



Petition No. 60 of 2017(M)

In the Matter of

**Review petition of the order dated 01.09.2017 passed in
Petition No. 63 of 2016(M).**

M/s SKS ISPAT & POWER LTD. ... Petitioner

V/S

Chhattisgarh State Power Distribution Co. Ltd. ... Respondents
(CSPDCL)

PRESENT : **Narayan Singh, Chairman**
: **Arun Kumar Sharma, Member**

APPEARANCE : 1. Shri Abhinav Kardekar, Advocate for
petitioner.
2. Shri Dharendra Nath Nande, Advocate for
Petitioner & Shri Arvind Banerjee, EE for
Respondent

ORDER

(Passed on 05.05.2018)

The petitioner M/s SKS Ispat Power Ltd., a registered company under the Companies Act 1956, is operating an integrated steel plant comprising of manufacturing facilities for sponge iron, steel billets, structural/re rolled products and ferro alloys besides generation of power.

2. The petitioner M/s SKS Ispat & Power Ltd. submits that the Commission had directed the respondent CSPDCL to calculate and pay the amount due on account of delayed payment surcharge for period from January 2012 to May 2015, but the respondent did not comply the order and therefore, the petitioner filed a petition under section 142 and 146 of the Electricity Act, 2003, which was registered as

petition No. 63 of 2016(M) and decided by the Commission on 01.09.2017.

3. The petitioner submits that the Commission has disposed off the petition No. 63 of 2016 on the premise that detailed calculation had been shared with petitioner by the respondent and the petitioner had not made any submission after receipt of the details. It is not correct. No details have been shared with the petitioner by the respondent and the petitioner has also mentioned it before the Commission that though the respondent has made payment after Commission's direction, but it was neither in accordance with the terms of PPA nor the order dated 19.09.2016 in petition No. 99 of 2015(D). The order dated 01.09.2017 has been passed on wrong premise that petitioner had not made any submission.

4. Petitioner further submits that as per 'statement of surcharge on delayed payment surcharge to M/s SKS Ispat & Power Ltd.,' it is found that calculation of surcharge for the three months, i.e. for March, 2015, April 2015 and May 2015 has been wrongly done by respondent in contravention to the PPA signed between respondent and petitioner. As per clause 7 of PPA dated 15.04.2015, surcharge of 1% had to be applied on all payments, outstanding after 30 days for the period of non-payment beyond the due date.

However, respondent has calculated by taking the outstanding period after 60 days instead of 30 days as provided in the PPA and thus there is discrepancy in the

calculation for the aforesaid months. The petitioner prays to direct the respondent to comply with order dated 19.09.2016 alongwith interest till the date of actual payment.

5. We have called the party for argument on the admission of application and application for condonation of delay.

6. Respondent submitted that the petitioner has not mentioned the relevant provisions of the law under which the instant review application has been filed. A review petition has to be filed only on the grounds mentioned in order 47, rule 1 of the code of civil procedure 1908. The petitioner case is not covered under any of the above provisions for review of Hon'ble Commission order dated 01.09.2017. Petitioner had adequate time (almost 4 months) to respond on the detail calculation provided vide letter dated 13.04.2017 along with the reply filed by the respondent on 03.05.2017 on the status report of the petitioner. Therefore, a review petition has a limited purpose and cannot be allow to be "an appeal in disguise"

In view of the above submission, the respondent prays that the Hon'ble Commission may kindly be please to dismiss/reject the review petition at the admission stage in the interest of justice.

Commission's View :-

Commission noted that the main dispute between the petitioner and respondent is regarding calculation of delayed payment surcharge for the three months i.e. March' 2015, April' 2015 and May' 2015 after 30 days or 60 days. The relevant provision of PPA is as under :-

Clause-5 Billing and Payment

"..... CSPDCL will make the payment to seller within 30 working days from the date of receipt of the energy bills in SE (O&M)/(Cit Circle)....."

Clause-7 Surcharge for later payment by CSPDCL-

"A surcharge of 1% per month shall be applied on all payments, outstanding after 30 days for the period of non-payment beyond the due date....."

Thus it is clear that the delayed payment surcharge @ 1% is applicable after 60 days from the date of receipt of the bill and respondent has passed the bill correctly as per the terms of the PPA dated 15.04.2015. The respondent has completely complied with the order dated 19.09.2016 and this is not a fit case under section 142 and 146 of the Electricity Act, 2003. The petition is dismissed.

We order accordingly.

**Sd/-
(ARUN KUMAR SHARMA)
MEMBER**

**Sd/-
(NARAYAN SINGH)
CHAIRMAN**