

BEFORE THE HIMACHAL PRDESH ELECTRICITY REGULATORY
COMMISSION, SHIMLA

Review Petition No. 113/07

in

Case No. 173/06

In the matter of:

Himachal Pradesh State Electricity Board,

...Petitioner

V/S

M/S H.M. Steel Ltd.
Trilokpur Road, Kala Amb,
Distt. Sirmour

...Respondent.

Present for

HPSEB

Shri Bimal Gupta,
Advocate
Shri.K. G. Gupta,
Chief Engineer (OP) South
Shri.R.K.Punshi,
Consultant

M/S H.P. Steel Ltd.

Shri R.K. Sood

Order

The HPSEB has moved the review petition under section 94(1) of the Electricity Act, 2003, read with regulation 63 of the HPERC (Conduct of Business) Regulations, 2005 for review of the order dated 3rd July, 2006, passed in the matter of M/S H.M. Steels V/s HPSEB (Case No.173/06). The averment of the petitioner is that the decision of the Commission has adverse impact on the approved ARR for the FY 2006-07, as the Board has to repay the difference of earlier approved charges vis-à-vis charges from PIU consumers. The additional burden of refund of demand charges from July, 2006 to March, 2007 would be to the tune of Rs. 13.30 Crores. The petitioner has failed to establish any mistake or error apparent on the face of record or to point out the discovery of new and important matter or evidence, which after the exercise of due diligence was not within its knowledge or could not be produced by it at the time the order was made.

The Hon'ble Apex Court has clearly discussed the scope of the power of review in its various verdicts i.e. Satyanarayan Laxminarayan Hedge V/s Malikarjun Tirumale (AIR 1960 SC 137) and Aribam Tuleswar Sharma V/s Aribam Pishak Sharma (AIR 1979 SC 1047) Meena Bhanja V/s Smt. Nirmal Kumari Chaudhary (AIR 1995 SC 455) and Haridas V/s Usha Rani Bemle (AIR 2006 SC 1634) and has held that the review is by no means an appeal or revision in disguise, whereby an erroneous decision is reheard and corrected. The power of review is very limited in scope and as much it can not be equated with the original hearing of the case. Legally speaking the power of review can be exercised where some mistake or error apparent on the face of the record is found and the error apparent on the face of record must be such an error which may strike one on a mere looking at the record and would not require any long drawn process of reasoning and it can not be exercised on the ground that the decision was erroneous on merits.

After taking note of all statutory provisions and judicial decisions referred to hereinbefore the Commission dismisses this review petition, with the liberty to the petitioner, if they deem fit, to take up the matter through a truing up petition, to recoup the financial loss, if any, likely to be suffered by them.

Announced in open Court.

The case file be consigned to the record room.

Dated 25.8.2007

(Yogesh Khanna)

Chairman.