as a loss spreading over its life. Thus, depreciation is a process of allocating the cost of a fixed asset over its estimated useful life in a rational and systematic manner.

The Institute of Chartered Accountants of India in Accounting Standards AS6 has defined it as “as measure of the wearing out, consumption or other loss of value of a depreciable asset arising from use, effluxion of time or obsolescence through technology and market changes. Depreciation is allocated so as to charge a fair proportion of depreciable amount in each accounting period during the expected useful life of the asset. Depreciation includes amortization of assets whose useful life is predetermined”

Learned counsel submitted that the Commission itself spreads the balance recovery of depreciation over balance useful life after repayment of entire loan, i.e. depreciation is recognized as an element of capacity/ fixed charges even after full repayment of loan. The advance against depreciation is, however, given to enable sufficient cash availability with the utility for repayment of the loan and is entirely different than the normal depreciation admissible and to be allowed.



Per contra, Mr. Misra appearing for the respondent UPPCL contended that though definition of depreciation given in other statute or in accounting principles may be different but for the purpose of tariff, depreciation is linked with repayment of loan which is clear from Regulation 21(ii) of CERC (Terms and conditions of Tariff) Regulations, 2004. The Commission in its order has given detailed reasons for treating the depreciation available as deemed repayment of loan. The K.P. Rao Committee also treated the depreciation claim as repayment. The combined reading of Regulation 21(i)(a) and 21(ii)(b) make it clear beyond doubt that depreciation is linked with deemed repayment of loan. In case it is held that depreciation is not deemed repayment of loan capital, then there is no component under the tariff by which loan could be repaid. The judgment of Hon'ble Supreme Court in Mysore Mills Ltd. Vs CIT Karnataka (1999) 7 SCC 106 is not applicable in the facts and circumstances of the present case because the said case was under the Income Tax Act and was not related to the tariff. Similarly the decision in Delhi Electricity Regulatory Commission V/s BSES Yamuna Power (2007) 3 Scale 289 is not applicable in the present case.

Mr. Harish Chander, Consultant, MPPTC contended that depreciation is a process of repayment of capital in installments and therefore capital consists of Debt and Equity both, logical interpretation would be that depreciation is a process of repayment of not only Debt but also payment of equity in installments. He tried to rely upon the concept of depreciation propounded by K.P.Rao Committee (which was accepted by the Government but not by the Commission) that once the loan is fully paid, excess depreciation shall be adjusted against the equity. He submitted that provisos Clause 21(b) of CERC (T&C of Tariff) Regulations, 2004 states that advance against depreciation is permitted only if cumulative repayment up to a particular year exceeds the cumulative depreciation to that year: and provided further that advance against the depreciation in a year shall be restricted to the extent of difference between cumulative repayment and cumulative depreciation up to that year. Gravamen of his arguments was that when this principle has been provided in the form a mathematical hypothesis its converse also be true i.e.



when cumulative depreciation exceeds the cumulative repayment, excess amount should go to reduce at least the loan if not equity. He contended that there is no foundation in the arguments of the appellant that there is no relation between depreciation and loan repayment.

Analysis and Decision

In the orders of this Tribunal dated November 14, 2006 and January 24, 2007 it has been laid down that the computation of outstanding loan will be on normative basis only (instead of normative or actual whichever is higher). In view of this there is no question of any adjustment of the depreciation amount as deemed repayment of loan.

It is to be understood that the depreciation is an expense and not an item allowed for repayment of loan. If a corporation does not borrow, it would not mean that the corporation will not be allowed any depreciation. Depreciation is an expense it represents a decline in the value of asset because of use, wear or obsolescence. The Accounting Principles Board of USA defines depreciation as under:-

“The cost of a productive facility is one of the costs of the service it renders during its useful economic life. Generally accepted accounting principles require that this cost be spread over the expected useful life of the facility in such a way as to allocate it as equitably as possible to the periods during which services are obtained from the use of the facility. This procedure is known as depreciation accounting, a system of accounting which aims to distribute the cost or other basic value of tangible capital assets, less salvage (if any), over the estimated useful life of the unit (which may be a group of assets) in a systematic and rational manner. It is a process of allocation, not of valuation”

It is well established that the depreciation is an expense and therefore, it cannot be deployed for deemed repayment of loan. In this view of the matter the CERC shall need to make a fresh



computation of outstanding loan in the light of the aforesaid observations.

10. The Civil Appeal being no. Civil Appeals no. 5622 of 2007 and other connected appeals filed against the said order dated 13.06.2007 of the Hon'ble Tribunal has been dismissed by the Hon'ble Supreme Court vide the order dated 10.04.2018.
11. The fact that depreciation and repayment on loan are two different aspects is also a settled position in law by the judgements of the Hon'ble Supreme Court in Delhi Electricity Regulatory Commission v BSES Yamuna Power Limited (2007) 3 SCC 33 read with the Judgments in Ahmedabad Miscellaneous Industrial Workers Union v Ahmedabad Electricity Company Limited, (1962) 2 SCR 934 and Associated Cement Companies Limited v Workmen 1959 SCR 925 .
12. The principle aspect decided in the above decision is a settled legal position. It is not restricted to the peculiar facts of the particular case. The purported differentiation sought to be made by the Objector is without any merit. In the Delhi Electricity Regulatory Commission (supra), the peculiar fact referred to is in the context of the depreciation rate provided under the reform act and transfer scheme vis a vis the regulations. This feature is in fact supporting the case of DVC in the context of section 40 of DVC Act being treated as a special provision, as held by the Hon'ble Supreme Court in the Bhaskar Shrachi case(supra)
13. The salient aspect is that depreciation as a tariff element is admissible irrespective of whether any loan is taken from the bank or financial institution or any debt is used for funding the capital assets. Even if an



asset is funded with 100% equity, depreciation is admissible as a tariff element. This also negates the claim that depreciation should not be considered if sinking fund is considered for repayment of loan. Even where the project is funded with 100% equity and 70% thereof is treated as normative loan and equity is restricted to 30 % depreciation is allowed not only restricted to the asset value represented by loan component but also the asset value as a whole inclusive of equity component.

14. It is submitted that unlike in the case of other regulated entities, such as NTPC, NHPC, NEEPCO, NLC etc., the law has recognized a special provision for DVC for any contribution toward sinking fund to be allowed as an item of expenditure. The legislature while enacting the DVC Act, 1948 has left the aspect of the nature, purpose and objective of creating the sinking fund to be as approved by the Comptroller and Auditor General of India.
15. A similar aspect raised by the very same Objector in Appeal No. 17 of 2014 decided on 17.05.2019, was rejected by the Hon'ble Appellate Tribunal by holding as under:

4. Mr. Rajiv Yadav, the learned counsel appearing for the Appellant(s) in the batch of Appeals has filed the written submissions for our consideration as follows:-

4.12 The impugned finding is identical in all the Appeals and is extracted hereunder for ready reference:

“As per Judgment of the Tribunal dated 23.11.2007, sinking fund, established with the approval of Comptroller and Accountant General of India vide letter dated December 29,



1992 under the provision of Section 40 of the DVC Act, 1948 is to be taken as an item of expenditure to be recovered through tariff. Accordingly, the contribution towards sinking fund created for redemption of bond is allowed.”

1. Double Allowance: It is the appellant’s case that there has been double allowance of capital cost incurred by DVC by utilising Bonds’ amount as follows:

Allowance # 1:

- i) Interest on normative loan of at least 70 % or more of actual capital cost**
- ii) Depreciation for payment of principal**

Allowance # 2:

Contribution to Sinking Fund created for redemption of bonds, which factors in:

- i) Coupon rate of interest on relevant Bonds; and**
- ii) Principal amount realised through Bonds’ issue.**

.....

4.15 With respect to the above quoted extract, it is submitted as follows:

i) This Hon’ble Tribunal did not sanction double allowance of capital cost (additional capitalisation)

ii) Interpretation adopted by CERC is inconsistent with 4th proviso to Section 14, as such interpretation has rendered S. 40 of DVC Act inconsistent with EA, 2003, which mandates recovery of cost of supply in “reasonable manner”.

iii) DVC’s following contention negated any claim of double allowance of capital cost:

“E. 14 The Appellant has submitted that certain provisions of the DVC Act, particularly under Part IV dealing with Finance, Accounts and Audit can always be read harmoniously with the provisions of the Act and both can be given effect to without



there being any inconsistency or repugnancy” (emphasis added)

6. Ms. M.G. Ramachandran, learned senior counsel appearing for the Respondent No.2 in the batch of Appeals has filed the written submissions for our consideration as follows:-

6.1 *The matter in issue relates to the contribution to sinking fund allowed by the Central Commission in Petition No. 276/GT/2012 by the impugned order dated 7.8.2013.*

Admissibility of Sinking Fund Contribution stands settled in favour of DVC and is no longer res integra.

6.2 *The sinking fund contribution is admissible to DVC in terms of Section 40 of the Damodar Valley Corporation Act, 1948 which reads as under :-*

.....

6.3 *The matter of sinking fund has been considered and decided by the Hon’ble Supreme Court in favour of DVC in the judgement dated 23.7.2018 passed in Civil Appeal no. 971-973 of 2008, reported as (2018) 8 SCC 281. The relevant part of the decision is para 50 which reads as under:-*

50. *Insofar as the questions under the last two issues at (g) and (h) above is concerned, the same have already been dealt with in the present order. Of the remaining heads of tariff fixation, it appears that so far as the ‘depreciation rate’ and ‘sinking fund’ is concerned it is the provisions of Section 40 of the Act of 1948 which have been held to be determinative. We have gone through the reasoning adopted by the learned Appellate Tribunal in this regard. Having clarified the manner in which the fourth proviso to Section 14 of the 2003 Act has to be understood, we do not find the reasoning adopted by the learned Appellate Tribunal on the issues relating to ‘depreciation’ and ‘sinking fund’ to be fundamentally flawed in any*



manner so as to give rise to substantial question of law requiring our intervention/interference under Section 125 of the 2003 Act.

6.4 The above Civil Appeal no. 971-973 of 2008 arises out of the order dated 23.11.2007 passed by this Hon'ble Tribunal in Appeal no. 271 of 2006 and batch. The Hon'ble Tribunal has held as under allowing the sinking fund contribution:-

“E.14 The Appellant has submitted that certain provisions of the DVC Act, particularly under Part IV dealing with Finance, accounts and Audit can always be read harmoniously with the provisions of the Act and both can be given effect to without there being any inconsistency or repugnancy.

E.15 As regards sinking funds which is established with the approval of Comptroller and Accountant General of India vide letter dated December 29, 1992 under the provision of Section 40 of the DVC Act is to be taken as an item of expenditure to be recovered through tariff, as brought out in para 82 earlier.”

.....

“82. The Second set of the provisions namely Sections 12(b), 30, 31, 34, 35, 37 to 42 and 44 of the DVC Act, referred to before are the ones which can be read along with the Act without being inconsistent and repugnant to the Act and both can be given effect to. The Sections 30, 31, 34, 35, 37 to 42 and 44 are contained in Part IV of the DVC Act and are plenary in nature and not subject to framing of any rule or regulation by any authority except by the legislature.”

6.5 In pursuance to the order dated 23.11.2007 of this Hon'ble Tribunal the Central Commission has been consistently allowing the contribution to sinking fund. (Reference order dated 20.4.2015 passed in Petition No. 66/GT/2012 at paras 73 to 75 and order dated 22.8.2016 passed in petition no. 295/GT/2015 at paras 53 to 57.

6.6 The Tariff Regulations,2009 of the Central Commission provides in Regulation 43 (2) (iv) as under:-



“(iv) Funds under section 40 of the Damodar Valley Corporation Act, 1948: The Fund(s) established in terms of section 40 of the Damodar Valley Corporation Act, 1948 shall be considered as items of expenditure to be recovered through tariff.”

6.7 Similarly Regulation 53 (2) (iv) of Tariff Regulations, 2014 of the Central Commission provides as under:-

(iv) Funds under section 40 of the Damodar Valley Corporation Act, 1948: The Fund(s) established in terms of section 40 of the Damodar Valley Corporation Act, 1948 shall be considered as items of expenditure to be recovered through tariff.

6.8 In terms of the above, contribution to the sinking fund of an amount decided by the Comptroller And Auditor General Of India is to be considered as a tariff element and included for recovery of tariff of DVC.

There is no merit in the contention of alleged double counting.

6.9 At the outset it is submitted that the Appellant’s allegation of double counting is based on the assumption that sinking fund has been used for payment for interest on loan or interest on working capital borrowed from banks and financial institutions. This assumption is fundamentally flawed and without any basis. The debt contracted by DVC from the Banks, Financial Institutions and other Lenders are serviced through interest on loan from the tariff and not by utilization of the Sinking Fund. The amount lying in the Sinking Fund is being utilized for repayment of the Bonds that may be raised by DVC from time to time to fund the assets of DVC.

6.10 The perusal of the orders dated 20.4.2015 and 22.8.2016 of the Central Commission referred to herein above explains the nature and purpose of sinking fund contribution namely redemption of



bonds. It has nothing to do with servicing interest on loan or interest on working capital.

6.11 The Tariff Regulations of the Central Commission provides for the tariff elements of interest on loan and interest on working capital. The tariff elements under the Tariff Regulations of the Central Commission doesn't provide for repayment of loan capital as a tariff element to be serviced in the tariff. The redemption of bonds from contribution to sinking fund is a special tariff element provided for DVC under Section 40 of the DVC Act, 1948 in addition to tariff elements provided in the Tariff Regulations and this as mentioned above has been upheld in (2018) 8 SCC 281 (supra). There is therefore no double counting or derivation of double benefit as alleged by the Appellant.

6.12 It is also pertinent to mention that this issue has been raised by the Appellant for the first time during the hearing. It was not raised before the Central Commission or even in the memorandum of appeal filed before the Hon'ble Tribunal.

Depreciation and interest on loan payable are two different aspects

6.13 The depreciation is admissible under the Tariff Regulations of the Central Commission independent of the interest on loan element. Similarly and for the reasons mentioned herein above, depreciation and sinking fund are two different aspects. Sinking fund contribution is an additional tariff element admissible to DVC under the DVC Act, 1948.

6.14 Depreciation as a tariff element is admissible irrespective of whether any loan is taken from the bank or financial institution or any debt is used for funding the capital assets. Even if an asset is funded with 100% equity, depreciation is admissible as a tariff element.

6.15 The fact that depreciation and repayment on loan are two different aspects is also a settled position in law by the judgements



of the Hon'ble Supreme Court in Delhi Electricity Regulatory Commission v BSES Yamuna Power Limited (2007) 3 SCC 33 read with the Judgments in Ahmedabad Miscellaneous Industrial Workers Union v Ahmedabad Electricity Company Limited, (1962) 2 SCR 934 and Associated Cement Companies Limited v Workmen 1959 SCR 925. Further, the above submission is supported by financial accounting principles dealing with depreciation.

We have heard learned counsel appearing for the Appellants and the learned Counsel appearing for the Respondents at considerable length of time and gone through their written submissions carefully and after thorough critical evaluation of the relevant material available on records, the main issue that arises for our consideration is as follows:-

Whether in the facts and circumstances of the case, the impugned order passed by the Central Commission has allowed double allowance of capital cost incurred by DVC?

•

.....

Our findings :-

8.5 We have carefully considered the submissions of learned counsel for the Appellants and learned counsel for Respondent Nos.1 & 2 and also took note of the various judgments relied upon by the parties. While the main contentions of the learned counsel for the Appellants are against the allowance of contribution to sinking fund to DVC and its utilisation, on the other hand, leaned counsel for the Respondents contend that the Central Commission is allowing the same as per settled position of law and its relevant regulations relating to the subject. Learned counsel for the Appellants contended that this Tribunal did not lay down that DVC could be allowed with both interest on loan as well as contribution to sinking fund which tantamount to a particular cost component being allowed twice to a generating company.



8.6 It is relevant to note that as per Section 40 of DVC Act, 1948, DVC is entitled for provision for depreciation, reserve and other fund. This Tribunal in its judgment dated 23.11.2007 in Appeal No.271 of 2006 & batch has held the admissibility of sinking fund in favour of DVC which has also been upheld by the Hon'ble Supreme Court in its judgment dated 23.7.2018 reported as 2018 (8) SCC 281. Regarding the contention of alleged double counting of learned counsel for the Appellant, we find no such duplication in the considerations and findings of the Central Commission.

8.7 Further, from the Tariff Regulation of the Central Commission, it is noticed that interest on loan and interest on working capital are distinct elements of the tariff and at no point of time, the repayment of loan capital is considered as a tariff element to be serviced in the tariff. The redemption of bonds from contribution to sinking fund is a special tariff element provided for DVC under Section 40 of the DVC Act, 1948 in addition to tariff elements provided in the Tariff Regulations. This aspect has already been upheld by the Apex court vide its judgment dated 23.7.2018 (stated supra). It is also noted from the tariff regulations that depreciation and interest on loan payable are two different aspects while sinking fund contribution is an additional tariff element admissible only to DVC under the DVC Act. We, therefore, find no force in the contentions of the learned counsel for the Appellants that by allowing depreciation, interests on loan and sinking fund altogether, results into double counting and in turn yields into undue burden on consumers.

8.8 In view of above facts, we hold that the Central Commission has passed the impugned order in accordance with settled position of law and its Regulations. Thus, the instant case does not give in any manner rise to substantial question of law requiring our intervention / interference.



ORDER

For the forgoing reasons, as stated supra, we are of the considered view that the issues raised in the present appeal being Appeal No. 17 of 2014 & batch are devoid of merits. Hence the Appeals filed by the Appellants are not allowed.

The impugned orders passed by the Central Electricity Regulatory Commission dated 07.08.2013, 09.07.2013 & 27.09.2013 in Petition Nos. 17 & 18 of 2014, 33 & 293 of 2013, and 328 & 263 of 2013 respectively are hereby upheld.

16. The pendency of the Petition filed by the Objector for review of the order dated 17.05.2019 has no implication particularly in the context of the authoritative precedents settled by various decisions of the Hon'ble Supreme Court and the Hon'ble Appellate Tribunal mentioned above.
17. It is clarified that the sinking fund contribution is not towards meeting the interest on loan admissible under Regulation 32 of the Tariff Regulations, 2019 or similar provisions under Tariff Regulations, 2014. The sinking fund contribution is kept in a fund (interest bearing) separately for the purposes of redemption of the principal amount bond on maturity. The interest on the bond is serviced through tariff as interest on loan. The interest earned on the bond is utilized as an additional amount available for servicing the principal amount bond. The terms sheet of the bond issued has been filed in the submissions made in Petition no. 564/GT/2020. DVC craves reference to the same.
18. As mentioned above, the Objector is mixing up the issue by referring to the methodology provided for arriving at the loan amount on which the



interest is to be calculated. In order to standardize and avoid issues of moratorium taken for loan repayment etc., since 2009 it has been calculated on a normative loan repayment basis. This does not mean depreciation is equivalent to loan repayment. The depreciation is taken as a reference for assuming the normative loan repayment. If otherwise, there would have been a clear provision in the tariff regulations itself stating that the depreciation will be used by the Generator towards loan repayment. This cannot be, in view of the settled legal position.

19. It is also wrong on the part of the objector to raise an issue on Government Grant. There is no government grant in the Sinking fund. Further, no part of the capital expenditure during any of the tariff control period has been funded through the Government Grant. The comparison made to Regulation 9 (6)- Proviso and inference drawn on the grant being serviced by tariff is without any relevance to the present case. The interpretation of Section 40 of the DVC Act, 1948 to the effect that it only deals with provision to be made and otherwise does not deal with pass through in tariff is patently erroneous and they are contrary to the settled position in the decision of Hon'ble Appellate Tribunal and Hon'ble Supreme Court mentioned above. The net profit mentioned is in the context of the expenses to be allowed which include the contribution to the sinking fund. In this regard the decision of the Hon'ble Appellate Tribunal and Hon'ble Supreme Court are clear and unambiguous.
20. The interpretation and inference drawn on the above decisions have no merits. The decision already given clearly treats contribution to sinking fund as an additional tariff element. It is erroneous to call the decisions of the Hon'ble Appellate Tribunal and Hon'ble Supreme Court as per



incuriam. The interest on capital allowed to the participating governments in terms of Section 38 of the DVC Act, 1948 stands on a different footing in comparison to the contribution of Sinking Fund. The later has been considered and allowed by the Hon'ble Appellate Tribunal and Hon'ble Supreme Court and these have been incorporated in the Tariff Regulations of this Hon'ble Commission.

21. Further, it is submitted that the objector is wrong in alleging that DVC has never transferred profits to the participating Governments and therefore Sections 37 and 40 of DVC Act may have never been followed in practice. The statutory implication of Section 40 is that the contribution to Sinking Fund to be treated as an expense to be allowed in the tariff. There is therefore no merits in any of the submissions made by the Objector in the Objections now filed. DVC has filed a detailed submissions herein above and in the earlier submissions filed, the relevant aspects have been set which this Hon'ble Commission may be pleased to consider.

PENSION AND GRATUITY FUND AND ADDITIONAL O&M EXPENSES

22. These two aspects are interrelated and considered together. The normative O & M Expenses allowed in the Tariff Regulations is not adequate for specific reasons related to DVC, namely DVC had been in the past following the principle of payment of Pension and Gratuity as a revenue expenditure and not through funding in a trust. This is similar to the pension and gratuity payable by the Government to its employees.
23. In the context of the above the issue of Pension and Gratuity Contribution to be allowed to DVC stands settled in favour of DVC by the decision of the Hon'ble Tribunal dated 23.11.2007 in Appeal No. 271 of 2006 (Paras D1 to



D5 and 113) and the decision of the Hon'ble Supreme Court in Bhaskar Shrachhi Alloys Ltd. v. Damodar Valley Corporation (2018) 8 SCC 281 (Paras 59 and 60) .

24. The fact that DVC is entitled to get the Pension and gratuity contribution is no longer an issue.
25. The only issue is whether the normative O&M expenses admissible under the Tariff Regulations 2009 for the period 01.04.2009 to 31.03.2014 and under Tariff regulation 2014 for the period 01.04.2014 to 31.03.2019 and thereafter for the period 01.04.2019 to 31.03.2024 adequately covers the pension and gratuity contribution of DVC.
26. In this regard, DVC has already placed in various proceedings and also in affidavit dated 15.11.2021 (Pages 1599 to 1636), the sufficient material to establish that unlike NTPC, Powergrid, etc. which are covered by Central Provident Fund Scheme, the financial outflow of DVC is much more, where it is following the Pension and gratuity contribution and not CPF. The normative O&M allowed does not cover the financial outflow.
27. By virtue of the decision taken by the Central Government, the earlier dispensation allowed to DVC for payment to Pension and Gratuity in the year in which they accrue as payable has been changed to funds being maintained by a trust. As a consequence, the contributions have to be made for the entire past services of the employees, including retired personnel, the contribution for current services and at the same time, meeting the pension liability outflow to the retired employees.



28. These are being computed based on actuarial valuation by competent agencies.
29. The claim of DVC was filed pursuant to the liberty granted by the Hon'ble Commission in the order dated 04.09.2019 in Petition No. 197/MP/2016 and also taken note of by the Hon'ble Tribunal in the order dated 29.10.2018 in appeal no. 10 of 2017. In this regard, Petition No.197/MP/2016 was initially filed commonly for all generating stations and thereafter by the direction of the Hon'ble Commission, the claim is being apportioned and filed separately for each generating station and transmission assets in the present petitions.
30. The various orders passed in regard to the above from time to time are attached as Appendix 'B' to the submissions made in Petition no. 564/GT/2020.
31. It is wrong on the part of the Objector to claim that the Pension Contribution was rejected in the orders passed in the first stage for the tariff period 2009-14. There is no rejection, in fact the Hon'ble Commission has considered the contribution earlier allowed to the extent of 40% for the Tariff Period 2009-14.
32. The actuarial valuation relating to each of the financial years 2009-14 along with the true up petitions and claimed.

ACTUAL O&M EXPENSES/ NORMATIVE O & M

33. There is also no basis, that the actual O&M expenditure, including the above contribution to Pension and Gratuity fund, as per audited reports,



is less than the normative O&M expenses allowed under the Tariff Regulation 2009-14/2014-19.

34. DVC submits that the expenses relating to the additional O&M components (i.e. Impact of Pay Revision, Impact of GST, Pension & Gratuity, Ash Evacuation, etc) claimed by DVC were not considered while determining the Normative O&M expenses by this Hon'ble Commission and these expenses were made to meet various statutory requirements/ change in law/special provisions allowed to DVC. Therefore, these expenses are beyond the control of DVC. It is submitted that expenses like water charges over which the generator has no direct control are allowed separately by this Hon'ble Commission over and above the normative O&M expenses.
35. DVC submits that the additional expenses like Pension and Gratuity contribution, Ash evacuation expenses, CISF Security expenses, Expenditure for subsidiary activities, Mega Insurance expenses, pay revision impact and GST impact are of uncontrollable nature and cannot be brought under the purview of normative O & M. These are legitimate expenses incurred by DVC and should be allowed to DVC in full in order to prevent any financial injury to DVC.
36. DVC has already submitted Break-up of the actual O&M expenses of the generating station under various subheads for stations BTPS Unit A, CTPS Units 7&8, DTPS Units 3&4, MHS Units 1-3, PHS Units 1-2 and THS Units 1-2 before this Hon'ble Commission (through additional submissions dated 19.10.2021).



37. A comparative statement of Normative O&M allowed to DVC as a whole (Normative O&M allowed in different Tariff Orders for all the generating stations and T&D system) vis-a-vis Actual O&M expense booking for DVC (as per Annual report) during 2014-19 Tariff Period is tabulated below:



Items	2014-15	2015-16	2016-17	2017-18	2018-19
Normative O&M allowed in different Tariff Order for DVC as a whole (Generating Stations & T&D System) (as per Annexure 4A)	1541.06	1651.82	1955.72	2166.58	2297.81
Actual O&M booking for DVC (as per Annual Report)	1754.07	2144.06	2589.76	3285.78	2424.20
<i>DVC Annual Report Page Reference</i>	Page 79	Page 8	Page 80	Page 82	Page 82

From the above table it is submitted that Normative O&M expenses allowed to DVC as a whole is inadequate to cover Actual O&M expenses booked for DVC during 2014-19 Tariff Period. A detailed comparison in between the Normative O&M allowed in different Tariff Orders by this Hon'ble Commission vis a vis Actual O&M attached as **Annexure- 1** to the submissions filed in Petition no. 564/GT/2020.

- 38.** As regards Rebates and discounts, Brokerage and Commission, Provisions for loss on fixed assets, Provisions for doubtful claims & advances, Provisions for obsolescence, Provisions for doubtful debts and Water Charges, DVC has submitted the same in terms of the Annexure-A format prescribed by the Hon'ble Commission dealing with "Details of actual O & M Expenses- common for Hydro/Thermal Expenses" in different ROPs submitted for all generating stations of DVC. A table of comparison between Actual O&M and Normative O&M is attached as **Annexure- 2** to the submissions filed in Petition no. 564/GT/2020. DVC has submitted O&M data Plant-wise and also for T&D through additional submissions dated 15.11.2021. A copy the same is attached as **Annexure- 3** to the submissions filed in Petition no. 564/GT/2020.



39. It is submitted that booking of expense has been done as per prudent accounting policy duly accepted & audited by C&AG. It is also submitted that DVC accounts including booking of O&M expenditure is audited by C&AG. As per IGAAP (Indian Generally Accepted Accounting Principles), booking of the items as indicated by the objector (i.e. Rebates and Discounts, Brokerage and Commission, Provision for loss on fixed assets, Provision for doubtful claim and advances, Provision for obsolescence and Provision for doubtful debts etc) are done under the head 'O&M' only. Further, DVC has dealt with the issue of "Rebates And Discount Allowed" in detail in the reply to the ROP dated 19.04.2022 at pages 1672 to 1676 and the same made be read as a part of the present submissions.
40. With regard to subsidiary activities, apart from the legal arguments already taken , it is submitted that the expenditure on subsidiary activities is allocated to Power, Irrigation and Flood Control in the ratio of direct expenditure. The above principle of distribution has been followed by DVC consistently as per settled accounting norms approved by DVC Board. Moreover, the cost shown in table by the Objector for FY:2018-19 is an exaggerated amount of Rs. 101.7 Crores in comparison with actual booking and claim made by DVC for FY:2018-19 against 'Subsidiary activity' of Rs. 30.51 Crores. This Hon'ble Commission may be pleased to allow the claim of DVC towards subsidiary activities taking into account the above submissions and allow the expenditure on 'Subsidiary activity' as rightly done for the past tariff periods.
41. In view of the above, there is no merit in the various objections sought to be raised by the Objector. The Hon'ble Commission may be pleased to allow DVC Contribution to sinking fund; Contribution to Pension and



Gratuity Fund; and Additional O&M Expenses as prayed for in the
Petition.

Samit Mandal

उप मुख्य अभियंता (वा.)
Dy.Chief Engineer (Comml.)
वाणिज्यिक विभाग / Comml. Dept.
दा.घा.नि., कोल-54/DVC, Kol-54

DAMODAR VALLEY CORPORATION

PLACE: Kolkata

DATED: 11-May-22



BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION

3RD AND 4TH FLOOR, CHANDRALOK BUILDING,

36, JANPATH, NEW DELHI - 110 001

PETITION NO. 564/GT/2020

IN THE MATTER OF:

Damodar Valley Corporation - Petitioner

Versus

BSES Rajdhani Power Limited & Others - Respondents

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COUNSEL FOR THE PETITIONER
DAMODAR VALLEY CORPORATION

PLACE: NEW DELHI

DATED: 31.03.2022

BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION
3RD AND 4TH FLOOR, CHANDRALOK BUILDING,
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PETITION NO. 564/GT/2020

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Damodar Valley Corporation - Petitioner

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BSES Rajdhani Power Limited & Others - Respondents

SUBMISSIONS ON BEHALF OF DAMODAR VALLEY CORPORATION, THE
PETITIONER

MOST RESPECTFULLY SHOWETH:

1. In the above mentioned matter, besides other aspects involving true-up of the financials of FY 2014-19 and determination of tariff for FY 2019-24 for Koderma TPS, Unit I and II (1000 MW) as detailed in the other submissions filed by the Petitioner, Damodar Valley Corporation (hereinafter 'DVC'), there have been certain issues raised on the following two aspects in the hearing last held in respect of DVC's generating station - Raghunathpur Thermal Power Station in Petition no. 575/GT/2020:
 - a) Contribution to sinking fund; and
 - b) Contribution to Pension and Gratuity Fund- additional O&M Expenses
2. DVC has made detailed submissions on the above two aspects in similar petitions filed in respect of the other generating stations and transmission system. Further, it is submitted that the aspects on Sinking Fund and Contribution to Pension and Gratuity Fund has also been decided earlier by the Hon'ble Appellate Tribunal for Electricity and

the Hon'ble Supreme Court. The objectors are raising similar issues again and again in the present proceedings before the Hon'ble Commission, despite the above aspects being dealt in detail and decided earlier.

3. In the context of the above, DVC is assimilating all the aspects so far decided and placing the same herein for consideration of this Hon'ble Commission. These submissions would establish there is absolutely no merit in any of the issues sought to be raised by the objectors.

CONTRIBUTION TO SINKING FUND

4. The objectors are mixing up the aspect of contribution to sinking fund admissible under Section 40 of the Damodar Valley Corporation Act, 1948 (hereinafter 'DVC Act') with interest on loan and other tariff elements admissible to DVC under the Tariff Regulations 2014 and Tariff Regulations 2019 of this Hon'ble Commissions. Such mixing up of the Tariff elements under the Tariff Regulations and the special dispensation under the DVC Act was done in the earlier proceedings also right upto the Hon'ble Supreme Court and the contentions of the objectors stand rejected.
5. It has been held in the above proceedings, both by the Hon'ble Appellate Tribunal and the Hon'ble Supreme Court and thus it has been authoritatively laid down as a binding precedent that contribution to sinking fund is independent of tariff elements under the Tariff Regulations [Ref: Judgement dated 23.11.2007 of the Hon'ble Appellate Tribunal in Appeal No. 271 of 2006 (Paras E.14 to E.15 and 82) , Bhaskar Shrachi Alloys Ltd. v. Damodar Valley Corporation (2018) 8 SCC 281 passed by the Hon'ble Supreme Court (Para 50); and Judgement dated 17.05.2019 of the Hon'ble Appellate Tribunal in Appeal No. 17 of 2014 (Paras 8.5 to 8.8)]. The Hon'ble Appellate Tribunal has also in its

decision dated 17.05.2019 rejected the contentions of the very same objector that there has been any double counting or double allowance to DVC in regard to the contribution to the Sinking Fund.

6. The judgement dated 23.7.2018 of the Hon'ble Supreme Court in Bhaskar Shrachi Alloys Ltd. v. Damodar Valley Corporation, (2018) 8 SCC 281 reads as under:

50. Insofar as the questions under the last two issues at (g) and (h) above is concerned, the same have already been dealt with in the present order. Of the remaining heads of tariff fixation, it appears that so far as the 'depreciation rate' and 'sinking fund' is concerned it is the provisions of Section 40 of the Act of 1948 which have been held to be determinative. We have gone through the reasoning adopted by the learned Appellate Tribunal in this regard. Having clarified the manner in which the fourth proviso to Section 14 of the 2003 Act has to be understood, we do not find the reasoning adopted by the learned Appellate Tribunal on the issues relating to 'depreciation' and 'sinking fund' to be fundamentally flawed in any manner so as to give rise to substantial question of law requiring our intervention/interference under Section 125 of the 2003 Act.

7. The above Civil Appeal no. 971-973 of 2008 arose out of the order dated 23.11.2007 passed by the Hon'ble Tribunal in Appeal no. 271 of 2006 and batch, wherein it was held as under:

"E.14 The Appellant has submitted that certain provisions of the DVC Act, particularly under Part IV dealing with Finance, accounts and Audit can always be read harmoniously with the provisions of the Act and both can be given effect to without there being any inconsistency or repugnancy.

E.15 As regards sinking funds which is established with the approval of Comptroller and Accountant General of India vide letter dated December 29, 1992 under the provision of Section 40 of the DVC Act is to be taken as an item of

expenditure to be recovered through tariff, as brought out in para 82 earlier.”

.....
“82. The Second set of the provisions namely Sections 12(b), 30, 31, 34, 35, 37 to 42 and 44 of the DVC Act, referred to before are the ones which can be read along with the Act without being inconsistent and repugnant to the Act and both can be given effect to. The Sections 30, 31, 34, 35, 37 to 42 and 44 are contained in Part IV of the DVC Act and are plenary in nature and not subject to framing of any rule or regulation by any authority except by the legislature.”

8. It is respectfully submitted that in order to appreciate the legal aspects involved, in regard to sinking fund, the following implications of Tariff Regulations (since the beginning i.e. from Tariff Regulations 2001 to Tariff Regulations 2019) need to be considered:
- a) The Tariff Regulations notified from time to time by the Hon’ble Commission in exercise of the powers under Section 178 read with Section 61 of the Electricity Act, 2003 are statutory regulations;
 - b) The Tariff Regulations provide for certain identified tariff elements/heads under which the regulated tariff is considered. These are described in Regulation 15 and 16 of the Tariff Regulations, 2019. Similar provisions are also contained in other Tariff Regulations, including Tariff Regulations 2014 in Regulation 14; and
 - c) The components are with reference to Capacity Charges; (a) Return on Equity (b) Interest on Loan Capital (c) Depreciation (d) Interest on Working Capital (e) Operation and Maintenance Expenses (Regulation 15). In addition, thereto the Energy Charges as provided under Regulation 16 of the Tariff Regulations, 2019 is allowed. There are also provisions for incentive, disincentive, sharing of benefits of better performance, etc. With reference to return on equity, there is also a provision for post tax return or

the income tax on the return on equity being allowed as an expense or as pass through.

9. What is important in the above is that there is no tariff element or component of repayment of loan. While the interest on loan capital is allowed as a tariff element, repayment of loan is not a part of tariff allowance under the Tariff Regulations notified under the Electricity Act, 2003.
10. The repayment of loan has the relevance only to the computation of the base amount on which interest on loan capital is to be considered. The project cost or capital cost is generally considered for funding at a Debt:Equity ratio generally of 70:30 (Regulation 18 of Tariff Regulations, 2019). The loan, unlike equity, is not an absolute amount on which tariff element of the interest on loan is calculated on year on year basis. The loan is taken for the purposes of tariff as repayable from the date of the Commercial Operation over a specified period.
11. Prior to Tariff Regulations, 2004, the actual loan repayment was considered as a reduction on which interest on loan was to be computed on year on year basis. This Hon'ble Commission in its tariff orders related to the tariff period 2004-09 in case of various NTPC plants treated depreciation allowed under Regulation 21(ii) as a component of tariff to be the amount of repayment of loan. Thus, in the said tariff orders, this Hon'ble Commission equated deprecation as an element being equal to repayment of loan.
12. The said orders of the Hon'ble Commission were set aside by the Hon'ble Appellate Tribunal for Electricity in its decision dated 13.06.2007, in Appeal No. 139 of 2006, in the matter of NTPC Limited - v- Central Electricity Regulatory Commission, holding as under:

III. Treating depreciation available as deemed repayment of loan
 Learned counsel for the appellant stated that the Commission proceeded on the basis that depreciation allowed is for repayment of the loan and, therefore, to the extent of the depreciation available there will be deemed repayment of loan.

Learned counsel contended that in view of the orders dated November 14, 2006 and January 24, 2007 passed by the Tribunal in regard to computation of outstanding loan, namely, it should be on normative basis only (instead of normative or actual whichever is higher), the issue of adjusting the depreciation amount as deemed repayment of the loan will not arise. The computation of outstanding loan for all intent and purposes should be on normative basis only. Even otherwise the principle adopted by the Commission that depreciation allowed is for repayment of loan is wrong. The depreciation is admissible notwithstanding any loan is taken or not.

Learned counsel stated that the concept of depreciation is not to enable the utilities to repay the loan obligations. The depreciation is available to utility whether any loan amount exists or not or whether there is any refinancing, swapping or rearrangement of any nature. The depreciation amount, unlike Advance against Depreciation, is to be allowed notwithstanding the consideration whether there is any liability to pay loan or not. He cited commentaries in the Financial Accounting on 'depreciation' as under:

“Financial Accounting - Foundation Course Study Material- The Institute of Company Secretaries of India
 It is a common experience that whenever an asset is used in business its value is getting reduced and sooner or later the asset will become useless. Thus depreciation is a permanent, continuing and gradual shrinkage in the book value of a fixed asset. As the asset is used for business purpose, the annual loss in the value of the asset is like any other expense hence the cost of asset should be treated as a loss spreading over its life. Thus, depreciation is a process of allocating the cost of a fixed asset over its estimated useful life in a rational and systematic manner. The Institute of Chartered Accountants of India in Accounting Standards AS6 has defined it as “as measure of the wearing out, consumption or other loss of value of a depreciable asset arising from use, effluxion of time or obsolescence through technology and market changes. Depreciation is allocated so as to charge a fair proportion of depreciable amount in each accounting period during

the expected useful life of the asset. Depreciation includes amortization of assets whose useful life is predetermined”

Learned counsel submitted that the Commission itself spreads the balance recovery of depreciation over balance useful life after repayment of entire loan, i.e. depreciation is recognized as an element of capacity/fixed charges even after full repayment of loan. The advance against depreciation is, however, given to enable sufficient cash availability with the utility for repayment of the loan and is entirely different than the normal depreciation admissible and to be allowed.

Per contra, Mr. Misra appearing for the respondent UPPCL contended that though definition of depreciation given in other statute or in accounting principles may be different but for the purpose of tariff, depreciation is linked with repayment of loan which is clear from Regulation 21(ii) of CERC (Terms and conditions of Tariff) Regulations, 2004. The Commission in its order has given detailed reasons for treating the depreciation available as deemed repayment of loan. The K.P. Rao Committee also treated the depreciation claim as repayment. The combined reading of Regulation 21(i)(a) and 21(ii)(b) make it clear beyond doubt that depreciation is linked with deemed repayment of loan. In case it is held that depreciation is not deemed repayment of loan capital, then there is no component under the tariff by which loan could be repaid. The judgment of Hon'ble Supreme Court in Mysore Mills Ltd. Vs CIT Karnataka (1999) 7 SCC 106 is not applicable in the facts and circumstances of the present case because the said case was under the Income Tax Act and was not related to the tariff. Similarly the decision in Delhi Electricity Regulatory Commission V/s BSES Yamuna Power (2007) 3 Scale 289 is not applicable in the present case.

Mr. Harish Chander, Consultant, MPPTC contended that depreciation is a process of repayment of capital in installments and therefore capital consists of Debt and Equity both, logical interpretation would be that depreciation is a process of repayment of not only Debt but also payment of equity in installments. He tried to rely upon the concept of depreciation propounded by K.P.Rao Committee (which was accepted by the Government but not by the Commission) that once the loan is fully paid, excess depreciation shall be adjusted against the equity. He submitted that provisos Clause 21(b) of CERC (T&C of Tariff) Regulations, 2004 states that advance against depreciation is permitted only if cumulative repayment up to a particular year exceeds the cumulative depreciation to that year: and provided

further that advance against the depreciation in a year shall be restricted to the extent of difference between cumulative repayment and cumulative depreciation up to that year. Gravamen of his arguments was that when this principle has been provided in the form a mathematical hypothesis its converse also be true i.e. when cumulative depreciation exceeds the cumulative repayment, excess amount should go to reduce at least the loan if not equity. He contended that there is no foundation in the arguments of the appellant that there is no relation between depreciation and loan repayment.

Analysis and Decision

In the orders of this Tribunal dated November 14, 2006 and January 24, 2007 it has been laid down that the computation of outstanding loan will be on normative basis only (instead of normative or actual whichever is higher). In view of this there is no question of any adjustment of the depreciation amount as deemed repayment of loan.

It is to be understood that the depreciation is an expense and not an item allowed for repayment of loan. If a corporation does not borrow, it would not mean that the corporation will not be allowed any depreciation. Depreciation is an expense it represents a decline in the value of asset because of use, wear or obsolescence. The Accounting Principles Board of USA defines depreciation as under:-

“The cost of a productive facility is one of the costs of the service it renders during its useful economic life. Generally accepted accounting principles require that this cost be spread over the expected useful life of the facility in such a way as to allocate it as equitably as possible to the periods during which services are obtained from the use of the facility. This procedure is known as depreciation accounting, a system of accounting which aims to distribute the cost or other basic value of tangible capital assets, less salvage (if any), over the estimated useful life of the unit (which may be a group of assets) in a systematic and rational manner. It is a process of allocation, not of valuation”

It is well established that the depreciation is an expense and therefore, it cannot be deployed for deemed repayment of loan. In this view of the matter the CERC shall need to make a fresh computation of outstanding loan in the light of the aforesaid observations.

13. The Civil Appeal being no. Civil Appeals no. 5622 of 2007 and other connected appeals filed by the Respondent Procurers/ Hon'ble Commission against the said order of the Hon'ble Tribunal has been dismissed by the Hon'ble Supreme Court vide the order dated 10.04.2018.
14. The fact that depreciation and repayment on loan are two different aspects is also a settled position in law by the judgements of the Hon'ble Supreme Court in Delhi Electricity Regulatory Commission v BSES Yamuna Power Limited (2007) 3 SCC 33 read with the Judgments in Ahmedabad Miscellaneous Industrial Workers Union v Ahmedabad Electricity Company Limited, (1962) 2 SCR 934 and Associated Cement Companies Limited v Workmen 1959 SCR 925 .
15. Depreciation as a tariff element is admissible irrespective of whether any loan is taken from the bank or financial institution or any debt is used for funding the capital assets. Even if an asset is funded with 100% equity, depreciation is admissible as a tariff element.
16. It is in the above context the special provision under the DVC Act, 1948 is to be considered, in particular, Section 40 of the said Act. Section 40 of the DVC Act provides as under:-

40. Provision for depreciation and reserve and other funds.—(1) The Corporation shall make provision for depreciation and for reserve and other funds at such rates and on such terms as may be specified by the Auditor-General of India in consultation with the Central Government.

(2) The net profit for the purposes of section 37 shall be determined after such provision has been made.
17. The implication of Section 40 of the DVC Act vis-à-vis the provisions of the Electricity Act 2003 and the Tariff Regulations notified by the

Hon'ble Commission was again the subject matter of (a) a decision of this Hon'ble Commission dated 03.10.2006 in Petition no. 66 of 2005; (b) judgement in First Appeal by the Hon'ble Appellate Tribunal dated 23.11.2007 in Appeal no. 271 of 2006; and (c) the decision of the Hon'ble Supreme Court in Civil Appeal No. 971-973 of 2008/ Civil Appeal No. 4289 of 2008 in the matter of Bhaskar Shrachhi Alloys Ltd v. DVC and others, reported as 2018 (8) SCC 281.

18. While this Hon'ble Commission in its order dated 03.10.2006 proceeded on the basis that the special provisions of Section 38, 40, etc. of the DVC Act will not apply but the said provision was reversed by the Hon'ble Appellate Tribunal in judgement dated 23.11.2007 (Para E.1 to F4) and the judgement of the Hon'ble Tribunal was upheld by the Hon'ble Supreme Court in Bhaskar Shrachhi Alloys Ltd v. DVC and others -2018 (8) SCC 281 (Paras 40-49, 59-63).
19. Accordingly, the law is settled, that the special provisions of the DVC Act, giving certain tariff elements to DVC even if the same are not provided in the Tariff Regulations are required to be allowed to DVC. After the decision of the Hon'ble Supreme Court, this Hon'ble Commission has incorporated in Tariff Regulations 2019 by way of Regulation 72 the following:

72. Special Provisions relating to Damodar Valley Corporation: (1) Subject to clause (2), this Regulation shall apply to determination of tariff of the projects owned by Damodar Valley Corporation (DVC).

(2) The following special provisions shall apply for determination of tariff of the projects owned by DVC:

(i) Capital Cost: The expenditure allocated to the object 'power', in terms of sections 32 and 33 of the Damodar Valley Corporation Act, 1948, to the extent of its apportionment to generation and inter-state transmission, shall form the basis of capital cost for the purpose of determination of tariff:

Provided that the capital expenditure incurred on head office, regional offices, administrative and technical centers of DVC, after due prudence check, shall also form part of the capital cost.

(ii) Debt Equity Ratio: The debt equity ratio of all projects of DVC commissioned prior to 01.01.1992 shall be 50:50 and that of the projects commissioned thereafter shall be 70:30.

(iii) Depreciation: The depreciation rate stipulated by the Comptroller and Auditor General of India in terms of section 40 of the Damodar Valley Corporation Act, 1948 shall be applied for computation of depreciation of projects of DVC.

(iv) Funds under section 40 of the Damodar Valley Corporation Act, 1948: The Fund(s) established in terms of section 40 of the Damodar Valley Corporation Act, 1948 shall be considered as items of expenditure to be recovered through tariff.

20. It may be seen from the above that this Hon'ble Commission has since incorporated a statutory provision in the Tariff Regulations with regard to the contribution/funds incorporated in terms of Section 40 of the DVC Act to be considered as items of expenditure to be recovered through tariff.
21. Similarly, in the Tariff Regulation 2014, this Hon'ble Commission in Regulation 53 recognized that in the case of DVC the determination shall be subject to the decision in Civil Appeal No. 4289 of 2008, then pending before the Hon'ble Supreme Court and finally decided in 23.07.2018 (mentioned above).
22. The effect of the above is that unlike in the case of other regulated entities, such as NTPC, NHPC, NEEPCO, NLC etc., the law has recognized a special provision for DVC for any contribution toward sinking fund to be allowed as an item of expenditure. The legislature while enacting the DVC Act, has left the aspect of the nature, purpose and objective

of creating the sinking fund to be as approved by the Comptroller and Auditor General of India.

23. Accordingly, if sinking fund contribution is to be provided for redemption of bonds taken as a debt for the purposes of funding the capital cost, the same shall be allowed “*as an item for expenditure to be recovered through tariff as provided in Regulation 72(2)(iv)*” (quoted above) consistent with the judicial precedent of the Hon’ble Appellate Tribunal and the law laid down by the Hon’ble Supreme Court (mentioned above).
24. The above recognition and judicial pronouncement on the contribution to sinking fund being allowed relevant to the objective such as redemption of the bonds taken for funding the assets as and when the bond matures for payment has been decided in the background and the with the full knowledge:
- a) That there is a tariff element in the Tariff Regulations providing for depreciation;
 - b) More importantly even the depreciation rate in the case of DVC is being allowed at a higher rate as compared to depreciation rate provided in the tariff Regulations, so long the depreciation is consistent with the rate stipulated by the Comptroller and Auditor General of India as provided in Regulation 72(2)(iii) of the Tariff Regulations, 2019; and
 - c) There will be a tariff element of servicing of interest on loan as per the Tariff Regulations, 2019 (Regulation 32).
25. In the context of the above when the law has been settled, namely, (a) depreciation and loan repayment are different and not equivalent; and (b) the contribution to the sinking fund is in the nature of repayment of loan, which is not a tariff element provided under the Tariff

Regulations, 2019 it is not correct to allege that DVC is getting double payment, double allowances for the same aspects, etc.

26. It is the above context a similar aspect raised by the very same Objector in Appeal No. 17 of 2014 decided on 17.05.2019, was rejected by the Hon'ble Appellate Tribunal by holding as under:

4. Mr. Rajiv Yadav, the learned counsel appearing for the Appellant(s) in the batch of Appeals has filed the written submissions for our consideration as follows:-

4.12 The impugned finding is identical in all the Appeals and is extracted hereunder for ready reference:

“As per Judgment of the Tribunal dated 23.11.2007, sinking fund, established with the approval of Comptroller and Accountant General of India vide letter dated December 29, 1992 under the provision of Section 40 of the DVC Act, 1948 is to be taken as an item of expenditure to be recovered through tariff. Accordingly, the contribution towards sinking fund created for redemption of bond is allowed.”

1. Double Allowance: It is the appellant's case that there has been double allowance of capital cost incurred by DVC by utilising Bonds' amount as follows:

Allowance # 1:

- i) Interest on normative loan of at least 70 % or more of actual capital cost*
- ii) Depreciation for payment of principal*

Allowance # 2:

Contribution to Sinking Fund created for redemption of bonds, which factors in:

- i) Coupon rate of interest on relevant Bonds; and*
- ii) Principal amount realised through Bonds' issue.*

.....

4.15 With respect to the above quoted extract, it is submitted as follows:

- i) This Hon'ble Tribunal did not sanction double allowance of capital cost (additional capitalisation)*

ii) Interpretation adopted by CERC is inconsistent with 4th proviso to Section 14, as such interpretation has rendered S. 40 of DVC Act inconsistent with EA, 2003, which mandates recovery of cost of supply in “reasonable manner”.

iii) DVC’s following contention negated any claim of double allowance of capital cost:

“E. 14 The Appellant has submitted that certain provisions of the DVC Act, particularly under Part IV dealing with Finance, Accounts and Audit can always be read harmoniously with the provisions of the Act and both can be given effect to without there being any inconsistency or repugnancy” (emphasis added)

6. Ms. M.G. Ramachandran, learned senior counsel appearing for the Respondent No.2 in the batch of Appeals has filed the written submissions for our consideration as follows:-

6.1 The matter in issue relates to the contribution to sinking fund allowed by the Central Commission in Petition No. 276/GT/2012 by the impugned order dated 7.8.2013.

Admissibility of Sinking Fund Contribution stands settled in favour of DVC and is no longer *res integra*.

6.2 The sinking fund contribution is admissible to DVC in terms of Section 40 of the Damodar Valley Corporation Act, 1948 which reads as under :-

.....

6.3 The matter of sinking fund has been considered and decided by the Hon’ble Supreme Court in favour of DVC in the judgement dated 23.7.2018 passed in Civil Appeal no. 971-973 of 2008, reported as (2018) 8 SCC 281. The relevant part of the decision is para 50 which reads as under:-

50. Insofar as the questions under the last two issues at (g) and (h) above is concerned, the same have already been dealt with in the present order. Of the remaining heads of tariff fixation, it appears that so far as the ‘depreciation rate’ and ‘sinking fund’ is concerned it is the provisions of Section 40 of the Act of 1948 which have been held to be determinative. We have gone through the reasoning adopted by the learned Appellate Tribunal in this regard. Having clarified the manner in which the fourth proviso to Section 14 of the 2003 Act has to be understood, we

do not find the reasoning adopted by the learned Appellate Tribunal on the issues relating to 'depreciation' and 'sinking fund' to be fundamentally flawed in any manner so as to give rise to substantial question of law requiring our intervention/interference under Section 125 of the 2003 Act.

6.4 The above Civil Appeal no. 971-973 of 2008 arises out of the order dated 23.11.2007 passed by this Hon'ble Tribunal in Appeal no. 271 of 2006 and batch. The Hon'ble Tribunal has held as under allowing the sinking fund contribution:-

"E.14 The Appellant has submitted that certain provisions of the DVC Act, particularly under Part IV dealing with Finance, accounts and Audit can always be read harmoniously with the provisions of the Act and both can be given effect to without there being any inconsistency or repugnancy.

E.15 As regards sinking funds which is established with the approval of Comptroller and Accountant General of India vide letter dated December 29, 1992 under the provision of Section 40 of the DVC Act is to be taken as an item of expenditure to be recovered through tariff, as brought out in para 82 earlier."

.....
"82. The Second set of the provisions namely Sections 12(b), 30, 31, 34, 35, 37 to 42 and 44 of the DVC Act, referred to before are the ones which can be read along with the Act without being inconsistent and repugnant to the Act and both can be given effect to. The Sections 30, 31, 34, 35, 37 to 42 and 44 are contained in Part IV of the DVC Act and are plenary in nature and not subject to framing of any rule or regulation by any authority except by the legislature."

6.5 In pursuance to the order dated 23.11.2007 of this Hon'ble Tribunal the Central Commission has been consistently allowing the contribution to sinking fund. (Reference order dated 20.4.2015 passed in Petition No. 66/GT/2012 at paras 73 to 75 and order dated 22.8.2016 passed in petition no. 295/GT/2015 at paras 53 to 57.

6.6 The Tariff Regulations,2009 of the Central Commission provides in Regulation 43 (2) (iv) as under:-

"(iv) Funds under section 40 of the Damodar Valley Corporation Act, 1948: The Fund(s) established in terms of

section 40 of the Damodar Valley Corporation Act, 1948 shall be considered as items of expenditure to be recovered through tariff.”

6.7 Similarly Regulation 53 (2) (iv) of Tariff Regulations, 2014 of the Central Commission provides as under:-

(iv) Funds under section 40 of the Damodar Valley Corporation Act, 1948: The Fund(s) established in terms of section 40 of the Damodar Valley Corporation Act, 1948 shall be considered as items of expenditure to be recovered through tariff.

6.8 In terms of the above, contribution to the sinking fund of an amount decided by the Comptroller And Auditor General Of India is to be considered as a tariff element and included for recovery of tariff of DVC.

There is no merit in the contention of alleged double counting.

6.9 At the outset it is submitted that the Appellant’s allegation of double counting is based on the assumption that sinking fund has been used for payment for interest on loan or interest on working capital borrowed from banks and financial institutions. This assumption is fundamentally flawed and without any basis. The debt contracted by DVC from the Banks, Financial Institutions and other Lenders are serviced through interest on loan from the tariff and not by utilization of the Sinking Fund. The amount lying in the Sinking Fund is being utilized for repayment of the Bonds that may be raised by DVC from time to time to fund the assets of DVC.

6.10 The perusal of the orders dated 20.4.2015 and 22.8.2016 of the Central Commission referred to herein above explains the nature and purpose of sinking fund contribution namely redemption of bonds. It has nothing to do with servicing interest on loan or interest on working capital.

6.11 The Tariff Regulations of the Central Commission provides for the tariff elements of interest on loan and interest on working capital. The tariff elements under the Tariff Regulations of the Central Commission doesn’t provide for repayment of loan capital as a tariff element to be serviced in the tariff. The redemption of bonds from contribution to sinking fund is a special tariff element provided for DVC under Section 40 of the DVC Act, 1948 in addition to tariff elements provided in the Tariff Regulations and this as mentioned above has been upheld

in (2018) 8 SCC 281 (supra). There is therefore no double counting or derivation of double benefit as alleged by the Appellant.

6.12 It is also pertinent to mention that this issue has been raised by the Appellant for the first time during the hearing. It was not raised before the Central Commission or even in the memorandum of appeal filed before the Hon'ble Tribunal.

Depreciation and interest on loan payable are two different aspects

6.13 The depreciation is admissible under the Tariff Regulations of the Central Commission independent of the interest on loan element. Similarly and for the reasons mentioned herein above, depreciation and sinking fund are two different aspects. Sinking fund contribution is an additional tariff element admissible to DVC under the DVC Act, 1948.

6.14 Depreciation as a tariff element is admissible irrespective of whether any loan is taken from the bank or financial institution or any debt is used for funding the capital assets. Even if an asset is funded with 100% equity, depreciation is admissible as a tariff element.

6.15 The fact that depreciation and repayment on loan are two different aspects is also a settled position in law by the judgements of the Hon'ble Supreme Court in Delhi Electricity Regulatory Commission v BSES Yamuna Power Limited (2007) 3 SCC 33 read with the Judgments in Ahmedabad Miscellaneous Industrial Workers Union v Ahmedabad Electricity Company Limited, (1962) 2 SCR 934 and Associated Cement Companies Limited v Workmen 1959 SCR 925. Further, the above submission is supported by financial accounting principles dealing with depreciation.

We have heard learned counsel appearing for the Appellants and the learned Counsel appearing for the Respondents at considerable length of time and gone through their written submissions carefully and after thorough critical evaluation of the relevant material available on records, the main issue that arises for our consideration is as follows:-

Whether in the facts and circumstances of the case, the impugned order passed by the Central Commission has allowed double allowance of capital cost incurred by DVC?

-

.....
 Our findings :-

8.5 We have carefully considered the submissions of learned counsel for the Appellants and learned counsel for Respondent Nos.1 & 2 and also took note of the various judgments relied upon by the parties. While the main contentions of the learned counsel for the Appellants are against the allowance of contribution to sinking fund to DVC and its utilisation, on the other hand, learned counsel for the Respondents contend that the Central Commission is allowing the same as per settled position of law and its relevant regulations relating to the subject. Learned counsel for the Appellants contended that this Tribunal did not lay down that DVC could be allowed with both interest on loan as well as contribution to sinking fund which tantamount to a particular cost component being allowed twice to a generating company.

8.6 It is relevant to note that as per Section 40 of DVC Act, 1948, DVC is entitled for provision for depreciation, reserve and other fund. This Tribunal in its judgment dated 23.11.2007 in Appeal No.271 of 2006 & batch has held the admissibility of sinking fund in favour of DVC which has also been upheld by the Hon'ble Supreme Court in its judgment dated 23.7.2018 reported as 2018 (8) SCC 281. Regarding the contention of alleged double counting of learned counsel for the Appellant, we find no such duplication in the considerations and findings of the Central Commission.

8.7 Further, from the Tariff Regulation of the Central Commission, it is noticed that interest on loan and interest on working capital are distinct elements of the tariff and at no point of time, the repayment of loan capital is considered as a tariff element to be serviced in the tariff. The redemption of bonds from contribution to sinking fund is a special tariff element provided for DVC under Section 40 of the DVC Act, 1948 in addition to tariff elements provided in the Tariff Regulations. This aspect has already been upheld by the Apex court vide its judgment dated 23.7.2018 (stated supra). It is also noted from the tariff regulations that depreciation and interest on loan payable are two different aspects while sinking fund contribution is an additional tariff element admissible only to DVC under the DVC Act. We, therefore, find no force in the contentions of the learned counsel for the Appellants that by allowing depreciation, interests on loan and sinking fund

altogether, results into double counting and in turn yields into undue burden on consumers.

8.8 In view of above facts, we hold that the Central Commission has passed the impugned order in accordance with settled position of law and its Regulations. Thus, the instant case does not give in any manner rise to substantial question of law requiring our intervention / interference.

ORDER

For the forgoing reasons, as stated supra, we are of the considered view that the issues raised in the present appeal being Appeal No. 17 of 2014 & batch are devoid of merits. Hence the Appeals filed by the Appellants are not allowed.

The impugned orders passed by the Central Electricity Regulatory Commission dated 07.08.2013, 09.07.2013 & 27.09.2013 in Petition Nos. 17 & 18 of 2014, 33 & 293 of 2013, and 328 & 263 of 2013 respectively are hereby upheld.

27. It is therefore not open to the objector to raise the same issues again and again in the present proceedings relating to Koderma TPS or any other generating stations or transmissions system of DVC.
28. The pendency of the Petition filed by the Objector for review of the order dated 17.05.2019 has no implication particularly in the context of the authoritative precedents settled by various decisions of the Hon'ble Supreme Court and the Hon'ble Appellate Tribunal mentioned above.
29. It is reiterated that the contribution to the Sinking Fund to be allowed as an expense in terms of the decisions of the Hon'ble Tribunal, Hon'ble Supreme Court and more particularly in terms of Regulation 72(2)(iii) of the Tariff Regulations 2019 is not a duplication in any manner of any of the tariff elements provided in Regulation 15 or 16 of the said Tariff Regulations, 2019 (or 2014) or otherwise in any manner of an amount already allowed otherwise under the said Tariff Regulations.
30. It is clarified that the sinking fund contribution is not towards meeting the interest on loan admissible under Regulation 32 of the Tariff

Regulations, 2019 or similar provisions under Tariff Regulations, 2014. The sinking fund contribution is kept in a fund (interest bearing) separately for the purposes of redemption of the principal amount bond on maturity. The interest on the bond is serviced through tariff as interest on loan. The interest earned on the bond is utilized as an additional amount available for servicing the principal amount bond. The terms sheet of the bond issued is as per **Appendix 'A'**.

31. The Objector is mixing up the issue by referring to the methodology provided for arriving at the loan amount on which the interest is to be calculated. In terms of the Regulation 32 the loan arrived at is based on the concept of gross normative loan. The gross normative loan is worked out by reducing cumulative repayment, such repayment for each of the tariff years shall be deemed to be equal to depreciation allowed for the corresponding period. In order to standardize and avoid issues of moratorium taken for loan repayment etc., since 2009 it has been calculated on a normative loan repayment basis. This does not mean depreciation is equivalent to loan repayment. The depreciation is taken as a reference for assuming the normative loan repayment. If otherwise, there would have been a clear provision in the tariff regulations itself stating that the depreciation will be used by the Generator towards loan repayment. This cannot be, in view of the settled legal position.

PENSION AND GRATUITY FUND AND ADDITIONAL O&M EXPENSES

32. The issue of Pension and Gratuity Contribution to be allowed to DVC stands settled in favour of DVC by the decision of the Hon'ble Tribunal dated 23.11.2007 in Appeal No. 271 of 2006 (Paras D1 to D5 and 113) and the decision of the Hon'ble Supreme Court in Bhaskar Shrachhi Alloys Ltd. v. Damodar Valley Corporation (2018) 8 SCC 281 (Paras 59 and 60)

.

33. The fact that DVC is entitled to get the Pension and gratuity contribution is no longer an issue. The only issue is whether the normative O&M expenses admissible under the Tariff Regulations 2009 for the period 01.04.2009 to 31.03.2014 and under Tariff regulation 2014 for the period 01.04.2014 to 31.03.2019 and thereafter for the period 01.04.2019 to 31.03.2024 adequately covers the pension and gratuity contribution of DVC.
34. In this regard, DVC has already placed in various proceedings and also in affidavit dated 15.11.2021 (Pages 1649 to 1696), the sufficient material to establish that unlike NTPC, Powergrid, etc. which are covered by Central Provident Fund Scheme, the financial outflow of DVC is much more, where it is following the Pension and gratuity contribution and not CPF. The normative O&M allowed does not cover the financial outflow.
35. By virtue of the decision taken by the Central Government, the earlier dispensation allowed to DVC for payment to Pension and Gratuity in the year in which they accrue as payable has been changed to funds being maintained by a trust. As a consequence, the contributions have to be made for the entire past services of the employees, including retired personnel, the contribution for current services and at the same time, meeting the pension liability outflow to the retired employees.
36. These are being computed based on actuarial valuation by competent agencies.
37. The claim of DVC was filed pursuant to the liberty granted by the Hon'ble Commission in the order dated 04.09.2019 in Petition No. 197/MP/2016 and also taken note of by the Hon'ble Tribunal in the

order dated 29.10.2018 in appeal no. 10 of 2017. In this regard, Petition No.197/MP/2016 was initially filed commonly for all generating stations and thereafter by the direction of the Hon'ble Commission, the claim is being apportioned and filed separately for each generating station and transmission assets in the present petitions.

38. The various orders passed in regard to the above from time to time are attached as **Appendix 'B'**.
39. It is wrong on the part of the Objector to claim that the Pension Contribution was rejected in the orders passed in the first stage for the tariff period 2009-14. There is no rejection, in fact the Hon'ble Commission has considered the contribution earlier allowed to the extent of 40% for the Tariff Period 2009-14.
40. The actuarial valuation relating to each of the financial years 2009-14 along with the true up petitions and claimed.

ACTUAL O&M EXPENSES/ NORMATIVE O & M

41. There is also no basis, that the actual O&M expenditure, including the above contribution to Pension and Gratuity fund, as per audited reports, is less than the normative O&M expenses allowed under the Tariff Regulation 2009-14/2014-19.
42. DVC submits that the expenses relating to the additional O&M components (i.e. Impact of Pay Revision, Impact of GST, Pension & Gratuity, Ash Evacuation, etc) claimed by DVC were not considered while determining the Normative O&M expenses by this Hon'ble Commission and these expenses were made to meet various statutory requirements/ change in law/special provisions allowed to DVC. Therefore, these expenses are beyond the control of DVC. It is

submitted that expenses like water charges over which the generator has no direct control are allowed separately by this Hon'ble Commission over and above the normative O&M expenses.

43. DVC submits that the additional expenses like Pension and Gratuity contribution, Ash evacuation expenses, CISF Security expenses, Expenditure for subsidiary activities, Mega Insurance expenses, pay revision impact and GST impact are of uncontrollable nature and cannot be brought under the purview of normative O & M. These are legitimate expenses incurred by DVC and should be allowed to DVC in full in order to prevent any financial injury to DVC.
44. DVC has already submitted Break-up of the actual O&M expenses of the generating station under various subheads for stations BTPS Unit A, CTPS Units 7&8, DTPS Units 3&4, MHS Units 1-3, PHS Units 1-2 and THS Units 1-2 before this Hon'ble Commission (through additional submissions dated 19.10.2021).
45. A comparative statement of Normative O&M allowed to DVC as a whole (Normative O&M allowed in different Tariff Orders for all the generating stations and T&D system) vis-a-vis Actual O&M expense booking for DVC (as per Annual report) during 2014-19 Tariff Period is tabulated below:

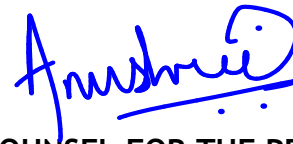
Items	2014-15	2015-16	2016-17	2017-18	2018-19
Normative O&M allowed in different Tariff Order for DVC as a whole (Generating Stations & T&D System) (as per Annexure 4A)	1541.06	1651.82	1955.72	2166.58	2297.81

Actual O&M booking for DVC (as per Annual Report)	1754.07	2144.06	2589.76	3285.78	2424.20
DVC Annual Report Page Reference	Page 79	Page 8	Page 80	Page 82	Page 82

From the above table it is submitted that Normative O&M expenses allowed to DVC as a whole is inadequate to cover Actual O&M expenses booked for DVC during 2014-19 Tariff Period. A detailed comparison in between the Normative O&M allowed in different Tariff Orders by this Hon'ble Commission vis a vis Actual O&M is being attached as **Annexure- 1**.

46. DVC submits that for arriving at Actual O&M, the items deducted by the Objector, Damodar Valley Power Consumers Association (*as per DVPCA' objections for the items namely, Rebates and discounts, Brokerage and Commission, Provisions for loss on fixed assets, Provisions for doubtful claims & advances, Provisions for obsolescence, Provisions for doubtful debts and Water Charges have been deducted from Actual O&M and then the net figure has been compared with Normative O&M*) ought to be considered as they are part of Actual O&M and the same should not be deducted from Actual O&M for comparing with Normative O&M.
47. The above items are also part of O&M Annexure-A format prescribed by the Hon'ble Commission in different ROPs submitted for all generating stations of DVC. Thus, DVC submits that O&M expenses allowed to the generating stations are inadequate when compared with Actual O&M. A table of comparison between Actual O&M and Normative O&M is attached as **Annexure- 2**.

48. DVC has submitted O&M data Plant-wise and also for T&D through additional submissions dated 15.11.2021. A copy the same is attached as Annexure- 3.
49. In view of the above, there is no merit in the various objections sought to be raised by the Objector. The Hon'ble Commission may be pleased to allow DVC Contribution to sinking fund; Contribution to Pension and Gratuity Fund; and Additional O&M Expenses as prayed for in the Petition.



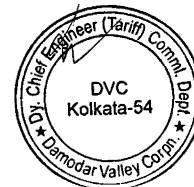
COUNSEL FOR THE PETITIONER
DAMODAR VALLEY CORPORATION

PLACE: NEW DELHI

DATED: 31.03.2022

Issuer	Damodar Valley Corporation (the "Issuer/ "DVC"/ the "Corporation")	
Instrument	Government of India Guaranteed Secured Redeemable Non-Convertible Non-Cumulative Taxable Bonds in the nature of Debentures (NCD).	
Total proposed borrowing	Rs. 4400 Crore in Single tranche with Multiple Maturity Structures	
Timetable for Issuance	As per mutual agreement in March 2012	
Security	The Bond is guaranteed by the Govt. of India for payment of Interest and repayment of Principal amount of the Bond. The Bonds are also proposed to be secured with 125% coverage against Pari-Passu charge by way of hypothecation of the Fixed Assets of the Thermal power projects (excluding Land) of the Corporation namely Mejia Unit 5&6 (2x250MW) and Unit 7&8 (2X 500MW), Chandrapura unit 7&8 (2x250MW) Koderma unit 1&2 (2x500MW), Durgapur Steel unit 1&2 (2x 500 MW), Raghunathpur unit 1&2 (2x600 MW). DVC will obtain NOC for Pari-passu charge from the existing charge holders and will ensure creation of charge within 90 days from the date of allotment of Bonds.	
Government of India Guarantee	The Bonds shall be backed by an unconditional and irrevocable guarantee by the Government of India for timely payment of interest and repayment of principal amount.	
Conditions Precedent	DVC's Guarantee proposed to have following mechanism: Issuer will have to fund the Escrow account at T- 10 days. In case the fund is not placed, Trustee will invoke the guarantee at T-8 days, and the Government (guarantor) will fund the designated account by T -1 day for interest and principal servicing. Where, "T" is the due date for payment of principal and/ or interest.	
Rating	"CARE AAA(SO)" by CARE and "Fitch AAA(SO)(Ind)" by FITCH	
Bond Series	SERIES 14	
	Series 14A	Series 14B
Maturity	15 years	15 years
Payment of Subscription	10% alongwith Application and Balance at Call within 15 days of allotment	Full Payment alongwith Application
Put/ Call Option	Nil	Nil
Redemption.	30%, 30%, 40% at the end of 13 th , 14 th & 15 th Yr.	30%, 30%, 40% at the end of 13 th , 14 th & 15 th Yr.
Total Amount to be raised	Rs. 4400 Cr.	
Amount to be raised under each maturity	Rs. 3000 Cr.	Rs. 1400 Cr.
Interest Rate	9.30%	9.30%
Interest Payment Frequency	Half Yearly	
Interest Payment Date	Half Yearly in September and March every year	
Placement of Bonds	Private Placement	
Face value	Rs. 10 lacs per NCD	
Minimum Application	10 Bonds (Rs.1 Crore) and in multiples of 1 Bond (Rs. 10 Lakh) thereafter	
Day Count basis	Actual/365 or 366 in case of leap year	
Issue & Redemption Price	At par	
Form of issuance	Dematerialized	
Trustees	SBICAP Trustee Company Ltd.	
Listing	NSE / BSE	
Depository	National Securities Depository Ltd. and Central Depository Services (India) Ltd.	
Registrars	C. B. Management Services (P) Ltd	
Settlement	Payment of interest and repayment of principal shall be made by way of Cheque(s)/ interest/ redemption warrant(s)/ demand draft(s)/ credit through RTGS mechanism.	
Mode of Subscription	By way of electronic transfer of funds through RTGS mechanism for credit in the account of "Damodar Valley Corporation at the Banks as detailed in the annexure.	
Issue Opening Date ^	March 30, 2012 (10.00 AM).	
Issue Closing Date ^	March 30, 2012 (5.00 PM)	
Deemed Date of Allotment ^	March 30, 2012.	

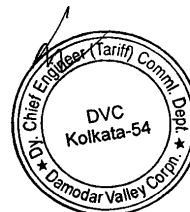
** Payment of Interest is subject to deduction of tax at source, as applicable.



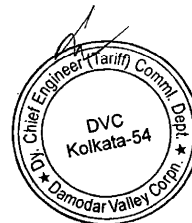
VIII. SUMMARY TERM SHEET

Issuer	Damodar Valley Corporation (the "Issuer/ "DVC"/ the "Corporation")
Issue Size	Rs. 2,600 Crore
Option to retain oversubscription	Nil
Objects of the Issue	The present issue of Bonds is being made for financing of the Thermal and T&D Projects of the Corporation, some of which already commissioned and some others are to be commissioned shortly. The Thermal Power Projects of the Corporation, which are to be funded, are namely Mejia Unit 5&6 (2x250 MW) and Unit 7&8 (2x500 MW), Chandrapura Unit 7&8 (2x250 MW), Kodarma Unit 1&2 (2x500 MW), Durgapur Steel Unit 1&2 (2x500), Raghunathpur Unit 1&2 (2x600MW). The Projects are already funded in part.
Instrument	Government of India Guaranteed Unsecured Redeemable Non-Convertible Non-Cumulative Taxable Bonds in the nature of Debentures (NCD).
Security Name	8.69% DVC Bonds 2028 (Series - 15)
Issuance Mode	In demat mode only
Trading Mode	In demat mode only
Rating	"CARE AAA(SO)" (in-principle) by CARE and "AAA(SO)(Ind) (exp)" by India Ratings & Research Pvt. Ltd. ("Formerly-FITCH")
Mode of Issue	Private Placement
Timetable for Issuance	21 st March 2013 to 25 th March 2013
Government of India Guarantee	The Bonds shall be backed by an unconditional and irrevocable guarantee by the Government of India for timely payment of interest and repayment of principal amount.
Conditions Precedent	DVC's Guarantee proposed to have following mechanism: Issuer will have to fund the Escrow account at T- 10 days. In case the fund is not placed, Trustee will invoke the guarantee at T-8 days, and the Government (guarantor) will fund the designated account by T -1 day for interest and principal servicing. Where, "T" is the due date for payment of principal and/ or interest.
Face Value	Rs. 10 Lakh per Bond
Premium / Discount on Issue	Nil
Issue Price	At par (Rs. 10 Lakh per Bond)
Premium / Discount on Redemption	Nil
Redemption Amount	At par (Rs. 10 Lakh per Bond)
Minimum Application	10 Bonds (Rs.1 Crore) and in multiples of 1 Bond (Rs. 10 Lakh) thereafter
Tenor	Total 180 Months from the Deemed Date of Allotment
Put / Call Option	None
Put Option Price	Not Applicable
Put Option Date	Not Applicable
Put Notification Time	Not Applicable
Call Option Price	Not Applicable
Call Option Date	Not Applicable
Call Notification Time	Not Applicable
Redemption / Maturity	30%, 30%, 40% at the end of 13 th , 14 th & 15 th Yr.
Redemption Date	25-03-2028
Coupon Rate	8.69% p.a.
Step Up / Step Down	None
Coupon Payment Frequency	Half Yearly
Coupon Payment Dates	Half Yearly on 25 th September & 25 th March each year till maturity of Bonds
Coupon Type	Fixed
Coupon Reset Process (including rates, spread, effective date, interest rate cap and floor etc.)	None
Default Interest Rate	In the event of delay in the payment of interest amount and / or principal amount on the due date(s), DVC shall pay additional interest of 2.00% per annum in addition to the Coupon Rate payable on the Bonds, on such amounts due, for the defaulting period i.e. the period commencing from and including the date on which such amount becomes due and upto but excluding the date on which such amount is actually paid.
Day Count Basis	Actual / Actual Interest shall be computed on an "actual/actual basis". Where the interest period

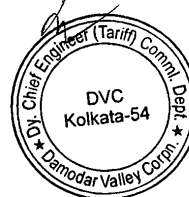
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	(start date to end date) includes February 29, interest shall be computed on 366 days-a-year basis.
Interest on Application Money	Interest at the coupon rate (subject to deduction of Income Tax under the provisions of the Income Tax Act, 1961, or any other statutory modification or re-enactment thereof, as applicable) will be paid to the applicants on the application money for the Bonds for the period starting from and including the date of realisation of application money in DVC's Bank Account upto one day prior to the Deemed Date of Allotment.
Listing	Proposed on the Wholesale Debt Market (WDM) segment of BSE Limited (BSE) and NSE
Trustees	GDA Trusteeship Ltd.
Depository	National Securities Depository Ltd. and Central Depository Services (India) Ltd.
Registrars & Transfer Agent	C B Management Services (P) Ltd.
Settlement	Payment of interest and repayment of principal shall be made by way of Cheque(s)/ interest/ redemption warrant(s)/ demand draft(s)/ credit through RTGS/ NECS / NEFT mechanism.
Business Day Convention	'Business Day' shall be a day on which commercial banks are open for business in the city of Kolkata. If any coupon payment date and / or redemption date falls on a day which is not a business day, payment of interest and / or principal amount shall be made on the next business day without liability for making payment of interest for the delayed period.
Record Date	15 days prior to each coupon payment date and redemption date.
Mode of Subscription	Applicants should make remittance of application money through following mode: By way of electronic transfer of funds through RTGS mechanism for credit in the account of "Damodar Valley Corporation" at the Banks as detailed in the Annexure-1.
	Narration Application Money for Bond Issue
Eligible Investors	Mutual Funds, Public Financial Institutions as defined in Section 4A of the Companies Act, 1956, Scheduled Commercial Banks, Insurance Companies, Provident Funds, Gratuity Funds, Superannuation Funds and Pension Funds, Co-operative Banks, Regional Rural Banks, authorised to invest in Bonds / Debentures, Corporates authorised to invest in Bonds / Debentures, Societies authorised to invest in Bonds / Debentures, Statutory Corporations / Undertakings established by Central / State Legislatures authorised to invest in Bonds / Debentures, Trust, Resident Individual.
Non-Eligible Classes of Investors	Non-resident Individuals, Foreign Nationals, Foreign Institutional Investors, Persons Resident Outside India, Venture Capital Funds, Overseas Corporate Bodies, Partnership Firms formed under applicable laws in India in the name of the partners, Hindu Undivided Families through Karta, Persons ineligible to contract under applicable statutory / regulatory requirements, Minor.
Transaction Documents	DVC has executed / shall execute the documents including but not limited to the following in connection with the Issue: 1. Letter appointing Trustees to the Bondholders. 2. Bond Trusteeship consent. 3. Bond Trust Deed. 4. Rating from CARE. 5. Rating from India Ratings & Research (P) Ltd. (FITCH). 6. Tripartite Agreement between DVC, Registrar and NSDL for issue of Bonds in Dematerialised Form. 7. Tripartite Agreement between DVC, Registrar and CDSL for issue of Bonds in Dematerialised Form. 8. Letter appointing Registrar and MoU entered into between DVC and the Registrar. 9. Application made to BSE / NSE for seeking its in-principle approval for listing of Bonds. 10. Listing Agreement with BSE/NSE. 11. Letters appointing Arrangers to the Issue.
Conditions precedent to subscription of Bonds	The subscription from Investors shall be accepted for allocation and allotment by DVC subject to the following: 1. Rating Letter(s) from the aforesaid rating agency(ies) not being more than one month old from the issue opening date. 2. Letter from the Trustees conveying their consent to act as Trustees for the Bondholders. 3. Letter from BSE/NSE conveying its in-principle approval for listing of Bonds.
Conditions subsequent to subscription of Bonds	DVC shall ensure that the following documents are executed / activities are completed as per time frame mentioned elsewhere in this Disclosure Document: 1. Credit of demat account(s) of the allottee(s) by number of Bonds allotted within 2 working days from the Deemed Date of Allotment.



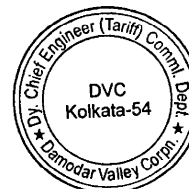
	<p>2. Making application to BSE/NSE within 15 days from the Deemed Date of Allotment to list the Bonds and seek listing permission within 20 days from the Deemed Date of Allotment in terms of sub-section (1) of Section 73 of the Companies Act, 1956 (1 of 1956).</p> <p>3. Execution of Bond Trust Deed for creation of security within time frame prescribed in the relevant regulations / act / rules etc.</p> <p>4. Execution of Guarantee Agreement and Guarantee Fee Agreement with GOI.</p> <p>Besides, DVC shall perform all activities whether mandatory or otherwise, as mentioned elsewhere in this Disclosure Document.</p>
Events of Default	<p>If DVC commits a default in making payment of any installment of interest or repayment of principal amount of the Bonds on the respective due date(s), the same shall constitute an 'Event of Default' by DVC.</p> <p>Besides, it would also constitute an 'Event of Default' by DVC, if DVC does not perform or does not comply with one or more of its material obligations in relation to the Bonds issued in pursuance of terms and conditions stated in this Disclosure Document, Bond Trusteeship Agreement and Bond Trust Deed, which in opinion of the Trustees is incapable of remedy.</p>
Remedies	<p>Upon the occurrence of any of the Events of Default, the Trustees shall on instructions from majority Bondholder(s), declare the amounts outstanding to be due and payment forthwith and the Guarantee provision shall become enforceable, and the Trustees shall have the right to enforce the Guarantee under the applicable laws.</p>
Cross Default	Not Applicable.
Role and Responsibilities of Trustees	<p>The Trustees shall perform its duties and obligation and exercise its rights and discretions, in keeping with the trust reposed in the Trustees by the holder(s) of the Bonds and shall further conduct itself, and comply with the provisions of all applicable laws, provided that, the provisions of Section 20 of the Indian Trusts Act, 1882, shall not be applicable to the Trustees. The Trustees shall carry out its duties and perform its functions as required to discharge its obligations under the terms of SEBI Debt Regulations, the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993, the Debenture Trusteeship Agreement, the Trust Deed, Disclosure Document and all other related transaction documents, with due care, diligence and loyalty.</p> <p>The Trustees shall be vested with the requisite powers for protecting the interest of holder(s) of the Bonds including but not limited to the right to appoint a nominee director on the Board of DVC in consultation with institutional holders of such Bonds. The Trustees shall ensure disclosure of all material events on an ongoing basis and shall supervise the implementation of the conditions regarding creation of security for the Bonds and Bond Redemption Reserve.</p> <p>DVC shall, till the redemption of Bonds, submit its latest audited / limited/review half yearly consolidated (wherever applicable) and standalone financial information such as, Statement of Profit & Loss, Balance Sheet and Cash Flow Statement and auditor qualifications, if any, to the Trustees within the timelines as mentioned in Simplified Listing Agreement issued by SEBI vide circular no. SEBI/MD/ BOND/ 1/2009/11/05 dated May 11, 2009 as amended. Besides, DVC shall within 180 days from the end of the financial year, submit a copy of the latest annual report to the Trustees and Trustees shall be obliged to share the details so submitted with all 'Qualified Institutional Buyers' (QIBs) and other existing Bondholder(s) within two working days of their specific request.</p>
Governing Law and Jurisdiction	<p>The Bonds are governed by and shall be construed in accordance with the existing laws of India. Any dispute arising thereof shall be subject to the jurisdiction of district courts of Kolkata.</p>
Additional Covenants	<p>1. Trust Deed Creation: In the event of delay in execution of Bond Trust Deed and / or other security document(s), DVC shall refund the subscription at the Coupon Rate or shall pay penal interest of 2.00% per annum over the Coupon Rate till such conditions are complied with, at the option of the Bondholder(s).</p> <p>2. Default in Payment: In the event of delay in the payment of interest amount and / or principal amount on the due date(s), DVC shall pay additional interest of 2.00% per annum in addition to the Coupon Rate payable on the Bonds, on such amounts due, for the defaulting period i.e. the period commencing from and including the date on which such amount becomes due and upto but excluding the date on which such amount is actually paid.</p> <p>3. Delay in Listing: DVC shall complete all the formalities and seek listing</p>



	<p>permission within 20 days from the Deemed Date of Allotment. In the event of delay in listing of Bonds beyond 20 days from the Deemed Date of Allotment, DVC shall pay penal interest of 1.00% per annum over the Coupon Rate from the expiry of 30 days from the Deemed Date of Allotment till the listing of Bonds to the Bondholder(s).</p> <p>4. Refusal for Listing: If listing permission is refused before the expiry of the 20 days from the Deemed Date of Allotment, DVC shall forthwith repay all monies received from the applicants in pursuance of the Disclosure Document along with penal interest of 1.00% per annum over the Coupon Rate from the expiry of 20 days from the Deemed Date of Allotment. If such monies are not repaid within 8 days after DVC becomes liable to repay it (i.e. from the date of refusal or 20 days from the Deemed Date of Allotment, whichever is earlier), then DVC and every director of DVC who is an officer in default shall, on and from expiry of 8 days, will be jointly and severally liable to repay the money, with interest at the rate of 15% per annum on application money, as prescribed under Section 73 of the Companies Act, 1956.</p> <p>The interest rates mentioned in above four covenants shall be independent of each other.</p>
Issue Opening Date ^	21-03-2013 (10.00AM)
Issue Closing Date ^	25-03-2013 (5.00PM)
Pay in Date ^	21-03-2013 (10.00 AM) to 25-03-2013 (PM)
Deemed Date of Allotment ^	25-03-2013

** Payment of Interest is subject to deduction of tax at source, as applicable.

^The Corporation reserves its sole and absolute right to modify (pre-poned/ postpone) the above issue schedule without giving any reasons or prior notice. In such a case, investors shall be intimated about the revised time schedule by the Corporation. The Corporation also reserves the right to keep multiple Deemed Date(s) of Allotment at its sole and absolute discretion without any notice. In case if the Issue Closing Date / Pay in Dates / are changed (pre-poned / post-poned), the Deemed Date of Allotment may also be changed (pre-poned / post-poned) by the Corporation at its sole and absolute discretion. Consequent to change in Deemed Date of Allotment, the Coupon Payment Dates and / or Redemption Date may also be changed at the sole and absolute discretion of the issuer.



APPENDIX 'B'

RE: PENSION AND GRATUITY

1. At the outset, DVC wishes to clarify that the contribution to pension and gratuity fund requirement of DVC is distinct and separate from the quantum of contributory provident fund (CPF) factored in the O & M expenses in the Tariff Regulations on normative basis. The Hon'ble Commission had determined the normative basis O & M expenditure based on utilities such as NTPC, Powergrid etc where all the personnel are covered by CPF scheme. CPF scheme involves primarily contribution for the current year under consideration and there is no funding of terminal benefit liabilities of the past period.
2. Whereas in the case of DVC, as in the case of Government Departments the terminal benefits i.e. the pension and gratuity of the retired employees were being paid as revenue expenditure without there being any fund in the past. Accordingly, as per the C&AG directions, the entire pension and gratuity liability relating to both the retired employees and also the serving employees of DVC appointed in the past have to be contributed to a fund to make it fully funded and thereafter to be constantly adjusted based on actuarial valuation to be undertaken from time to time.
3. The above aspects have been set out in detail in Petition no. 197/MP/2016 (Paras 20 to 26) as under :-

20. DVC submits the contribution to Pension and Gratuity Fund cannot possibly be said to be covered by the quantum of CPF factored in the O & M Expenses determined by the Hon'ble Commission on normative basis. While the CPF is in respect of the actual amount of contribution during the relevant year, and does not involve adjustments for that year in future years, the Pension and Gratuity Contribution is to be constantly adjusted

for past period of services also and is dependent on actuary valuation to be undertaken from time to time. The period of past services rendered by the employees of DVC including the deficit amount of contribution in the past in order to meet the pension payment to the employees upon their retirement need to be necessarily considered. Similarly, in case the contribution already made is in excess of the requirement, suitable adjustment is made through actuary valuation. There is therefore implications of contribution not restricted to actual current year fixed contribution as in CPF.

21. The amount of Pension and Gratuity Contribution in the case of DVC is significantly more in the recent past i.e. from 1.1.2016 onwards on account of the following factors:

(i) Previously, there was no fund maintained for receiving the Pension and Gratuity Contribution. The Pension and Gratuity liability was being discharged by DVC on revenue basis pay as you go as in the case of any other Government Department. However, as per the mandate of the Comptroller and Auditor General and in accordance with the directions given by the Central Government, DVC has now to maintain the Pension and Gratuity Fund. Accordingly, the contributions are being made not only for the present year working of the employees but also for all the past years of services including for persons who have retired from DVC in the past;

(ii) There has been a substantial increase in Pension and Gratuity payment to the employees on account of wage revision pursuant to the decision taken by the Central Government, firstly, in the year 2006 and secondly in the year 2016. These higher contributions to be made is not confined to the current year but also relates to the payment for the past services including the services rendered by the retired employees;

(iii) The liability under CPF ceases with the year in which it is contributed. There is no actuary valuation or adjustment for upward revision on account of any wage revision etc,. The pension payment is payable by DVC after the retirement of the employees on a continuous basis along with the revision to the pension from time to time as per the decision of the Central Government applicable to all retired employees; Further the

pension payment liability continues even after the death of the employee. The family pension needs to be given to the widows and other eligible members under the pension scheme.

22. *Even as per the Accounting Standard-15 these aspects have been dealt separately at Para 7.5 (dealing with the contribution plan), 7.6 (defined benefit plan), 7.9 (dealing with the terminal benefits), 7.11 (regarding the value of the defined benefits) and also Clauses 25, 27, 44, 49 and 51. A copy of the relevant extracts from the Accounting Standard-15 is attached hereto and marked as Annexure B.*

23. *The disallowance of Pension and Gratuity Contribution by the Hon'ble Commission would have serious financial impact on DVC as the entitlement for revenue contribution in the range of Rs. 1446.50 crores in aggregate in regard to all the generating stations and transmission assets of DVC will stand disallowed. The pension and gratuity contribution is a necessary, unavoidable and legitimate claim based on statutory mandate.*

24. *In the facts and circumstances mentioned herein above, the basis on which the Hon'ble Commission had decided the normative O & M Expenses for DVC's generating stations and transmission assets for the control period 2014-19 in the Tariff Regulations, 2014 namely, the actual expenditure incurred during the financial years 2008-09 to 2012-13 being considered as the basis does not, in fact, include the Pension and Gratuity Contribution. In those years, the Pension and Gratuity Contribution was allowed by the Hon'ble Commission in addition to the O & M Expenses. Accordingly, no part of the Pension and Gratuity Contribution of DVC related to the power business were factored in the O & M Expenses during the base years and accordingly should be considered as having been included in the normative O & M expenses under Regulation 29 of Tariff Regulations, 2014.*

25. *In view of the above, the revenue requirements on account of the Pension and Gratuity Contribution cannot be said to have been covered under the Contributory Provident Fund forming part of the O & M Expenses.*

26. *In the facts and circumstances mentioned herein above, it is submitted that the Hon'ble Commission may please consider the Pension and Gratuity Contribution made by DVC independently and subject to prudent check, allow the same over and above the O & M Expenses provided for in the Tariff Regulations.*

The same has been reiterated in the true up petitions.

4. It is therefore not correct on the part of the Respondents/Objector to claim that pension and gratuity contribution should not be considered over and above the O & M expenses specified in the tariff regulations on normative basis, in so far as DVC is concerned.
5. The Objector is also raising other technical and hyper technical objections on the consideration of the contribution to pension and gratuity fund in the present proceedings, when on merits the claim of DVC is fully justified, duly considered in the earlier proceedings by the Hon'ble Tribunal and this Hon'ble Commission and liberty had been specifically granted for raising the claim pertaining to the period in issue up in the true up proceedings.
6. In regard to above, the sequence of relevant events and orders are as under:-
 - a. Order dated 3.10.2006 passed by the Hon'ble Commission in Petition No. 66 of 2005 relating to the control period 2004 to 2009:-

68. The one-member bench observed that there was no similarity in O&M expenses/MW between one generating station and the other and O&M expenses are very high compared to the generating stations belonging to NTPC and NHPC. This was attributed to the small unit size and their old vintage, high man/MW ratio deployed at the stations and due to high overhead expenses which include

provision for contribution to pension & gratuity fund and relief paid to the pensioners on the basis of “pay as you go”.

69. The petitioner Corporation has pleaded for creation of the pension and gratuity fund. The petitioner Corporation had submitted before the one-member bench that as per directions of the C&AG, it was required to make provision of pension liabilities on “Actuarial Valuation” in terms of Accounting Standard 15 which implies matching investment. Total estimated financial implications on this account were indicated as Rs. 1500 crore.

70. With regard to the issue of creation of pension and gratuity fund, the one member bench consciously refrained from making any recommendations. It held that “it may not be appropriate to make any specific recommendations regarding creation of pension liability fund additionally only on the strength of above certificate. However, present pension and gratuity fund liability and pension relief may be accounted for to arrive at the reasonable O&M expenses for the generating stations/transmission”

.....

Pension and gratuity fund

73. As mentioned above, the petitioner Corporation had contended that it is required to create a pension and gratuity fund as per the instructions of C&AG. This proposal has been strongly objected to by the objector-intervenor, M/s Bhaskar Shrachi Alloys Ltd and others. The averments of the objector-intervenor in this regard are that AS 15 is applicable only to companies registered under the Companies Act, 1956 and since the petitioner Corporation is not a company 42 registered under the Companies Act, the said Accounting Standard was not mandatory for the petitioner Corporation. It has been stated that Sections 46 and 47 of the DVC Act provide that the accounts should be prepared in such form and in such manner as may be prescribed by the rules made by the Central Government. However, by the rules made by the Central Government, AS-15 has not been extended to the

petitioner Corporation. It is further contended that Section 59 of the DVC Act empowers the Central Government by notification in the Official Gazette to make Rules, inter alia, providing for the forms of Budget and the manner in which the Accounts of DVC shall be maintained. According to the objector-intervenor, unless prescribed by Rules framed by Central Government under section 59 of the DVC Act and duly published in the official Gazette, the petitioner Corporation cannot introduce AS-15 or any Accounting Standard and cannot change its accounting method.

74. The petitioner has, however, contended that it is bound by the instructions of the C&AG and there is a mandatory requirement for creating the pension fund in terms of the requirement of AS-15. We address this issue presently.

*75. We observe that Section 59(5) of the DVC Act confers a power on the Central Government to make rules. DVC Rules 1948 framed in exercise of the powers conferred by Section 59 of the DVC Act 1948, prescribe the manner in which the accounts are to be prepared (Rules 19 to 17). Further, Rules 28-33 of the above Rules lay down the procedure relating to Audit. Rule 28 of the 43 Damodar Valley Corporation Rules 1948 places the petitioner Corporation under the jurisdiction of the C&AG for the purpose of audit of the accounts of the petitioner Corporation. A perusal of the Rules indicates that the same only lay down broad guidelines and do not deal with the details of the manner in which the accounts are to be maintained i.e. whether terminal benefits are to be provided on payment basis or actuarial valuation basis. **The objector-intervenor has not established that switch over from the present mode of payment basis to actuarial valuation basis will be in violation of the Rules prescribed.***

76. In addition to the above, Section 40 of the DVC Act provides as under:

(1) *The Corporation shall make provision for depreciation and for reserve and other funds at such rates and on such terms as may be specified by the Auditor General of India in consultation with the Central Government.*

(2) *The net profit for the purposes of section 37 shall be determined after such provision has been made.*

77. It is evident from the above provision that the petitioner Corporation is under a statutory duty to make provisions for the funds as directed by the Auditor General of India. Since the present case involves making provision for a terminal benefits fund, the Corporation is bound to act under the directions of the C&AG.

78. It is also observed from various provisions of the Act that the petitioner Corporation is under the overall control and superintendence of the Central Government. Section 48 specifically provides that “1) in discharge of its functions the Corporation shall be guided by such instructions on questions of policy as may be given to it by the Central Government.” Section 48 (2) further provides that “If any dispute arises between the Central Government and Corporation as to whether a question is or is not a question of policy, the decision of the Central Government shall be final”. ***As the petitioner Corporation is under a statutory duty to abide by the instructions of the Central Government on questions of policy, in the instant case it has no option but to provide for the terminal benefits in the manner instructed by the Central Government.***

79. The following provisions of the DVC Act 1948 also establish that the petitioner Corporation is functioning under the overall superintendence of the Central Government:

(a) The date on which the Corporation was established is based on the gazette notification of the Central Government [Section 3(1)]

(b) The Chairman and the two other members of the Corporation are appointed by the Central Government [Section 4(1)]

(c) Secretary and the financial adviser of the Corporation are appointed by the Central Government [Section 6(1)]

(d) The limits of the Damodar Valley are notified by the Central Government [Section 11(1)]

(e) Central Government has powers to direct the manner in which the funds of the Corporation shall be deposited [Section 29(2)] 45

(f) Section 51 of the Act empowers the Central Government to remove any member from the Corporation

(g) If the Corporation fails to carry out its functions or follow the directions issued by the Central Government under this Act, the Central Government shall have power to remove the Chairman and the members of the Corporation and appoint a Chairman and members in their places [Section 51(6)]

(h) Central Government has the powers to make rules on several matters in relation to the Corporation [Section 59]

80. We, therefore, hold that in view of the overwhelming powers of the Central Government to issue instructions on the manner in which retirement funds are to be maintained cannot be questioned unless the instructions are shown to be violative of any statutory provision.

81. Accordingly, we approve the proposal of the petitioner Corporation for creation of the fund. However, entire burden should not be passed on to the consumers. We direct that the liability in this regard shall be shared between the petitioner Corporation and the consumers in the ratio of 40:60. The share of the

consumers shall be recovered in three annual equal installments starting from 2006-07.

[Emphasis Supplied]

- b. Order dated 23.11.2007 by the Hon'ble Tribunal in Appeal Nos. 271 of 2006 & batch:-

D. Pension and Gratuity Contribution

D.1 DVC has submitted that based on the actuarial valuation, entire funds need to create the Pension and Gratuity Contribution Fund should be allowed to be recovered through the process of determination of tariff. The Central Commission in its Order has worked out that a sum of Rs. 1534.49 crore is required to create such a fund. The Commission has held that entire burden for creation of the fund should not be passed on to the consumers and accordingly directed that 60% be recovered through the tariff from the consumers and 40% be contributed by the DVC. We find that this decision is not backed by any justification given in the order. We feel the claim of the Appellant to recover the entire cost for creation of the fund through tariff is justified provided the recovery is staggered in a manner that it does not create tariff-shock to consumers.

D.2 The huge liability for the fund has arisen as earlier DVC was adopting the policy of "pay as you go". A major part of the liability pertains to previous years.

D.3 As a general rule, once the Commission, after prudence check, has agreed with the need for funding the Pension and Gratuity Contribution funds, DVC should have been allowed to recover entire amount from the consumers through the tariff. Asking DVC to contribute out of its own resources would tantamount to denying it the return on equity as assured in terms of Tariff Regulations. However, if we look at it from the point of view of the consumers, the consumers, particularly the industrial and commercial ones, have now no option to adjust their sale price to take into consideration the need for meeting the accumulated liability. It is, therefore, an accepted fact that due to postponing of the creation of such fund, the consumers were enjoying lesser tariff than the legitimate tariff otherwise applicable to them.

D.4 Some of the Respondents have contended that Accounting Standard AS -15 is not applicable to the Appellant. As a prudent accounting practice, whether AS-15 is applicable to DVC or not, an adequate provision is required to be made for employees related liabilities by DVC. Postponing creation of such funds would again lead to non-determination of appropriate cost of supply of electricity.

D.5 In view of the above we find it unreasonable to allocate 40% of the burden on DVC. We are of the opinion that entire expenditure, as determined after prudence check by the Commission, is to be borne by the consumers.

.....

113. In view of the above are the subject appeal No.273 of 2006 against the impugned order of the Central Commission passed that on 3rd October 2006 is allowed to the extent described in this judgment and we remand the matter to the Central Commission for de novo consideration of the Tariff Order dated 3rd October 2006 in terms of our findings and observations made herein above and according to the law. Appeal No. 271, 272 and 275 of 2006 and No. 8 of 2007 also disposed of, accordingly.

[Emphasis Supplied]

- c. The above judgement and order dated 23.11.2007 of the Hon'ble Tribunal has been upheld by the Hon'ble Supreme Court vide judgement dated 23.7.2018 in the matter of Bhaskar Shrachi Alloys Ltd. v. Damodar Valley Corporation (2018) 8 SCC 281. The Hon'ble Supreme Court has held as under:

“59. So far as the pension and gratuity fund is concerned, the only issue arising is whether the fund worked out on Actuary basis at Rs 1534.49 crores should be apportioned between the Corporation and the consumers as held by CERC in the ratio of 40:60 or the entire fund should be allowed to be recovered by way of tariff from the consumers as held by the learned

Appellate Tribunal. The reasoning of the learned Appellate Tribunal in coming to the aforesaid conclusion is as follows:

“D.3. As a general rule, once the Commission, after prudence check, has agreed with the need for funding the pension and gratuity contribution funds, DVC should have been allowed to recover entire amount from the consumers through the tariff. Asking DVC to contribute out of its own resources would tantamount to denying it the return on equity as assured in terms of the Tariff Regulations. However, if we look at it from the point of view of the consumers, the consumers, particularly the industrial and commercial ones, have now no option to adjust their sale price to take into consideration the need for meeting the accumulated liability. It is, therefore, an accepted fact that due to postponing of the creation of such fund, the consumers were enjoying lesser tariff than the legitimate tariff otherwise applicable to them.”

60. A careful consideration of the reasoning adopted by the learned Appellate Tribunal would not disclose any such error so as to warrant interference of this Court. No error or fallacy, ex facie, is disclosed in the reasoning adopted so as to justify interference under Section 125 of the 2003 Act.”

7. In terms of the above, the contribution to pension and gratuity fund has to be considered over and above the normative O & M expenses to be allowed for DVC under the Tariff Regulations.
8. The Hon’ble Commission initiated the de-novo proceedings of Petition no. 66 of 2005 in terms of the order dated 23.11.2007 passed by the Hon’ble Tribunal and by order dated 6.8.2009 the Hon’ble Commission decided the matter. Appeal No. 146 of 2009 was filed by DVC before the Hon’ble Tribunal against the order dated 6.8.2009 passed by the Hon’ble Commission. The appeal no. 146 of 2006 was decided by the Hon’ble Tribunal vide order dated 10.5.2010. However, in both of these orders the issue dealt was pertaining to the manner of recovery of the expenditure towards pension and gratuity fund and not whether the

expenditure towards pension and gratuity is justified. On certain aspects decided against DVC by the Hon'ble Tribunal, DVC filed a second appeal being no. 4881 of 2010 before the Hon'ble Supreme Court, which was dismissed on 3.12.2018.

9. After the issuance of the Tariff Regulations, 2009 DVC filed its tariff petitions for tariff determination of its generating units/ station before the Hon'ble Commission on or about 19.10.2011. In all the Tariff Petitions for 2009-14 at paras No. 17, 20 and 21 DVC stated as under:-

17. In Petition No.240 of 2009 for determination of tariff for the period 2009-14, the claims relating to Pension & Gratuity Contribution, Additional Operation & Maintenance Expenses, Interest on Govt. Capital as per Sec. 38 of DVC Act, 1948, Contribution to Subsidiary Fund, Sinking Fund etc. were submitted in a consolidated manner on 26.10.2009.

*20. DVC had already submitted separate tariff petition (Petition No. 279/2010) in respect of MTPS # 4 for the tariff period 204-09 on 26.10.2010 and amended Petition on 23.12.2010. Further amendment with additional document/ information in respect of claim towards Pension & Gratuity Fun liability (as on 31.03.2009) was thereafter submitted in Petition No. 279/10 with the apportionment of this liability for MTPS # 4 on 12.08.2011. A copy of the statement showing the apportionment of such liability is attached as **Annexure - B**.*

*21. A copy of the certificate towards actuarial valuation in respect of Pension and Gratuity liability including MTPS # 4 as on 31.03.2009 is also attached as **Annexure - C**.*

10. In the Tariff Petitions vide Annexure C_A, DVC submitted additional annual liability of Pension and Gratuity Fund of 60 crores for 2009-10 period in addition to the actuarial valuation as on 31.03.2009. This liability for 2009-10, was as per the records of DVC's Annual Accounts

for 2009-10 at page 192, Schedule -XVIII, Item no. 12. At the time of filing of the petitions for the period 2009-14, DVC did not have the actuarial valuation for the above entire period and on account of that, the claim for pension and gratuity contribution for the entire 2009-14 period could not form a part of the said tariff petitions.

11. On 27.3.2012, the Hon'ble Commission sought for additional information on the contribution to the Pension and Gratuity for the period 2009-14 of each existing station of DVC. In reply to the above communication dated 27.3.2012, DVC through its separate affidavits dated 25.04.2012 submitted the additional information in respect of all the generating stations.
12. Thereafter the tariff orders were passed by the Hon'ble Commission for the period 2009-14 for the different stations of DVC. In these tariff orders the Hon'ble Commission dealt only with the liability of 40% of Pension and Gratuity Fund for the period 2006-09 to be recovered in the tariff period 2009-14 as per decision of the Hon'ble Tribunal dated 23.11.2007. In these tariff orders the Hon'ble Commission has rejected that claim of the objectors wherein they have submitted that no provision exist in the Tariff Regulations, 2009 for claiming the expenditure towards Pension and Gratuity Contribution.
13. Subsequently, DVC filed its Petitions for truing up for the period 2009-14 based on truing up of actual expenditure in terms of Regulation 6(1) of the Tariff Regulations, 2009. DVC submitted the actuarial valuation dated 31.3.2011,31.3.2012,31.3.2013 and 31.3.2014 for the period 2009-14 period vide Annexure- G in all the True Up tariff petitions submitted for the generating stations of DVC.

14. The Hon'ble Commission vide its communication dated 20.6.2016 in the Petition nos. 464/GT/2014 to 471/GT/2014, sought further details from DVC of all the elements with assumptions as considered for arriving at the pension and gratuity fund requirement on year to year basis for the period 2009-14 and certain other aspects.
15. In the true up orders for the period 2009-14, the Hon'ble Commission rejected the claim of DVC with regard to the expenditure incurred towards Pension and gratuity Contribution for the period 2009-14, based on the actuarial valuation dated 31.3.2011, 31.3.2012, 31.3.2013 and 31.3.2014 for the period 2009-14. The Hon'ble Commission rejected the claim on the basis that the normative O & M expenses specified by the Hon'ble Commission in the Tariff regulations, 2009 takes into account such expenditure incurred towards Pension and Gratuity contribution.
16. DVC filed appeals before the Hon'ble Tribunal against the various orders of the Hon'ble Commission, determining the truing up petitions for the 2009-14 period, which have rejected the claim of Pension and gratuity of DVC's generating stations/units.
17. Thereafter the Hon'ble Commission also passed tariff orders for the period 2014-19 for the DVC's generating stations/units. In these orders DVC's claim for expenditure towards pension and gratuity for the period 2014-19 on the basis of actuarial valuation dated 31.3.2014 and projected liability for the period 2014-19 was rejected. The Hon'ble Commission in the tariff orders for the period 2014-19 has simpliciter rejected the claim of DVC on the ground that the same can be met through the normative O & M expenses specified by the Hon'ble Commission.

18. DVC in the meantime filed Petition No. 197 of 2016 for the tariff period 2014-19, before the Hon'ble Commission submitting that the normative O & M Expenses determined by the Hon'ble Commission is based on the actual quantum of expenditure incurred by the Utilities in the past period.
19. DVC also filed appeals before the Hon'ble Tribunal against the orders passed by the Hon'ble Commission rejecting the claim of pension and gratuity for the period 2014-19.
20. On 29.10.2018, the Hon'ble Tribunal was pleased to direct as under in an Interim application filed by DVC in one such Appeal being appeal no. 10 of 2017:-

We have gone through Paragraph No 3 of the reply to this application. We make it clear that the Commission can proceed with hearing of the Petition No. 197/MP/16 on merits and pendency of this appeal will not come in the way of such consideration. On the other hand, to a large extent, the controversies may be reduced between the parties. The Application is disposed of.

APPEAL NO. 10 OF 2017

List the matter for hearing on 28.01.2019.

21. Thereafter, on 28.1.2019 the Hon'ble Tribunal held as under:-

It is informed that in spite of our earlier opinion that Central Commission may proceed with the pending matter and dispose of the same on merits, still they have not considered the same. We therefore, reiterate that pendency of this Appeal will not come in the way of disposal of Petition No. 197/MP/16 on merits by the Commission.

22. On 4.9.2019, this Hon'ble Commission passed an order in Petition no. 197/MP/2016 granting liberty to DVC to claim the relief towards pension and gratuity at the time of trying up.
23. In petition no. 197/MP/2016, the issue of pendency of Appeals before the Hon'ble Tribunal was raised by the Counsel for the Objector and this Hon'ble Commission granted liberty to DVC to raise the issue of pension and gratuity at the time of truing up. The order of the Hon'ble Commission dated 4.9.2019 passed in petition no. 197/MP/2016 reads as under:-

(A) Decision on Maintainability

15. Before examining the claim of the Petitioner, we notice the preliminary objection raised by the Objector, DVPCA as regards „maintainability“ of the Petition. DVPCA has submitted that since the issue of P&G liability is pending for consideration of APTEL in the appeals filed by the Petitioner, revisiting this issue will create an anomalous situation. It is, however, noticed that the APTEL vide its order dated 29.10.2018 in IA No. 1235/2018 in Appeal No. 10/2017, has observed that pendency of appeal will not come in the way of consideration of this Petition on merits. The extract of the direction of APTEL is as under:

“.....We make in clear that the Commission can proceed with hearing of the Petition No. 197/MP/2016 on merits and pendency of this appeal will not come in the way of such consideration. On the other hand, to a large extent, the controversies may be reduced between the parties.”

The Petition is therefore maintainable.

16. One more objection of DVPCA is that the liberty granted by Commission's order dated 20.9.2016 to file separate application was premised with fulfilment of conditions, namely, the submission of details which were not available earlier and since the Petitioner has not furnished any such details, the Petition is not maintainable. This submission of DVPCA merits no consideration. As stated above, the Commission, in order to take a holistic view, had granted liberty to the

Petitioner to claim relief with regard to contribution to P&G fund by way of a undertaken to file all requisite details, as and when directed by the Commission, including the actuarial valuation, which form the basis of the quantum claimed in the Petition. In view of this, the submission of the Objector, DVPCA is rejected and we hold that the Petition is maintainable.

(B) Decision on Merits

.....

25. It is therefore evident from the above that the P&G claim of the Petitioner for the period 2014-19 was rejected based on the decision taken by the Commission in respect of P&G liability claimed by the Petitioner for the period 2009-14. While framing the 2014 Tariff Regulations, the Commission had sought details of the actual O&M expenses for the period from 2008-09 to 2012-13 incurred by the various generating units & transmission systems owned by different companies like the Petitioner, NTPC, NLCIL, PGCIL etc. Based on the details furnished, the O&M expenses incurred by the central generating stations, were broadly classified by the Commission into three heads namely (i) Repair and Maintenance Expenses (ii) Administrative & General Expenses and (iii) Employee Expenses. The employee expenses, in general, form a considerable part of O&M expenses and includes all types of employee related expenses like Salary, contribution to CPF, gratuity, pension, etc., However, the submission of the Petitioner that no part of P&G contribution related to power business were factored in the O&M expenses during the base years cannot be appreciated in the absence of any supporting details/data being furnished by the Petitioner. As stated, the normative O&M expenses were specified under Regulation 29 of the 2014 Tariff Regulations after giving due consideration of the requirements of various generating companies. The Petitioner DVC has argued that in so far as the liability of pension for its employees is concerned, it is unique and different from those prevalent in other central generating stations regulated by this Commission since the revision of pension from time to time, is based on the decision of the Central Govt. However, the information/details available on record do not support the aforesaid submission of the Petitioner that it incurs extra expenditure on terminal benefits to the employees over and above the normative O&M expenses under the 2014 Tariff Regulations. In the above background and in the absence of any supporting details/data, the prayer of the Petitioner cannot be granted in this order. However, the Petitioner is at liberty to claim the said relief with all relevant information/ documents including the (a) actuarial valuation; (b) actual data duly audited and certified by the

auditor and (c) annual accounts of the pension fund, at the time of truing up of tariff in terms of Regulation 8 of the 2014 Tariff Regulations.

24. The issue was therefore individually raised in each truing up petition pursuant to the liberty granted by this Hon'ble Commission after giving all the relevant documents and data as directed by the Hon'ble Commission in the order dated 4.9.2019 passed in Petition no. 197/MP/2016.
25. It is submitted that the order of the Hon'ble Appellate Tribunal was in substance granted liberty to DVC to raise the matter before the Hon'ble Commission in the petition then pending namely petition no. 197/MP/2016. The said liberty granted enures to the matter being raised in the true up petitions in view of this Hon'ble Commission's order dated 4.9.2019 that DVC may raise the issues in the true up proceedings.
26. The respondents/ Objector are fully aware of the developments both before the Hon'ble Tribunal and before this Hon'ble Commission. The respondents/Objector were represented in the above proceedings. It is therefore not correct for the respondents to raise technical/hyper technical issues in regard to the consideration of pension and gratuity claim.

**ANNEXURE-1: Detailed comparison in
between the Normative O&M allowed
in different Tariff Orders by this
Hon'ble Commission vis a vis Actual
O&M**

Summary table showing that Normative O&M of Thermal, Hydel, T&D is less than Actual O&M.

(Rs in Lakhs)

Thermal & Hydel Stations including T&D		2014-15	2015-16	2016-17	2017-18	2018-19	Total
Normative O&M as in Provisional Tariff Orders:	Order Reference						
BTPS A	As per Page 53 of Tariff Order 196/GT/2016 dated 30.05.2018 (Provisional)	-	-	916.38	9,610.00	10,215.00	20,741.38
BTPS B (1-3)	As per Page 50 of Tariff Order 350/GT/2014 dated 27.09.2016 (Provisional)	15,057.00	16,002.00	17,010.00	18,081.00	19,221.30	85,371.30
CTPS 1-3	As per Page 40 of Tariff Order 349/GT/2014 dated 23.09.2016 (Provisional)	13,993.20	14,874.60	15,810.60	16,805.10	17,862.00	79,345.50
CTPS 7-8	As per Page 53 of Tariff Order 180/GT/2015 dated 17.02.2017 (Provisional)	11,950.00	12,700.00	13,500.00	14,350.00	15,255.00	67,755.00
DSTPS 1-2	As per Page 42 of Tariff Order 205/GT/2015 dated 17.03.2017 (Provisional)	16,000.00	17,010.00	18,080.00	19,220.00	20,430.00	90,740.00
DTPS 3-4	As per Page 71 of Tariff Order 348/GT/2014 dated 20.07.2017 (Provisional)	10,042.20	10,673.60	11,345.60	12,059.60	12,819.10	56,940.10
KTPS 1-2	As per Page 40 of Tariff Order 296/GT/2015 dated 28.02.2017 (Provisional)	14,378.08	17,010.00	18,080.00	19,220.00	20,430.00	89,118.08
MTPS 1-3	As per Page 38 of Tariff Order 347/GT/2014 dated 31.08.2016 (Provisional)	15,057.00	16,002.00	17,010.00	18,081.00	19,221.30	85,371.30
MTPS 4	As per Page 30 of Tariff Order 352/GT/2014 dated 20.9.2016 (Provisional)	5,019.00	5,334.00	5,670.00	6,027.00	6,407.10	28,457.10
MTPS 5-6	As per Page 52 of Tariff Order 144/GT/2015 dated 16.03.2017 (Provisional)	11,950.00	12,700.00	13,500.00	14,350.00	15,255.00	67,755.00
MTPS 7-8	As per Page 16 of Tariff Order 207/GT/2015 dated 03.10.2016 (Provisional)	16,000.00	17,010.00	18,080.00	19,220.00	20,430.00	90,740.00
RTPS 1-2	As per Page 82 of Tariff Order 224/GT/2015 dated 28.09.2017 (Provisional)	-	-	19,524.00	20,760.00	22,056.00	62,340.00
MHS 1-3	As per Page 29 of Tariff Order 354/GT/2014 dated 20.09.2016 (Provisional)	1,914.46	2,041.66	2,177.31	2,321.97	2,476.24	10,931.64
PHS 1-2	As per Page 38 of Tariff Order 353/GT/2014 dated 20.09.2016 (Provisional)	1,546.42	1,649.17	1,758.74	1,875.59	2,000.20	8,830.12
THS 1-2	As per Page 27 of Tariff Order 351/GT/2014 dated 23.09.2016 (Provisional)	698.99	745.43	794.95	847.77	904.10	3,991.24
T&D	As per Page 41 of Tariff Order 150/TT/2018 dated 09.08.2019 (Provisional), page 48-50 of Tariff Order 335/TT/2018 dated 05.02.2020 (Provisional) and Page 39 of Tariff Order 334/TT/2018 dated 05.02.2020 (Provisional)	20,500.09	21,429.48	22,314.67	23,829.28	24,798.95	1,12,872.47
Total Normative O&M allowed to DVC as a whole in different Tariff Orders (Generating Stations & T&D System as above) (A)		1,54,106.44	1,65,181.94	1,95,572.25	2,16,658.31	2,29,781.29	9,61,300.23
Actual O&M as per Books of Accounts (B)		1,75,407.26	2,14,406.28	2,58,975.81	3,28,578.21	2,42,420.14	12,19,787.70
Annual Report Reference		Page 79	Page 8	Page 80	Page 82	Page 82	
Excess amount of Actual O&M over Normative O&M (C) = (B) - (A)		21,300.82	49,224.34	63,403.55	1,11,919.90	12,638.85	2,58,487.47

**ANNEXURE-2: Comparison between
Actual O&M and Normative O&M**

Comparison between Actual O&M and Normative O&M in respect to DVPCA Objection**(in Rs. Lakhs)**

Sr. No	Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
(A)	Employee Benefit Expenses (a)	81,960	96,738	1,26,691	1,59,010	1,09,249
(B)	O&M and Gen. admin charges (b)	93,447	1,17,668	1,32,286	1,69,568	1,33,169
(i)	ADD: Rebates and discounts (Sr. No. 12.20 of CERC ROP Format-A)	All these components from Sr. No. (i) to (vii) are included in O&M and Gen Admin charges shown in Sr. (B) As per CERC format for Actual O&M, all these components shown un Sr. No. (i) to (vii) needs to be added and not to be subtracted as shown by DVPCA				
(ii)	ADD: Brokerage and Commission (12.15 of CERC ROP Format-A)					
(iii)	ADD: Provisions for loss on fixed assets (9 of CERC ROP Format-A)					
(iv)	ADD: Provisions for doubtful claims & advances (Sr. No. 9 of CERC ROP Format-A)					
(v)	ADD: Provisions for obsolescence (Sr. No. 12.20 of CERC ROP Format-A)					
(vi)	ADD: Provisions for doubtful debts (Sr. No. 12.17 of CERC ROP Format-A)					
(vii)	ADD: Water Charges as they are to be allowed separately (Sr. No. 5 of CERC ROP Format-A)					
(C)	Total Others [Sr. No. 5, 9, 12 of CERC ROP Format-A] (i to vii)	0	0	0	0	0
(D)	Actual O&M Expenses (A + B)	1,75,407	2,14,406	2,58,977	3,28,578	2,42,418
(E)	Normative O&M Expenses (as per Provisional Tariff Orders)	1,54,106	1,65,182	1,95,572	2,16,658	2,29,781
(F)	Excess of Actual O&M Expenses (D) over Normative O&M Expenses (as per Provisional Tariff Orders)	21,301	49,224	63,405	1,11,920	12,637

**ANNEXURE-3: Actual O&M Expenses
for Damodar Valley Corporation under
Power Head (Thermal, Hydel and
T&D)**

ACTUAL O&M EXPENSES FOR DAMODAR VALLEY CORPORATION UNDER POWER HEAD (THERMAL, HYDEL AND T&D)

FY 2014-15

	BTPS-A	BTPS 1-3	CTPS 1-3	CTPS 7-8	DSTPS	DTPS	KTPS	MTPS 1-3	MTPS 4	MTPS 5-6	MTPS 7-8	RTPS	Total Thermal (1)	MHS	PHS	THS	Total Hydel (2)	T&D (3)	Gas Turbine & Others (4)	DVC Total = (1) + (2) + (3) + (4)	Annual Report Reference for FY 2014-15
Employees Remuneration & Benefit -Direct (A)	-	10,563.27	5,527.99	7,087.17	3,932.92	9,243.22	3,068.41	3,934.34	1,311.45	3,122.49	6,244.98	-	54,036.22	1,061.09	669.53	430.53	2,161.15	9,875.15	90.72	66,163.24	Page 124
Employees Remuneration & Benefits -Share (B)	-	1,764.07	1,101.13	1,411.71	1,460.24	1,631.42	716.65	1,125.69	375.23	893.41	1,786.81	-	12,266.35	436.35	376.36	59.49	872.21	2,658.33	-	15,796.90	Page 124
Total Employees Remuneration & Benefit (C) = (A) + (B)	-	12,327.34	6,629.12	8,498.88	5,393.16	10,874.64	3,785.06	5,060.03	1,686.68	4,015.89	8,031.79	-	66,302.57	1,497.44	1,045.89	490.03	3,033.36	12,533.48	90.72	81,960.13	Page 124
Other O&M Expenses -Direct (D)	-	8,461.71	6,526.11	8,366.80	9,089.41	7,425.02	5,358.73	8,422.08	2,807.36	6,684.19	13,368.38	-	76,509.78	441.14	623.33	103.62	1,168.09	14,057.21	397.53	92,132.61	Page 129 & 130
Other O&M Expenses (Share) (E)	-	43.61	-16.70	-21.41	197.88	19.43	12.26	121.54	40.51	96.46	192.92	-	686.51	96.26	106.02	5.53	207.81	420.19	-	1,314.51	Page 130
Total Other O&M Expenses (F) = (D) + (E)	-	8,505.32	6,509.41	8,345.40	9,287.28	7,444.45	5,370.99	8,543.62	2,847.87	6,780.65	13,561.30	-	77,196.29	537.40	729.35	109.15	1,375.90	14,477.41	397.53	93,447.12	Page 130
Total O&M Expenses (G) = (C) + (F)	-	20,832.66	13,138.53	16,844.27	14,680.44	18,319.09	9,156.05	13,603.65	4,534.55	10,796.54	21,593.09	-	1,43,498.86	2,034.84	1,775.25	599.18	4,409.26	27,010.89	488.25	1,75,407.26	

FY 2015-16

	BTPS-A	BTPS 1-3	CTPS 1-3	CTPS 7-8	DSTPS	DTPS	KTPS	MTPS 1-3	MTPS 4	MTPS 5-6	MTPS 7-8	RTPS	Total Thermal (1)	MHS	PHS	THS	Total Hydel (2)	T&D (3)	Gas Turbine & Others (4)	DVC Total = (1) + (2) + (3) + (4)	Annual Report Reference for FY 2015-16
Employees Remuneration & Benefit -Direct (A)	-	10,440.21	5,655.21	7,250.27	4,264.57	9,413.86	3,762.49	3,947.61	1,315.87	3,133.03	6,266.06	-	55,449.18	968.99	606.14	441.89	2,017.02	10,360.39	41.79	67,868.38	Page 133
Employees Remuneration & Benefits -Share (B)	-	3,582.95	2,131.50	2,732.69	2,431.92	3,222.34	2,067.97	1,881.00	627.00	1,492.85	2,985.71	-	23,155.92	634.71	545.41	134.44	1,314.56	4,396.87	-	28,867.34	Page 133
Total Employees Remuneration & Benefit (C) = (A) + (B)	-	14,023.16	7,786.71	9,982.96	6,696.48	12,636.20	5,830.46	5,828.61	1,942.87	4,625.88	9,251.77	-	78,605.10	1,603.70	1,151.54	576.34	3,331.58	14,757.26	41.79	96,735.72	Page 133
Other O&M Expenses -Direct (D)	-	10,363.80	6,746.81	8,649.75	9,301.39	14,103.55	10,001.54	10,236.06	3,412.02	8,123.86	16,247.72	-	97,186.52	501.87	561.30	97.84	1,161.01	17,726.54	85.89	1,16,159.95	Page 138 & 139
Other O&M Expenses (Share) (E)	-	85.18	51.57	66.11	-185.78	4.00	184.58	148.40	49.47	117.78	235.56	-	756.87	125.74	141.58	7.58	274.91	478.84	-	1,510.61	Page 139
Total Other O&M Expenses (F) = (D) + (E)	-	10,448.98	6,798.38	8,715.87	9,115.61	14,107.56	10,186.13	10,384.46	3,461.49	8,241.64	16,483.28	-	97,943.39	627.61	702.88	105.42	1,435.91	18,205.37	85.89	1,17,670.56	Page 139
Total O&M Expenses (G) = (C) + (F)	-	24,472.14	14,585.09	18,698.83	15,812.10	26,743.76	16,016.58	16,213.08	5,404.36	12,867.52	25,735.04	-	1,76,548.49	2,231.31	1,854.42	681.76	4,767.49	32,962.63	127.68	2,14,406.28	

FY 2016-17

	BTPS-A	BTPS 1-3	CTPS 1-3	CTPS 7-8	DSTPS	DTPS	KTPS	MTPS 1-3	MTPS 4	MTPS 5-6	MTPS 7-8	RTPS	Total Thermal (1)	MHS	PHS	THS	Total Hydel (2)	T&D (3)	Gas Turbine & Others (4)	DVC Total = (1) + (2) + (3) + (4)	Annual Report Reference for FY 2016-17
Employees Remuneration & Benefit -Direct (A)	913.42	11,353.55	6,576.73	9,069.46	5,682.36	10,864.78	4,927.00	4,993.89	1,664.63	3,963.40	7,926.81	3,617.73	71,553.76	1,181.93	683.77	610.48	2,476.19	13,002.11	-130.68	86,901.38	Page 129
Employees Remuneration & Benefits -Share (B)	344.23	4,278.68	2,601.92	3,588.10	3,116.92	3,784.65	2,766.84	2,313.04	771.01	1,835.75	3,671.50	2,519.74	31,592.40	792.91	634.10	207.66	1,634.67	6,562.60	-	39,789.67	Page 129
Total Employees Remuneration & Benefit (C) = (A) + (B)	1,257.65	15,632.23	9,178.64	12,657.57	8,799.28	14,649.43	7,693.84	7,306.93	2,435.64	5,799.15	11,598.30	6,137.48	1,03,146.16	1,974.84	1,317.88	818.14	4,110.86	19,564.71	-130.68	1,26,691.05	Page 129
Other O&M Expenses -Direct (D)	787.67	9,790.55	7,639.21	10,534.65	9,442.21	9,213.83	8,269.82	10,605.99	3,535.33	8,417.45	16,834.90	4,891.95	99,963.57	432.15	440.25	149.41	1,021.81	26,775.15	2.21	1,27,762.74	Page 134 & 135
Other O&M Expenses (Share) (E)	10.73	133.42	67.13	92.57	-338.26	-159.76	609.88	348.99	116.33	276.97	553.95	551.14	2,263.09	314.96	304.57	17.91	637.44	1,621.49	-	4,522.02	Page 135
Total Other O&M Expenses (F) = (D) + (E)	798.41	9,923.97	7,706.34	10,627.23	9,103.95	9,054.07	8,879.70	10,954.97	3,651.66	8,694.42	17,388.85	5,443.10	1,02,226.66	747.12	744.82	167.32	1,659.25	28,396.64	2.21	1,32,284.76	Page 135
Total O&M Expenses (G) = (C) + (F)	2,056.05	25,556.20	16,884.98	23,284.79	17,903.23	23,703.50	16,573.54	18,261.91	6,087.30	14,493.58	28,987.15	11,580.57	2,05,372.81	2,721.96	2,062.69	985.45	5,770.11	47,961.35	-128.46	2,58,975.81	

FY 2017-18

	BTPS-A	BTPS 1-3	CTPS 1-3	CTPS 7-8	DSTPS	DTPS	KTPS	MTPS 1-3	MTPS 4	MTPS 5-6	MTPS 7-8	RTPS	Total Thermal (1)	MHS	PHS	THS	Total Hydel (2)	T&D (3)	Gas Turbine & Others (4)	DVC Total = (1) + (2) + (3) + (4)	Annual Report Reference for FY 2017-18
Employees Remuneration & Benefit -Direct (A)	6,388.46	4,462.12	2,919.51	8,433.21	4,912.47	8,104.24	4,211.76	3,720.30	1,240.10	2,952.62	5,905.23	3,470.26	56,720.26	824.96	633.94	374.68	1,833.58	10,431.47	224.66	69,209.97	Page 130
Employees Remuneration & Benefits -Share (B)	7,841.11	5,476.75	3,359.84	9,705.15	7,030.31	8,915.87	6,261.58	4,827.02	1,609.01	3,830.97	7,661.93	5,502.24	72,021.78	1,490.98	1,460.78	397.00	3,348.76	14,429.73	-	89,800.27	Page 130
Total Employees Remuneration & Benefit (C) = (A) + (B)	14,229.57	9,938.87	6,279.35	18,138.36	11,942.78	17,020.12	10,473.34	8,547.32	2,849.11	6,783.58	13,567.17	8,972.49	1,28,742.04	2,315.94	2,094.72	771.68	5,182.33	24,861.20	224.66	1,59,010.24	Page 130
Other O&M Expenses -Direct (D)	8,365.03	5,842.69	4,105.67	11,859.53	12,892.06	5,547.04	7,346.23	10,148.76	3,382.92	8,054.57	16,109.15	6,507.54	1,00,161.21	326.07	385.72	87.47	799.25	66,203.65	18.04	1,67,182.15	Page 135 & 136
Other O&M Expenses (Share) (E)	157.62	110.09	68.04	196.54	-2,182.66	-157.95	472.45	304.26	101.42	241.48	482.96	458.14	252.40	226.38	237.12	12.49	475.99	1,657.43	-	2,385.82	Page 136
Total Other O&M Expenses (F) = (D) + (E)	8,522.66	5,952.78	4,173.71	12,056.08	10,709.40	5,389.09	7,818.67	10,453.03	3,484.34	8,296.05	16,592.11	6,965.69	1,00,413.61	552.44	622.83	99.96	1,275.24	67,861.08	18.04	1,69,567.97	Page 136
Total O&M Expenses (G) = (C) + (F)	22,752.22	15,891.65	10,453.07	30,194.44	22,652.17	22,409.21	18,292.01	19,000.34	6,333.45	15,079.64	30,159.27	15,938.18	2,29,155.65	2,868.39	2,717.55	871.64	6,457.57	92,722.29	242.70	3,28,578.21	

FY 2018-19

	BTPS-A	BTPS 1-3	CTPS 1-3	CTPS 7-8	DSTPS	DTPS	KTPS	MTPS 1-3	MTPS 4	MTPS 5-6	MTPS 7-8	RTPS	Total Thermal (1)	MHS	PHS	THS	Total Hydel (2)	T&D (3)	Gas Turbine & Others (4)	DVC Total = (1) + (2) + (3) + (4)	Annual Report Reference for FY 2018-19
Employees Remuneration & Benefit -Direct (A)	9,549.34	4,010.72	2,880.74	11,079.75	6,021.19	7,417.88	5,121.86	4,746.87	1,582.29	3,767.36	7,534.71	4,451.91	68,164.62	953.92	551.16	583.76	2,088.83	11,777.42		82,030.88	Page 130
Employees Remuneration & Benefits -Share (B)	1,439.21	604.47	386.36	1,486.00	3,070.59	814.40	3,043.21	1,515.31	505.10	1,202.63	2,405.25	2,333.21	18,805.73	625.54	516.09	43.73	1,185.37	7,039.82	195.08	27,226.00	Page 130
Total Employees Remuneration & Benefit (C) = (A) + (B)	10,988.55	4,615.19	3,267.10	12,565.76	9,091.78	8,232.29	8,165.07	6,262.18	2,087.39	4,969.98	9,939.97	6,785.12	86,970.36	1,579.46	1,067.25	627.49	3,274.20	18,817.24	195.08	1,09,256.88	Page 130
Other O&M Expenses -Direct (D)	7,769.65	3,263.25	3,161.31	12,158.87	10,895.01	6,719.63	12,155.82	9,236.00	3,078.67	7,330.16	14,660.31	7,771.47	98,200.15	272.44	365.14	106.38	743.96	26,546.15	-	1,25,490.26	Page 135 & 136
Other O&M Expenses (Share) (E)	306.52	128.74	67.80	260.77	718.80	-166.52	617.40	372.58	124.19	295.70	591.40	607.74	3,925.13	187.33	581.07	10.25	778.64	2,957.51	11.72	7,673.00	Page 136
Total Other O&M Expenses (F) = (D) + (E)	8,076.17	3,391.99	3,229.11	12,419.65	11,613.81	6,553.11	12,773.22	9,608.58	3,202.86	7,625.86	15,251.71	8,379.21	1,02,125.28	459.77	946.21	116.62	1,522.61	29,503.65	11.72	1,33,163.26	Page 136
Total O&M Expenses (G) = (C) + (F)	19,064.72	8,007.18	6,496.20	24,985.40	20,705.59	14,785.40	20,938.29	15,870.76	5,290.25	12,595.84	25,191.68	15,164.33	1,89,095.64	2,039.24	2,013.46	744.12	4,796.81	48,320.89	206.80	2,42,420.14	

Statement of Profit & Loss for the year ended 31.03.2015

(₹ in Crore)

Particulars	31.03.2015					31.03.2014			
	Note	POWER	IRRIGATION	FLOOD CONTROL	TOTAL	POWER	IRRIGATION	FLOOD CONTROL	TOTAL
1	2	3	4	5	6	7	8	9	10
Revenue:									
I Revenue from Operations	23	11,296.68	73.97	–	11,370.65	11,672.08	234.04	–	11,906.12
II Other Income	24	192.97	8.94	0.21	202.12	343.25	4.34	0.17	347.76
III Total Revenue (I + II)		11,489.65	82.91	0.21	11,572.77	12,015.33	238.38	0.17	12,253.88
IV Expenses:									
Cost of Power Purchased	25	1,275.28	–	–	1,275.28	1,009.50	–	–	1,009.50
Cost of Fuel	26	5,319.60	–	–	5,319.60	6,492.34	–	–	6,492.34
Employee Benefit Expenses	27	819.60	6.14	5.98	831.72	914.57	7.24	6.82	928.63
Finance Costs	28	2,553.15	16.08	0.60	2,569.83	2,139.85	16.08	0.60	2,156.53
Depreciation and Amortization Expense		1,833.34	17.22	0.63	1,851.19	1,548.96	14.35	0.61	1,563.92
Operation & Maintenance and General Administration Charges	29	934.47	70.81	7.72	1,013.00	981.41	108.71	8.27	1,098.39
Prior Period Items (Net)		(3.25)	48.96	–	45.71	–	–	–	–
Total Expenses		12,732.19	159.21	14.93	12,906.33	13,086.63	146.38	16.30	13,249.31

Statement of Profit & Loss for the year ended 31.

(₹ in Crore)

Statement of Profit & Loss for the year ended 31.03.2016

PARTICULARS	NOTE	31.03.2016				31.03.2015			
		POWER	IRRIGATION	FLOOD CONTROL	TOTAL	POWER	IRRIGATION	FLOOD CONTROL	TOTAL
1	2	3	4	5	6	7	8	9	10
Revenue:									
I Revenue from Operations	23	12,639.93	269.02	-	12,908.95	11,296.68	73.97	-	11,370.65
II Other Income	24	167.29	19.13	0.87	187.29	192.97	8.94	0.21	202.12
III Total Revenue (I + II)		12,807.22	288.15	0.87	13,096.24	11,489.65	82.91	0.21	11,572.77
IV Expenses:									
Cost of Power Purchased	25	1,114.47	-	-	1,114.47	1,275.28	-	-	1,275.28
Cost of Fuel	26	5,949.15	-	-	5,949.15	5,319.60	-	-	5,319.60
Employee Benefit Expenses	27	967.38	7.04	6.88	981.30	819.60	6.14	5.98	831.72
Finance Costs	28	2,584.87	16.72	0.60	2,602.19	2,553.15	16.08	0.60	2,569.83
Depreciation and Amortization Expense		1,892.44	18.63	0.61	1,911.68	1,833.34	17.22	0.63	1,851.19
Operation & Maintenance and General Administration Charges	29	1,176.68	63.64	9.95	1,250.27	934.47	70.81	7.72	1,013.00
Prior Period Items (Net)		430.47	-	-	430.47	(3.25)	48.96		45.71
Total Expenses		14,115.46	106.03	18.04	14,239.53	12,732.19	159.21	14.93	12,906.33



Statement of Profit & Loss for the year ended 31.03.2017

(₹ in Crore)

PARTICULARS	NOTE	31.03.2017				31.03.2016			
		POWER	IRRIGATION CONTROL	FLOOD	TOTAL	POWER	IRRIGATION	FLOOD CONTROL	TOTAL
1	2	3	4	5	6	7	8	9	10
Revenue:									
I Revenue from Operations	23	14,498.99	127.17	-	14,626.16	12,639.93	269.02	-	12,908.95
II Other Income	24	918.93	7.91	0.24	927.08	167.29	19.13	0.87	187.29
III Total Revenue (I + II)		15,417.92	135.08	0.24	15,553.24	12,807.22	288.15	0.87	13,096.24
IV Expenses:									
Cost of Power Purchased	25	987.08	-	-	987.08	1,114.47	-	-	1,114.47
Cost of Fuel	26	7,068.81	-	-	7,068.81	5,949.15	-	-	5,949.15
Employee Benefit Expenses	27	1,266.91	7.93	7.84	1,282.68	967.38	7.04	6.88	981.30
Finance Costs	28	3,146.09	18.92	0.60	3,165.61	2,584.87	16.72	0.60	2,602.19
Operation & Maintenance and General Administration Charges		2,528.64	20.45	0.59	2,549.68	1,892.44	18.63	0.61	1,911.68
Depreciation and Amortization Expense	29	1,322.86	73.05	10.07	1,405.98	1,176.68	63.64	9.95	1,250.27
Prior Period Items (Net)		-	-	-	-	430.47	-	-	430.47
Total Expenses		16,320.39	120.35	19.10	16,459.84	14,115.46	106.03	18.04	14,239.53





Statement of Profit & Loss for the year ended 31.03.2018

(₹ in Crore)

Particulars	Note	31.03.2018				31.03.2017			
		Power	Irrigation	Flood Control	Total	Power	Irrigation	Flood Control	Total
1	2	3	4	5	6	7	8	9	10
Revenue:									
I Revenue from Operations	23	14,865.86	127.98	-	14,993.84	14,498.99	127.17	-	14,626.16
II Other Income	24	1,123.25	0.54	0.20	1,123.99	918.93	7.91	0.24	927.08
III Total Revenue (I + II)		15,989.11	128.52	0.20	16,117.83	15,417.92	135.08	0.24	15,553.24
IV Expenses:									
Cost of Power Purchased	25	952.38	-	-	952.38	987.08	-	-	987.08
Cost of Fuel	26	7,326.44	-	-	7,326.44	7,068.81	-	-	7,068.81
Employee Benefit Expenses	27	1,590.10	13.88	14.11	1,618.09	1,266.91	7.93	7.84	1,282.68
Finance Costs	28	2,860.03	21.79	0.60	2,882.42	3,146.09	18.92	0.60	3,165.61
Depreciation and Amortization Expense		2,829.69	24.46	0.57	2,854.72	2,528.64	20.45	0.59	2,549.68
Operation & Maintenance and General Administration Charges	29	1,695.68	82.45	8.67	1,786.80	1,322.86	73.05	10.07	1,405.98
Prior Period Items (Net)		(455.69)	-	-	(455.69)	-	-	-	-
Total Expenses		16,798.63	142.58	23.95	16,965.16	16,320.39	120.35	19.10	16,459.84

Statement of Profit & Loss for the year ended 31.03.2019

(₹ in Crore)

Particulars	Note	31.03.2019				31.03.2018			
		Power	Irrigation	Flood Control	Total	Power	Irrigation	Flood Control	Total
1	2	3	4	5	6	7	8	9	10
Revenue:									
I Revenue from Operations	23	15,489.18	128.53	-	15,617.71	14,865.86	127.98	-	14,993.84
II Other Income	24	432.09	0.63	0.60	433.32	1,123.25	0.54	0.20	1,123.99
III Total Revenue (I + II)		15,921.27	129.16	0.60	16,051.03	15,989.11	128.52	0.20	16,117.83
IV Expenses:									
Cost of Power Purchased	25	1,407.73	-	-	1,407.73	952.38	-	-	952.38
Cost of Fuel	26	8,142.71	-	-	8,142.71	7,326.44	-	-	7,326.44
Employee Benefit Expenses	27	1,092.49	1.40	3.08	1,096.97	1,590.10	13.88	14.11	1,618.09
Finance Costs	28	2,742.49	24.65	0.60	2,767.74	2,860.03	21.79	0.60	2,882.42
Depreciation and Amortization Expense		2,876.79	26.74	0.61	2,904.14	2,829.69	24.46	0.57	2,854.72
Operation & Maintenance and General Administration Charges	29	1,331.69	28.17	3.30	1,363.16	1,695.68	82.45	8.67	1,786.80
Prior Period Items (Net)			-		-	(455.69)	-	-	(455.69)
Total Expenses		17,593.90	80.96	7.59	17,682.45	16,798.63	142.58	23.95	16,965.16

