



Chhattisgarh State Electricity Regulatory Commission
Civil Lines, G.E. Road, Raipur – 492001
Tel: 0771-4073555, Fax-4073553

Petition No. 01/2007(M)

M/s Monnet Ispat & Energy Ltd., Raipur

..... Petitioner

V/s

Chhattisgarh State Electricity Board, Raipur

..... Respondent

ORDER
(Passed on 07/01/2007)

Petitioner by Shri V.K.Munshi, Senior Advocate, Shri Mohit Diwan, Advocate and Shri P.Das, General Manager. Respondent CSEB by Shri Arun Bhatnagar, SE. Heard the petitioner regarding admission of the case.

2. This petition has been submitted by way of an application for intervention by M/s Monnet Ispat & Energy Ltd in case No. 16 of 2006 (M). The application has been submitted as per the directions of the Hon'ble Appellate Tribunal for Electricity in their judgement dated 23/11/2006 passed in appeal No. 60 of 2006. In this judgement the Hon'ble Tribunal has dismissed the appeal filed by the applicant with a direction that he may appear before this Commission and 'urge all its points, claims and contention with respect to tariff determination of start-up power for captive power plants which is pending before it (the Commission) for consideration by way of review petition'. (para 41 of the judgement). Similarly in para 40 of the judgement there is a direction to the Commission:

“40. The next grievance expressed by the appellant that no opportunity was afforded to it, is without substance. Assuming for purpose of argument that such grievance warrants a direction, to render substantial justice, we direct the second respondent Commission to give liberty to the appellant to put forth its grievances and the Commission may decide the merits of all such claims advanced by the appellant herein in the review petition filed by the first respondent (the CSEB)”.

From para 31 of the judgement it is evident that a submission was made by the CSEB before the Hon'ble Tribunal that determination of tariff for start-up power is pending consideration of this Commission in a review petition filed by the CSEB. The factual position is that the CSEB had filed a review petition before this Commission against the order of the Commission passed on 6/2/2006 in petition No. 17 of 2005(M) which related to captive power plants. The review petition registered as case No. 16 of 2006(M) was not against the order of the Commission with regard to start-up tariff for captive power plants. The Commission had already decided about start-up tariff in the order dated 6/2/2006 and neither the CSEB nor the present applicant (Monnet Ispat & Energy Ltd) had controverted it. In fact, start-up tariff was

not an issue in this review petition which has since been decided by the Commission and the orders have been passed on 29/9/2006. Therefore, the submission made by the CSEB before the Appellate Tribunal is not factually correct. However, because of this submission the Tribunal has directed the present applicant to appear before this Commission by way of an intervener in the review petition and make his submission regarding start-up tariff. As already mentioned, the present application is in pursuance of these directions of the Hon'ble Appellate Tribunal.

3. Clearly an application for intervention in a case which has already been decided by the Commission and which, in any case, did not deal with start-up tariff, is not acceptable and is liable to be rejected. The CSEB in its reply has prayed for such rejection on the same ground. The CSEB, however, has not explained why a factually incorrect submission was made before the Hon'ble Appellate Tribunal leading to this application. This matter is being separately addressed in case No. 16 of 2006. However, this application for intervention is not acceptable and the learned counsel for the applicant (intervener) also admits that. However, on behalf of the applicant it is urged that in the interest of justice the applicant should be given an opportunity of putting forth his case before the Commission as directed by the Tribunal. It is admitted that the applicant has no grievance against the order dated 6/2/2006 passed in case No. 17 of 2005 relating to CPPs in so far as it relates to start-up tariff. Thus even if the review petition was pending the applicant could not have appeared as an intervener. Secondly, the period to which his grievance relates is 24/9/2004, when the power plant of the applicant become a CPP to 6/2/2006 when the start-up tariff of CPP was decided by the Commission. This has already been examined by us in our order dated 17/2/2006 in petition No. 30 of 2005(M). The Commission's order has been upheld in an appeal by the Hon'ble Appellate Tribunal Therefore, there is no scope now for review of that order now. However, in view of the directions of the Appellate Tribunal in appeal the applicant may submit a separate petition about his grievances regarding start-up tariff which he considers should have been applicable to him during this period.

4. In the light of the above, the application for intervention is rejected. The applicant may, however, submit a separate petition regarding his grievances in compliance with the directions of the Appellate Tribunal. This application for intervention is accordingly rejected with leave to the applicant to submit a separate petition regarding his grievances relating to the tariff applicable to him during period 29/9/2004 till 6/2/2006. This may be communicated to the parties.

Sd/-
Member

Sd/-
Chairman

True Copy

(Ajay Srivastava)
Secretary