

**BEFORE THE GUJARAT ELECTRICITY REGULATORY  
COMMISSION AT GANDHINAGAR**

**PETITION NO. 1551 OF 2015**

In the matter of:

Consequential Order in Petition No. 1551 of 2015 (dtd. 31.03.2016) in light of the judgment of the Hon'ble Appellate Tribunal for Electricity dated 09.05.2019 in Appeal No. 257 of 2016.

**CORAM:**

**Shri Anand Kumar, Chairman  
Shri K.M.Shringarpure, Member  
Shri P.J.Thakkar, Member**

**Date: 19/08/2019**

**ORDER**

1. This Order is being issued in accordance with the directives of the Hon'ble Appellate Tribunal for Electricity in its judgment dated 09.05.2019 in Appeal No. 257 of 2016.
2. The background of the case is as follows:
  - i. Torrent Power Limited (Appellant before the Hon'ble APTEL) filed a petition being Petition No. 1551 of 2015 for True-up of FY 2014-15, Approval of Provisional ARR for FY 2016-17 and Determination of Tariff for FY 2016-17 for its generation business at Ahmedabad. The Commission had passed the Tariff Order dated 31.03.2016 in the said Petition.
  - ii. Aggrieved by the said Order, the Petitioner filed Appeal No. 257 of 2016 before the Hon'ble Appellate Tribunal for Electricity challenging the Commission's Order dated 31.03.2016 to the extent it relates to:
    - a) Erroneous computation of Interest Expenses.
    - b) Disallowance of Carrying Cost.

Hon'ble APTEL in para 1.1 of its judgment dated 09.05.2019 has mentioned that "... *the issue relating to the carrying cost stands settled. Thus, the only issue to be dealt*

*with in the present Appeal is Erroneous Computation of Interest Expenses raised by the Appellant.”*

3. Accordingly, the Hon’ble APTEL dealt with only the issue of Erroneous Computation of Interest Expenses and gave its judgement dated 09.05.2019 as under:

**“8. Our Findings:-**

- 8.1 *We have carefully considered the submissions of learned counsel for the Appellant and the Respondent Commission. In line with the second proviso to Regulation 39.1, the Appellant has rightly requested the Respondent Commission for computation of loan component to deduct the assets worth Rs. 13 Crore (i.e. Rs. 84.96 Crores minus Rs. 71.96 Crores) from the addition of assets of Rs. 41.76 Crores during the year as loan capital existed towards the retired assets worth Rs. 13 Crore. In our view, the certificate issued by the Statutory Auditors, who has conducted the audit of the Company, has issued the Certificate at the specific request of the Appellant for submission to Respondent Commission in respect of deduction of fixed assets and status of outstanding loans as on 31st March, 2015, meets the requirement of Regulation 39. In fact, the purpose of seeking such documentary evidence is to ascertain that the interest expenses pertaining to loan availed to create such assets should not be charged to the consumers. Accordingly, there appears no need for the Respondent Commission to have further details of the outstanding loan component for the assets worth Rs. 13 Crores retired during the year when the Appellant has not claimed any relief towards this assets. We do not find any merit in the argument of the learned counsel for the Respondent Commission that as Appellant has not furnished the year- wise details of assets withdrawn and loan repayment, the Appellant should be denied relief as per Regulation 39.1. Hence, the impugned order suffers from legal infirmity and is liable to be set aside.*
- 8.2 *Accordingly, the appeal deserves to be allowed.*

**ORDER**

*For the foregoing reasons, we are of the considered view that the issues raised in the present appeal being Appeal No. 257 of 2016 have merit. Hence, the Appeal is allowed*

*and the impugned order dated 31.03.2016 passed by the Gujarat Electricity Regulatory Commission in the Case No. 1551 of 2015 is hereby set aside to the extent challenged in the Appeal.*

*The State Commission is directed to pass the consequential orders in accordance with law and our directions, stated supra, as expeditiously as possible within a period of three months from the date of receipt of a copy of this judgement and order.*

.....”

4. In view of above directives by the Hon’ble Tribunal, following consequential order is passed:

We note that this Commission has been directed by the Hon’ble Tribunal to consider the computation of loan component to deduct the assets worth Rs. 13 Crore (i.e. Rs. 84.96 Crores minus Rs. 71.96 Crores) from the addition of assets of Rs. 41.76 Crores during the year as loan capital existed towards the retired assets worth Rs. 13 Crore. In the light of above observations, the revised calculation of Capitalization and Sources of Funding now approved in truing up of FY 2014-15 is shown in Table 1 below:

**Table 1: Revised Approved Capitalisation and Sources of Funding in truing up for FY 2014-15**

(Rs. Crore)

Particulars	Actual submitted by Petitioner	Approved in True-up Order dated 31.03.2016	Now Approved
Opening GFA	1169.47	1169.47	1169.47
Addition to GFA	41.76	41.76	41.76
Deletion to GFA	84.96	84.96	84.96
Closing GFA	1126.27	1126.27	1126.27
Capitalization considered for Debt	28.76	(43.20)	28.76
Capitalization considered for Equity	(43.20)	(43.20)	(43.20)
Normative Debt @ 70%	20.14	(30.24)	20.14

5. Due to abovementioned change in approved Capitalization and Sources of Funding for 2014-15, revised Interest Expenses and calculation of revised Gains / (Losses) on account of deviation in Interest Expenses for FY 2014-15 are as per Table 2 and 3 below:

**Table 2: Revised Interest Expenses approved in truing up for FY 2014-15**  
(Rs. Crore)

SI. No.	Particulars	Approved in True-up Order dated 31.03.2016	Now Approved
1	Opening Loan	174.86	234.33
2	New loan During the Year	29.23	20.14
3	Repayment During the Year	47.78	47.78
4	Closing Loan	156.31	206.69
5	Average Loan	165.58	220.51
6	Rate of Interest	11.76%	11.76%
7	Interest	19.47	25.93
8	Other Borrowing Costs	0.06	0.06
<b>9</b>	<b>Total Interest and Finance Charges</b>	<b>19.53</b>	<b>25.99</b>

**Table 3: Revised Gains / (Losses) in Interest Expenses approved in truing up for FY 2014-15**

(Rs. Crore)

Particulars	Approved in MTR Order	Approved in True-up Order dated 31.03.2016	Now Approved	Deviation +/-	Gains / (Losses) due to uncontrollable factor
Interest and Finance Charges	0.00	19.53	25.99	(25.99)	(25.99)

6. In view of the above revisions, the ARR, calculation of Gains / (Losses) due to controllable and uncontrollable factors and revised ARR are as shown in the Table 6 & Table 7 below:

**Table 6: Revised Trued-up ARR approved for FY 2014-15**

(Rs. Crore)

SI. No.	Annual Revenue Requirement	Approved in MTR Order	Actual Claimed	Approved in True-up Order dated 31.03.2016	Now Approved	Deviation +/-	Gains/ (Losses) due to controllable factors	Gains/ (Losses) due to uncontrollable factors
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7=(3-6)</b>	<b>8</b>	<b>9</b>
1	Variable Cost	931.07	939.82	947.08	947.08	(16.01)	2.16	(18.17)
2	O&M Expenses	134.19	161.43	161.43	161.43	(27.24)	(27.24)	
3	Water Charges	8.37	10.84	10.84	10.84	(2.47)		(2.47)
4	Depreciation	45.80	47.78	47.78	47.78	(1.98)		(1.98)
5	Interest on Loan	0.00	26.00	19.53	25.99	(25.99)		(25.99)

Sl. No.	Annual Revenue Requirement	Approved in MTR Order	Actual Claimed	Approved in True-up Order dated 31.03.2016	Now Approved	Deviation +/-(-)	Gains/ (Losses) due to controllable factors	Gains/ (Losses) due to uncontrollable factors
6	Interest on Working Capital Loans	20.32	21.13	21.24	21.24	(0.92)		(0.92)
7	Return on Equity	46.16	60.39	58.61	58.61	(12.45)		(12.45)
8	Income Tax	18.51	2.85	2.85	2.85	15.66		15.66
9	Incentive	0.00	16.19	0.00	0.00	0.00		0.00
10	<b>Total expenditure</b>	<b>1204.42</b>	<b>1286.43</b>	<b>1269.35</b>	<b>1275.81</b>	<b>(71.39)</b>	<b>(25.08)</b>	<b>(46.31)</b>
11	Less: Non-Tariff Income	25.25	58.02	58.02	58.02	(32.77)		(32.77)
12	<b>Aggregate Revenue Requirement</b>	<b>1179.17</b>	<b>1228.41</b>	<b>1211.33</b>	<b>1217.79</b>	<b>(38.62)</b>	<b>(25.08)</b>	<b>(13.54)</b>

**Table 7: Revised ARR approved for FY 2014-15**

(Rs. Crore)

Sl. No.	Particulars	Approved in True-up Order dated 31.03.2016	Now Approved
1	ARR approved in the MYT for FY 2014-15 (dated 29 <sup>th</sup> April, 2014)	1179.17	1179.17
2	Less: Gain / (Losses) on account of controllable factor to be passed on to the consumers (1/3 <sup>rd</sup> )	(8.36)	(8.36)
3	Less: Gain / (Losses) on account of uncontrollable factor to be passed on to consumers	(7.08)	(13.54)
4	<b>Revised ARR approved for FY 2014-15 in Truing up</b>	1194.61	1201.07
5	Impact due to Revision in Revised ARR		6.46

7. As shown in the Table above, the Revised ARR of Rs. 1194.61 Crore approved in the Order dated 31.03.2016 gets increased to Rs. 1201.07 Crore on account of implementation of the directives of the Hon'ble APTEL. Accordingly, there shall be net increase of Rs. 6.46 Crore in the Revised ARR for FY 2014-15. The Commission shall consider the said impact of Rs. 6.46 Crore while truing up the financials of FY 2018-19.
8. The directions contained in the judgment of the Hon'ble Tribunal dated 09.05.2019 in Appeal No. 257 of 2016 stand fully implemented by this Order.

9. All other terms contained in the Order dated 31.03.2016 in Petition No. 1551 of 2015 shall remain unaltered.

-Sd-

**[P. J. THAKKAR]**  
Member

-Sd-

**[K. M. SHRINGARPURE]**  
Member

-Sd-

**[ANAND KUMAR]**  
Chairman

Place: Gandhinagar  
Date: 19/08/2019