CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 386/MP/2023

Coram:

Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member
Shri Ravinder Singh Dhillon, Member

Date of Order: 15th July,2026

In the matter of:

Petition under Regulation 22 of the CERC (Terms and Conditions of Tariff) Regulations, 2019 read with Regulation 9 (4) of the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021 seeking condonation of delay of 22.5 months in declaring COD of Talaipalli Coal Mine and approval of input price of coal to end use generating station (Lara STPS) for the period COD (1.10.2023) to 31.3.2024.

And

In the matter of

NTPC Limited,
NTPC Bhawan, SCOPE Complex, Institutional Area,
Lodhi Road, New Delhi - 110003 **…Petitioner**

Vs.

1. **Madhya Pradesh Power Management Company Limited,**
   Block No. 11, 1st Floor, Shakti Bhawan,
   Rampur, Jabalpur-482008, Madhya Pradesh

2. **Maharashtra State Electricity Distribution Company Limited,**
   Prakashgad, Plot No. G-9, Anant Kanekar Marg,
   Bandra East, Mumbai–400051, Maharashtra

3. **Gujarat Urja Vikas Nigam Limited,**
   Commerce Department, 2nd Floor, Sardar Patel Vidyut Bhavan,
   Race Course, Vadodara-390007, Gujarat

4. **Chhattisgarh State Power Distribution Company Limited,**
   4th Floor, Vidyut Sewa Bhawan, Daganiya,
   Raipur-492013, Chhattisgarh

5. **Electricity Department, Government of Goa,**
   3rd floor, Vidhyut Bhavan, Electricity Department,

Government of Goa, Panaji-403001, Goa

6. **Dadra and Nagar Haveli and Daman and Diu Power Distribution Corporation Limited,**
1st & 2nd Floor, Vidyut Bhavan,
Silvassa-396230, Dadra & Nagar Haveli

...Respondent(s)

Parties Present:

Shri Venkatesh, Advocate, NTPC
Shri Abhishek Nangia, Advocate, NTPC
Shri Aashwyn Singh, Advocate, NTPC
Shri Darsh Singh, Advocate, NTPC
Shri Ravi Sharma, Advocate, CSPDCL
Ms. Nishtha Goel, Advocate, MSEDCL
Shri Ravin Dubey, Advocate, MPPMCL

ORDER

The Petitioner, NTPC Limited (hereinafter referred to as the "Petitioner" or "NTPC"), has filed the present Petition under Regulation 22 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (in short "2019 Tariff Regulations"), read with Regulation 9(4) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021 (in short "the 2021 Second Amendment Regulations"), seeking the following reliefs:

a) *Condone the delay of 22.5 Months in declaration of COD of Talaipalli Coal Mine.*
b) *Approve input price of coal of Talaipalli mine for the period from 1.10.2023 to 31.3.2024.*
c) *Allow mine closure expenses as submitted in the petition.*
d) *Allow the Petitioner to provisionally bill input price of coal as per this petition till the time the present petition is disposed of with permission for retrospective adjustment.*
e) *Allow the reimbursement of expenditure towards filing fees and any other expenditure incurred by the Petitioner in relation to filing the present petition in terms of the 2019 Tariff Regulation, as amended from the beneficiaries.*
f) *Condone any error/omission in the petition and to grant an opportunity to the Petitioner to rectify the same.*
g) *Permit the Petitioner to make such further submission(s), addition(s) and alteration(s) to this Petition as may be necessary from time to time.*
h) *Pass any other order as it may deem fit in the circumstances mentioned above."*

2. The Petitioner has filed an additional affidavit dated 23.11.2024, placing on record the actual capital expenditure incurred, including the discharge of pending liabilities as on 31.3.2024. By way of the said additional affidavit, the Petitioner has prayed for the following additional reliefs:

a) *Approval of the revised input price of coal from TLCMP for the tariff period 2019-24, in accordance with Regulation 13 of the 2019 Tariff Regulations and subsequent amendments thereto; and*

b) *Issuance of any other order deemed fit by the Commission in the facts and circumstances of the case.*

Background

3. The Petitioner, a Government of India undertaking and a generating company under Section 2(28) of the Electricity Act, 2003 (the Act), is engaged in the generation and supply of electricity to various distribution licensees across the country. To meet the coal requirements of its Lara Super Thermal Power Project (Lara STPS) in the State of Chhattisgarh, the Talaipalli Coal Mine Project (TLCMP), an integrated captive coal block in the Raigarh district of Chhattisgarh, was allotted to the Petitioner. The Lara STPS comprises 5 units of 800 MW each, out of which 2 units are already under commercial operation, 2 units are currently under construction, and 1 additional unit has been proposed. The power generated from Lara STPS is allocated to various distribution utilities in the States of Madhya Pradesh, Maharashtra, Gujarat, Chhattisgarh, Goa, and the Union Territory of Dadra & Nagar Haveli and Daman & Diu, in accordance with the allocations made by the Ministry of Power (MoP) and the terms of the respective Power Purchase Agreements (PPAs).

4. TLCMP achieved its Commercial Operation Date (COD) on 1.10.2023, after a delay of approximately 22.5 months. In accordance with the applicable provisions of the 2019 Tariff Regulations, as amended by the 2021 Second Amendment Regulations, the Petitioner has filed the instant Petition, seeking determination of the

input price of coal from TLCMP. This input price was computed based on the capital cost incurred as on COD (1.10.2023) along with the projected additional capital expenditure expected up to 31.3.2024. As per the projections, the input price of coal was calculated at Rs. 2404.54 per tonne, comprising Run-of-Mine (ROM) cost of Rs. 1902.34 per tonne and statutory charges of Rs.502.21 per tonne, excluding applicable GST and cess. GST at 5% and GST cess of Rs. 400/tonne were indicated as applicable in case coal is transferred to a station with a different GST identification number (GSTIN).

5. Subsequently, the Petitioner, vide affidavit dated 23.11.2024, revised its tariff claim based on truing up of input price, under Regulation 13(1)(a) of the 2019 Tariff Regulations, for the period from 1.10.2023 to 31.3.2024. The revised computation was based on actual capital expenditure incurred, discharge of outstanding liabilities, and adjustments arising from the refinancing activities under Regulation 61 of the 2019 Tariff Regulations. The Petitioner, in the additional affidavit dated 23.11.2024, has claimed an input price of coal of Rs. 3063.91 per tonne, comprising a ROM cost of Rs. 2531.78 per tonne and statutory charges of Rs. 532.13 per tonne, excluding applicable GST and cess. The input price is to be recovered from the beneficiaries in accordance with the Tariff Regulations and the respective PPAs.

6. The revised mining plan of the TLCMP was approved by the competent authority on 26.9.2023. The salient features of the TLCMP are as under:

	Characteristics
Peak rated capacity	25 MTPA (to be achieved by 2037-38)
Location	Raigarh, Chhattisgarh
Extractable Reserves (Opencast)	631.56 MMT
Project Area	2119.4 Hectare
Average stripping ratio	1:4.3208

Type of mining	Open cast
Mode of Operation	Under Mine Development and Operator (MDO)
Type of Mine (Captive/Basket)	Captive
End use generating station(s)	LSTPS

Submissions of the Petitioner

7. In the above background, the Petitioner has mainly submitted the following:

i) Various integrated coal mines have been allocated to the Petitioner for meeting the fuel requirements of specified end-use generating stations, the tariff of which is determined by this Commission under Section 62 of the Act. TLCMP, located in the eastern part of the Mand-Raigarh Coalfield in Chhattisgarh, has been allocated to supply coal to Lara STPS (5 x 800 MW), of which Lara-I (2 x 800 MW) has already been commissioned.

ii) The Ministry of Coal ("MoC") letter dated 25.1.2006, conveyed its in-principle approval for allocation of the Talaipalli Coal Block under the revised coal mining policy for meeting the coal requirement of Lara STPS to the Petitioner. As per the said allocation, the Petitioner was required to achieve specified development milestones, as per the terms of the allotment.

iii) The Petitioner executed an MoU with Mineral Exploration Corporation Limited (MECL) on 12.6.2006 for detailed exploration and preparation of the Geological Report "GR"), which was submitted by MECL on 29.9.2008. Pursuant thereto, the Petitioner invited bids for the preparation of the mining plan and Feasibility Report ("FR"). Resultantly, Advance Coal Management and Marketing Private Limited (ACMM), New Delhi, was selected through competitive bidding for the said work.

iv) Thereafter, on 24.6.2009, the Petitioner issued a Letter of Award ("LoA") to ACMM for preparation of the mining plan and FR. In compliance with Rule 22(c) of the Mineral Concession Rules, 1960, Mr B. S. Nag, an RQP accredited by the MoC, was appointed to prepare the mining plan. Accordingly, on 10.11.2009, the mining plan was submitted to the MoC. Subsequently, MoC vide letter dated 20.1.2010 advised incorporating the observations of the Technical Members of the Standing Committee and re-submitting the mining plan duly signed by the RQP.

v) The Petitioner, vide letter dated 5.2.2010, submitted the revised mining plan to the MoC after incorporating the suggestions of the Technical Members and requested its approval. Thereafter, on 31.3.2010, the MoC accorded approval to the mining plan for the Talaipalli Coal Block.

vi) The FR prepared by ACMM was submitted on 30.9.2010. Subsequently, the NTPC Board, in its 360th meeting held on 12.11.2010, recommended standardisation of guidelines for FR preparation. Accordingly, the Project Cost Estimate was revised in line with the Approved Mining Plan ("AMP"), and the updated FR (as of Q1 2012-13**)** was approved by the Project Sub-Committee on 25.2.2013.

vii) Pursuant to the Petitioner's application dated 30.3.2011, the Ministry of Environment, Forest and Climate Change ("MoEFCC"), vide its letter dated 2.1.2013, granted Environmental Clearance ("EC") for the Talaipalli Coal Mine, comprising an opencast mine of 18 MTPA and an underground mine of 0.72 MTPA, over a total area of 2349.35 hectares. Further, Stage-I and Stage-II forest clearances were issued by MoEFCC on 5.11.2012 and 29.1.2014, respectively.

viii) Thereafter, vide judgment dated 24.9.2014 passed by the Hon'ble Supreme Court of India in *Manohar Lal Sharma vs. The Principal Secretary & Ors.*, the allocation of the Talaipalli Coal Block, along with 204 other coal blocks across the country, was cancelled. In accordance with the provisions of the Coal Mines (Special Provisions) Ordinance, 2014, and the Rules framed thereunder, the GoI order dated 18.12.2014, under Rule 8(2) of the Coal Mines (Special Provisions) Rules, 2014, directed re-allotment of the said coal block to the Petitioner for the "Specified End Use" of power generation. In terms of the allotment document dated 18.2.2015, and pursuant to the directions issued by GoI, the Petitioner entered into an allotment agreement with the President of India on 27.3.2015. The said agreement obligated the Petitioner to develop the Coal Mine and achieve specific milestones within stipulated timelines. The agreement was subsequently amended on 7.9.2015 in order to revise the efficiency parameters.

ix) The MoC, vide order dated 8.9.2015, re-allotted the TLCMP to the Petitioner. Thereafter, the MoEFCC, vide its letter dated 28.10.2015, revalidated the EC for the said mine. For operationalisation of the coal mine, the Petitioner adopted the Mine Developer and Operator ("MDO") model and, in furtherance thereof, issued a tender on 31.12.2015. After undertaking the requisite process, the NCC-BGR Consortium was selected, and the LoA was issued on 13.11.2017.

x) The investment approval of TLCMP was accorded by the Petitioner's Board of Directors in its 444th meeting held on 22.3.2017 at the appraised cost determined by ICRA Management Consulting Services Limited. The approved cost was Rs. 3004 crore (including IDC & FC of Rs.134.20 crore and WCM of Rs. 61.28 crore) based on the price level in the third quarter (Q3) of 2016. The corresponding indicative estimated completed cost was Rs. 3318.39 crore (including IDC & FC of Rs. 139.28 crore and WCM of Rs. 62.50 crore).

xi) Subsequently, the Petitioner submitted that a Revised Cost Estimate ("RCE") of Rs.3996 Crores was under consideration before its Board of Directors for approval. Thereafter, vide affidavit dated 10.3.2025, the Petitioner informed that the RCE of TLCMP had been approved by the Petitioner's Board of Directors in its 550th meeting held on 30.11.2024 at a revised cost of Rs. 4340.50 crore (including IDC & FC of Rs. 455.29 crore, IEDC of Rs. 488.65 crore, and WCM of Rs. 61.29 crore). In the aforesaid meeting, the Board also approved the revised schedule of commercial operation (RSCOD) of TLCMP as 1.10.2023.

xii) The revision in the cost estimate had primarily arisen due to significant changes in the project scope, including (i) the transfer of the MGR system from the Talaipalli to the Lara STPS, as detailed in Petition No. 145/GT/2019, and (ii) the shifting of the Coal Handling Plant (CHP) from the MDO's scope to the Petitioner's scope. The Petitioner submitted that although the RCE had not been formally approved at the time of filing of the present Petition, its consideration would facilitate determination of a cost-reflective tariff and prevent the necessity of any major tariff revisions in the future. Further, the figures relied upon by the Petitioner are based on the cost estimates placed before the Petitioner's Board of Directors, and any variations arising upon formal approval shall be appropriately brought on record. The Petitioner has also submitted that, in certain tariff determinations relating to hydro and transmission projects, the Commission has considered RCEs to assess and compare the reasonableness of capital costs.

xiii) RCE is the appropriate basis/ reference point for capital cost determination. In this regard, the Petitioner relied upon the APTEL judgment dated 28.11.2013, in Appeal No. 165 of 2012, wherein a similar issue was considered. In the said appeal, PGCIL had sought approval of higher capital cost without submitting the corresponding RCE. While rejecting the PGCIL's contention, APTEL held that in the absence of an approved RCE, the Commission was justified in insisting upon Board-approved cost data for the purpose of a prudence check, and observed that the appellant could not seek approval of higher capital cost while bypassing the process of its own Board's approval.

xiv) The Commission has consistently adopted the principle that where an RCE is available, the capital cost is assessed with reference to the RCE, and in the absence thereof, the Investment Approval (IA) is considered. According to the Petitioner, this principle has been applied in the order dated 5.4.2019 in Petition No. 7/GT/2017 *(NHPC Ltd. v. PSPCL & Ors*.), wherein the RCE approved by MoP, GOI was treated as the completion cost of the project. Further reliance has been placed on the order dated 4.4.2018 in Petition No. 15/RP/2018 *(PGCIL v. KPTCL & Ors.),* wherein the Commission permitted consideration of the RCE submitted subsequently to the order to ensure fair tariff determination. The Petitioner further relied upon Petition Nos. 30/RP/2017, 31/RP/2017, 360/TT/2018, and 6/GT/2017, wherein the capital cost was allowed within the approved RCE, subject to a prudence check, and it was submitted that the RCE is treated as the ceiling for capital cost.

xv) The completed cost indicated in the original IA (March 2017) was a hypothetical estimate based on the price levels prevailing in Q3 of 2016. In contrast, the RCE reflects the actual awarded costs discovered through competitive bidding, while incorporating changes in scope, delays, site-specific conditions, exchange rate variations, and realistic escalation. Accordingly, the Petitioner submits that RCE provides a more accurate representation of the project cost and, therefore, should be considered in place of the completed cost indicated in the original approval.

xvi) In terms of the allotment agreement, the MoEFCC granted Forest Clearance for the TLCMP on 23.5.2017, following which the consortium of M/s. NCC Limited and M/s. BGR Mining & Infra Private Limited ("NCC-BGR") was selected as the MDO through a competitive bidding process, and on 13.11.2017, an LoA was issued to them for the development and operation of the block. However, on 4.7.2019, the Petitioner terminated the contract with the NCC-BGR Consortium after a FIR was registered by the CBI against one of the consortium's directors.

xvii) Following the termination of the contract with NCC-BGR, the Petitioner issued a fresh tender on 19.8.2019 for selection of a new MDO for a 25-year contract covering 404.5 MMT of coal with a stripping ratio of 4.30 Cum/t and in the interim, to meet the coal production targets set in the Commencement Plan (November 2019), the Petitioner engaged smaller mining agencies through short-term contracts.

xviii) The Petitioner awarded a contract on 19.6.2019 to M/s. S.S. Chhatwal & Co. through competitive bidding to undertake mining operations, including overburden removal and coal extraction, limited to the south pit of the TLCMP (as the east and west pits were earlier under the scope of NCC-BGR). Although the scope was limited and insufficient to meet future annual production targets under the approved mine plan, it enabled the timely commencement of the mining operations. The Petitioner informed the MoC on 1.11.2019 that mining had commenced on 15.10.2019 and subsequently confirmed on 19.11.2019 that coal extraction had commenced on 16.11.2019. Accordingly, despite the termination of the first MDO, there was no delay in adhering to the coal production schedule.

xix) On 19.2.2021, the Commission notified the Second Amendment Regulations, 2021, introducing Regulation 5(3) to define the COD for integrated mines. As per the new provision, COD shall be the earliest of: (i) the first date of the year succeeding the year in which 25% of the Peak Rated Capacity under the mining plan is achieved; or (ii) the first date of the year succeeding the year in which the value of production estimated in accordance with Regulation 7A of these regulations, exceeds total expenditure in that year; or (iii) two years from the date of commencement of production. Accordingly, since production at the Talaipalli Coal Mine commenced on 16.11.2019, its COD is determined as 16.11.2021.

xx) However, the commercial operation of the TLCMP was delayed due to factors beyond the control of the Petitioner, and the reasons for the same are as follows:

Delay due to a discrepancy between the Approved Mining Plan and the consequent approval of the Revised Mining Plan.

xxi) Following termination of the contract with the earlier MDO (NCC-BGR), the Petitioner initiated a fresh tender process in August 2019 for selection of a new MDO for the TLCMP. Pursuant to the competitive bidding process, M/s Thriveni Earthmovers Private Limited (TEMPL) was selected as the successful bidder, and on 26.8.2020, the LoA was issued to TEMPL for development and operation of the Talaipalli Coal Mine, which was formally accepted by TEMPL vide its letter dated 27.8.2020. Thereafter, a Project Agreement dated 23.9.2020 was executed between the parties for the development and operation of the mine, following which TEMPL commenced mobilisation of manpower and equipment at the site from 25.10.2020.

xxii) TEMPL began development activities at the site, including removal of overburden and preparation for coal extraction. The details of work progress and specific activities undertaken are elaborated as under:

S. No.	Activity	Work progress status
1.	Camp/ Mobilization	Established TEMPL's camp on 25.10.2020 and started mobilisation of manpower and materials
2.	Geo-technical & Infill drilling	Started Geo-technical and Infill drilling from 26.10.2020
3.	Physical possession of Land	Started tree-felling work in the East pit area of the mine on 2.11.2020
4.	Internal Approach Road	Started internal Approach Road from Raikera to East Pit on 21.11.2020
5.	Explosive Magazine	Started construction work on 7.12.2020 for 2 nos. out of 4 nos. of Explosive Magazines
6.	Submission of Draft Operation Plan within 60 days from the date of LOA	Submitted Draft Operation Plan on 25.10.2020, within 60 days from LOA
7.	Submission of Project Design Memorandum (PDM) for CHP & Infrastructure	Submitted on 27.9.2020

xxiii) The Petitioner and TEMPL were making steady progress in the execution of the project. However, vide letter dated 23.11.2020, the Petitioner informed TEMPL that the Draft Operational Plan submitted was not aligned with the AMP and requested that it be revised and resubmitted in accordance with the AMP. In response, TEMPL, vide letter dated 27.11.2020, addressed to the Petitioner, raised concerns regarding discrepancies in the quantities of coal and overburden ("OB"), stating that the figures derived from its field studies and designs differed from those indicated in the AMP.

xxiv) The Petitioner, vide letter dated 5.12.2020, clarified to TEMPL that the GR and the AMP issued by the MoC had been made available prior to the submission of its bids, without deviations, and, any variation in OB quantities would be addressed in accordance with the provisions of the Project Agreement, and requested TEMPL to submit a revised Draft Operational Plan and Interim Production Plan in line with the AMP.

xxv) Thereafter, between January and March 2021, several meetings were held between the Petitioner and TEMPL to discuss issues relating to stripping ratio, OB dump space, and CHP scheme, wherein it was conveyed that these issues would be addressed strictly within the contractual framework.

xxvi) Subsequently, vide letter dated 11.3.2021, the Petitioner directed TEMPL to commence mining operations in accordance with the Project Agreement and informed that any further delay would be attributable to TEMPL. Further meetings were held on 16.4.2021 and 30.4.2021, wherein TEMPL was requested to submit feasible options for commencement of mining operations; however, no such proposal was submitted till 4.5.2021.

xxvii) On 4.5.2021, TEMPL issued a letter claiming that the Project Agreement had become unworkable due to discrepancies in the AMP and, accordingly, sought to rescind the agreement. TEMPL also requested the return of the Performance Bank Guarantee (BG) amounting to Rs. 83.91 crore, along with compensation for alleged losses.

xxviii) The stripping ratio and other parameters were strictly as per the mine plan prepared by an RQP and duly approved by the MoC. The Petitioner had no role in altering these parameters. Notably, no objections or queries regarding the AMP, including Stripping Ratio, OB volume, lead, and lift, were raised by any bidder, including TEMPL, during the pre-bid stage.

xxix) Thereafter, TEMPL instituted a Commercial Civil Suit No. (CS (COMM)) 219 of 2021 before the Hon'ble High Court of Delhi, seeking a declaration that the Project Agreement is void, along with the return of the BG and compensation for alleged losses suffered. The Hon'ble High Court of Delhi, vide order dated 10.5.2021, advised the parties to explore an amicable settlement of the dispute and, in the interim, directed that TEMPL's letter dated 4.5.2021 be kept in abeyance during the course of settlement discussions.

xxx) Subsequently, a meeting was held on 14.5.2021 between the TEMPL and the Petitioner. During the meeting, TEMPL proposed consultations with Central Mine Planning and Design Institute Limited (CMPDIL) to address and resolve the technical issues. However, the Petitioner expressed concern about the impact on coal supply to Lara STPS and requested TEMPL to continue ongoing works such as environmental monitoring and diversion of the road crossing the MGR route.

xxxi) In line with discussions held with TEMPL, the Petitioner, vide Service Purchase Order dated 23.7.2021, engaged CMPDIL as an independent consultant to examine the technical feasibility of mining operations at TLCMP. Pursuant thereto, CMPDIL submitted its technical feasibility report on 7.9.2021, concluding that mining operations as per the AMP would not be technically feasible beyond the fifth year, due to inadequate space for the designated temporary external OB dump. CMPDIL observed that the mine would eventually become inoperable due to a lack of dumping space and, accordingly, recommended modifications to the AMP, subject to necessary approvals from the MoC.

xxxii) On 4.10.2021, the MoC convened a review meeting to assess the production status of coal mines allocated by it. In respect of the TLCMP, it was observed that only 0.28 MT of coal had been produced till August 2021, and that production had stalled due to disputes with TEMPL. It was also noted that the matter had been referred to CMPDIL, which recommended revision of the mining plan. Subsequently, vide letter dated 6.10.2021, the Petitioner informed the MoP that CMPDIL had concluded in its technical feasibility report that mining as per the AMP would not be feasible beyond the fifth year of operation.

xxxiii) In view of CMPDIL's findings, the Petitioner scheduled a meeting with TEMPL on 9.10.2021 to deliberate on the commencement of mining operations in accordance with the said recommendations. Thereafter, vide letter dated 18.10.2021, TEMPL informed the Petitioner that the implementation of CMPDIL's recommendations would require incorporating revised parameters into a new mining plan and obtaining consequent approvals from the relevant regulatory authorities.

xxxiv) Subsequently, on 26.10.2021, the Petitioner issued a letter to the MoC, apprising it of CMPDIL's observations regarding the existing AMP. Thereafter, on 19.11.2021, the Petitioner engaged M/s. IIT-ISM, through a Service Purchase Order, will provide expert advice and undertake a technical vetting of the technical feasibility report, along with a high-level review of the AMP and the concerns raised by TEMPL.

xxxv) The Board of Directors of the Petitioner, in its meeting held on 30.11.2021, reviewed the status of the TLCMP and advised that necessary measures be undertaken to achieve COD by November 2021. Thereafter, on 13.1.2022, IIT-ISM submitted its final report, concurring with CMPDIL's assessment that the AMP was not feasible without modification or optimisation. The report identified and highlighted errors in the estimation of coal and OB quantities, deficiencies in internal and external dump planning, and concluded that the AMP, in its existing form, was unworkable. It was indicated that the AMP approved by the MoC had fundamental deficiencies, rendering it unimplementable and requiring revision, in light of CMPDIL's observations, which were confirmed by IIT-ISM.

xxxvi) In view of the failure to arrive at an amicable resolution with TEMPL and the continued delay in implementation of the project under the AMP, the Petitioner decided to initiate necessary steps for revival of the project. Accordingly, vide letter dated 18.1.2022, the Petitioner called upon TEMPL to commence work at the TLCMP within 14 days, failing which the same would be treated as a "Mine Operator's Event of Default" under the Project Agreement. In response, TEMPL, vide letter dated 28.1.2022, reiterated that the project remained unworkable in view of CMPDIL's findings rejecting the AMP, and requested the Petitioner to withdraw its letter dated 18.1.2022. However, as TEMPL failed to resume operations within the stipulated period, the Petitioner, vide letter dated 8.3.2022, in accordance with the terms thereof, formally intimated the termination of the Project Agreement.

xxxvii) Subsequently, on 6.5.2022, the Petitioner awarded the consultancy work to CMPDIL for the preparation of a conceptual plan, revised mine plan, and FR for the TLCMP. Thereafter, on 17.6.2022, the MoC held a review meeting to assess coal supply to the power sector from allocated coal blocks. It was observed that as of 15.6.2022, coal production stood at 3.402 MT against the pro-rata target of 4.308 MT, with major shortfalls from Talaipalli and Pakri Barwadih coal mines. Accordingly, the MoC directed the Petitioner to increase the annual coal production target from 26 MT to 28 MT and finalise mine-wise commitments.

xxxviii) In light of persistent delays arising from the dispute with TEMPL, the Petitioner undertook necessary steps to expedite mining operations. In this regard, through a competitive bidding process, M/s. PC Patel Infra Private Limited (PCPIPL) was appointed for overburden removal and coal extraction from the West Pit (14.68 MMT for a period of 5 years), and M/s. Kalinga Commercial Corporation Limited (KCCL) was engaged to carry out similar work in the South Pit Extension (6.04 MMT for a period of 3 years).

xxxix) Coal production from the South Pit and the West Pit commenced on 9.11.2022 and 10.12.2022, respectively, and coal dispatch to Lara STPS through the MGR system began on 21.11.2022. Thereafter, CMPDIL submitted the final draft of the revised Mining Plan on 30.11.2022, which was uploaded to the MoC's Single Window Portal for approval on 3.1.2023. As the approval was still pending, the Petitioner issued multiple letters to MoC seeking expeditious clearance. Meanwhile, the Petitioner initiated the process for the award of the contract for the selection of the MDO for the East Pit (111.31 MMT for a period of 10 years) in accordance with the revised mine plan. The reverse auction concluded on 6.9.2023, wherein M/s. VPR Mining Infrastructure Private Limited (VPRMIPL) emerged as the L1 bidder.

xl) The Petitioner, vide notice dated 11.9.2023, informed the beneficiaries of Lara STPS that the COD of the TLCMP was proposed to be declared with effect from 1.10.2023. Subsequently, on 26.9.2023, the MoC granted approval for the revised mining plan and mine closure plan for the TLCMP.

xli) On 16.10.2023, the Petitioner issued an LoA to VPRMIPL for the development and operation of the East Pit of the TLCMP. As per the LoA, the new MDO shall be responsible for planning, financing, constructing, operating, and maintaining the mine, including overburden removal, coal extraction and delivery, progressive mine closure, and associated infrastructure development. The scope also includes land acquisition, R&R activities, and compliance with all applicable statutory requirements.

xlii) The revised mine plan prepared by CMPDIL addressed the shortcomings identified in the earlier approved mine plan. A comparative summary of the key differences between the earlier approved Mine Plan and the revised approved Mine Plan is provided below:

Parameters	Earlier Approved Mining Plan	Revised Approved Mining Plan (1st Revision)
Extractable Reserves	843.68 Mt	631.56 Mt
Strip Ratio	4.48 cum/t	4.33 cum/t
Peak Rated Capacity	18 MTPA	25 MTPA
Mine Life	52 Years	31 Years
Vol. External OB Dump	264.52 MBCM	533.53 MBCM
Ext. Dumping Period	8 years	13 years (internal dump from 4th year)
Lead Dist. Coal	2 – 3 kms	3.5 to 4 kms [Initial years – 2.5 to 3 Km]
Lead Dist. To Ext. Dump	2 – 3 kms	3.5 to 4 kms [Initial 10 years: 5 – 6 Km (Ext Dump), 3.5-4 Km (Int. dump & Rehandling - 3.5 km)
Height of Ext. Dump	60 m above OGL	120 m above OGL
Height of Internal Dump	60 m above OGL	120 m above OGL

xliii) There had been a delay of 22.5 months (from 16.11.2021 to 1.10.2023) in achieving the COD of the TLCMP, primarily on account of discrepancies in the earlier approved Mine Plan, the consequent requirement of its revision, and the time taken in obtaining approval of the revised Mine Plan from the MoC. The delay was entirely due to factors beyond the Petitioner's control. Accordingly, the Petitioner prays for condonation of a 22.5-month delay under Regulation 3(45) and Regulation 22 of the 2019 Tariff Regulations.

xliv) Although coal production at TLCMP had commenced on 16.11.2019, the COD could not be declared by 16.11.2021 due to unworkable deficiencies in the initially approved mine plan, as identified by CMPDIL and TEMPL, and technically vetted by IIT-ISM. Consequently, the Petitioner engaged CMPDIL to prepare a revised mine plan and awaited the MoC's approval. Meanwhile, all statutory clearances and approvals, including EC, FC, R&R, DGMS permissions, and over 90% of land acquisition, had already been obtained. The 22.5-month delay in achieving COD (from 16.11.2021 to 1.10.2023) was solely due to circumstances beyond the Petitioner’s control.

<u>Calculation of Input Price by the Petitioner for the period 2019-24</u>

xlv) Based on the actual capital expenditure incurred, the opening capital cost of the Talaipalli Coal Mine as on the declared COD of 1.10.2023 was Rs.2071.07 crore on a cash basis, with additional liabilities amounting to Rs.294.92 crore.

xlvi) The Petitioner had computed the input price in accordance with the parameters specified under the 2019 Tariff Regulations and as amended by the 2021 Second Amendment Regulations, details of which are as under:

a) The Debt- Equity Ratio has been considered as 70:30.

b) In terms of Regulation 36G(3) of the 2021 Second Amendment Regulations, the base rate of return on equity shall be considered at 14%.

c) In terms of Regulation 3(9) of the 2021 Second Amendment Regulations read with Regulation 19(2)(b) of the 2019 Tariff Regulations, equity deployed in excess of 30% of the funds deployed has been considered as a normative loan. Accordingly, the notional IDC amounting to Rs.34.42 crore up to 30.9.2023 has been considered as part of the capital cost. Moreover, any notional IDC up to the peak rated capacity shall be claimed based on the audited financial statements upon achieving the mine's peak rated capacity.

d) During the construction period, under the erstwhile IGAAP, in terms of Para 46A of AS-11, Foreign Exchange Rate Variation (FERV) on loan was capitalised and accordingly claimed as part of the capital cost. However, as per IND-AS, FERV on foreign currency loans drawn after 1.4.2016 does not form part of the gross block and is instead charged to the statement of Profit & Loss (P&L) as borrowing cost/FERV. Further, in terms of clause 19(2)(c) of the 2019 Tariff Regulations, any gain or loss on account of foreign exchange risk variation pertaining to loans availed during the construction period forms part of the capital cost.

e) Accordingly, the FERV incurred during the construction period on a foreign currency loan drawn after 1.4.2016, which was charged to P&L, has been considered as part of the capital cost. In this regard, the ERV loss of Rs. 404.70 lakh towards loan FERV and short-term ERV up to 1.10.2023, transferred to the P&L statement, has been adjusted against the project's capital cost.

f) Under IND-AS, bond issue expenses are required to be amortised over the tenure of the loan. However, since the entire amount was incurred upfront, the Petitioner sought inclusion of the unamortized portion amounting to Rs. 497.15 lakh in the capital cost as on COD (1.10.2023), on the ground that the said amount represented the actual cash outflow incurred for the project.

g) In terms of Regulation 36G(5) of the 2021 Second Amendment Regulations, the interest on the loan has been considered based on the actual Weighted Average Rate of Interest (WAROI) of the project.

h) In terms of Regulation 36H of the 2021 Second Amendment Regulations, the depreciation has been computed under the straight-line method based on the useful life of assets specified in Appendix IA of the said regulations.

i) In terms of Regulation 36I(a) of the 2021 Second Amendment Regulations, the O&M expenses were allowed based on the projected O&M expenses for each year of the tariff period, subject to a prudence check by this Commission. Notably, the O&M expenses are subject to truing-up based on actual expenditure for the tariff period ending on 31.3.2024. Accordingly, the Petitioner has claimed the O&M expenses based on the projected O&M expenses for the period from 1.10.2023 to 31.3.2024.

j) In terms of Regulation 36A (2) of the 2021 Second Amendment Regulations, the statutory charges form part of the input price of coal. In this regard, the applicable statutory charges payable for the mine have been taken into account. Further, any increase or decrease in such statutory charges would be submitted at the time of truing-up. Also, GST @ 5% along with GST Cess @ Rs. 400/- per tonne would apply in cases where coal is supplied to a station having a different GSTIN.

k) Regulation 36B of the 2021 Second Amendment Regulations provides that the mining fee payable to the MDO or other mining agencies or expenditure from MDO/ mining agencies engaged for carrying out mining operations is allowable as part of the input price of coal. Accordingly, the mining fee in this regard has been claimed as per the LoA issued to the MDOs, i.e. all 3 mining agencies, namely, PCPIPL, KCCL & VPRMIPL. Furthermore, in terms of the agreement signed with the said MDOs, the mining fee or cost of mining operations are subject to periodic escalation (quarterly or monthly) based on the prices of input materials of MDO and other mining agencies, including heavy machinery parts, fuel, explosives, power, tyres, salaries & wages etc., in accordance with the escalation formula provided in the respective MDO agreement.

xlvii) The actual rate of escalation paid to PCPIPL, in terms of the MDO agreement, is as follows:

Mining Fee -West Pit									
	Q1 (2023-2024) Actual	Q2 (2023-2024) Actual	Q3 (2023-2024) Fore-casted	Q4 (2023-2024) Fore-casted Fore-casted	Weighted Avg Fore-casted	Q1 (2024-2025) Fore-casted	Q2 (2024-2025) Fore-casted	Weighted Avg Fore-casted	
Base MF	630	630	630	630	630	630	630	630	Assumption for Forecasting figures i.e. for Q3, Q4 of 2023-2024 & Q1,Q2 of 2024-2025: Average of Q1,Q2 (2023-2024)
Escalated MF	650.74	651.44	651.09	651.09	651.09	651.09	651.09	651.09	
Escalation Factor	1.0329	1.0340	1.03348	1.03348	1.03348	1.03	1.03348	1.03348	

xlviii) The actual rate of escalation paid to VPRMIPL, in terms of MDO agreement is as follows:

Mining Fee -East Pit									
	Q1 (2023-2024) Actual	Q2 (2023-2024) Actual	Q3 (2023-2024) Fore-casted	Q4 (2023-2024) Fore-casted	Weighted Avg Fore-casted	Q1 (2024-2025) Fore-casted	Q2 (2024-2025) Fore-casted	Weighted Avg Fore-casted	
Base MF	0	0	1055.89	1055.89	1055.89	1055.89	1055.89	1055.89	Escalation factor for 2023-24 (Q1, Q2) are taken from running west pit, Assumption for Forecasting figures i.e. for Q3, Q4 of 2023-24 & Q1, Q2 of 2024-25: Average of Q1, Q2 (2023-24)
Escalated MF	0	0	1091.24	1091.24	1091.24	1091.24	1091.24	1091.24	
Escalation Factor	1.0329	1.0340	1.03348	1.03348	1.03348	1.03348	1.03348	1.03348	

xlix) Further, in terms of the MDO Agreement, the mining rate of KCCL is as follows:

KCCL rate for South pit extension (Based on actual data for past 6 months of 2023-24)			
Month	**COAL (MT)**	**Total Amount**	**Rs./Tonne**
Apr-23	270154.8	26,44,72,279.1	978.97
May-23	248253.3	25,87,24,314.7	1042.18
Jun-23	253561.9	25,62,00,614.21	1010.41
Jul-23	226745.3	7,16,38,096.19	315.94
Aug-23	228756.3	18,00,76,477.3	787.20
Sep-23	205728.3	13,84,44,887.4	672.95
		Wtd. Avg.	**816.046**

l) The mining charges claimed in the present Petition are based on the base mining charge and the applicable escalation amounts paid to the MDO. The Petitioner submitted that, for the future period, this Commission may allow billing of the input price of coal based on the quarterly escalated rates paid to the MDO, to avoid accumulation of arrears. The Petitioner also submitted that detailed calculations of the escalation in MDO charges would be furnished at the time of truing up.

li) Under the 2021 Second Amendment Regulations, the input price of coal is subject to adjustment based on the Annual Stripping Ratio. The mining agreement executed with the MDO also contains similar provisions for adjusting mining charges based on the Annual Stripping Ratio. As per Regulation 36N of the 2021 Second Amendment Regulations, any shortfall in overburden removal may be set off against excess removal in the subsequent three years. Accordingly, any adjustment to the input price of coal arising due to such variation in overburden removal shall be submitted at the time of truing up.

lii) In accordance with Regulation 7A of the 2021 Second Amendment Regulations, any revenue earned from the sale of coal prior to the COD is required to be adjusted against the capital cost of the project. In this regard, the coal dispatched prior to COD had been priced at the notified rate of Coal India Limited (CIL) for the corresponding grade of coal supplied to the power sector, as the said price was lower than the estimated price considered in the investment approval.

Mine Closure Expenses

liii) In terms of Regulation 36K of the 2021 Second Amendment Regulations, where mine closure activities are undertaken by the generating company, the amount deposited in the escrow account in accordance with the mining plan is required to be considered mine closure expenses, after adjusting for interest accrued on the said deposits, if any.

liv) Mine closure activities are broadly categorised into two components: (a) Progressive or Concurrent Mine Closure; and (b) Final Mine Closure. The progressive mine closure includes various land-use activities undertaken continuously and sequentially during the entire period of the mining operations. In contrast, final mine closure activities are undertaken towards the end of mine life and continue after exhaustion of reserves and discontinuation of mining operations, until the mining area is restored to an acceptable level.

lv) In the case of Talaipalli mine, which is being operated through an MDO arrangement, the scope of progressive mine closure lies with the MDO, and the associated expenses have been factored into the mining fee payable to the MDO. However, the responsibility for final mine closure activities rests with the Petitioner, and the expenses incurred towards the same are to be borne solely by the Petitioner.

lvi) Irrespective of the aforesaid arrangement, in accordance with the applicable guidelines, it is required to deposit the total estimated mine closure amount, covering both progressive and final mine closure activities, into a designated escrow account.

lvii) The progressive mine closure activities are to be undertaken by the MDO during the operational phase of the mine. The expenditure incurred for such activities is required to be submitted to the Coal Controller or other competent authority for verification. Upon verification of the completed works in accordance with the AMP, the competent authority may permit withdrawal from the escrow account to the extent of 50% of the deposited amount once every five years, in terms of the MoC Office Memorandum dated 29.5.2020.

lviii) Further, the amount deposited in the escrow account is to be considered in two parts, i.e., 50% towards progressive mine closure and 50% towards final mine closure. Since the responsibility for progressive mine closure lies with the MDO and the associated cost has already been factored into the mining fee payable to the MDO, the Petitioner prayed that the treatment of the said 50% be treated in terms of Regulation 36K (3) of the 2021 Second Amendment Regulations. In terms of the said provision, the difference between the borrowing cost on the amount deposited and the interest accrued thereon during a financial year may be admitted as mine closure expenses.

lix) The remaining 50% of the escrow deposit pertains to final mine closure, which falls under the responsibility of the Petitioner. In this regard, the Petitioner prayed that the said amount be allowed as part of the input price of coal in terms of Regulation 36K (1) of the 2021 Second Amendment Regulations, which permits consideration of 50% of the escrow deposit as part of the input price without deduction of interest earned, as the Petitioner does not receive any interest income from the escrow account during the operational life of the mine.

<u>Provisional billing of the input price of coal</u>

lx) The Petitioner submitted that it is presently billing the input price of coal from the TLCMP at the notified price of CIL for the corresponding grade of coal, in terms of the 2021 Second Amendment Regulations. However, the input price claimed in the present Petition differs from the price currently being billed. Since the determination of the final input price may take time, the Commission may permit provisional billing of the input price as claimed in the Petition, pending final determination thereof and disposal of the matter.

<u>Filing Fee</u>

lxi) In terms of Regulation 70(1) of the 2019 Tariff Regulations, the application fee and publication expenses were requested to be allowed to be recovered directly from the beneficiaries, subject to the discretion of this Commission. Accordingly, the Petitioner has sought recovery of the same from the beneficiaries.

lxii) The requisite filing fee has already been paid through the SAUDAMINI portal in compliance with the CERC (Payment of Fees) Regulations, 2012, as amended, and a copy of the Petition has been served upon the Respondents and uploaded on the Petitioner’s website. The Petitioner has also undertaken to furnish any further information or clarification as may be required by the Commission for the adjudication of the present Petition.

Proceedings in the matter

Hearing dated 13.3.2024 and 19.9.2024:

8. The matter was first heard on 13.3.2024, wherein the learned counsel for the Petitioner sought liberty to file additional documents in the matter, and the Respondent CSPDCL raised preliminary objections on maintainability. The Commission permitted the filing of documents and directed that the matter be listed for admission after completion of the necessary formalities. In the subsequent hearing on 19.9.2024, the Petitioner's counsel submitted that the additional documents had been filed. The learned counsel for the Respondent CSPDCL raised objections on maintainability on the grounds of limitation, non-applicability of force majeure in the present case, absence of forex hedging, retrospective application of amended regulations, and placed reliance on the judgement of the APTEL in Appeal No. 309/2019. Respondent MSEDCL also sought to place objections on maintainability. The Commission allowed the Respondents to submit their contentions on both maintainability and merits, further granting liberty to the Petitioner to file a rejoinder.

Additional Submissions of the Petitioner

9. In compliance with the directions in the hearing dated 13.3.2024, the Petitioner filed additional submissions vide affidavit dated 13.5.2024, enclosing therewith the audited balance sheet as on the COD of TLCMP (Annexure-I). The Petitioner further submitted that the RCE for TLCMP remains under consideration and approval of its Board and, accordingly, sought liberty to place the approved RCE on record upon its finalisation.

10. Further, the Petitioner, vide affidavit dated 10.9.2024, has submitted a summary of the issues in the present petition, details of which are as under:

i) The COD of the TCLMP, in terms of Regulation 5(3)(c) of the 2021 Second Amendment Regulations, falls on 16.11.2021. However, the Petitioner could not achieve COD on the said date due to discrepancies in the AMP, the subsequent requirement for its revision, and the delay in obtaining approval of the revised Mining Plan. The deficiencies in the AMP rendered the Project unworkable under the prevailing technical parameters.

ii) The details of the scheduled Commercial Operation Date (SCOD), Actual Coal Production Date, and Actual COD are as under:

COAL PRODUCTION DATE	SCOD	ACTUAL COD	DELAY
16.11.2019	16.11.2021	1.10.2023	22.5 months

iii) The delay of 22.5 months in declaring COD of the Talaipalli Coal Mine occurred due to reasons beyond the control of the Petitioner. Accordingly, the Petitioner prayed for condonation of delay under Regulation 3(25) read with Regulation 22 of the 2019 Tariff Regulations. In addition, also grant (a) approval of the input price of coal for the period from 1.10.2023 to 31.3.2024, (b) allowance of mine closure expenses, and (c) permission to provisionally bill the input price as claimed in the Petition, subject to final adjustment upon disposal of the Petition.

iv) The 2019 Tariff Regulations, including the 2021 Second Amendment Regulations thereto, provide for determination of the input price of coal from integrated mines as well as condonation of delay in achieving COD. The following specific provisions of the 2019 Tariff Regulations (as amended) for maintainability and reliefs sought in the Petition:

<u>Terms and Conditions of Tariff Regulations, 2019</u>

(a) Regulation 3(44) - Definition of New project.
(b) Regulation 3(25) - Definition of Force Majeure.
(c) Regulation 3(50) - Definition of Project.
(d) Regulation 9 (4) - Requirement for a generating company having an arrangement for the supply of coal from an integrated mine to file a petition for determination of the input price for determination of the energy charge in accordance with Chapter 9.
(e) Regulation 22(2)(a): Force Majeure events to be considered as uncontrollable factors for deciding time over-run, cost escalation, IDC and IEDC of the project.
(f) Regulation 36 - Input price of coal and lignite for energy charges.

<u>Second Amendment Regulations, 2021</u>

(a) Regulation 2(1a) - Scope of application of the 2021 Second Amendment Regulations.
(b) Regulation 5(3) - The date of commercial operation in case of integrated mine(s) shall mean the earliest of:

i. The first date of the year succeeding the year in which 25% of the Peak Rated Capacity as per the Mining Plan is achieved; or

ii. The first date of the year succeeding the year in which the value of production estimated in accordance with Regulation 7A of these regulations, exceeds total expenditure in that year; or

iii. The date of two years from the date of commencement of production.

(c) Proviso to Regulation 9(4)- A generating company with integrated mine(s) is required to file a petition for determination of the input price of coal or lignite from the integrated mines within 60 days from the COD.

(d) Regulation 36A – Input price of coal or lignite

(e) Regulation 36B – Run-of-Mine (ROM) cost.

(f) Regulation 36C – Additional Charges.

(g) Regulation 36K – Mine Closure expenses.

(h) Regulation 36L – Determination of Input price.

(i) Regulation 36M – Recovery of Input Charges.

v) The present petition is maintainable, and the reliefs sought therein fall within the scope of the regulatory framework and warrant consideration by the Commission. Therefore, the scope of the Petition may not be limited to the aforesaid provisions only.

Replies of Respondents MSEDCL and CSPDCL

11. The Respondents, Maharashtra State Electricity Distribution Company Limited (MSEDCL) and Chhattisgarh State Power Distribution Company Limited (CSPDCL), vide their respective affidavits dated 17.10.2024 and 4.11.2024, have submitted as under:

i) The Petitioner failed to provide adequate justification for the substantial delay in obtaining approval of the FR. While the mining plan was approved by the MoC on 31.3.2010, the updated FR, incorporating data up to the first quarter of 2012–13, was approved by its Board only on 25.2.2013, resulting in a delay of approximately twenty-seven months. Such delay, being within the Petitioner's control, cannot be condoned.

ii) The Petitioner delayed the process of selection of the MDO. The tender for selection of the MDO was floated on 31.12.2015, whilst the Allotment

Agreement was executed by the Petitioner on 27.3.2015. Thereafter, bids were opened on 9.5.2016; however, the reverse auction was conducted only on 27.12.2016, resulting in a delay of about seven months without any satisfactory explanation. The Respondents contend that this delay materially contributed to the postponement of mining operations.

iii) Despite securing environmental clearance in October 2015, the IA for the TLCMP at Rs. 3004 crore (Q3 2016 price level) was granted only on 22.3.2017, i.e., more than two years after re-allotment of the coal block. Petitioner has now sought approval of the RCE of Rs. 3996 crore, which includes cost overrun arising from controllable delays on the part of the Petitioner and that such additional burden cannot be passed on to the beneficiaries.

iv) The LoA issued to NCC-BGR on 13.11.2017 was terminated by the Petitioner on 4.7.2019, citing an FIR and allegations of illegal gratification against one of its Directors. These reasons are vague and pertain to matters within the Petitioner's control and, therefore, do not qualify as uncontrollable events. No documentary evidence of the FIR, details of liquidated damages, or relevant correspondence in support of the termination have been furnished. Subsequently, on 19.6.2019, limited mining work in the South Pit was awarded to M/s. S.S. Chhatwal & Co.

v) The mining operations in the South Pit commenced on 15.10.2019, and coal extraction began on 16.11.2019. Accordingly, under the 2019 Tariff Regulations, COD ought to have been declared as 16.11.2021. The claim of the Petitioner for a revised COD of 1.10.2023 is unjustified, as the claimed delay of 22.5 months arose from controllable factors.

vi) The AMP sanctioned in 2010 was found to be unworkable only in 2020 by the new MDO, TEMPL, despite the Petitioner having had sufficient time between 2010 and 2017 to review and revise the same. Deviations in the mining plan prepared jointly by the Petitioner and its contractor cannot be treated as an uncontrollable event.

vii) The project suffered from operational inefficiencies. The actual stripping ratios for the periods 2021–22 and 2022–23 (5.98 and 6.11, respectively) exceeded the projected stripping ratios (4.25 and 4.29) by about 41–42% and were significantly (about 112–121%) higher than CIL's ratios (2.71 and 2.88). This indicates poor cost control and warrants a detailed prudence check. It has also been contended that claims up to October 2019 are barred by limitation, as the limitation period for such claims is three years.

viii) The Petitioner failed to issue Force Majeure notices for the delays between 2007 and 2019 and thereby acquiesced in such delays. In addition, the Petitioner has not furnished item-wise implementation schedules, making it difficult to ascertain the actual time overrun and the impact of variations in input prices. The overall delay from the original allocation of the coal block in 2006 to the claimed COD in 2023 is attributable to ineffective persuasion, inadequate follow-up, and inefficient project management by the Petitioner. The alleged uncontrollable events, including the FIR against the MDO, fall within the Petitioner's sphere of control.

ix) Revised COD of 1.10.2023 claimed by the Petitioner may not be approved, and tariff may instead be determined on the basis of the capital cost corresponding to the COD of 16.11.2021. The cost overrun due to time overrun, including IDC and IEDC, may be disallowed as arising from controllable factors, and an appropriate prudence check may be undertaken to safeguard the interests of the beneficiaries.

Rejoinder to the Reply filed by MSEDCL

12. The Petitioner, vide its rejoinder dated 9.11.2024 to the Reply of the Respondent MSEDCL, has reiterated its submissions made in the Petition and additionally has submitted as follows:

i) The approval of the FR was timely, as environmental and forest clearances, being prerequisites for investment approval, were obtained only on 2.1.2013, 5.11.2012, and 29.1.2014, and therefore, no delay can be attributed to the Petitioner.

ii) In accordance with the directions of the NTPC Board dated 12.11.2010, the estimates in the FR had to be revised to align with the AMP, and statutory clearances were mandatory prior to the commencement of mining operations. Accordingly, the updated FR and the project cost estimates were prepared after obtaining the necessary clearances; therefore, the allegation of delay in the approval of the FR is without merit.

iii) With regard to the termination of the MDO contract with TEMPL, a mining plan was prepared by an RQP and approved by the MoC and no bidder, including TEMPL, had raised any objection to the mining plan at the pre-bid stage. The Petitioner had no prior knowledge of any discrepancy in the mining plan, and TEMPL failed to commence work despite repeated reminders, which ultimately led to the termination of the contract on 8.3.2022.

iv) Subsequently, CMPDIL was engaged as an independent consultant to prepare a conceptual plan and FR. During this, it was discovered that the designated temporary external OB dump area was insufficient, rendering the AMP potentially unfeasible for the entire life of the mine, although workable for the initial 5–10 years of operation. The Petitioner first became aware of this issue only on 6.10.2021, and the delay beyond 16.11.2021 was solely due to discrepancies in the mining plan approved by the MoC. Such circumstances constitute an uncontrollable factor under Regulation 5(3) of the Second Amendment Regulations, 2021, and therefore, condonation of the about 22.5-month delay has been sought.

v) The stripping ratios reported by CIL represent pooled figures/ ratios across multiple mines, whereas the stripping ratio for the present mine is mine-specific and determined based on geological and technical parameters such as mining method, reserve characteristics, and overburden volume. The variations in stripping ratio across mines are natural, and the allegation of operational inefficiency is unfounded.

Additional Submissions by the Petitioner

13. The Petitioner, vide affidavit dated 23.11.2024, has filed additional information, seeking revision of the input price of coal from the TLCMP for the period from 1.10.2023 to 31.3.2024 with a truing up exercise based on the actual capital expenditure incurred, including the discharge of pending liabilities as on 31.3.2024. The Petitioner has submitted that filing the revised claim is necessary to reflect the actual expenditure incurred and to ensure appropriate determination of the input price of coal for the said period.

Replies of Respondents CSPDCL and MPPMCL

14. The Respondents, CSPDCL and MPPMCL, in their respective replies dated 30.11.2024 and 29.11.2024, have submitted that the Petitioner is responsible for substantial delays and cost escalations in the TLCMP. CSPDCL has contended that the Petitioner has not disclosed whether liquidated damages were imposed on TEMPL following termination of the project and has raised claims relating to time overrun for the period 2007–2023 without issuing the mandatory Force Majeure notices. It has

further been submitted by the Respondents that the Petitioner has sought retrospective recovery of costs without justification for the increase in RCE from about Rs. 3000 crore to Rs. 4000 crore. The Respondents have requested a detailed prudence check in order to safeguard the interests of beneficiaries.

Rejoinders to the replies of CSPDCL and MPPMCL

15. The Petitioner, in its rejoinder dated 7.12.2024, to the replies of CSPDCL and MPPMCL, has mainly submitted as under:

(a) TLCMP was re-allotted only on 8.9.2015, and the commencement of major project activities was contingent upon obtaining statutory clearances, particularly environmental clearance, which were prerequisites for initiating major works, which were beyond the control of the Petitioner.

(b) The timelines for the IA did not affect the progress or execution of the project, as preparatory activities had already commenced. The tender for selection of MDO was floated in December 2015, and the delay in bid finalisation was attributable to poor market response and bidder-related issues.

(c) Coal production commenced in November 2019, and in terms of Regulation 5(3) of the 2021 Second Amendment Regulations, the deemed COD is 16.11.2021. However, the COD was declared on 1.10.2023 due to a delay in approval of the revised mining plan by the MoC.

(d) The increase in the RCE primarily relates to additional capital expenditure on CHP and township facilities. The delay between 16.11.2021 and the declared COD was attributable to the defects in the AMP, which were identified subsequently, and that such circumstances were beyond the control of the Petitioner.

(e) The amount of Rs. 58.83 crore recovered from TEMPL has already been passed on in tariff computations.

(f) The delay in COD arose due to deficiencies in the mining plan approved by the MoC, which came to light only in May 2021, and therefore, constituted a force majeure event under the 2019 Tariff Regulations.

(g) The time taken for approval of the FR was due to revised guidelines issued by the NTPC's Board and the need to obtain statutory clearances, coupled with the intervening cancellation and subsequent reallocation of the coal blocks.

(h) The comparison of stripping ratios of TLCMP with the pooled stripping ratios of CIL is inappropriate, as stripping ratios are mine-specific and depend and vary with geological and operational parameters. Higher actual stripping ratios resulted from deficiencies in the earlier mining plan, and any excess OB removal is adjustable under Regulation 36N of the 2021 amended Tariff Regulations.

Additional Submissions of the Petitioner:

16. In compliance with the hearing dated 28.1.2025, the Petitioner, vide affidavit dated 10.3.2025, has submitted the following additional information:

(a) The details of the scope of work undertaken by the Petitioner and the MDO are provided as under:

S.No.	Scope of Work of the Petitioner	MDO's Scope
1.	Obtain the clearances for the Project.	Development and Operation of Coal Mine as per AMP, Approved Operational Plan and year on year approved Annual Production plans.
2.	Land acquisition Notification under CBA and relevant Land Acquisition Act(s)/ RFCTLARR Act, 2013 and subsequent documented payment for land acquisition and R&R.	The Mine Operator shall assist Owner for physical possession of land with the requisite rehabilitation/house demolition, R&R, etc.
3.	Provide statutory manpower as may be directed by DGMS.	Power distribution arrangement from the Main Receiving Substation for the entire mine, including infrastructure facilities and mining operations.
4.	All documented payments including payments to squatters, forest dwellers as per government norms, claimants certified under FRA 2006 & to encroachers certified by state Government for GMJJ Land, GM Land to be done by Petitioner.	Extraction of Overburden, Topsoil and Inter burden
5.	All direct and documented payments as per government norms to be made to the concerned authorities for Compliance to various clearances/approvals.	Extraction of Coal and delivery at designated locations at the size of -100 MM
6.	All payments as per government norms to be done by the Petitioner to State Government.	Mine Operator shall be responsible for Progressive Mine Closure Activities as per the approved Mine Closure

		plan/ guidelines during the term of the contract.
7.	Compliance to wild life conservation plan and implementation of site specific wild life Conservation Plan.	Construction of a Mine Workshop is required for the Mining Operation
8.	Fencing, protection and afforestation of the Owner's colony and infrastructure constructed by the Owner.	All expenditure related to the drilling and Blasting operation
9.	Provision of Electric Power up to MRS	Illumination in the Mine
10.	Construct the "Permanent Coal Evacuation System". Including construction of Coal handling plant (CHP) for conveying coal from pit to silos at railway siding	Water Management at the Mine
11.	All expenditure towards CSR Activities pertaining to the block	

(b) Further the details of Facilities created by the Petitioner vis-à-vis MDO is as under:

S.No.	**Scope of Work of the Petitioner**	**MDO's Scope**
1.	Coal Lab	Residential camp for the labourers and employees of MDO
2.	132/33 KV Main Receiving Subs-station (MRS)	Workshop for Heavy Earth Moving Equipment of MDO
3.	Vocational Training Centre (VTC)	Mine End Substation 33/6.6 KV substation
4.	Magazine for the storage of explosives	Diversion of Nallah as per the approved area drainage.
5.	Administrative office Building for employees of the Petitioner Office.	
6.	Township for Petitioner's employee	
7.	Various roads from the Township to the Administrative Building	
8.	Road weighbridges	
9.	2 nos. Wharf walls to facilitate coal evacuation	

(c) As per the original IA, coal production from TLCMP was scheduled to commence in November 2019 and, accordingly, production commenced during the said month. Thereafter, the NTPC Board, in its 550th meeting held on 30.11.2024, approved the RCE for the Talaipalli Mine, wherein the SCOD had been indicated as 1.10.2023.

(d) As per the MDO agreement executed, one of the key milestones stipulated was the commencement of mining operations within three months from the issuance of the LoA. However, the overall development of the mine formed part of the scope of work assigned to the Petitioner. The scheduled and actual dates of completion of the milestone activities relating to the integrated mine are provided as under:

S.No.	Milestone activities	Time Limit in Months (from the date of the Allotment Order/Zero date)	Scheduled date (As per agreement Schedule E)	Actual date	Regulatory Approval if any
1.	Zero date/Allotment order			8.9.15	Allotment order dated 8.9.15 attached in petition as Annexure-P11 @ page no 820
2.	Prospecting license/CBA (Sec-4)	0	8.9.15	Available before allotment order	
3.	Completion of Exploration and preparation of Geological Report (GR)	0	8.9.15		
4.	Mining Lease Application	3	8.12.15	NA	
5.	Submission of Mining Plan	6	8.3.16	3.1.2023*	*Earlier approved mine plan was found to be faulty and the same was modified and revised and approved by MoC on 26.9.2023.
6.	Mining Plan Approval	11	8.8.16	26.9.2023*	
7.	Previous Approval Application	12	8.9.16	NA	

8.	Previous Approval	13	8.10.16	NA	
9.	Forest Clearance Application	11	8.8.16		
10.	Forest Clearance	21	8.6.17	23.5.17	Revalidation of FC. The copy of FC is attached in COD petition @ page no 848
11.	Environment Clearance Application	11	8.8.16		
12.	Environment Clearance	21	8.6.17	28.10.15	Revalidation of EC. The copy of FC is attached in COD petition as Annexure P12 @ page no 841
13.	Grant of Mining Lease	24	8.9.17	NA	
14.	Land acquisition (to reach rated capacity) (forest land)	42	8.3.19	8.3.19	
15.	Opening of Escrow Account (forest land)	43	8.4.19	4.9.17	
16.	Application for Opening Permission (forest land)	43	8.4.19	22.1.18	
17.	Grant of opening permission (forest land)	44	8.5.19	23.3.19	
18.	Schedule of production	As per the approved mining plan	November 2019	14.11.2019	

(e) The coal production commenced in November 2019 in accordance with the IA. In terms of Regulation 5(3)(c) of the 2019 Tariff Regulations (as amended), the scheduled COD of the Talaipalli Mine was November 2021. However, as per the revised mine plan, 25% of the Peak Rated Capacity (6.25 MTPA out of 25 MTPA) was envisaged to be achieved by 2025–26, whereas the said milestone was actually achieved in 2023–24. From the commencement of coal production on 16.11.2019 until the declaration of COD on 1.10.2023, the cost of production remained higher than the value of production, and this continued through the end of 2023–24.

(f) During the third and fourth quarters of 2023–24, the TLCMP was operated by three mining agencies in different pits; the details thereof are as follows: (a) P C Patel Infra Private Limited, operating the West Pit, witnessed an escalation in the mining fee of Rs.4.29/tonne (approximately 1%), as reflected in Form-1C. (b) M/s. VPRMIPL, operating the East Pit from Q4, witnessed an increase of Rs. 11.05/tonne (approximately 1%) from bid opening to the first billing. (c) KCCL, engaged in the South Pit Extension, operated under item-wise rates governed by a separate escalation formula, resulting in a decrease of Rs.87.05/tonne (approximately 10.5%). The estimated input price considered in the IA is higher than the notified price of coal for the corresponding grade by CIL. Accordingly, coal is presently being dispatched and billed at the notified price of CIL until the input price of coal is determined by the Commission.

S. No.	Year	Target as per Mine Plan				Actual Achieved				Remarks
		Coal (tn)	OB (cum)	SR	Cumulative SR	Coal (tn)	OB (cum)	SR	Cumulative SR	
1.	2021-2022	8.00	31.98	4.00	4.00	0.41	2.45	5.96	5.82	As per initial approved mine plan
2.	2022-2023	13.00	51.97	4.00	4.00	2.40	14.55	6.06	5.97	
3.	2023-2024	3.50	21.10	6.03	4.23	7.54	32.11	4.26	4.83	As per revised approved Mining Plan

(g) Capital cost claimed as on COD i.e. 1.10.2023 is as follows:

(Rs. in lakh)

Particulars	As on 1.10.2023
Capital Cost	202763.18
Add: Notional IDC	3441.56
Add: ERV Charged to revenue	404.70
Add: Unamortised bond issue expense	497.16
Opening Capital Cost	**207106.60**

(h) Additional capitalisation claimed on actual basis from the COD of the Talaipalli Coal Mine, i.e., from 1.10.2023 to 31.3.2024:

i) Land

The expenditure towards land and asset compensation for project-affected persons has been claimed as additional capitalisation for 2023–24 under Regulation 36E(1)(e) of the 2019 Tariff Regulations (as amended), in terms of the approved land acquisition and R&R orders issued for coal-bearing areas.

ii) Construction of buildings:

Township buildings, administrative offices, and explosive storage facilities have been constructed as essential infrastructure to meet employees' housing and operational requirements, in accordance with the AMP (Chapter 5). These works, being necessary for sustained mining operations, were undertaken prior to achieving peak rated capacity and have been claimed under Regulation 36E(1)(e) of the 2019 Tariff Regulations, as amended.

iii) Railway Sidings:

As per Chapter 5 of the AMP, the development of a railway siding was essential for the evacuation of coal from the Talaipalli Mine to the end-use generating stations. Coal was transported from the pit to the siding and loaded onto railway wagons for dispatch. In addition, a CHP is being developed to facilitate the transportation of coal via conveyor belts for loading into silos at the siding for faster dispatch. Since the mine is designed for complete transportation of coal through rail, the additional capital expenditure towards the remaining works of the railway siding has been claimed under Form-9 of the tariff petition, under Regulation 36E(1)(a) of the 2019 Tariff Regulations and in accordance with the mine plan.

iv) Continuous ambient air quality monitoring station (CAQMS):

In compliance with the directions of the Chhattisgarh Environment Conservation Board (CSEB) and Chapter 8 of the AMP, CAQMS have been installed in and around the Talaipalli Mine for continuous monitoring of air quality. Since the installation of CAQMS is a statutory requirement, the associated expenditure has been claimed as additional capitalisation.

v) Electrical Installations

In order to ensure adequate illumination for safe mining operations, expenditure was incurred on the installation of 30-meter-high mast lighting poles in and around the Talaipalli Mine. The said installation forms part of the essential infrastructure as mandated under Chapter 5 of the mine plan and has been claimed as additional capitalisation under Regulation 36E(1)(a) of the 2019 Tariff Regulations.

vi) Miscellaneous Bought-Out assets (MBOAs):

MBOAs comprise essential items such as office equipment, furniture and fixtures, communications gadgets, plant & machinery tools, software, etc., which are required for office and mining operations. Such assets have been procured in 2023-2024 to meet the infrastructure requirement as per Chapter-5 of the AMP, under the following heads as per Regulation 36E(1)(a) of the 2019 Tariff Regulations, details of which are as follows:

S. No.	MBOAs Items	Justifications

1.	Plant & Machinery	This pertains to the Cost adjustment of Rs 0.92 lakh, and the same has been suitably adjusted in the capital cost.
2.	Office equipments	Various office use items like AC, Water purifier and cooler, heater, etc., are required for the smooth running of the mining operations and for the manpower deployed for mining.
3.	EDP, WP Machines & Satcom equipments	MBOAs items like computers, firewalls, storage devices, etc., have been procured, which are necessary items for better monitoring and execution of mining operations at Talaipalli.
4.	Communication equipments	Communication items like people and machinery tracking system, audio- visual system, EAPBX system for local telephonic communication purposes, etc., have been procured and installed at the Mine. Communication system is the backbone of any industrial activity, and a robust communication system helps in better monitoring and tracking of mining activities and prevents accidents.
5	MBOAs: Software	AutoCAD software has been procured and installed at Talaipalli Mine for various mining-related activities.

vii) Road, Bridges and Culvert:

The construction of a pipe culvert in the western area of the mine, forming part of the basic infrastructure required for daily mining operations. The work had been undertaken in accordance with Chapter 5 of the AMP and claimed as additional capitalisation under Regulation 36E(1)(a) of the 2019 Tariff Regulations (as amended).

viii) MDO (TEMPL) settlement amount:

TEMPL, one of the MDOs, disputed the initial AMP based on its field study at the Talaipalli Mine and declined to commence mining operations. Subsequently, the said MDO approached the Hon'ble High Court of Delhi seeking reimbursement of expenditure incurred by it. On account of non-performance, the Petitioner terminated the contract. Thereafter, the matter was referred to arbitration, and pursuant to reconciliation between the parties, the MDO paid Rs. 5,883.09 lakh, which has been adjusted by reducing the capital cost.

ix) Arrear Reserve Price up to COD:

The arrear payment towards the fixed reserve price of coal supplied up to the COD was made to the State authorities in accordance with the provisions of the Coal Mines (Special Provisions) Act, 2015 and the Allotment Agreement for the Talaipalli Mines. Since the reserve price is subject to escalation, and the arrears arose on account of such escalation for the period up to COD, the payment towards the same was made post-COD. While the income was correctly recognised as on COD, the corresponding expenditure was inadvertently omitted, resulting in a reduction in the capital cost. The said omission, being an accounting error, may be allowed to be corrected under Regulation 76 of the 2019 Tariff Regulations.

x) Liability Discharge:

The discharge of liabilities has been claimed for the works completed as per Regulation 36E(l)(b) of the 2019 Tariff regulations. The details have been provided in Form-N.

xi) Cost of Captive Coal

This comprises payment to MDO for coal extraction, Statutory payments (Royalty, DMF, NMET, Forest Tax, environment cess, Development Cess), Cost of sampling & loading, and change in stock.

(***Rs. in lakh***)

S. No.	**Details of the Cost of Captive Coal Mining**	**Up to COP**	**2019-20**	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**Total**
1.	Extraction of Coal (MDO expenditure)	1007.82	503.91	7313.67	4217.55	25991.71	33357.87	72392.54
2.	Transportation of Coal	-	-	-	-	213.99	472.95	686.95
3.	Environment Cess on Coal (Statutory payment @ Rs 11.25/MT)	-	-	119.64	64.25	272.22	445.05	901.16
4.	Infrastructure & Develop Cess (Statutory payment @ Rs 11.25/MT)	-	-	119.64	64.25	272.22	445.05	901.16
5.	Forest Tax on Coal (Statutory payment @ Rs 19.32/MT)	-	-	47.56	29.01	411.06	764.29	1251.92

6.	Change in stock (Difference in opening stock and closing Stock)	-	2007.91	990.34	744.72	-3236.10	2646.06	-862.88
7.	Royalty-Coal Production (Statutory payment of 14% on the notified price of CIL)	-	-	1374.07	716.48	2808.24	4580.42	9479.22
8.	Distt Mineral Foundation Exp-Coal (Statutory payment of 10% on Royalty)	-	-	137.41	71.65	280.82	458.04	947.92
9.	NMET-Coal (Statutory payment 2% on Royalty)	-	-	27.48	14.33	56.16	91.61	189.58
10.	Reserve Price-Coal (Statutory payment @ Rs 100/- MT)	149.72	74.86	957.80	481.90	2808.33	3634.43	8107.04
	Total	**1157.54**	**1429.14**	**11087.60**	**6404.15**	**29878.68**	**46895.78**	**93994.60**

xii) The detailed breakup of liabilities of Rs. 1445.94 lakh corresponding to establishment expenditure of Rs. 54747.74 lakh, as on 1.10.2023 is as follows:

S.No.	Details of work	Amount (Rs. in lakh)
1.	OGL and Excavation survey by CMPDIL	46.52
2.	Mining at southpit TLCMP	47.53
3.	Construction of various civil works at NTPC TLCMP.	3.07
4.	Water supply connection in the 132 kV substation	0.08
5.	Annual rate contract for installation of MS tubular poles, laying of cable	1.84
6.	Barbed wire fencing first phase(5KM) along the project boundary of the south	4.20
7.	Civil works for simulator Installation TLCMP.	5.12
8.	VARIOUS DEVELOPMENTAL WORKS A COAL CRUSHER SHED B COAL SAMPLING	8.40

9.	Procurement of outdoor type changeover switchboard and Distribution boards.	0.39
10.	Procurement of electrical Items for Talaipalli CMP	0.28
11.	Procurement of Hume pipes of diameter 600mm 24 nos, each 2.5m length and 1000 mm, 24 nos each 2.5m length	0.12
12.	Procurement of LED Flood lights TLCMP	0.13
13.	Procurement of Digital Electromagnetic flow meter.	0.04
14.	Procurement of CO2 Fire Extinguisher for the store room at 132 KV	0.10
15.	PROVIDING COURIER SERVICE	0.34
16.	Deployment of ad-hoc manpower for LA	0.04
17.	OVERHAULING OF DG SET MAKE-MAHINDRA POWEROL (02 Nos.) of TALAIPALLI COAL MINING PROJECT	0.17
18.	Procurement of steel almirah for the Tehsildar Office Raigarh	0.13
19.	Supply and Installation of 1 No. 2 HP Submersible Pump Including Necessary Accessories to SC/ST Boys Hostel at Gharghoda	1.32
20.	HORTICULTURE FOR 132 KV SWITCHYARD	0.67
21.	Procurement of Fibre Splicing Machine for PB, DL and TLCMP.	0.02
22.	Drilling and Installation of fifteen (15) numbers of borewell for TLCMP.	2.20
23.	Construction, transportation & erection of RCC pillars along mine boundaries.	0.58
24.	Construction of Hume pipe culvert on the coal transportation route for mine	0.50
25.	Repair of kutcha road at Village Talaipalli Under CD-CSR activity	1.01
26.	Mine end MDO Liability	884.28
27.	Reserve price of coal	436.90
	Total	1445.94

xiii) The detailed break-up of MBOAs as per Form-B is tabulated is as under:

S. No.	Asset details	Accrual Basis	Liabilities	Cash Basis
1.	Furniture for office and establishment	635.71	0.00	635.71
2.	Office equipment’s	358.76	4.78	353.97
3.	Computers, Printers, etc.	252.06	2.22	249.84
4.	Communication equipment, including networking	104.23	1.30	102.93
5.	Hospital equipment	90.15	0.34	89.81
6.	Laboratory and workshop equipment	53.23	2.17	51.06
7.	Software	51.40	0.51	50.89
	Total	**1545.54**	**11.32**	**1534.21**

(i) Regulation 36J(1) of the 2021 Second Amendment Regulations, dealing with the computation of working capital for integrated coal mines, provides as under:

> *"(1) The working capital of the integrated mine(s) of coal shall cover:*
>
> *(i) Input cost of coal stock for 7 days of production corresponding to the Annual Target Quantity for the relevant year;*
>
> *(ii) Consumption of stores and spares including explosives, lubricants, and fuel @15% of operation and maintenance expenses, excluding mining charges of the Mine Developer and Operator (MDO) and annual charges of any other agency engaged by the generating company; and*
>
> *(iii) Operation and maintenance expenses for one month, excluding mining charges of the MDO and annual charges of any other agency engaged by the generating company."*

(j) In light of the above, the components of working capital explicitly exclude mining charges payable to the MDOs or any other external agency. Accordingly, the O&M charges reflected at Serial No. 7 of Form-2B under the head *"Actual annual O&M in terms of Regulation 36I"* include only in-house O&M expenses incurred directly by the Petitioner.

(k) The scope of in-house O&M activities undertaken by the Petitioner includes, but is not limited to, the following:

i) Appointment of statutory personnel such as Mine Agent, Mine Manager, Safety Officer, Assistant Managers, Colliery Engineer, Surveyor (Head), and Blasting Overman/Foreman as required under applicable law or directions of the Director General of Mines Safety (DGMS);
ii) Supervision and monitoring of MDO operations;
iii) Joint sampling and weighment of coal;
iv) Joint survey of overburden removal;
v) Verification, processing, and reconciliation of fortnightly advances and monthly bills of the MDO;
vi) Managerial and planning services;
vii) Operation and maintenance of constructed buildings and the Petitioner's electrical systems;
viii) Land acquisition, rehabilitation and resettlement (R&R), and CSR-related activities; and
ix) Security and IT services.

(l) For undertaking the above in-house O&M activities, the Petitioner had deployed its own manpower at the Talaipalli Mine and remains responsible for the repair and maintenance of the assets falling within its scope. The expenditure on the consumption of stores and spares associated with these activities has been incurred by the Petitioner; accordingly, the O&M expenses for the period 2023–24 have been claimed on an actual basis, as reflected in the additional submissions.

(m) The O&M charges at Serial No. 8 of Form-2B, under the head *"Annual Charges of Agency(ies) other than MDO,"* relate to payments made to the Central Institute of Mining and Fuel Research (CIMFR) for coal quality testing, as well as loading charges borne by the Petitioner due to the non-completion of permanent loading facilities.

(n) The charges paid to agencies other than the MDO are permitted to be included as part of the O&M expenses. The relevant portion of the provisions of Regulation 36I(3) of the 2021 Second Amendment Regulations is as under:

> *"(3) Where an agency other than Mine Developer and Operator is engaged by the generating company, through a transparent competitive bidding process, for crushing or transportation or handling or washing or any combination thereof, the annual charges of such agency shall be considered as part of Operation and Maintenance Expenses under clause (1) of this Regulation, subject to prudence check by the Commission."*

Accordingly, the charges paid to such agencies have been included under O&M expenses, in compliance with the said Regulation.

(o) The activities undertaken by the Petitioner, as well as those executed by agencies other than the MDO, are of an operational and maintenance nature and have accordingly been included under O&M expenses for computation of the working capital components, in accordance with the applicable regulations.

(p) In terms of the applicable regulations, provision has been made for maintaining coal stock equivalent to seven days of production, based on the Annual Target Quantity (ATQ), to ensure uninterrupted coal supply to the end-use generating station, in the event of operational disruptions at the mine.

(q) The Form-15 (non-tariff income) has been placed on record. There is no non-tariff income in respect of the Talaipalli Mine under the 2019 Tariff Regulations, as amended.

(r) No item, asset, or work has been claimed under exclusions. Accordingly, Form-F is not applicable.

(s) The selling price of coal up to the COD has been considered at the notified price of CIL for the relevant grade. Post-COD, the input price has been adopted as claimed in the additional submissions.

<u>Hearing dated 23.4.2025 and 20.5.2025</u>

17. During the hearing on 23.4.2025, the Petitioner circulated a note of arguments and made detailed submissions on the reasons for the delay in declaring COD.

However, owing to paucity of time, the Respondents could not advance their arguments, and the matter was adjourned as part-heard. The Petition was thereafter finally heard on 20.5.2025, wherein Respondent CSPDCL circulated its note of arguments opposing the maintainability of the Petition on the ground that the time overrun was not attributable to uncontrollable factors, and the submissions thereof were also adopted by Respondents MPPMCL and MSEDCL. Additionally, Respondent, MSEDCL, contended that the stripping ratio furnished by the Petitioner was abnormally high. The Commission thereafter permitted the parties to file their written submissions and reserved its order in the Petition.

Written Submissions of the MPPMCL

18. In compliance with the ROP dated 20.5.2025, the Respondent MPPMCL has filed its written submissions, which are summarised as under:

(a) Coal extraction from the South Pit of Talaipalli Coal Mine commenced on 16.11.2019. Accordingly, in terms of Regulation 5(3)(c) of the 2021 Second Amendment Regulations, the COD is deemed to be 16.11.2021. The Regulations do not provide a separate mechanism for the declaration of COD.

(b) The reasons provided by the Petitioner for the delay in COD clearly fall under the scope of controllable factors under Regulation 22(1)(a)–(b), and not within the scope of Regulation 22(2)(a)–(c) of the 2019 Tariff Regulations (as amended). Therefore, the delay is attributable to the Petitioner or to its contractors.

(c) The claim of the Petitioner regarding the infeasibility of the original AMP, approved on 31.3.2010, cannot be considered a valid ground for delay. The alleged infeasibility was identified only in November 2020, which reflects a lack of due diligence on the part of the Petitioner and does not justify the delay in the declaration of COD.

(d) The condonation of delay would result in an unwarranted and unjustified increase in the capital cost, thereby burdening the beneficiaries. In terms of Regulation 5(3) of the 2019 Tariff Regulations (as amended), the COD cannot be considered beyond 16.11.2021, and the delay, being attributable to controllable factors, is not liable to be condoned.

(e) The projected stripping ratios for the periods 2021–22 and 2022–23 were 4.25 and 4.29, respectively, whereas the actuals were 5.98 and 6.11, representing an increase of approximately 41–42%. In comparison, the average stripping ratios of CIL for the corresponding period were 2.71 and 2.88, indicating that the Petitioner's figures are higher by approximately 121–112%, thereby raising concerns about operational efficiency and cost prudence.

(f) A detailed prudence check may be undertaken to ensure that the beneficiaries are not burdened with inflated costs arising from excessive stripping ratios.

Written Submissions of MSEDCL

19. In compliance with the hearing dated 20.5.2025, Respondent MSEDCL has filed its written submissions, which are summarised as under:

(a) The timeline of key events is briefly outlined hereunder, to facilitate a comprehensive understanding of the plea for extension of SCOD:

S. No.	Date	Event
1.	25 January 2006	The MoC granted in-principle consent for the allocation of the Talaipalli coal block.
2.	12 June 2006	The Petitioner signed an MoU with Mineral Exploration Coal Limited (MECL) for exploration and geological reporting.
3.	29 September 2008	MECL submitted the Geological Report (GR) to the Petitioner.
4.	-	The Petitioner invited bids for a Mining Plan and Feasibility Report (FR).
5.	24 June 2009	The Petitioner awarded a Letter of Award to Advance Coal Management & Marketing Pvt. Ltd., New Delhi (ACMM), for the Mining Plan and FR preparation.
6.	10 November 2009	The Mining Plan was submitted to the MoC for approval.
7.	20 January 2010	The MoC requested revisions to the Mining Plan in response to technical suggestions.
8.	5 February 2010	The Petitioner submitted the revised Mining Plan to the MoC.
9.	31 March 2010	The Ministry of Coal approved the Mining Plan for the Talaipalli Coal Block.
10.	30 September 2010	The Feasibility Report prepared by ACMM was submitted.
11.	12 November 2010	NTPC Board recommended standard guidelines for FR preparation.
12.	2 January 2013	MoEF & CC granted EC for the coal mine.
13.	5 November 2012 & 29 January 2014	Forest clearances for Stage-I & II were granted by MoEF & CC.
14.	25 February 2013	The updated FR was approved by the Project sub-committee.

S. No.	Date	Event
15.	24 September 2014	The Supreme Court cancelled the allocation of the Talaipalli coal block.
16.	18 December 2014	GoI issued an order for coal mine allotment under new provisions.
17.	27 March 2015	An allotment agreement was executed between the President of India and the Petitioner.
18.	7 September 2015	The allotment agreement was amended to revise efficiency parameters.
19.	8 September 2015	The MoC re-allotted the Talaipalli Coal Mine to the Petitioner.
20.	1 October 2015	The Petitioner submitted the Commencement Plan for the coal block.
21.	28 October 2015	EC was granted for the Talaipalli Coal Mine.
22.	31 December 2015	The Petitioner floated a tender for an MDO.
23.	9 May 2016	Bids for the MDO were finally opened after multiple extensions.
24.	22 March 2017	The Petitioner’s Board approved an investment of Rs. 3004 Crores for the coal mine.
25.	-	The Revised Cost Estimate is pending Board approval due to changes in project scope.
26.	23 May 2017	MoEF&CC granted Forest Clearance for the Talaipalli Coal Mine.
27.	13 November 2017	The consortium comprising of M/s. NCC Limited and M/s. BGR Mining & Infra Private Limited (NCC-BGR) received a Letter of Award for the development and operation of the mine.
28.	7 March 2019	The Commission notified the 2019 Tariff Regulations.
29.	19 June 2019	A small contract was awarded to M/s SS Chhatwal & Company for mining operations in the south pit.
30.	4 July 2019	The contract with NCC-BGR was terminated due to a CBI FIR against a director.
31.	19 August 2019	A second tender was issued for appointing a new MDO for 25 years.
32.	1 November 2019	The Petitioner informed MoC that mining operations commenced from the south pit on 15 October 2019.
33.	19 November 2019	The Petitioner notified MoC that coal extraction began on 16 November 2019.
34.	26 August 2020	M/s Thriveni Earthmovers Pvt. Ltd. (TEMPL) was awarded the new MDO contract for the mine.
35.	27 August 2020	TEMPL accepted the Letter of Award for mine development.
36.	23 September 2020	A Project Agreement was executed with TEMPL.
37.	25 October 2020	TEMPL mobilised resources for mine development.
38.	23 November 2020	The Petitioner requested TEMPL to align its Draft Operational Plan with the Approved Mining Plan (AMP).

S. No.	Date	Event
39.	27 November 2020	TEMPL raised concerns about discrepancies in coal and overburden quantities.
40.	5 December 2020	The Petitioner requested TEMPL to submit a revised operational plan based on the Approved Mining Plan.
41.	1 February 2021 – 2 February 2021	Meetings were held to address operational issues between TEMPL and the Petitioner.
42.	19 February 2021	This Hon'ble Commission notified the Second Amendment Regulations, 2021, defining the commercial operation date.
43.	11 March 2021	The Petitioner urged TEMPL to proceed with mining operations as per the Project Agreement.
44.	4 May 2021	TEMPL declared the Project Agreement unworkable and sought to terminate it.
45.	10 May 2021	The Hon'ble High Court proposed a settlement between the parties while suspending TEMPL's termination notice.
46.	23 July 2021	Central Mine Planning and Design Institute Limited (CMPDIL) was engaged as an independent consultant for technical feasibility.
47.	7 September 2021	CMPDIL submitted a report stating the Approved Mining Plan was not feasible.
48.	16 November 2021	In light of the Second Amendment Regulations, 2021, the COD for Talaipalli Coal Mine was established.
49.	4 October 2021	MoC convened a meeting to review coal production from allocated mines.
50.	6 October 2021	The Petitioner informed MoP about CMPDIL's report on the unfeasibility of the Approved Mining Plan.
51.	9 October 2021	A meeting was scheduled with TEMPL to discuss the start of mining operations.
52.	18 October 2021	TEMPL indicated that new parameters must be approved by regulatory authorities.
53.	26 October 2021	The Petitioner notified MoC about CMPDIL's observations on the Approved Mining Plan.
54.	19 November 2021	The Petitioner engaged IIT-ISM for technical vetting of CMPDIL's findings.
55.	30 November 2021	A Board meeting was held to discuss the status and targets for Talaipalli Coal Mine.
56.	13 January 2022	IIT-ISM submitted its final report, echoing CMPDIL's concerns regarding the Mining Plan.
57.	18 January 2022	The Petitioner requested TEMPL to commence work within 14 days or face default actions.
58.	28 January 2022	TEMPL responded, claiming CMPDIL's findings made the project unworkable.
59.	8 March 2022	The Petitioner terminated the Project Agreement with TEMPL.

S. No.	Date	Event
60.	6 May 2022	The Petitioner awarded CMPDIL the task of preparing a Conceptual Plan and Feasibility Report.
61.	17 June 2022	A MoC meeting noted a significant coal production shortfall attributed to Talaipalli Coal Mine.
62.	9 November 2022	Coal production commenced from the south pit extension. M/s Kalinga. Commercial Corporation Ltd. (KCCL) was appointed through a competitive bidding route.
63.	30 November 2022	CMPDIL submitted a final draft of the revised Mining Plan.
64.	10 December 2022	Coal production started from the west pit. M/s PC Patel Infra Private Limited (PCPIPL) was appointed through a competitive bidding route.
65.	3 January 2023	The revised Mining Plan was put up for approval.
66.	6 April 2023	Hearing concluded for the Lara petition, with the order reserved regarding capital cost considerations.
67.	6 September 2023	The reverse auction for appointing an MDO for the East pit was completed.
68.	11 September 2023	The Petitioner notified beneficiaries about the proposed commercial operation date.
69.	26 September 2023	MoC approved the mining plan and mine closure plan.
70.	1 October 2023	The proposed date for commercial operation of the Talaipalli Coal Mine was set, noting a delay of 22.5 months.
71.	16 October 2023	The Petitioner issued a Letter of Award to M/s VPR Mining Infrastructure Private Limited for the East pit operations.

(b) The updated Feasibility Report for Q1 of 2012–13 was approved by the Project Sub-Committee only on 25.2.2013, after a delay of about 27 months. No justification has been provided for such an inordinate delay, and the same cannot be condoned at the cost of the beneficiaries.

(c) The Petitioner has sought revision of the COD to 1.10.2023. However, mining commenced on 15.10.2019, and coal extraction began on 16.11.2019. Accordingly, in terms of Regulation 5(3) of the 2021 Second Amendment Regulations, the COD is deemed to be 16.11.2021, and any delay beyond that date is attributable solely to the Petitioner.

(d) The original AMP sanctioned on 31.3.2010 was found to be infeasible only in November 2020, i.e., nearly ten years after its approval by the newly appointed MDO, TEMPL. However, despite sufficient time between the approval of the mining plan and the appointment of the first MDO in November 2017, the Petitioner failed to assess its viability or initiate a revision of the AMP, thereby indicating a lack of due diligence.

(e) While the initial delays arising out of cancellation of the mine and litigation with the first MDO may be considered uncontrollable, the delay arising from the infeasibility of the AMP was within the control of the Petitioner. The same cannot be treated as a force majeure event, as the Petitioner had sufficient time to revise the AMP and avoid a delay in the declaration of COD.

(f) The delay of 22.5 months, as claimed by the Petitioner in achieving COD, would result in an escalation of capital cost due to its own inaction. Even if the revised costs remain within the estimates, shifting such a burden onto the beneficiaries, including MSEDCL, would be unjustified. Accordingly, the COD is to be considered as 16.11.2021, and the tariff is to be determined on that basis.

(g) The Petitioner had projected stripping ratios of 4.25 and 4.29 for 2021–22 and 2022–23, whereas the actual stripping ratios were 5.98 and 6.11, representing an increase of approximately 41–42%. In comparison, the average CIL stripping ratios for the corresponding period were 2.71 and 2.88, indicating that the Petitioner's figures are higher by approximately 121–112%. The Respondent MSEDCL prayed that a prudence check be undertaken to safeguard beneficiaries from the impact of inflated costs.

<u>Written Submissions of CSPDCL</u>

20. In compliance with the hearing dated 20.5.2025, the Respondent, CSPDCL, has filed its written submissions, which are summarised as under:

(a) The Petitioner has not placed on record the prescribed item-wise timeline of components, which is essential for assessing the extent of delay.

(b) The registration of FIR against the MDO, NCC-BGR, and its director in relation to allegations of illegal gratification cannot be treated as an uncontrollable factor. Any unlawful acts by the Petitioner or its contractor fall within their own domain and cannot be considered beyond their control.

(c) The Petition, to the extent it pertains to the claim for time overrun of 22.5 months, is barred by limitation, as the statutory period for claiming compensation under Change in Law has already lapsed and the Petitioner has failed to disclose this material fact. Accordingly, the Petition is liable to be dismissed as time-barred, having been filed beyond the three-year limitation period under Article 137 of the Limitation Act, 1963. However, no application for condonation of delay under Section 5 of the Limitation Act has been filed.

(d) The Petitioner has raised claims relating to time overrun for the period 2007–2023 without issuing any force majeure notice, despite the cost escalation from Rs.3,000 crore to Rs.4,000 crore. In accordance with the terms of the PPA dated 25.11.2011, issuance of a force majeure notice within a reasonable time was mandatory. However, no such notice was served on the Respondent.

(e) While seeking condonation of delay, the Petitioner has failed to provide item-wise timelines necessary for computation of the input price. The preparation and approval of the mining plan were the responsibility of the Petitioner, and the delay arising from lack of follow-up and poor execution cannot be condoned, as the Petitioner's plea lacks merit.

(f) The time and cost overruns have arisen from controllable factors; the burden of such inefficiencies ought not to be passed on to the end consumers.

Analysis and Decision

21. The present Petition has been filed seeking approval of the input price of coal from the TLCMP, along with the condonation of the delay in achieving the COD of the mine and other consequential reliefs. We take note of the additional submissions filed by the Petitioner, in the nature of a truing up exercise based on the actual capital expenditure incurred, including the discharge of pending liabilities as on 31.3.2024. The Petitioner sought revision of the input price of coal from the TLCMP for the period from 1.10.2023 to 31.3.2024. Considering the submissions and compliance with respective procedural requirements, we proceed to examine the Petition in accordance with the applicable provisions of the 2019 Tariff Regulations and the amendments thereto.

Maintainability of the Petition

22. The Respondents CSPDCL and MSEDCL have raised objections regarding the maintainability of the Petition, inter alia, on the grounds of limitation, as it pertains to claims dating back to 2007–2019 and was filed without any application for condonation of delay under the Limitation Act, 1963. Relying on Sections 3 and 5 of the Limitation Act, 1963 and Section 175 of the Act, the Respondents argue that the Commission is bound to dismiss time-barred claims and cannot grant relief beyond pleadings. The Respondents have also submitted that the Petitioner is attempting to revive stale

claims under the guise of a continuing cause of action, which is impermissible, and that, under the 2019 Tariff Regulations, delays and cost overruns attributable to the Petitioner, being controllable factors, cannot be passed on to the beneficiaries.

23. The Respondents have attributed the entire delay in execution of the TCLMP to the Petitioner's own lapses, including poor planning, lack of due diligence, ineffective contractor management, and failure to enforce contractual remedies. It has been argued by the Respondents that issues such as disputes with the MDO, termination of contracts, an unworkable mining plan, and delays in key milestones, including geological reports, mining plan approvals, financial closure, and consultant appointments, were all within the Petitioner's control. The Respondents further contended that the Petitioner failed to align mining operations with the generating units' COD, did not provide a credible project timeline or supporting data, and has not discharged the burden of proving that delays were due to uncontrollable factors. The Respondents have further submitted that the Petitioner has failed to issue a force majeure notice as required under the PPA executed between the parties.

24. In its rejoinder, the Petitioner has submitted that the 2019 Tariff Regulations, read with the Second Amendment to the Tariff Regulations 2019, contain regulations to deal with the prayers which are sought by the Petitioner in the present Petition. Some of the Regulations, upon which the Petitioner has relied for the adjudication of the present Petition, are as follows:

Re. Tariff Regulations 2019

(a) Regulation 3(44) - Definition of New project.
(b) Regulation 3(25) - Definition of Force Majeure.
(c) Regulation 3(50) - Definition of Project.
(d) Regulation 9 (4) - Generating company having an arrangement for the supply of coal from an integrated mine shall file a petition for determination of input price for determining the energy charge in accordance with Chapter 9.

(e) Regulation 22 (2) (a): Force Majeure events shall be considered as an uncontrollable factor for deciding time over-run, cost escalation, IDC and IEDC of the project

(f) Regulation 36 – Input price of coal and lignite for energy charges.

Re. Second Amendment to the Tariff Regulations 2019.

(a) Regulation 2 (1a) – States the scope of application of the Second Amendment, 2021.

(b) Regulation 5 (3) - The date of commercial operation in case of integrated mine(s) shall mean the earliest of:

- The first date of the year succeeding the year in which 25% of the Peak Rated Capacity as per the Mining Plan is achieved; or
- The first date of the year succeeding the year in which the value of production estimated in accordance with Regulation 7A of these regulations, exceeds total expenditure in that year;
  or
- The date two years from the date of commencement of production.

(c) Proviso to Regulation 9 (4) - A generating company with integrated mine(s) shall file a petition for determination of the input price of coal or lignite from the integrated mine(s) not later than 60 days from the date of commercial operation of the integrated mine(s).

(d) Regulation 36A – Input price of coal or lignite

(e) Regulation 36B – Run-of-Mine (ROM) cost.

(f) Regulation 36C – Additional Charges.

(g) Regulation 36K – Mine Closure expenses.

(h) Regulation 36L – Determination of Input price.

(i) Regulation 36M – Recovery of Input Charges.

25. The Petitioner has submitted that the delays highlighted by the Respondents are inconsequential, as the allocation of the Talaipalli coal block itself stood cancelled by the Hon’ble Supreme Court in *Manohar Lal Sharma v. Principal Secretary & Ors.* (2014) 9 SCC 516, along with several other coal blocks. It is argued that since the Respondent, CSPDCL, has accepted the said judgment, it cannot raise concerns regarding delays prior to 24.9.2014. The Petitioner has further stated that the coal block was re-allotted on 18.2.2015, followed by the execution of an allotment agreement with the President of India on 27.3.2015, which was later amended on 7.9.2015 to revise the efficiency parameters. Subsequent steps included the

revalidation of the environmental clearance on 28.10.2015 and the issuance of a tender to select an MDO on 31.12.2015. The Petitioner has submitted that later developments, viz., the selection of NCC-BGR as MDO on 13.11.2017 and the termination of the MDO agreement with NCC-BGR on 4.7.2019, were due to reasons beyond its control. Following the termination, a fresh tender was issued on 19.8.2019 to select a new MDO, and a contract was awarded to M/s S.S. Chhatwal & Co. through competitive bidding on 19.6.2019 for the undertaking of mining operations. The Petitioner has further explained the execution of the TCLMP mining project from 16.11.2019 to 01.10.2023 (22.5 months), due to unworkable deficiencies in the initially approved mine plan, as identified by CMPDIL and TEMPL and technically vetted by IIT-ISM. Consequently, the Petitioner engaged CMPDIL to prepare a revised mine plan and awaited its approval from the MoC. Meanwhile, all statutory clearances and approvals, including EC, FC, R&R, DGMS permissions, and over 90% of land acquisition, had already been obtained. The 22.5-month delay in achieving COD (from 16.11.2021 to 1.10.2023) was solely due to circumstances beyond the Petitioner's control.

26. We have considered the submissions of the parties. It is noted that Regulation 36 of the 2019 Tariff Regulations, as amended, provides the framework for the determination of the input price of coal from integrated mines of generating companies, based on various cost components. Further, Regulation 5(3) of the 2021 Second Amended Regulations provides for determination of the date of commercial operation in the case of integrated mines, reproduced as under:

> *"[(3) The date of commercial operation in case of integrated mine(s), shall mean the earliest of —*
> *a) the first date of the year succeeding the year in which 25% of the Peak Rated Capacity as per the Mining Plan is achieved; or*
> *b) the first date of the year succeeding the year in which the value of production estimated in accordance with Regulation 7A of these regulations, exceeds total expenditure in that year; or*

c) the date of two years from the date of commencement of production:

Provided that on earliest occurrence of any of the events under sub-clauses (a) to (c) of Clause (3) of this Regulation, the generating company shall declare the date of commercial operation of the integrated mine(s) under the relevant sub-clause with one week prior intimation to the beneficiaries of the end-use or associated generating station(s);

Provided further that in case the integrated mine(s) is ready for commercial operation but is prevented from declaration of the date of commercial operation for reasons not attributable to the generating company or its suppliers or contractors or the Mine Developer and Operator, the Commission, on an application made by the generating company, may approve such other date as the date of commercial operation as may be considered appropriate after considering the relevant reasons that prevented the declaration of the date of commercial operation under any of the sub-clauses of Clause (3) of this Regulation;

Provided also that the generating company seeking the approval of the date of commercial operation under the preceding proviso shall give prior notice of one month to the beneficiaries of the end-use or associated generating station(s) of the integrated mine(s) regarding the date of commercial operation.]"

27. In terms of the above, the generating companies are required to approach the Commission for approval of the input price of coal, and the regulations also enable the Commission to consider the circumstances leading to the delay in achieving the scheduled COD.

28. We have carefully considered the preliminary objections and the submissions of the parties and observe that the Petition has been filed within the timeline prescribed under Regulation 9(4) of the 2019 Tariff Regulations, as amended by the 2021 Second Amendment Regulations, which provides for a specific mechanism for filing petitions for determination of the input price of coal from integrated mines.

29. We note that the objection on maintainability is to be examined in light of the proviso to Regulation 5(3) of the 2021 Second Amendment to the 2019 Tariff Regulations. The said proviso envisages circumstances for such a date of commercial operation when the integrated mine is ready for operation, but declaration of COD is prevented due to reasons not attributable to the generating company or its contractors, including the MDO. Thus, the regulatory framework itself contemplates situations in which COD may not be declared in the ordinary course and provides a mechanism for

determining an appropriate COD upon application by the generating company. In this backdrop, the present Petition, which seeks determination in terms of the said proviso, is founded on an express statutory provision and cannot be rejected as not maintainable. Although the Respondents have contended that the claims are barred by limitation, the present proceedings pertain to the determination of the input price of coal under the statutory framework of the Electricity Act, 2003 (the Act) and the 2019 Tariff Regulations. Such tariff determination is a continuing statutory exercise linked to the declaration of COD of the integrated mine, and the cause of action crystallises in terms of the Regulations, particularly Regulations 5(3) and 9(4) of the 2019 Tariff Regulations, as amended. Accordingly, the present Petition cannot be rejected as time-barred merely on the basis of historical events, especially when the coal block itself was cancelled by the Hon'ble Supreme Court and subsequently reallocated in 2015, thereby shifting the relevant period of consideration.

30. Further, the issues raised by the Respondents regarding delay, inefficiency, lack of due diligence, and absence of force majeure are matters that go to the merits of the claims and require examination under a prudence check in terms of the tariff regulations, and not to the maintainability of the Petition itself. We further observe that the Petitioner has complied with the procedural requirements prescribed under the applicable regulations, including payment of filing fees, service of copies of the Petition upon the Respondents, and filing of requisite forms and supporting documents. Our jurisdiction to determine input price under the regulatory framework remains intact once the Petition is filed in accordance with the applicable tariff regulations. Accordingly, we hold that the Petition is maintainable. However, the admissibility of the claims and the extent to which costs or delays can be allowed would be subject to detailed scrutiny on the merits.

Time Overrun

31. The Petitioner has submitted that there was a delay of 22.5 months in declaring the COD of the Talaipalli Coal Mine, which was originally scheduled for 16.11.2021 in accordance with Regulation 5(3)(c) of the 2021 Second Amendment Tariff Regulations. According to the Petitioner, the delay was caused by uncontrollable circumstances, primarily the discovery of technical and operational deficiencies in the AMP, which had been prepared by an RQP and approved by the MoC in 2010. These deficiencies were identified only during field implementation by the newly appointed MDO, TEMPL, in the latter part of the year 2020. The Petitioner has submitted that TEMPL informed that the mining plan was unworkable due to inadequacies in dump planning, overburden estimates, and stripping ratios and upon escalation of the matter, the Petitioner appointed CMPDIL as an independent consultant to assess the feasibility of mining operations based on the AMP. The Petitioner has further submitted that CMPDIL's report dated 7.9.2021 confirmed that the AMP was not feasible beyond five years of mining due to limited dump capacity, and subsequently, the Petitioner engaged IIT-ISM Dhanbad to provide an opinion in the matter, and the latter also confirmed that the AMP was fundamentally flawed. The Petitioner has submitted that, consequently, the contract with TEMPL was terminated and CMPDIL was appointed to prepare a revised mining plan. The revised mining plan was submitted to MoC and was finally approved on 26.9.2023. Accordingly, COD was declared on 1.10.2023.

32. *Per Contra,* the Respondents, CSPDCL, MSEDCL, and MPPMCL, while opposing the Petitioner's prayer for condonation of delay, submitted that the delay is attributable to controllable factors and not force majeure events and hence cannot be condoned under the Tariff Regulations. CSPDCL has submitted that the Petitioner has failed to exercise its due diligence and has not furnished item-wise timelines or issued

any notice of force majeure, which were essential for establishing the uncontrollable circumstances. It has been further submitted by the Respondents that the Petitioner, being solely responsible for preparation and approval of the mining plan, must be held accountable for its deficiencies, especially when the infeasibility of the plan was discovered nearly ten years after its approval. The Respondents pointed to delays in awarding the contracts to the MDO, lack of contractual enforcement such as imposition of liquidated damages, and the absence of disclosure on project timelines, all of which indicate lapses in the project management by the Petitioner. MSEDCL further submitted that the Petitioner unreasonably delayed finalisation of the FR and RCE and failed to conduct the reverse auction for MDO selection in a timely manner, resulting in a gap of seven months after the opening of the bids. MSEDCL raised concerns over the delay between the re-allotment of the coal block in 2015 and the commencement of coal production in 2019, stating that it was within the Petitioner's control to meet the scheduled production timelines. MSEDCL has further submitted that the stripping ratio adopted by the Petitioner was significantly higher than CIL's norms, suggesting inefficiency and inflated input prices. MPPMCL and other beneficiaries aligned with these contentions and have submitted that the cost and time overrun, arising from the Petitioner's lapses in planning and execution, should not be passed on to the consumers and the Petitioner should have factored in the challenges associated with implementing an over-a-decade-old mining plan during project structuring and contracting stages.

33. *In rebuttal,* the Petitioner has submitted that the delay in the declaration of COD was not due to any negligence or lapse on its part, but arose from uncontrollable and unforeseen technical issues, which came to light only during field-level implementation. The Petitioner has further submitted mining plan in question had been

prepared by a RQP and duly approved by the MoC in 2010 and no concerns were raised by any stakeholder, including the MDO during the bid or at any stage of finalisation of contract, as the Petitioner became aware of the deficiencies in the mining plan only after TEMPL highlighted serious inconsistencies relating to overburden estimates, dump planning, and stripping ratio. To address these concerns, the Petitioner promptly engaged CMPDIL as an independent technical expert, and CMPDIL, in its report dated 7.9.2021, confirmed that the mining plan was not technically feasible beyond the fifth year of operations due to insufficient external dump space and other critical constraints. This conclusion was further corroborated by IIT-ISM, Dhanbad, which conducted an expert review and confirmed that the existing plan was fundamentally flawed. In light of these expert findings, the Petitioner terminated the contract with TEMPL, initiated steps for revising the mining plan, and restructured its mine development strategy. CMPDIL was entrusted with preparing a revised mining plan to address the technical shortcomings. The revised plan was submitted to the MoC and approved on 26.9.2023, following which the COD was declared on 1.10.2023. The Petitioner had no role in manipulating the parameters of the original mining plan, and the plan was considered valid and implementable until expert agencies certified otherwise. While addressing the concerns raised regarding the timeline from the re-allotment of the coal mine in 2015 to the commencement of production in 2019, multiple statutory processes, including environmental and forest clearances, land acquisition, and selection of contractors through competitive bidding, were involved, which are time-bound and subject to regulatory oversight. Despite these challenges, the initial coal production commenced by November 2019, and there was no inordinate delay in achieving project milestones. With respect to the stripping ratio, it is mine-specific and determined based on geological conditions, mining depth, and stage of development. Comparing it with the average stripping ratio of CIL, which is pooled across various mines and regions, is technically flawed and misleading. Since the stripping ratio and other parameters are aligned with the revised mining plan, approved by the MoC and prepared by an expert agency, the same are prima facie reasonable and subject to prudence check during truing up. All actions taken were in accordance with the contractual framework, technical advisories, and applicable regulatory provisions. The delay of 22.5 months from the deemed COD of 16.11.2021 to the actual COD of 1.10.2023 was due to circumstances beyond the Petitioner's control.

34. The central issue that now arises for determination is whether the delay of 22.5 months, i.e., from 16.11.2021 to 1.10.2023, in declaring the COD of the Talaipalli Coal Mine, is attributable to factors beyond the control of the Petitioner so as to merit condonation under Regulation 22 of the 2019 Tariff Regulations. Regulation 22 of the 2019 Tariff Regulations provides as under:

> ***"22. Controllable and Uncontrollable factors:*** *The following shall be considered as controllable and uncontrollable factors for deciding time over-run, cost escalation, IDC and IEDC of the project:*
>
> *(1) The "controllable factors" shall include but shall not be limited to the following:*
>
> *a. Efficiency in the implementation of the project not involving approved change in scope of such project, change in statutory levies or change in law or force majeure events; and*
>
> *b. Delay in execution of the project on account of contractor or supplier or agency of the generating company or transmission licensee.*
>
> *(2) The "uncontrollable factors" shall include but shall not be limited to the following:*
>
> *a. Force Majeure events;*
>
> *b. Change in law; and*
>
> *c. Land acquisition except where the delay is attributable to the generating company or the transmission licensee."*

35. We observe that the AMP, being a statutory document prepared by an accredited RQP and duly approved by the MoC, the Petitioner had no technical indication or any regulatory requirement to reassess the feasibility of the AMP during

the initial stages of the project execution. Mining operations at TLCMP commenced with effect from 15.10.2019, and coal extraction began from 16.11.2019. Accordingly, the Petitioner, vide its letter dated 19.11.2019, communicated to the Nominated Authority, MoC, and confirmed the start of operations and coal extraction. The discrepancies in the AMP came to light only when the newly appointed MDO- TEMPL commenced site-level operational planning and encountered inconsistencies in the dump design, stripping ratio, and overburden (OB) handling capacity. The Petitioner, while acting on these concerns, engaged CMPDIL in December 2020, which, after detailed analysis, submitted a report on 7.9.2021 confirming that the AMP would become unworkable beyond the fifth year. Subsequently, IIT-ISM Dhanbad was engaged in October 2021, and its report dated 23.12.2021 corroborated CMPDIL's findings and highlighted additional technical flaws. Based on these expert reports, the Petitioner terminated the contract with TEMPL in March 2022 and assigned CMPDIL to prepare a Revised Mining Plan. The revised plan was finalised, submitted to the MoC, and approved by the Competent Authority, i.e., the Coal Controller's Organisation (CCO), on 26.9.2023. We note that the Petitioner, after internal vetting and obtaining requisite internal approvals for the revised mining plan, issued notice to the beneficiaries on 11.9.2023 regarding the declaration of COD of the Talaipalli Coal Mine with effect from 1.10.2023.

36. It is noted that the intervening period between approval of the revised plan and declaration of COD was justified as necessary for internal examination and decision-making and does not indicate delay or inaction on the part of the Petitioner. During the intervening period between November 2020 and September 2023, the Petitioner undertook several measures to sustain partial coal production and minimise disruptions to coal supply to the end-use generating station. The mining activities

continued through interim contractors operating in the South and West pits, which remained viable under the original plan. The evacuation of coal via the MGR system commenced in November 2022, following commissioning of the supporting infrastructure. The Petitioner also floated tenders in July 2022 for the selection of a new MDO to commence operations in the East pit in line with the revised plan. All of the above actions indicate that the Petitioner responded promptly upon identification of technical deficiencies, pursued statutory approvals for a revised plan, engaged expert agencies, terminated the non-viable MDO contract, and ensured partial continuity of operations. Accordingly, the Petitioner acted diligently and took timely steps to mitigate the impact of the discovered deficiencies.

37. In light of the above, we are of the considered view that the delay in achieving the COD of the Talaipalli Coal Mine was not attributable to the inefficiencies or inaction on the part of the Petitioner, but arose from technical and regulatory impediments beyond its control. The delay qualifies as an "uncontrollable factor" under Regulation 22(2) of the 2019 Tariff Regulations. Against this backdrop, contentions of the Respondents are not sustainable. Accordingly, we condone the delay of 22.5 months in COD under Regulation 22(2)(a) of the 2019 Tariff Regulations.

<u>Determination of Date of Commercial Operation (COD)</u>

38. It is not in dispute that the Talaipalli Coal Mine commenced coal production on 16.11.2019. Accordingly, as per Regulation 5(3) of the 2019 Tariff Regulations discussed earlier, the Scheduled COD (SCOD) of the mine was 16.11.2021. However, the Petitioner declared the actual COD on 1.10.2023, citing uncontrollable technical and regulatory circumstances that delayed the mine's full-scale operational readiness.

39. The deemed COD under Regulation 5(3) of the 2019 Tariff Regulations, in the present case, would be 16.11.2021. However, Regulation 22(2) of the 2019 Tariff Regulations allows the Commission to condone a delay in COD if caused by

uncontrollable factors. As already discussed in the preceding paragraphs, the 22.5-month delay is condonable due to the unworkability of the earlier mining plan and the time taken to obtain approval for the revised plan. Since the mine lacked a viable mining plan in 2021, COD could not be declared at that time. Coal dispatch to Lara STPS began only in November 2022, and the MoC approved the revised plan only in September 2023, after which the mine became commercially viable. In our view, the COD should reflect the mine's actual readiness to reliably supply coal, not just a deemed date. The declaration of COD on 1.10.2023 is, therefore, justified and consistent with the regulatory intent. The Respondent’s claim that COD should be fixed as of 16.11.2021 is untenable, given the admitted technical and regulatory delays already condoned.

40. Accordingly, in our view, the COD of the Talaipalli Coal Mine has been considered as 1.10.2023, and all tariff-related calculations such as capital cost, input price of coal, depreciation, return on equity, and mine closure expenses shall be based on this COD.

Determination of the input price of coal for the period 2019-24

41. The Petitioner has claimed the capital cost, annual extraction cost, and the Run of Mine (ROM) cost for the period from 1.10.2023 (i.e., COD) to 31.3.2024, as under:

(a) Capital cost claimed

(Rs. in lakh)

Particulars	**2023-24 (1.10.2023-31.3.2024)**
Opening capital cost	207106.60
Add: Addition during the period	1519.22
Add: Discharges of liability during the period	6161.88
Closing capital cost	214787.71

(b) **Annual extraction cost claimed**

(Rs. in lakh)

Particulars	**2023-24 (1.10.2023-31.3.2024)**
Depreciation	9123.68

Interest on Loan	10032.73
Return on Equity	10735.52
Interest on Working Capital	1066.41
O&M Expenses excluding mining charge	29296.07
Mine Closure Expenses	1040.84
Total Annual Extraction Cost	**61295.25**

(c) Run of Mine cost claimed

S.N.	Particulars	UoM	2023-24 (1.10.2023-31.3.2024)
A	Annual Extraction cost	Rs. in lakh	61295.25
B	ATQ (B)	Tonne	3500000
C	Annual Extraction cost per Tonne (A/B)	Rs. / Tonne	1751.29
D	Mining Charges	Rs. / Tonne	780.49
E	**Run of Mine Cost (C+D)**	Rs. / Tonne	**2531.78**

<u>Capital Cost</u>

42. Sub-clause (9) of Regulation 3 of the 2019 Tariff Regulations, as amended by the 2021 Second Amendment Regulations, provides as follows:

> *"(9) '**Capital Cost'** means the capital cost as determined in Regulation 19 of these regulations in respect of generating station or transmission system, as the case may be, and Regulation 36D of these regulations in respect of integrated mine(s)."*

43. Regulation 36 (D) of the 2021 Second Amendment Regulations provides as under:

> *"**36D. Capital Cost:** (1) The expenditure incurred, including IDC and IEDC, duly certified by the Auditor, for development of the integrated mine(s) up to the date of commercial operation, shall be considered for arriving at the capital cost.*
>
> *(2) Capital expenditure incurred shall be admitted by the Commission after prudence check.*
>
> *(3) Capital expenditure incurred on infrastructure for crushing, transportation, handling, washing and other mining activities required for mining operations shall be arrived at separately in accordance with these regulations:*
>
> *Provided that where crushing, transportation, handling or washing are undertaken by the generating company, the expenditure incurred on infrastructures of these components shall be capitalized;*
>
> *Provided further that where mine development and operation, with or without any component of crushing, transportation, handling or washing are undertaken by the generating company by engaging Mine Developer and Operator or an agency other than Mine Developer and Operator, the capital expenditure incurred by Mine Developer and Operator or such agency shall not be capitalised by the generating company and shall not be considered for the determination of input price.*

(4) The capital expenditure shall be determined considering, but not limited to, the Mining Plan, detailed project report, mine closure plan, cost audit report and such other details as deemed fit by the Commission.

(5) In case of integrated mine(s) which have declared the date of commercial operation prior to 1.4.2019, the capital expenditure allowed by the Commission for the period ending 31.3.2019 shall form the basis for computation of input price."

Investment Approval cost

44. The IA of TLCMP was accorded by the Petitioner's Board of Directors in its 444th meeting held on 22.3.2017 at ICRA Management Consulting Services Limited, with an appraised cost (current estimated cost) of Rs.3004 crore (including IDC & FC of Rs.134.20 crore and WCM of Rs.61.28 crore) at the Q3, 2016 price level. The corresponding indicative estimated completed cost was Rs. 3318.39 crore (including IDC & FC of Rs. 139.28 crore and WCM of Rs. 62.50 crore).

45. Subsequently, the RCE of TLCMP was approved by the Petitioner's Board in its 550th meeting held on 30.11.2024 at Rs.4340.50 crore (including IDC & FC of Rs.455.29 crore, IEDC of Rs.488.65 crore, and WCM of Rs.61.29 crore). The Petitioner's Board also approved the revised SCOD of 1.10.2023.

Capital cost as on COD of TLCMP (1.10.2023):

46. The details of the capital cost claimed by the Petitioner as on COD of TLCMP are as under:

(Rs. in lakh)

Gross Block as per IND AS as on COD *	243259.33
Add: IND AS adjustment *	(-) 11004.33
Gross Block as per IGAAP as on COD (on accrual basis) *	**232254.99**
Less: Un-discharged liabilities *	29491.80
Gross Block as per IGAAP as on COD (on cash basis) *	**202763.18**
Add: Notional IDC	3441.56
Add: FERV charged to revenue	404.70
Add: Un-amortized bond issue expenses	497.16
Capital cost claimed as on COD	**207106.60**

** Auditor certified*

47. The break-up of the auditor-certified capital cost (as per IGAAP), on accrual as well as cash basis, amounting to Rs.232254.99 lakh and Rs.202763.18 lakh, respectively, as on COD of TLCMP is as under:

(Rs. in lakh)

	Accrual Basis	**Cash Basis**
Hard cost (net of IEDC)	145775.38	117729.51
Add: IEDC	56193.68	54747.74
Add: IDC & FC	30285.93	30285.93
Capital cost claimed (as per IGAAP) as on COD	**232254.99**	**202763.18**

<u>Hard Cost (net of IEDC)</u>

48. The hard cost (net of IEDC) of Rs.117729.51 lakh (on a cash basis) as on COD of TLCMP being certified by the auditor is allowed for the purpose of tariff, subject to submission of auditor certified statement in respect of capital cost as on the date of commencement of coal production (i.e., 16.11.2019), and as on SCOD of TLCMP (i.e., 16.11.2021) along with justification for capital expenditure, at the time of truing up.

<u>IEDC</u>

49. The Petitioner has claimed IEDC of Rs.54747.74 lakh (net of undischarged liabilities of Rs.1445.94 lakh), on a cash basis, as on COD of TLCMP and has furnished its break-up in Form-K of the Petition.

50. With regard to the liquidated damages (LD) recovered from the contractor, the Petitioner has submitted that it has recovered Rs.58.83 crore from TEMPL and the benefit for the same has been passed on by reducing capital cost, as per Form-9. However, as per Form-K, the income recovered from the contractors amounting to Rs.41.49 lakh as on the date of commencement of production, and Rs.321.09 lakh as on the COD of TLCMP, has been adjusted in the IEDC. Further, the details regarding LD recovered from the first MDO, NCC-BGR, or the action taken in this regard have not been furnished by the Petitioner. As per the respective head at Form-K, against which LD has been adjusted, it is not clear. Accordingly, the Petitioner is directed to

reconcile the LD recovered as on COD and furnish the detailed reconciliation at the time of truing up, which will be dealt with in accordance with law.

51. It is noted that the claimed IEDC also includes expenditure of Rs.405.01 lakh towards miscellaneous expenses, for which no break-up/ details have been made available. Accordingly, for the present, we allow the same, subject to furnishing the details thereof at the time of truing up.

52. The claimed IEDC also includes expenditure of Rs.5993.47 lakh towards allocated IEDC. However, no breakup/details have been made available by the Petitioner in this regard. Accordingly, in the instant Petition, the same is allowed subject to furnishing details thereof, including clarification to the effect of whether PRP, if any, form part of the IEDC claimed and justification for the same, at the time of truing up, which shall be dealt with in accordance with law.

53. The Petitioner has placed on record the break-up of pre-operative expenses amounting to Rs.93994.60 lakh forming part of the IEDC claimed. The same is allowed.

54. It is noted that the IEDC claimed by the Petitioner also includes depreciation amounting to Rs.10896.67 lakh. Since the said expenditure is a non-cash item and already forms part of the capitalised gross block, the same is disallowed for the purpose of tariff.

55. In view of the above, as against the Petitioner's claim of Rs.54747.74 lakh, the IEDC allowed, as on COD of TLCMP, Rs.43851.07 lakh, subject to truing up.

IDC and FC

56. The Petitioner has claimed IDC and FC amounting to Rs.30285.93 lakh, as on the COD of TLCMP. Considering the fact that the entire time overrun has been condoned for the purpose of tariff, the IDC and FC claimed thereunder are allowed.

Notional IDC

57. The Petitioner has claimed notional IDC amounting to Rs.3441.56 lakh as on the COD of TLCMP. In a similar matter, the Commission, vide order dated 12.6.2024 in Petition No. 215/MP/2022, has considered the claim of notional IDC. Considering the quarterly debt-equity position corresponding to the actual cash expenditure, the allowable normative IDC, over and above actual IDC, works out to Rs.1179.97 lakh as on COD of TLCMP, after adjusting the normative IDC of Rs.1.31 lakh corresponding to CWIP as on the station COD. Further, we observe that the applicable Regulations do not specifically provide for the grant of notional/normative IDC corresponding to the Capital Work-in-Progress (CWIP) lying as on COD. However, in respect of CWIP forming part of the project cost as on the COD of TLCMP, notional/normative IDC corresponding thereto, amounting to Rs.1.31 lakh, shall be considered only at the stage when such CWIP is actually capitalised and admitted as ACE in accordance with the applicable Regulations. The admissibility of such a claim shall be subject to a prudence check, and the onus to establish the quantum, nature, and eligibility of such capitalisation shall lie with the Petitioner.

58. It is clarified that no normative IDC shall be allowed on any ACE incurred or capitalised subsequent to the COD, except to the limited extent of CWIP existing as on the Station COD and subsequently capitalised and allowed as ACE for the purpose of tariff. In this regard, the details of normative IDC corresponding to CWIP and CWIP position considered as on Station COD are as under:

(Rs. in lakh)

Normative IDC corresponding to CWIP	Cash expenditure towards CWIP	Actual IDC included in CWIP
# 1.31	169.41	33.74

It is clarified that the aforesaid amount of normative IDC corresponding to CWIP shall not be admitted *in tariff as on COD. The same shall be considered for admission strictly on a pro-rata basis and only in the year(s) in which the corresponding portion of CWIP is actually capitalised and admitted as additional capital expenditure in accordance with the applicable Regulations. It is further clarified that such*

admissibility shall be subject to prudence check and limited to the extent of CWIP existing as on COD and subsequently capitalised. No normative IDC shall be admissible on any fresh capital expenditure incurred after the Station COD. The onus to establish the linkage between the CWIP as on the Station COD and its subsequent capitalisation, along with its regulatory eligibility, shall rest entirely upon the Petitioner.

FERV Charged to Revenue

59. The Petitioner has claimed FERV charged to revenue amounting to Rs.404.70 lakh, as on COD of TLCMP. As per the consistent methodology adopted by the Commission, FERV charged to revenue up to the COD is allowed as part of the capital cost for the purpose of tariff. Accordingly, the Petitioner's claim under this head is allowed for tariff purposes.

Unamortized Bond Issue Expenses

60. The Petitioner has claimed an amount of Rs. 497.16 lakh as unamortized bond issue expenses due to the implementation of IND-AS. The Petitioner has submitted that under the erstwhile IGAAP, loan issue expenses paid upfront were accounted for, as and when incurred, and were claimed as part of IDC during the construction period. However, under IND-AS, such upfront bond issue expenses are to be amortised over the tenure of the loan, resulting in partial capitalisation of IDC during the construction period. The Petitioner has further submitted that since the actual cash expenditure is required to be included in the capital cost, the same may be allowed.

61. We have examined the documents placed on record. It is observed that the claim under this head arises from the differential accounting treatment of upfront fees under IND AS and IGAAP. Further, the said claim is over and above the auditor-certified cash capital cost of Rs.202763.18 lakh as per the IGAAP. Since the auditor-certified cash capital cost of Rs. 202763.18 lakh has been determined as per IGAAP, any further adjustment to the same on account of IND-AS-related accounting adjustments is not considered justified for tariff purposes. Accordingly, the Petitioner's

claim under this head is disallowed. However, the same will be considered in accordance with the law, at the time of truing up of the tariff, based on a revised auditor certificate reconciling the capital cost as per IND AS and IGAAP, as on COD of TLCMP, if furnished by the Petitioner.

62. In view of the above, the allowable capital cost (on a cash basis), subject to truing up, as on COD of TLCMP works out to Rs.193451.18 lakh, as under:

(Rs. in lakh)

	Claimed	Allowed	Disallowed
Hard cost (net of IEDC)	117729.51	117729.51	0.00
Add: IEDC	54747.74	43851.07	10896.67
Add: IDC & FC	30285.93	30285.93	0.00
Capital cost claimed (as per IGAAP) as on COD	**202763.18**	**191866.51**	**10896.67**
Add: Notional IDC	3441.56	1179.97	2261.60
Add: FERV charged to revenue	404.70	404.70	0.00
Add: Un-amortized bond issue expenses	497.16	0.00	497.16
Capital cost as on COD of TLCMP	**207106.60**	**193451.18**	**13655.42**

Additional Capital Expenditure (ACE)

63. Regulation 36(E) of the 2021 Second Amendment Regulations with respect to additional capital expenditure provides as under:

> *"**36E. Additional Capital Expenditure**: (1) The expenditure, in respect of the integrated mine(s), incurred or projected to be incurred after the date of commercial operation and upto the date of achieving the Peak Rated Capacity may be admitted by the Commission subject to prudence check, and shall be capitalized as Additional Capital Expenditure, corresponding to the Annual Target Quantity of the respective years as specified in the Mining Plan, on following counts:*
>
> *(a) expenditure incurred on activities as per the Mining Plan;*
>
> *(b) expenditure for works deferred for execution and un-discharged liabilities recognized for works executed prior to date of commercial operation;*
>
> *(c) expenditure for works required to be carried out for complying with directions or orders of any statutory authorities;*
>
> *(d) liabilities arising out of compliance of order or decree of any court of law or award of arbitration;*
>
> *(e) expenditure for procurement and development of land as per the Mining Plan;*
>
> *(f) expenditure for procurement of additional heavy earth moving machineries for replacement, on completion of their useful life; and*
>
> *(g) liabilities due to Change in Law or Force Majeure events;*

Provided that in case of replacement of any assets, the additional capitalization shall be worked out after adjusting the gross fixed assets, cumulative depreciation and cumulative repayment of loan of the assets replaced on account of de-capitalization.

Provided further that the generating company shall prepare guidelines for procurement and replacement of heavy mining equipment such as Heavy Earth Moving Machineries and share the same with the beneficiaries and submit it to the Commission along with its petition.

(2) The expenditure, in respect of the integrated mine(s), incurred or projected to be incurred after the date of achieving the Peak Rated Capacity may be admitted by the Commission subject to prudence check, and shall be capitalized as Additional Capital Expenditure, corresponding to the Annual Target Quantity of the respective years as specified in the Mining Plan, on following counts:

(a) expenditure incurred on activities, if any, as per Mining Plan;

(b) expenditure for works required to be carried out for complying with directions or order of any statutory authority;

(c) liabilities arising out of compliance of order or decree of any court of law or award of arbitration;

(d) expenditure for procurement and development of land as per the Mining Plan; and

(e) liabilities due to Change in Law or Force Majeure events;

Provided that in case of replacement of any assets, the additional capitalization shall be worked out after adjusting the gross fixed assets, cumulative depreciation and cumulative repayment of loan of the assets replaced on account of de-capitalization.

(3) The expenditure on following counts shall not be considered as additional capital expenditure for the purpose of these regulations:

(a) expenditure incurred but not capitalized as the assets have not been put in service (capital work in progress);

(b) mine closure expenses;

(c) expenditure on works not covered under Mining Plan, unless covered under sub-clause(g) of Clause (1) or sub-clause (e) of Clause (2) of this Regulation;

(d) expenditure on replacement due to obsolescence of assets on account of completion of the useful life or due to obsolescence of technology, if the original cost of such assets have not been de-capitalised from the gross fixed assets."

64. The TLCMP is an opencast captive block allotted to the Petitioner to meet the fuel requirements of Lara STPS. The revised mining plan, approved on 26.9.2023, provides for a peak rated capacity of 25 MTPA to be achieved by 2037-38. The mine has extractable reserves of 631.56 MT over an area of 2119 hectares in the Raigarh district of Chhattisgarh, with an average stripping ratio of 1:4. Coal evacuation from the mine is entirely rail-based, via conveyors and a CHP to silos at the railway siding. The environmental and safety measures include continuous air quality monitoring,

illumination systems, drainage and nallah diversions, water management, and progressive mine closure activities in accordance with the approved closure plan.

65. The Petitioner, vide affidavit dated 10.3.2025, has placed on record the scope of work undertaken by itself and the MDO, and also the details of the facilities created by it. We observe that the capital cost incurred on the TLCMP has progressively increased from 2019 to 2023, in line with the stage of mine development and infrastructure construction. We also observe that the increase in capital expenditure is attributable to land acquisition and rehabilitation and resettlement payments, creation of statutory and owner-side infrastructure such as the main receiving substation, township, coal laboratory, roads, weighbridges, and wharf walls, as well as progressive works undertaken by the MDO in relation to mine development, workshops, substations, and drainage facilities. We note that the expenditure has also been incurred towards compliance with environmental conditions, implementation of wildlife conservation plans, and discharge of CSR obligations associated with the block. The demarcation of responsibilities between the Petitioner and the MDO has ensured that the Petitioner, as the block allottee, has retained overall ownership, statutory compliance, and permanent infrastructure creation, while the MDO has undertaken production-linked development and operational works, including overburden removal, coal extraction, mine-end facilities, and progressive mine closure. The bifurcation of the scope also reflects in the structure of expenditure, wherein statutory and compliance-related costs are borne directly by the Petitioner, while operational mining expenditure forms part of the mining fee payable to the MDO. Accordingly, the admissibility of ACE and its treatment in determining the input price of coal are examined in accordance with the 2019 Tariff Regulations.

66. The auditor's certified reconciliation of the additional capital expenditure claimed by the Petitioner for the period 2023-24 (i.e., 1.10.2023 to 31.3.2024) is as under:

(Rs. in lakh)

Particulars	**2023-24 (1.10.2023 to 31.3.2024)**
Closing Gross Block as per IND AS	240749.67
Less: Opening Gross Block as per IND AS	243259.33
Addition to Gross Block as per IND AS	**(-) 2509.66**
Less: IND AS adjustments	**4514.78**
Addition to Gross Block as per IGAAP (on accrual basis)	**2005.12**
Less: Un-discharged liabilities	485.89
Addition to Gross Block as per IGAAP (on cash basis)	**1519.22**
Add: Discharge of liabilities	6161.88
Additional capital expenditure claimed	**7681.11**

67. The actual additional capital expenditure claimed by the Petitioner for the period 2023-24 (i.e. 1.10.2023 to 31.3.2024) is as under:

(Rs. in lakh)

S. N.	**Head of Work / Equipment**	**ACE Claimed**			**Regulation**
		On Accrual basis	**Liabilities**	**On a Cash basis**	
1	Land	208.03	54.82	153.21	36E(1)(e)
2	Construction of Buildings	1204.38	248.13	956.25	36E(1)(a)
3	Railway Siding	3909.34	81.19	3828.15	36E(1)(a)
4	Continuous ambient air quality monitoring station (CAQMS)	64.43	8.56	55.87	36E(1)(c)
5	Electrical Installations	109.73	0.00	109.73	36E(1)(a)
6	MBOAs: Plant & Machinery	(-) 0.92	0.00	(-) 0.92	36E(1)(a)
7	MBOAs: Office equipment	31.97	2.91	29.06	
8	MBOAs: EDP, WP Machines & Satcom eqp	70.61	3.90	66.71	
9	MBOAs: Communication equipment	320.05	62.94	257.11	
10	MBOAs: Software	16.44	16.43	0.01	
11	Barbed wire fencing first phase(5KM) along the project boundary of south pit extension and west pit.	14.68	4.48	10.20	36E(1)(a)
12	Road, Bridges & Culvert	59.88	2.54	57.34	36E(1)(a)
13	MDO (TEMPL) settlement amount	(-) 5883.09	0.00	(-) 5883.09	36E(1)(d)
14	Arrear Reserve Price up to COD	1879.60	0.00	1879.60	36E(1)(c) & 76
Total add cap		**2005.12**	**485.89**	**1519.22**	

15	Liability Discharge			6161.88	36E(1)(b)
	Grand Total	**2005.12**	**485.89**	**7681.11**	

68. It is observed from the above that the Petitioner has claimed additional expenditure for various works stated to be in accordance with the AMP. However, certain ACE heads, such as "Continuous Ambient Air Quality Monitoring Station (CAQMS)", "Barbed wire fencing first phase along the project boundary of south pit extension and west pit", etc., that have not been mapped to the corresponding heads under which the expenditure has been approved in the original investment approval (IA) and revised investment cost approval (RCE). Further, the expenditure claimed under the ACE head "Electrical Installations" exceeds the amount approved in RCE. Therefore, the additional capitalisation allowed in respect of the same has been restricted to the amount approved in the RCE.

69. Since the present Petition is in the nature of an input price determination rather than truing up, the Petitioner is, directed to file the true up Petition for the 2019-24 period along with the details of the relevant heads under which the aforesaid works are covered in the IA/RCE, and to submit the requisite approval for any increased cost, if applicable, at the time of truing up. Furthermore, the ACE items are examined in the subsequent paragraphs in terms of the applicable regulations, with a direction to the Petitioner to furnish the details of the specific heads under which these expenditures have been accounted for at the time of truing up, which shall be dealt with in accordance with law.

a) Land, R&R

70. The Petitioner has claimed ACE of Rs.153.21 lakh (net of un-discharged liabilities of Rs.54.82 lakh) for the year 2023-24 under Regulation 36E(1)(e) of the 2021 Second Amendment Regulations, towards land acquisition incurred prior to achieving the Peak Rated Capacity (PRC) of the mine. The Petitioner, vide affidavit

dated 10.3.2025, has submitted that the amount was paid as land and asset compensation to the project-affected persons of the TLCMP in accordance with Chapter 6 of the approved mine plan and the directions of the competent authorities under the applicable land acquisition and R&R provisions.

71. We have considered the Petitioner's submissions. It is noted that the total cost approved in RCE under the head Land (comprising Freehold Land, Leasehold Land and CBA Land) amounts to Rs.58784 lakh, of which Rs.40903 lakh has been capitalised as on COD. Considering the ACE of Rs.153.21 lakh claimed by the Petitioner, the total expenditure under this head aggregates to Rs.41,056.21 lakh, which is within the cost approved in RCE. Accordingly, considering that the land acquisition has been undertaken in accordance with the approved mine plan and that the expenditure under this head remains within the approved cost in RCE, we allow the additional capital expenditure of Rs.153.21 lakh under Regulation 36E(1)(e) of the 2021 Second Amendment Regulations, subject to truing up.

b) Construction Buildings

72. The Petitioner has claimed ACE of Rs.956.25 lakh (net of un-discharged liabilities of Rs.248.13 lakh) for construction of township buildings, administrative offices, and explosive storage facilities under Regulation 36E(1)(a) of the 2019 Tariff Regulations (as amended). The Petitioner, vide affidavit dated 10.3.2025, has submitted that these buildings have been constructed in accordance with Chapter 5 of the AMP and before achieving Peak Rated Capacity (PRC), as required under Regulation 36E(1)(e) of the 2019 Tariff Regulations (as amended). The Petitioner has further submitted that the civil structures are essential for the residential, administrative, and safety-related functions to support mining operations at TLCMP.

73. We have examined the submissions of the Petitioner. It is observed that the total cost approved in RCE under the head *“Township & Colony/Auxiliary Buildings”* is

Rs.39440.62 lakh, out of which an amount of Rs.11600.32 lakh (net of un-discharged liabilities of Rs.707.75 lakh) has been capitalised as on COD. With the additional capital expenditure of Rs.956.25 lakh (net of undischarged liabilities of Rs.248.13 lakh) claimed by the Petitioner, the total expenditure under this head aggregates to Rs.12556.57 lakh (on a cash basis) and Rs.13512.45 lakh (on an accrual basis), which remains within the cost approved in the RCE. As the said expenditure relates to the construction of township buildings, administrative offices, and explosive storage facilities forming essential infrastructure for the project in line with the AMP and since the expenditure under this head is within the approved cost in RCE, we allow the additional capital expenditure of Rs.956.25 lakh under Regulation 36E(1)(a) of the 2019 Tariff Regulations read with the 2021 Second Amendment Regulations, subject to truing up.

c) Railway Siding

74. The Petitioner has claimed ACE of Rs.3828.15 lakh (net of un-discharged liabilities of Rs.81.19 lakh) under Regulation 36E(1)(a) of the 2019 Tariff Regulations (as amended) towards works related to railway sidings, as provided in Chapter 5 of the AMP. The Petitioner has submitted that the railway siding is essential for the evacuation of coal from the TLCMP to the end-use thermal power stations. It has further been submitted by the Petitioner that coal is transported from the pit and loaded at the siding, and a CHP is being executed to facilitate conveyor-based loading through silos for efficient operations. The expenditure pertains to pending works related to this railway infrastructure.

75. We have examined the issue. It is observed that the total cost approved in the RCE under the head *"Railway Siding"* is Rs. 4290.00 lakh, of which no amount has been capitalised as on COD. The ACE of Rs.3828.15 lakh claimed by the Petitioner under this head remains within the cost approved in the RCE. As the said expenditure

relates to railway sidings in accordance with the approved mine plan, and the total expenditure under this head is within the approved cost in the RCE, we allow the additional capital expenditure of Rs.3828.15 lakh under Regulation 36E(1)(a) of the 2019 Tariff Regulations read with the 2021 Second Amendment Regulations, subject to truing up.

d) Continuous ambient air quality monitoring station (CAQMS)

76. The Petitioner has claimed ACE of Rs.55.87 lakh (net of un-discharged liabilities of Rs.8.56 lakh) under Regulation 36E(1)(c) of the 2019 Tariff Regulations read with the 2021 Second Amendment Regulations towards installation of CAQMS at TLCMP. According to the Petitioner, CAQMS installation is a statutory requirement as per directions of the Chhattisgarh Environment Conservation Board (CSEB) and is provided for in Chapter 8 of the AMP. The system is essential for continuous monitoring of ambient air quality in and around the mining area. The Petitioner has placed on record a copy of the relevant directions received from CSEB in support of its claim.

77. We have considered the Petitioner's submissions. It is noted that the ACE claimed that the installation of the CAQMS at TLCMP is a mandatory requirement under the applicable environmental regulations. In justification, the Petitioner has placed on record a copy of the renewal document of consent issued by the CSEB. It is noted that such an installation is necessary to ensure compliance with prescribed air quality norms. As the expenditure incurred towards CAQMS is in accordance with the approved mine plan and directions of the CSEB, we allow the additional capital expenditure of Rs.55.87 lakh under Regulation 36E(1)(c) of the 2019 Tariff Regulations read with the 2021 Second Amendment Regulations, subject to truing up. However, the Petitioner shall clarify under which head in the RCE this expenditure has

been accounted for and furnish the supporting documents at the time of truing up, which will be dealt with in accordance with law.

e) Electrical Installations

78. The Petitioner has claimed ACE of Rs.109.73 lakh under Regulation 36E(1)(a) of the 2019 Tariff Regulations (as amended), towards installation of the 30-meter-high mast lighting poles in and around TLCMP. The Petitioner has submitted that these electrical installations are necessary to ensure adequate illumination for safe and continuous mining operations and are part of the infrastructure envisaged in Chapter 5 of the AMP.

79. We have considered the Petitioner's submissions. It is observed that the total cost approved in the RCE under the head *"Other Plant and Machinery including Electrical Installations"* is Rs.4252.00 lakh, out of which Rs.4252.05 lakh (net of un-discharged liabilities of Rs.500.46 lakh) has already been capitalised as on the COD. Since the ACE of Rs.109.73 lakh claimed by the Petitioner under this head exceeds the cost approved in the RCE, the additional capitalisation under this head is not allowed. The Petitioner is, however, directed to obtain approval from the competent authority for any excess expenditure at the time of truing up, and the same shall be considered in accordance with the law.

f) Miscellaneous Bought out assets (MBOAs)

80. The Petitioner has claimed ACE during the year 2023-24 under Regulation 36E(1)(a) of the 2019 Tariff Regulations (as amended), towards the procurement of MBOAs, stated to be required for smooth office functioning and mining operations at the TLCMP. The Petitioner has submitted that since these assets form part of the necessary infrastructure as envisaged in Chapter 5 of the AMP, it is entitled to the same.

81. We have considered the Petitioner's submission. It is observed that the total cost approved in the RCE under the head *"MBOA"* is Rs.6253.00 lakh, out of which Rs.1534.21 lakh (net of un-discharged liabilities of Rs.11.32 lakh) has already been capitalised as on COD. The Petitioner has claimed ACE of Rs.351.97 lakh under the sub-heads *"MBOA-Plant & Machinery," "MBOA-Office Equipment," "MBOA-EDP, WP Machines & Satcom Equipment," "MBOA-Communication Equipment," and "MBOA-Software."* The claimed amount includes a cost adjustment of Rs. 0.92 lakh for tools and equipment used directly in mining operations. With the additional capitalisation of Rs.351.97 lakh, the total expenditure under this head aggregates to Rs.1886.18 lakh (on a cash basis and Rs.1897.50 lakh on an accrual basis), which remains within the cost approved in the RCE. It is pertinent to mention that the said expenditure relates to work-in-progress activities such as furnishing and completion of the administrative building, procurement of survey instruments, software, TLS, dump slope radar, simulator, IPBAX system, and furnishing of newly built township facilities. Since the expenditure has been incurred in accordance with the approved mine plan and remains within the approved cost under the RCE, we allow the additional capital expenditure of Rs.351.97 lakh under Regulation 36E(1)(a) of the 2019 Tariff Regulations (as amended), subject to truing up.

g) Barbed wire fencing first phase (5 KM) along the project boundary of the south pit extension and the west pit

82. The Petitioner has claimed ACE of Rs.10.20 lakh (net of un-discharged liabilities of Rs.4.48 lakh) under Regulation 36E(1)(a) of the 2019 Tariff Regulations (as amended) towards mine infrastructure works, specifically for boundary fencing using barbed wire, as provided in Chapter 8 of the AMP.

83. We have examined the issue. It is observed that Chapter 8 of the AMP provides for the construction of a 2-metre-high fencing wall around the excavated voids to

prevent inadvertent entry, as required to ensure safety and security. Since the said work forms part of the approved mine infrastructure and is essential for safe and secure operations, we allow the additional capital expenditure of Rs.10.20 lakh under Regulation 36E(1)(a) of the 2019 Tariff Regulations (as amended), subject to truing up. However, the Petitioner is directed to clarify under which head in the RCE this expenditure has been accounted for and to furnish the supporting documents in this regard at the time of truing up.

h) Road, Bridges and Culvert

84. The Petitioner has claimed ACE of Rs.57.34 lakh (net of un-discharged liabilities of Rs.2.54 lakh) under the head "Road, Bridges & Culvert" in terms of Regulation 36E(1)(a) of the 2019 Tariff Regulations (as amended). The Petitioner has submitted that the expenditure relates to the construction of a pipe culvert in the western area of the mine, which is essential for day-to-day mining operations and has been undertaken as part of the mine infrastructure detailed in Chapter 5 of the AMP.

85. We have considered the Petitioner's submissions. It is noticed that the total cost approved in the RCE under the head “Road and Drainage” is Rs.8420.59 lakh, out of which Rs.3323.40 lakh (net of un-discharged liabilities of Rs.167.67 lakh) has been capitalised as on COD. With the ACE of Rs.57.34 lakh claimed by the Petitioner under the similar head “Road, Bridges & Culvert”, the total expenditure aggregates to Rs.3380.74 lakh (on a cash basis) and Rs.3550.95 lakh (on an accrual basis), which remains within the cost approved in the RCE and forms part of the mine infrastructure in accordance with the approved mine plan. Since the total expenditure under this head is within the approved cost in the RCE, we allow the additional capital expenditure of Rs.57.34 lakh under Regulation 36E(1)(a) of the 2019 Tariff Regulations (as amended), subject to truing up.

i) MDO (TEMPL) settlement amount

86. The Petitioner has claimed a cost adjustment of Rs.5883.09 lakh under Regulation 36E(1)(d) of the 2019 Tariff Regulations (as amended), pertaining to reconciliation with the MDO, TEMPL. The Petitioner has submitted that TEMPL had raised disputes regarding the AMP and refused to commence mining operations; thereafter, the matter was taken to the Hon'ble High Court of Delhi and later referred to arbitration. As part of the settlement, Rs. 5883.09 lakh was paid by TEMPL to the Petitioner, which has been adjusted by reducing the capital cost.

87. We have examined the adjustment of Rs.5883.09 lakh made by the Petitioner towards the settlement amount received in relation to the termination of the MDO. It is noted that this amount has been appropriately adjusted by reducing the project's capital cost, thereby ensuring that the burden of this cost is not passed on to the beneficiaries. Such treatment aligns with prudent financial and accounting principles, as it reflects the net cost to the Petitioner after recovering compensation. Since the adjustment has been transparently accounted for and is consistent with Regulation 36E(1)(c) of the 2019 Tariff Regulations (as amended), we find the same to be reasonable. Accordingly, the reduction in capital cost amounting to Rs.5883.09 lakh is allowed under Regulation 36E(1)(d) of the 2019 Tariff Regulations, as amended from time to time.

j) Arrear Reserve Price up to COD

88. The Petitioner has claimed ACE of Rs.1879.60 lakh under the head "Arrear Reserve Price up to COD" in terms of Regulation 36E(1)(c) and Regulation 76 of the 2019 Tariff Regulations (as amended). The Petitioner has submitted that the amount was paid to the State authorities as arrears towards the fixed reserve price of coal supplied up to COD, in accordance with the Coal Mines (Special Provisions) Act, 2015 and the Allotment Agreement for TLCMP. The Petitioner has also submitted that the

arrears arose due to an escalation in reserve price and were paid after COD, while the income was recognised as on COD, the corresponding expenditure was inadvertently omitted, leading to a reduction in capital cost. The Petitioner has submitted that the same was an accounting error and requested allowance of the adjustment under Regulation 76 of the 2019 Tariff Regulations.

89. We observe that the amount of Rs.1879.60 lakh claimed by the Petitioner pertains to the arrear payment for coal supplied before the COD of the mine, and the said payment is in line with the statutory. We further observe that said amount was initially omitted due to an accounting oversight, which was duly accounted for, after the COD of TLCMP. Accordingly, in our considered view, it is appropriate to relax the strict application of the regulations under Regulation 76 of the 2019 Tariff Regulations and allow the ACE of Rs.1879.60 lakh, subject to truing up. However, the Petitioner is directed to submit an auditor's certificate certifying that the said expenditure was eligible for capitalisation as of the COD of TLCMP but was inadvertently omitted from capitalisation due to an error of omission at the time of truing up.

k) Discharge of Liabilities

90. The Petitioner has claimed discharge of liabilities amounting to Rs.6161.88 lakh as ACE under Regulation 36E(1)(b) of the 2019 Tariff Regulations (as amended). The Petitioner has also furnished an auditor's certified statement of liability flow in support of its claim under this head. In our view, the discharge of liabilities claimed corresponds to assets/ works which had previously been allowed for the purpose of tariff and, therefore, is allowed. The flow of undischarged liabilities corresponding to admitted capital cost, subject to truing up, is as under:

(Rs. in lakh)

		2023-24
A	Opening liabilities as on COD	29491.80
B	Addition during the year	485.89

C	Discharges during the year	6161.88
D	Reversal during the year	0.00
E	**Closing liability (A+B-C-D)**	**23815.82**

91. In view of the above, the additional capital expenditure allowed for the period 2023-24 (i.e., 1.10.2023 to 31.3.2024), subject to truing up, is as under:

(Rs. in lakh)

S.N.	Head of Work / Equipment	ACE Allowed			Regulation
		On an Accrual basis	Liabilities	On a Cash basis	
1	Land	208.03	54.82	153.21	36E(1)(e)
2	Construction of Buildings	1204.38	248.13	956.25	36E(1)(e)
3	Railway Siding	3909.34	81.19	3828.15	36E(1)(a)
4	Continuous ambient air quality monitoring station (CAQMS)	64.43	8.56	55.87	36E(1)(c)
5	Electrical Installations	0.00	0.00	0.00	36E(1)(a)
6	MBOAs: Plant & Machinery	(-) 0.92	0.00	(-) 0.92	36E(1)(a)
7	MBOAs: Office equipment	31.97	2.91	29.06	
8	MBOAs: EDP, WP Machines & Satcom eqp	70.61	3.90	66.71	
9	MBOAs: Communication equipment	320.05	62.94	257.11	
10	MBOAs: Software	16.44	16.43	0.01	
11	Barbed wire fencing first phase(5KM) along the project boundary of south pit extension and west pit.	14.68	4.48	10.20	36E(1)(a)
12	Road, Bridges & Culvert	59.88	2.54	57.34	36E(1)(a)
13	MDO (TEMPL) settlement amount	(-) 5883.09	0.00	(-) 5883.09	36E(1)(d)
14	Arrear Reserve Price upto COD	1879.60	0.00	1879.60	36E(1)(c) & 76
Total add cap		**1895.39**	**485.89**	**1409.50**	
15	Liability Discharge			6161.88	36E(1)(b)
	Total ACE allowed	**1895.39**	**485.89**	**7571.38**	

Capital cost allowed for the 2019-24 tariff period

92. The capital cost allowed for the purpose of tariff, subject to truing up, for the 2019-24 tariff period is as under:

(Rs. in lakh)

Particulars	2023-24 (1.10.2023-31.3.2024)
Opening capital cost	193451.18
Add: Addition capital expenditure	7571.38
Closing capital cost	**201022.56**

Average capital cost	197236.87

Debt-Equity Ratio

93. Regulation 36G of the 2021 Second Amendment Regulations provides that for an integrated mine, the debt-equity ratio as on COD and for additional capital expenditure shall be determined in the manner specified under Regulation 18 (1) of the 2019 Tariff Regulations, reproduced as under:

> *"18. Debt-Equity Ratio: (1) For a new project, the debt-equity ratio of 70:30 as on date of commercial operation shall be considered. If the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan:*
>
> *Provided that:*
>
> *i. where equity actually deployed is less than 30% of the capital cost, actual equity shall be considered for determination of tariff:*
>
> *ii. the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment:*
>
> *iii. any grant obtained for the execution of the project shall not be considered as a part of capital structure for the purpose of debt: equity ratio.*
>
> ***Explanation-****The premium, if any, raised by the generating company or the transmission licensee, as the case may be, while issuing share capital and investment of internal resources created out of its free reserve, for the funding of the project, shall be reckoned as paid-up capital for the purpose of computing return on equity, only if such premium amount and internal resources are actually utilized for meeting the capital expenditure of the generating station or the transmission system."*

94. The Petitioner has considered a debt-equity ratio of 70:30 for the 2019-24 tariff period. Considering the cumulative cash expenditure and the actual loan position, as on the COD of TLCMP, the debt-equity ratio as on the COD of TLCMP works out to 68:32, which is well within the normative debt-equity ratio of 70:30.

95. The debt-equity ratio of 70:30 has been considered for the purpose of tariff for the 2019-24 tariff period, and the details of the debt-equity ratio in respect of TLCMP as on COD (i.e. 1.10.2023) and 31.3.2024, is as under:

	Capital cost as on 1.10.2023 (Rs. in lakh)	**(%)**	**Additional capital expenditure (Rs. in lakh)**	**(%)**	**Capital cost as on 31.3.2024 (Rs. in lakh)**	**(%)**
Debt	135415.83	70%	5299.97	70%	140715.79	70%
Equity	58035.35	30%	2271.41	30%	60306.77	30%
Total	**193451.18**	**100%**	**7571.38**	**100%**	**201022.56**	**100%**

Return on Equity

96. Regulation 36G of the 2021 Second Amendment Regulations provides that for an integrated mine, the return on equity shall be computed in rupee terms on the equity base arrived at under Clause (1) of the said Regulation at a base rate of 14%. Further, this base rate of return on equity shall be grossed up with the effective tax rate computed in the manner specified under Regulation 31 of the 2019 Tariff Regulations. Regulation 31 of the 2019 Tariff Regulations provides as under:

> *"31. Tax on Return on Equity:*
>
> *(1) The base rate of return on equity as allowed by the Commission under Regulation 30 of these regulations shall be grossed up with the effective tax rate of the respective financial year. For this purpose, the effective tax rate shall be considered on the basis of actual tax paid in respect of the financial year in line with the provisions of the relevant Finance Acts by the concerned generating company or the transmission licensee as the case may be. The actual tax paid on income from other businesses including deferred tax liability (i.e., income from business other than business of generation or transmission as the case may be) shall be excluded for the calculation of effective tax rate.*
>
> *(2) Rate of return on equity shall be rounded off to three decimal places and shall be computed as per the formula given below:*
>
> *Rate of pre-tax return on equity = Base rate / (1-t)*
>
> *Where "t" is the effective tax rate in accordance with Clause (1) of this Regulation and shall be calculated at the beginning of every financial year based on the estimated profit and tax to be paid estimated in line with the provisions of the relevant Finance Act applicable for that financial year to the company on pro-rata basis by excluding the income of non-generation or non-transmission business as the case may be and the corresponding tax thereon. In case of generating company or transmission licensee paying Minimum Alternate Tax (MAT) "t" shall be considered as MAT rate including surcharge and cess.*
>
> ***Illustration-***
>
> *(i) In case of the generating company or the transmission licensee paying Minimum Alternate Tax (MAT) @ 21.55% including surcharge and cess:*
>
> *Rate of return on equity = 15.50/(1-0.2155) = 19.758%*
>
> *(ii) In case of a generating company or the transmission licensee paying normal corporate tax including surcharge and cess:*
>
> *(a) Estimated Gross Income from generation or transmission business for FY 2019-20 is Rs 1000 crore.*
>
> *(b) Estimated Advance Tax for the year on above is Rs 240 crore.*
>
> *(c) Effective Tax Rate for the year 2019-20 = Rs 240 Crore/Rs 1000 Crore = 24%.*
>
> *(d) Rate of return on equity = 15.50/ (1-0.24) = 20.395%.*
>
> *The generating company or the transmission licensee as the case may shall true up the grossed-up rate of return on equity at the end of every financial year based on actual tax paid together with any additional tax demand including interest*

thereon duly adjusted for any refund of tax including interest received from the income tax authorities pertaining to the tariff period 2019-24 on actual gross income of any financial year. However, penalty if any arising on account of delay in deposit or short deposit of tax amount shall not be claimed by the generating company or the transmission licensee as the case may be. Any under-recovery or over-recovery of grossed up rate on return on equity after truing up shall be recovered or refunded to beneficiaries or the long-term transmission customers as the case may be on year to year basis."

97. The Petitioner has claimed return on equity (ROE) at the rate of 16.964% [arrived at after grossing up the base rate of ROE of 14% with the effective tax rate (i.e., MAT rate) of 17.472%]. The same is in order and is allowed for the purpose of the tariff. Accordingly, ROE has been worked out, subject to truing up, as under:

(Rs. in lakh)

Particulars	**2023-24 (1.10.2023-31.3.2024)**
Normative Equity – Opening	58035.35
Add: Addition of Equity due to ACE	2271.41
Normative Equity – Closing	**60306.77**
Average Normative Equity	59171.06
Return on Equity (Base Rate)	14.000%
Effective Tax Rate	17.472%
Rate of Return on Equity (Pre-tax)	16.964%
Return on Equity (Pre-tax) - *annualized*	**10037.78**

<u>Interest on Loan</u>

98. Regulation 36G(5) of the 2021 Second Amendment Regulations, provides that for an integrated mine the interest on loan, including normative loan, if any, determined under Clause (1) of this Regulation, shall be arrived at by considering the weighted average rate of interest (WAROI) calculated on the basis of actual loan portfolio, in accordance with Regulation 32 of the 2019 Tariff Regulations. Regulation 32 of the 2019 Tariff Regulations provides as under:

"32. Interest on loan capital: (1) The loans arrived at in the manner indicated in Regulation 18 of these regulations shall be considered as gross normative loan for calculation of interest on loan.

(2) The normative loan outstanding as on 1.4.2019 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2019 from the gross normative loan.

(3) The repayment for each of the year of the tariff period 2019-24 shall be deemed to be equal to the depreciation allowed for the corresponding year/period. In case of

de-capitalization of assets, the repayment shall be adjusted by taking into account cumulative repayment on a pro rata basis and the adjustment should not exceed cumulative depreciation recovered upto the date of de-capitalization of such asset.

(4) Notwithstanding any moratorium period availed by the generating company or the transmission licensee, as the case may be, the repayment of loan shall be considered from the first year of commercial operation of the project and shall be equal to the depreciation allowed for the year or part of the year.

(5) The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio after providing appropriate accounting adjustment for interest capitalized:

Provided that if there is no actual loan for a particular year but normative loan is still outstanding, the last available weighted average rate of interest shall be considered:

Provided further that if the generating station or the transmission system, as the case may be, does not have actual loan, then the weighted average rate of interest of the generating company or the transmission licensee as a whole shall be considered.

(6) The interest on loan shall be calculated on the normative average loan of the year by applying the weighted average rate of interest.

(7) The changes to the terms and conditions of the loan shall be reflected from the date of such re-financing."

99. The gross normative loan of Rs.135413.83 lakh has been considered as on the COD of TLCMP. The WAROI, as claimed by the Petitioner, has been retained for the purpose of tariff, subject to truing up. Depreciation allowed for the period has been considered as repayment of the normative loan. The necessary calculation of interest on a loan is as under:

(Rs. in lakh)

Particulars	**2023-24 (1.10.2023-31.3.2024)**
Gross opening loan	135415.83
Less: Cumulative repayment of loan up to previous year	0.00
Net Loan Opening	**135415.83**
Add: Addition due to ACE	5299.97
Less: Repayment of loan during the year	4265.43
Net Loan Closing	**136450.36**
Average Loan	135933.10
WAROI	6.9009%
Interest on Loan *(annualised)*	**9380.66**

Depreciation

100. Regulation 36H of the 2021 Second Amendment Regulations provides as under:

"36H. Depreciation: (1) Depreciation in respect of integrated mine(s) shall be computed from the date of commercial operation by applying Straight Line Method:

Provided that depreciation methodology allowed in respect of integrated mine(s) of lignite which have been declared under commercial operation on or before 31.3.2019, shall continue to apply for determination of input price of lignite.

(2) The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission:

Provided that,

i) freehold land or assets purchased from grant shall not be considered as depreciable assets and their cost shall be excluded from the capital cost while computing depreciable value of the assets;

ii) where the allotment of freehold land is conditional and is required to be returned, the cost of such land shall be part of value base for the purpose of depreciation, subject to prudence check by the Commission; and

iii) lease hold land shall be amortized over the lease period or remaining life of the integrated mine(s), whichever is lower.

(3) The salvage value of an asset shall be considered as 5% of the capital cost of the asset:

Provided that the salvage value shall be:

i) zero for IT equipment and software;

ii) zero or as agreed by the generating company with the State Government for land; and

iii) as notified by the Ministry of Corporate Affairs under the Companies Act, 2013 for specialized mining equipment.

(4) Depreciation in respect of integrated mine(s) shall be arrived at annually by applying depreciation rates or on the basis of expected useful life specified in Appendix 1A of these regulations:

Provided that specialized mining equipment shall be depreciated as per the useful life and depreciation rate as notified by the Ministry of Corporate Affairs under the Companies Act, 2013."

101. The Petitioner has claimed depreciation at the weighted average rate of depreciation (WAROD) of 4.33%, freehold land amounting to Rs.1649.84 lakh and for an asset with zero salvage value amounting to Rs.203209.90 lakh. However, the Petitioner has not furnished the details of the amount of liabilities corresponding to the asset having zero salvage value amounting to Rs.203209.90 lakh as on 31.3.2024 in Form-11, to work out the corresponding average value included in the allowed average capital cost on a cash basis. Accordingly, the Petitioner is directed to furnish the details of asset-wise liabilities corresponding to Gross Block as on 31.3.2024 in Form 11 at the time of truing up. For the present, the average asset with a zero-salvage value of Rs.178803.01 lakh, corresponding to cash capital cost as on COD, has been

considered, subject to truing up. After minor corrections, WAROD of 4.3252%, and average freehold land amounting to Rs.1649.84 lakh has been considered for the purpose of calculating depreciation as under:

(Rs. in lakh)

S.N.	Particulars	Remarks	2023-24 (1.10.2023-31.3.2024)
A	Average capital cost		197236.87
B	Value of freehold land included in 'A'		1649.84
C	Value of assets with zero salvage value included in 'A'		178803.01
D	Depreciable value	[(A-B-C) x 95%] + C	194747.83
E	Remaining depreciable value at the beginning of the year	(D) - 'J' of preceding year	194747.83
F	Balance useful life at the beginning of the year		31
G	WAROD		4.3252%
H	**Depreciation during the year *(annualised)***	(A x G)	**8530.86**
I	**Depreciation during the period *(pro-rata)***	H x 183/366	**4265.43**
J	Cumulative depreciation at the end of the year	(H) + 'I' of preceding year	4265.43

<u>O&M Expenses</u>

102. As regards the O&M Expenses, Regulation 36I of the 2021 Second Amendment Regulations provides as under:

> *"(1) The Operation and Maintenance Expenses in respect of integrated mine(s) shall be allowed as under:*
>
> *(a) The Operation and Maintenance expenses in respect of integrated mine(s) of coal, for the tariff period ending on 31st March 2024 shall be allowed based on the projected Operation and Maintenance Expenses for each year of the tariff period subject to prudence check by the Commission;*
>
> *Provided that the Operation and Maintenance expenses allowed under this clause shall be trued up based on actual expenses for the tariff period ending on 31st March, 2024.*
>
> *(b) The Operation and Maintenance expenses for the tariff period ending on 31st March 2024 in respect of the integrated mine(s) of lignite commissioned on or before 31st March 2019, shall be worked out based on the Operation and Maintenance expenses as admitted by the Commission during 2018-19 and escalated at the rate of 3.5% per annum;*
>
> *(c) The Operation and Maintenance expenses for the tariff period ending on 31st March 2024 in respect of the integrated mine(s) of lignite commissioned after 31st March 2019, shall be allowed based on the projected Operation and Maintenance Expenses for each year of the tariff period, subject to prudence check by the Commission;*

Provided that the Operation and Maintenance expenses allowed under this clause shall be trued up based on actual expenses for the tariff period ending on 31st March 2024.

(2) Where the development and operation of the integrated mine(s) is undertaken by the generating company by engaging Mine Developer and Operator, the Mining Charge of such Mine Developer and Operator shall not be included in Operation and Maintenance Expenses under Clause (1) of this Regulation;

(3) Where an agency other than Mine Developer and Operator is engaged by the generating company, through a transparent competitive bidding process, for crushing or transportation or handling or washing or any combination thereof, the annual charges of such agency shall be considered as part of Operation and Maintenance Expenses under clause (1) of this Regulation, subject to prudence check by the Commission."

103. In terms of the above regulation, the O&M expenses claimed by the Petitioner are as under:

(Rs. in lakh)

S.N.	Particulars	2023-24
1	Actual Annual O&M in terms of Regulation 36I	28057.35
2	Actual Annual Charge of Agency(ies) other than MDO*:	
	- Loading cost	1066.61
	- CIMFR sampling cost	172.12
	Total Actual annual O&M	**29296.07**

*Actual O&M figure has been annualised for 2023-24

104. We observe that the Petitioner has claimed O&M expenses under Serial No. 1 for activities undertaken directly by it, such as deployment of statutory manpower, supervision of MDO operations, joint sampling and weighment, bill verification, asset maintenance, and other site-level functions, including land acquisition, R&R, CSR, security, and IT services. Under Serial No. 2, the Petitioner has claimed expenses incurred towards agencies other than the MDO, including charges paid to CIMFR for coal quality testing, sampling, and loading-related works. The Petitioner has submitted that these activities are of an O&M nature and fall within the scope of Regulation 36I(3) of the 2019 Tariff Regulations, as amended from time to time.

105. We have considered the Petitioner's submissions. As per Regulation 36I of the 2021 Second Amendment Regulations, O&M expenses for the period 2019-24 are

required to be allowed based on projected norms, subject to a prudence check, and trued up based on actuals at the end of the tariff period. The Petitioner has submitted actual O&M expenses for the period from 1.10.2023 to 31.3.2024 and annualised the same for the period 2023-24. Additionally, year-wise Auditor's Certified O&M expenses for the period 2019-24 have been furnished, vide affidavit dated 10.3.2025.

106. Considering that the COD of the mine was declared on 1.10.2023 and that the input price of coal for integrated mines is being determined for the first time, we allow the O&M expenses as claimed by the Petitioner for determination of the input price of coal from the TLCMP for the period 2019-24. However, the annual performance incentive paid to the employees of the mine, the expenditure incurred towards CSR activities, the provision for arbitration and other losses written off shall be considered at the time of truing up based on a prudence check. Further, the expenses under the head "Miscellaneous Expenses" have also been excluded due to the non-availability of details. Accordingly, the Petitioner is directed to provide the complete details of Miscellaneous expenses, which shall be considered at the time of truing up based on the prudence check.

107. The O&M expenses allowed above shall, however, be subject to truing up based on actuals for the period 2019-24. The Petitioner is directed to furnish, at the time of truing up, the following details:

(a) Actual O&M expenses of the Corporate Office for the period 2019-24, including details of incentives paid to Corporate Centre employees, along with their allocation to operating stations, generating stations under construction, and mines under construction;

(b) Break-up of employee benefit expenses and clarification that the expenditure claimed for employees has not been booked under normative O&M expenses of any generating station from where they may have been transferred to this mine, if applicable; and

(c) Details of total O&M activities involved in mining, clearly bifurcating the activities and corresponding O&M expenses under the scope of the MDO and those under the Petitioner's scope.

108. Accordingly, the following O&M expenses, in terms of Regulation 36I of the 2021 Second Amendment Regulations, are allowed for the instant mine:

(Rs. in lakh)

O&M expenses	**2023-24 (1.10.2023-31.3.2024)**
	Actual
Claimed (Actual Annual O&M in terms of Regulation 36I)	14028.67
Less: Annual Performance Incentive	409.41
Less: Provision for Arbitration Case	3168.24
Less: CSR	82.35
Less: Other Losses Written off	6601.42
Less: Misc. expenses	37.73
Allowed (for the period from 1.10.2023 to 31.3.2024)	**3729.52**

109. Since the actual O&M expenses of Rs. 3729.52 lakh for the period from 1.10.2023 to 31.3.2024 have been allowed in terms of Regulation 36I of the 2021 Second Amendment Regulations, the additional expenditure of Rs. 1238.73 lakh (annualised for 2023-24) incurred towards agencies other than the MDO, including charges paid to CIMFR for coal quality testing, sampling, and loading-related activities, is also admissible under Regulation 36I(3) of the 2021 Second Amendment Regulations. Accordingly, the total annualised O&M expenses allowable for determination of the input price of coal for the year 2023-24 work out to Rs. 8697.77 lakh (Rs. 7459.04 lakh + Rs. 1238.73 lakh). However, the same shall be subject to truing up based on the actual expenditure for the tariff period 2019–24.

110. Accordingly, the total O&M expenses allowed for the instant mine, comprising the annualised actual O&M expenses and the expenditure incurred towards agencies other than the MDO, and subject to truing up based on the actual expenditure for the tariff period 2019-24, are summarised below:

(Rs. in lakh)

S.N.	Particulars	2023-24
1	Actual Annual O&M in terms of Regulation 36I*	7459.04
2	Actual Annual Charge of Agency(ies) other than MDO* :	-
	- Loading cost	1066.61
	- CIMFR sampling cost	172.12
	Total Actual annual O&M	**8697.77**

*Actual O&M figure has been annualised for 2023-24

Interest on working capital (IWC)

111. Regulation 36J of the 2021 Second Amendment Regulations provides as under:

> *"**36J. Interest on Working Capital:** (1) The working capital of the integrated mine(s) of coal shall cover:*
>
> *(i) Input cost of coal stock for 7 days of production corresponding to the Annual Target Quantity for the relevant year;*
>
> *(ii) Consumption of stores and spares including explosives, lubricants and fuel @ 15% of operation and maintenance expenses, excluding mining charge of Mine Developer and Operator and annual charges of the agency other than Mine Developer and Operator, engaged by the generating company; and*
>
> *(iii) Operation and maintenance expenses for one month, excluding mining charge of Mine Developer and Operator and annual charges of the agency other than Mine Developer and Operator, engaged by the generating company.*
>
> *(2) The working capital of the integrated mine(s) of lignite shall cover:-*
>
> *(i) Input cost of lignite stock for 7 days of production corresponding to the Annual Target Quantity for the year;*
>
> *(ii) Consumption of stores and spare including explosives, lubricants and fuel @ 20% of Operation and Maintenance expenses, excluding Mining Charge of Mine Developer and Operator and annual charges of the agency other than Mine Developer or Operator, engaged by the generating company; and*
>
> *(iii) Operation and Maintenance expenses for one month, excluding Mining Charge of Mine Developer and Operator and annual charges of the agency other than Mine Developer and Operator, engaged by the generating company.*
>
> *(3) The rate and payment of interest on working capital shall be determined in accordance with Clauses (3) and (4) of Regulation 34 of these regulations.*

112. Regulation 34 (3) and (4) of the 2019 Tariff Regulations provides as under:

> *"(3) Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.4.2019 or as on 1st April of the year during the tariff period 2019-24 in which the generating station or a unit thereof or the transmission system including communication system or element thereof, as the case may be, is declared under commercial operation, whichever is later:*
>
> *Provided that in case of truing-up, the rate of interest on working capital shall be considered at bank rate as on 1st April of each of the financial year during the tariff period 2019-24.*

(4) Interest on working capital shall be payable on normative basis notwithstanding that the generating company or the transmission licensee has not taken loan for working capital from any outside agency."

113. The interest on working capital claimed by the Petitioner, for the 2019-24 tariff period, in terms of the above regulations, is as under:

(Rs. in lakh)

Particulars	2023-24
Input Cost of Coal Stock for 7 days of Production corresponding to ATQ for the relevant year	2050.98
Consumption of stores and spares, including explosives, lubricants and fuels @ 15% of O&M expenses, excluding the mining charge of MDO & Operator & annual charge of the agency other than MDO engaged by the generating company	4394.41
O&M expenses for 1 month, excluding the mining charge of MDO & Operator & annual charge of the agency other than MDO engaged by the generating company	2441.34
Total Working Capital	**8886.73**
Rate of Interest	12.00%
Interest on Working Capital	**1066.41**

114. The Petitioner has submitted that the IWC's claim is in accordance with Regulation 36J(1) of the 2019 Tariff Regulations (as amended). The Regulation allows working capital to cover (i) input cost of coal stock for 7 days of production, (ii) 15% of O&M expenses towards stores and spares (excluding MDO and other agency charges), and (iii) one month of O&M expenses (excluding MDO and other agency charges). The Petitioner has clarified that the O&M activities, such as deployment of statutory manpower, supervision of MDO operations, joint sampling, verification of MDO bills, building and asset maintenance, security, and CSR works, are carried out directly by the Petitioner and are thus eligible for IWC computation. The Petitioner has also included charges paid to other agencies such as CIMFR, under O&M in line with Regulation 36I(3) of the 2019 Tariff Regulations (as amended). Accordingly, the Petitioner has prayed for approval of IWC as claimed in the Petition.

115. We have examined the Petitioner's claim for IWC under Regulation 36J(1) of the 2019 Tariff Regulations (as amended). As per the said Regulation, the working

capital for integrated coal mines shall include: (i) input cost of coal stock for 7 days of production corresponding to the ATQ, (ii) 15% of O&M expenses towards stores and spares, excluding charges of MDO and other agencies, and (iii) one month of O&M expenses, excluding MDO and other agency charges. The Commission observes that the Petitioner has submitted actual O&M expenses for 2023-24, which have been normalised by excluding non-admissible components such as miscellaneous, staff welfare, and administrative expenses, in line with the methodology adopted in generation tariff petitions. The Petitioner, vide affidavit dated 10.3.2025, has provided justification for O&M activities undertaken directly by it, such as statutory manpower deployment, MDO supervision, CSR, R&R, and maintenance of its own infrastructure, supported by auditor-certified data. Further, the charges paid to CIMFR and other agencies engaged through transparent bidding have been considered under O&M expenses in accordance with Regulation 36I(3) of the 2019 Tariff Regulations (as amended). We have scrutinized the data furnished in the relevant forms and find that the methodology and classification of expenses are consistent with regulatory provisions. Accordingly, after prudence check, we allow the claim of IWC for the Talaipalli Coal Mine as per the norms specified under Regulation 36J(1) of the 2019 Tariff Regulations (as amended), based on the eligible components of O&M expenses and coal stock cost, for the period 2019-24 as under:

(Rs. in lakh)

Particulars	**2023-24**
Input Cost of Coal Stock for 7 days of Production corresponding to ATQ for the relevant year	1607.82
Consumption of stores and spares, including explosives, lubricants and fuels @ 15% of O&M expenses, excluding the mining charge of MDO & Operator & annual charge of the agency other than MDO engaged by the generating company	1304.67
O&M expenses for 1 month, excluding the mining charge of MDO & Operator & annual charge of the agency other than MDO engaged by the generating company	724.81
Total Working Capital	**3637.30**

Rate of Interest	12.00%
Interest on Working Capital	**436.48**

Mine Closure Expenses

116. Regulation 36K of the 2021 Second Amendment Regulations provides as under:

> *"**36K. Mine Closure Expenses:** (1) Where the mine closure is undertaken by the generating company, the amount deposited in the Escrow account as per the Mining Plan, after adjusting interest earned, if any, on the said deposits shall be admitted as Mine Closure Expenses:*
>
> *Provided that,*
>
> *a) the amount deposited in the Escrow account as per the Mining Plan prior to the Date of Commercial Operation of the integrated mine(s) shall be indicated separately and shall be recovered over the useful life of the integrated mine(s) in the form of annuity linked to the borrowing rate;*
>
> *b) the amount deposited in the Escrow account as per the Mining Plan or any expenditure incurred towards mine closure shall be excluded from the capital cost for computing input price;*
>
> *c) where the expenditure incurred towards mine closure falls short of or is in excess of the reimbursement received from the Escrow account during the tariff period 2019-24, the shortfall or excess shall be carried forward to the subsequent years for adjustments.*
>
> *(2) The amount towards mine closure shall be deposited in the Escrow account as per the Mining Plan and shall be recovered as part of input price irrespective of the expenditure incurred towards mine closure during any of the years of the tariff period.*
>
> *(3) Where mine closure is within the scope of Mine Developer and Operator engaged by the generating company and mine closure expenses are part of the Mining Charge of Mine Developer and Operator, the mine closure expenses shall be met out of the Mining Charge and no mine closure expenses shall be admissible to the generating company separately:*
>
> *Provided that,*
>
> *a) the amount deposited in the Escrow account by the Mine Developer and Operator or by the generating company and any amount received from the Escrow Account against expenditure incurred towards mine closure shall not be considered for computing input price; and*
>
> *b) the difference between the borrowing cost, arrived at by considering the weighted average rate of interest calculated on the basis of actual loan portfolio in accordance with the methodology specified in Regulation 32 of these regulations, and the amount deposited in Escrow account and the interest received from Escrow account in a year shall be adjusted in the input price of coal or lignite of the respective year, as part of mine closure expenses, on case to case basis;*
>
> *(4) Where the mine closure is within the scope of Mine Developer and Operator engaged by the generating company only for a part of useful life of the integrated mine(s)and the generating company undertakes the mine closure for the balance useful life, the treatment of mine closure during the period undertaken by the generating company shall be in accordance with Clause(1) of this Regulation and mine closure during the period undertaken by the Mine Developer and Operator shall be in accordance with Clause (3) of this Regulation:*

Provided that the treatment of mine closure at the end of useful life of the integrated mine(s) shall be decided by the Commission on case to case basis.

The mine closure expenses worked out in accordance with this Regulation shall not applicable in case of the integrated mine(s) allocated through auction route under Coal Mines (Special Provisions) Act, 2015."

117. The Petitioner has claimed mine closure expenses amounting to Rs.1040.84 lakh for the year 2023-24. We observe that the expenditure towards progressive mine closure of Talaipalli Coal Mine is within the scope of the MDO and is covered under the MDO fee, in accordance with Regulation 36(K)(3) of the 2019 Tariff Regulations (as amended). The activities related to final mine closure fall under the scope of the Petitioner. In this regard, the Petitioner has submitted the details of the deposit made in the Escrow Account along with interest accrued for the year 2023-24, duly supported by the audited Form-17.

118. Based on the submissions and audited records, we allow the expenditure of Rs.1040.84 lakh towards final mine closure, subject to truing up.

Annual Extraction cost allowed for the period 2019-24

119. Based on the above, the annual extraction cost allowed for the coal mine for the tariff period 2019-24 is summarised as follows:

(Rs. in lakh)

	2023-24
Depreciation	8530.86
Interest on Loan	9380.66
Return on Equity	10037.78
Interest on Working Capital	436.48
O&M Expenses	8697.77
Mine Closure Expenses	1040.84
Total Annual Extraction Cost	**38124.38**

Mining Fee

120. The Petitioner has claimed the following weighted average MDO price (mining charges paid to the three MDOs) post-COD, considering the mine plan stripping ratio as part of the RoM cost:

	2023-24 (Oct 2023 to March 2024)
Weighted average Mining Charges* (Rs/Tonne)	780.49

*Auditor Certified

121. The Respondents have submitted that the escalation in mining charges during the 4th Quarter of 2023-24 appears excessive and lacks adequate justification. It has been further pointed out that while the mining charges for the West and East Pits have increased marginally, there is a significant decrease in the charges for the South Pit Extension, raising concerns about consistency and transparency in cost determination. The Respondents have accordingly prayed that a prudence check of the escalation methodology and supporting documents furnished by the Petitioner be undertaken to avoid inflated input price claims and an undue burden on beneficiaries.

122. Per contra, the Petitioner, vide affidavit dated 10.3.2025, has submitted justification for the variation in mining charges during Q3 and Q4 of 2023-24. The Petitioner has clarified that the Talaipalli Coal Mine is being operated by three different agencies across separate pits under independent contracts with distinct escalation formulas. The escalation in the West Pit, operated by PC Patel Infra Private Limited, is Rs.4.29/tonne (~1%), while in the East Pit, operated by VPR Mining Infrastructure Private Limited, the escalation from bid to billing is Rs.11.05/tonne (~1%). In contrast, the South Pit Extension, operated by M/s. KCCL, under item-rate billing, recorded a decrease of Rs.87.05/tonne (~10.5%) due to a different escalation mechanism. The Petitioner has further submitted that the input price considered at the time of investment approval was lower than CIL's notified price for the same grade of coal.

Therefore, till the input price is determined by this Commission, coal dispatch and billing are being undertaken at CIL's notified price in accordance with the applicable Regulations.

123. We have examined the submissions made by the parties. It is noted that the escalation in mining charges across the three pits of the Talaipalli Coal Mine is governed by separate contracts - West Pit awarded to P.C. Patel Infra Private Limited for a period of 5 years and 3 months w.e.f. 30.6.2022 for 14.68 MMT with a base mining fee of Rs.630/tonne; South Pit Extension awarded to M/s. KCCL for 3 years and 3 months w.e.f. 28.7.2022 for 6.03 MMT under an item-rate contract; and East Pit awarded to VPR Mining Infrastructure Private Limited for 10 years w.e.f. 16.10.2023 for 111.31 MMT with a base mining fee of Rs.1055.89/tonne. Each contract is governed by a similar escalation formula, resulting in variation in mining fees during Q3 and Q4 of 2023-24. As per the respective MDO agreements, the mining fee is subject to monthly escalation based on variations in the prices of key input materials such as heavy machinery parts, fuel, explosives, power, tyres, and salaries & wages, in accordance with the escalation formula stipulated in the contracts.

124. We further observe that the contract with KCCL is an item-rate contract, whereas, as per the 2019 Tariff Regulations, as amended from time to time, the mining charge represents the charge per tonne of coal paid by the generating company to the MDO engaged for mining operations. The other two contracts also conform to the said definition. Accordingly, the mining charge for KCCL is allowed provisionally, subject to the Petitioner furnishing detailed justification for adopting an item-rate contract and demonstrating consistency with the Regulation stipulating the charge in Rs./tonne. The weighted average of mining charges across the three MDOs, as computed by the Petitioner, is accepted for the purpose of determination, subject to truing up.

125. Considering that the claimed mining fee is supported by the auditor's certificate, the same is allowed, subject to truing up. The Petitioner is directed to furnish, at the time of truing up, the requisite details such as year-wise base mining charge, escalation factors, adjustments in the mining fee on account of OB, GCV, size, moisture, and ash content, as well as adjustments relating to CHP O&M, and any other relevant parameters, along with all supporting documents.

Run of Mine Cost (ROM Cost)

126. Regulation 36B(2) of the 2021 Second Amendment Regulations provides as under:

> *"(2) Run of Mine Cost of coal in case of integrated mine allocated through allotment route under Coal Mines (Special Provisions) Act, 2015 shall be worked out as under:*
>
> *ROM Cost = [(Annual Extraction Cost / ATQ) + Mining Charge] + (Fixed Reserve Price).*
>
> *Where,*
>
> *Annual Extraction Cost is the cost of extraction of coal as computed in accordance with Regulation 36F of these regulations;*
>
> *(ii) Mining Charge is the charge per tonne of coal paid by the generating company to the Mine Developer and Operator engaged by the generating company for mining, wherever applicable; and*
>
> *(iii) Fixed Reserve Price is the fixed reserve price per tonne along with subsequent escalation, if any, as provided in the Coal Mine Development and Production Agreement."*

127. Based on the above, the ROM Cost allowed is summarised as under:

			2023-24
A	Annual Extraction Cost	Rs. in lakh	38124.38
B	ATQ	Tonne	3500000
C	Annual Extraction cost per Tonne (A/B)	Rs./Tonne	1089.27
D	Mining Charges	Rs./Tonne	780.49
E	**Run of Mine (ROM) Cost**	Rs./Tonne	**1869.76**

*As per the Auditor Certificates submitted by the Petitioner

Additional Charges

128. The Petitioner has not claimed additional charges in the instant Petition; accordingly, 'nil' additional charges are allowed for the purpose of determining the input price of coal.

Determination of Input Price

129. Regulation 36L of the 2021 Second Amendment Regulations provides as under:

> *"**36L. Determination of Input Price:** (1) The input price of coal or lignite shall be determined as under:*
>
> *Input Price = [ROM Cost + Additional charges]*
>
> *(2) The credit arising on account of adjustment due to shortfall in overburden removal, GCV Adjustment and Non-tariff Income, if any, shall be dealt separately in the manner specified in these regulations.*
>
> *(3) Statutory Charges, as applicable, shall be allowed."*

130. The Petitioner has claimed the input price of coal from the Talaipalli Coal Mine for the period 2019-2024 based on actual expenditure, as detailed below:

(Rs./Tonne)

Particulars	2023-24
ROM Cost	2531.78
Additional Charges	0.00
Input Price of Coal	**2531.78**
Statutory Charges	532.13
Total Input Price of Coal	**3063.91**
GST @ 5%	-
Total Input Charges of Coal	**3063.91**

Note: GST @ 5% and GST cess @ Rs.400 per Tonne shall be applicable in case coal is transferred to a station with a different GSTN.

131. Based on our decisions on ROM cost, additional charges, and the claims submitted by the Petitioner, the input price of coal from the Talaipalli Coal Mine for the period 2019-2024 is allowed as under:

(Rs./Tonne)

Particulars	2023-24
ROM Cost	1869.76
Add: Additional Charges	0.00
Input Price of Coal	**1869.76**

Statutory charges, if applicable

132. In terms of Regulation 36A(2) of the 2021 Second Amendment Regulations, statutory charges form part of the input price of coal. The details of statutory charges claimed by the Petitioner in respect of its TLCMP are as under:

(Rs./Tonne)

Particulars		Applicable Rate	(2023-24) (1.10.2023 - 31.3.2024)
Grade			**G13**
Royalty	% of Input Price (CIL Basic Rate)	14%	115.78
GST under Reverse Charge Mechanism	% of Royalty	18%	20.84
District Mineral Foundation (DMF)	% of Royalty	10%	11.58
GST under Reverse Charge Mechanism	% of DMF	18%	2.08
National Mineral Exploration Trust (NMET)	% of Royalty	2%	2.32
GST under Reverse Charge Mechanism	% of NMET	18%	0.42
Mineral Transit Cess (Forest Cess)	Rs./Tonne	19.32	19.32
GST under Reverse Charge Mechanism	% of Forest Cess	18%	3.48
CG Vikas Upkar	Rs./Tonne	11.25	11.25
GST under Reverse Charge Mechanism	% of CG Vikas Upkar	18%	2.03
CG Paryavaran Upkar	Rs./Tonne	11.25	11.25
GST under Reverse Charge Mechanism	% of Paryavaran Upkar	18%	2.03
Reserve Price (with escalation)	Rs./Tonne	133.14	133.14
GST under Reverse Charge Mechanism	% Reserve Price	18%	23.97
GST on MDO price	% of Mining Charges	18%	172.66
Total	**Rs./Tonne**		**532.13**

Note: Royalty is to be paid at the CIL price of the equivalent grade.

133. We observe that the Petitioner has claimed statutory charges amounting to Rs. 532.13 per tonne for the period from 1.10.2023 to 31.3.2024 in respect of G13-grade coal. In support of the claim, the Petitioner has submitted an audited statement indicating the breakup of these charges. Based on the submissions and in terms of Regulation 36A(2) of the 2021 Second Amendment Regulations, the statutory charges as claimed by the Petitioner are hereby allowed, subject to their applicability and compliance with the relevant statutory provisions. Further, the Petitioner shall

certify, at the time of truing up, that it has not claimed/availed any input tax credit in respect of GST as shown above under the head statutory charges.

Adjustment on account of Shortfall of Overburden Removal (OB Adjustment)

134. Regulation 36N of the 2021 Second Amendment Regulations provides as under:

> *“**36N. Adjustment on account of Shortfall of Overburden Removal (OB Adjustment):** (1) The generating company shall remove overburden as specified in the Mining Plan.*
>
> *(2) In case of shortfall of overburden removal during a year, the generating company shall be allowed to adjust such shortfall against excess of overburden removal, if any, during subsequent three years.*
>
> *(3) In case of excess of overburden removal during a year, the generating company shall be allowed to carry forward such excess for adjustment against the shortfall, if any, during subsequent three years.*
>
> *(4) Where the shortfall of overburden removal of any year is not made good by the generating company in accordance with Clause (2) of this Regulation, the adjustment on account of shortfall of overburden removal (OB Adjustment) for that year shall be worked out as under:*
>
> *OB Adjustment = [Factor of adjustment for shortfall of overburden removal during the year] x [Mining Charge during the year + Operation and Maintenance expenses during the year]*
>
> *Where,*
>
> *i) Factor of adjustment for shortfall of overburden removal during the year shall be computed as under:*
>
> *[(Actual quantity of coal or lignite extracted during the year x Annual Stripping Ratio as per Mining Plan) - (Actual quantity of overburden removed during the year/ Annual Stripping Ratio as per Mining Plan)]/ (Annual Target Quantity);*
>
> *ii) Annual Stripping ratio is the ratio of volume of overburden to be removed for one unit of coal or lignite as specified in the Mining Plan.*
>
> *iii) Mining Charge is the charge per tonne of coal or lignite paid by the generating company to the Mine Developer and Operator engaged by the generating company for mining, wherever applicable.*
>
> *iv) Mining Charge and Operation and Maintenance expenses shall be in terms of Rupees per tonne corresponding to the Annual Target Quantity.*
>
> *(5) The provisions of this Regulation regarding adjustment on account of shortfall of overburden removal shall not be applicable in case of the integrated mine(s) allocated through auction route under Coal Mines (Special Provisions) Act, 2015.”*

135. The Petitioner has submitted that no expenses have been incurred or booked on account of shortfall in OB removal for the period from 2021-22 to 2023-24. In accordance with the 2019 Tariff Regulations, as amended by the Second Amendment,

the shortfall is proposed to be adjusted against the anticipated excess OB removal during the period from 2024-25 to 2026-27 for the Talaipalli Coal Mine.

136. We observe that the adjustment of OB shortfall against excess OB removal in the succeeding three-year period is in line with the applicable regulations. Accordingly, the proposed adjustment, if any, is allowed subject to verification of actual performance.

Adjustment on account of shortfall in GCV (GCV Adjustment)

137. Regulation 36O of the 2021 Second Amendment Regulations provides as under:

> *"**36O. Adjustment on account of shortfall in GCV (GCV Adjustment):** (1) In case the weighted average GCV of coal extracted from the integrated mine(s) in a year is higher than the declared GCV of coal for such mine(s), no GCV adjustment shall be allowed.*
>
> *(2) In case the weighted average GCV of coal extracted from the integrated mine(s) in a year is lower than the declared GCV of coal of such mine(s), the GCV adjustment in that year shall be worked out as under:*
>
> *(a) Where the integrated mine(s) are allocated through auction route under Coal Mines (Special Provisions) Act, 2015:*
>
> *GCV Adjustment = (Quoted Price of coal + Fixed Reserve Price) x [(Declared GCV of coal - Weighted Average GCV of coal extracted in the year)/(Declared GCV of coal)]*
>
> *Where,*
>
> *i) Quoted Price of coal is the Final Price Offer of coal in respect of the concerned coal Block or Mine, along with subsequent escalation, if any, as provided in the Coal Mine Development and Production Agreement:*
>
> *Provided that additional premium, if any, quoted by the generating company in auction, shall not be considered; and*
>
> *ii) Declared GCV of coal shall be the GCV of coal as specified or quoted in the auction.*
>
> *(b) Where the integrated mine(s) are allocated through allotment route under Coal Mines (Special Provisions) Act, 2015:*
>
> *GCV Adjustment = [(Annual Extraction Cost/ATQ) + (Mining Charge)] x [(Declared GCV of coal – Weighted Average GCV of coal extracted in the year)/(Declared GCV of coal)]*
>
> *Where,*
>
> *i) Annual Extraction Cost is the cost of extraction of coal as computed in accordance with Regulation 36F of these regulations;*
>
> *ii) Mining Charge is the charge per tonne of coal paid by the generating company to the Mine Developer and Operator engaged by the generating company for mining, wherever applicable; and*
>
> *iii) Declared GCV of coal shall be the average GCV as per the Mining Plan or as approved by the Coal Controller."*

138. The Petitioner has submitted that for the Talaipalli coal mine, grade details were not applicable for the period 2019-20 to 2022-23. For 2023-24, both the declared and weighted average GCV correspond to Grade G13, as reported to the Coal Controller Organisation (CCO). The Petitioner has followed CCO norms for reporting the composite grade and has submitted that the coal price up to COD is based on the notified price of CIL, and post COD, the input price is as claimed in the Petition.

139. We have considered the Petitioner's submission. It is noticed that the Petitioner has placed on record the month-wise details from the date of touching of coal till 31.3.2024, including the agreed and actual quantity of coal, weighted average GCV, cost of coal, and the amount paid to the MDOs, as summarised below:

S. No.	Month	MDO	Agreed Quantity of Coal Production (lakh Tonne)	Actual Quantity of Coal Production (lakh Tonne)	Weighted Average GCV of Coal (agreed) (kCal/kg)	Weighted Average GCV of Coal (kCal/kg)	Amount Paid to MDO (Rs/Tonne)
1	Nov-19	SSCCPL	0.20	0.001	3401-3700	3586	774.20
2	Dec-19	SSCCPL	0.20	0.01	3401-3700	3586	774.20
3	Jan-20	SSCCPL	0.40	0.36	3401-3700	3586	775.98
4	Feb-20	SSCCPL	0.80	0.80	3401-3700	3586	775.98
5	Mar-20	SSCCPL	0.80	0.73	3401-3700	3586	775.98
6	Apr-20	SSCCPL	0.60	0.56	3401-3700	3588	775.98
7	May-20	SSCCPL	0.00	0.00			
8	Jun-20	SSCCPL	0.00	0.00			
9	Jul-20	SSCCPL	0.25	0.03	3401-3700	3796	779.22
10	Aug-20	SSCCPL	0.25	0.61	3401-3700	3621	779.22
11	Sep-20	SSCCPL	0.50	0.62	3401-3700	3759	782.78
12	Oct-20	SSCCPL	0.80	0.90	3401-3700	3768	782.78
13	Nov-20	SSCCPL	1.00	0.89	3401-3700	3674	782.78
14	Dec-20	SSCCPL	1.00	1.21	3401-3700	3620	788.26
15	Jan-21	SSCCPL	1.20	1.07	3401-3700	3729	782.78
16	Feb-21	SSCCPL	1.20	1.04	3401-3700	3721	788.26
17	Mar-21	SSCCPL	1.20	1.19	3401-3700	3656	788.26
18	Apr-21	SSCCPL	0.80	0.59	3401-3700	3633	788.26
19	May-21	SSCCPL	0.80	0.81	3401-3700	3644	796.68
20	Jun-21	SSCCPL	0.80	0.42	3401-3700	3589	796.68
21	Jul-21	SSCCPL	0.40	0.63	3401-3700	3706	796.68
22	Aug-21	SSCCPL	0.40	0.31	3401-3700	3689	820.33
23	Sep-21	SSCCPL	0.40	0.19	3401-3700	3605	820.33
24	Oct-21	SSCCPL	1.20	1.01	3401-3700	3711	820.33
25	Nov-21	SSCCPL	0.00	0.00			
26	Dec-21	SSCCPL	0.00	0.00			
27	Jan-22	SSCCPL	0.00	0.00			
28	Feb-22	SSCCPL	0.00	0.00			

29	Mar-22	SSCCPL	0.50	0.14	3401-3700	3727	836.40
30	Apr-22	SSCCPL	0.50	0.39	3401-3700	3785	844.66
31	May-22	SSCCPL	0.80	0.84	3401-3700	3745	844.66
32	Jun-22	SSCCPL	0.80	0.57	3401-3700	3849	844.66
33	Jul-22	SSCCPL	0.50	0.50	3401-3700	4018	856.40
34	Aug-22	SSCCPL	0.50	0.53	3401-3700	4322	856.40
35	Sep-22	SSCCPL	0.50	0.61	3401-3700	3931	856.40
36	Oct-22	SSCCPL	0.80	0.47	3401-3700	4235	864.83
37	Nov-22	SSCCPL	0.80	1.10	3401-3700	3745	864.83
		KCCL	0.5	0.34	3401-3700	3408	528.81
38	Dec-22	PCPIPL	1.60	1.06	3401-3700	3404	2032.12
		KCCL	1.00	1.20	3401-3700	3446	1718.54
39	Jan-23	PCPIPL	1.80	3.06	3401-3700	3335	888.26
		KCCL	1.50	1.68	3401-3700	3493	1365.41
40	Feb-23	PCPIPL	1.80	2.63	3401-3700	3797	888.26
		KCCL	2.00	2.26	3401-3700	3416	1023.84
41	Mar-23	PCPIPL	1.80	3.55	3401-3700	3514	888.26
		KCCL	2.00	3.22	3401-3700	3719	839.00
42	Apr-23	PCPIPL	3.50	2.83	3401-3700	3624	884.08
		KCCL	2.75	2.60	3401-3700	3312	1015.95
43	May-23	PCPIPL	3.50	2.86	3401-3700	3586	884.08
		KCCL	2.50	2.38	3401-3700	3428	1072.39
44	Jun-23	PCPIPL	3.00	2.65	3401-3700	3505	884.08
		KCCL	2.25	2.24	3401-3700	3477	950.02
45	Jul-23	PCPIPL	2.00	3.85	3401-3700	3617	885.03
		KCCL	1.50	2.22	3401-3700	3751	347.25
46	Aug-23	PCPIPL	2.00	2.49	3401-3700	3579	885.03
		KCCL	1.50	2.33	3401-3700	3667	774.42
47	Sep-23	PCPIPL	2.00	2.16	3401-3700	3734	885.03
		KCCL	1.50	2.08	3401-3700	3708	664.33
48	Oct-23	PCPIPL	2.70	3.45	3401-3700	3649	894.27
		KCCL	2.10	2.80	3401-3700	3685	865.94
49	Nov-23	PCPIPL	3.50	3.45	3401-3700	3889	886.27
		KCCL	2.70	2.48	3401-3700	3735	928.73
50	Dec-23	PCPIPL	4.20	2.83	3401-3700	3929	886.27
		KCCL	3.00	3.09	3401-3700	3745	664.03
51	Jan-24	PCPIPL	4.40	3.45	3401-3700	3785	892.09
		KCCL	3.00	3.23	3401-3700	3841	767.41
52	Feb-24	PCPIPL	4.50	4.30	3401-3700	3650	892.09
		KCCL	3.50	3.17	3401-3700	3853	815.48
53	Mar-24	PCPIPL	4.70	4.82	3401-3700	3738	887.93
		KCCL	3.70	3.51	3401-3700	3879	736.66
		VPRMIPL	3.00	4.20	3551	3734	2230.2

140. It is observed that the Petitioner has declared the GCV of coal as G13 and has not sought any adjustment on account of the variation in the weighted average GCV of the extracted coal. Based on the Petitioner's submissions and in line with the provisions of the Tariff Regulations, the Petitioner's claim is in order and accordingly stands allowed. However, it is noted that in the case of a few months, the weighted average GCV of the coal is lower than the declared GCV, and accordingly, the

Petitioner is directed to submit the details regarding the adjustment made on account of GCV in terms of the MDO agreement at the time of truing up.

Non-Tariff Income (NTI)

141. Regulation 36P of the 2021 Second Amendment Regulations provides that any profit arising from the sale of washery rejects, supply of coal to CIL, or merchant sale of coal under the Coal Mines (Special Provisions) Act, 2015 shall be shared with the beneficiaries of the end-use generating stations.

142. The Petitioner has submitted that there is no non-tariff income from the Talaipalli Coal Mine for the period 2023-24, and the said submission is carefully noted. Accordingly, for the purpose of determining the input price of coal, no adjustment on account of non-tariff income is allowed in respect of the Talaipalli Coal Mine.

Recovery of Input Charges of Coal

143. Regulation 36M of the 2021 Second Amendment Regulations provides as under:

> *"**36M. Recovery of Input Charges:** (1) The input charges of coal or lignite shall be recovered as under:*
>
> *Input Charges = [Input Price x Quantity of coal or lignite supplied] + Statutory charges, as applicable;*
>
> *Provided that where energy charge rate based on input price of coal from integrated mine(s) exceeds by 20% of energy charge rate based on notified price of Coal India Limited for the commensurate grade of coal in a month, prior consent of the beneficiary(ies) shall be required to be obtained by the generating company;*
>
> *Provided further that where such consents of beneficiaries are not available, input price of coal from such integrated mine(s) shall be so fixed that energy charge rate based on input price of coal from integrated mine(s) does not exceed by more than 20% the energy charge rate based on notified price of Coal India Limited for the commensurate grade of coal in a month;*
>
> *Provided also that energy charge rate based on input price of coal does not lead to higher energy charge rate throughout the tenure of power purchase agreement than that which would have been obtained as per terms and conditions of the existing power purchase agreement.*
>
> *(2) The generating company shall work out the comparative energy charge rate based on the input price of coal and notified price of Coal India Limited for the commensurate grade of coal for every month from the date of commercial operation of integrated mine(s) and share the same with the beneficiaries."*

144. Based on the above deliberations, the input charges, in respect of Talaipalli Coal mine, as claimed and allowed, subject to truing up, for the 2019-24 tariff period, are as under:

(Rs./Tonne)

	2023-24
Input Charges claimed	3063.91
Input Charges allowed	**2401.88**

145. The first proviso under Regulation 36M stipulates that if the energy charge rate (ECR) based on the input price from integrated mines exceeds the ECR based on the CIL-notified price for the same grade of coal by more than 20% in any month, the prior consent of the beneficiaries is required. In the absence of such consent, the input price is to be fixed so that the ECR does not exceed the 20% threshold. The Regulation further provides that the ECR based on input price shall not result in a higher ECR throughout the tenure of the Power Purchase Agreement than what would have been applicable under the existing terms of the agreement.

146. We observe that, in terms of Regulation 36M of the 2019 Tariff Regulations, the Petitioner is required to furnish a year-wise comparison of the RoM coal cost (at the point of loading into the railway wagons), the input price of coal claimed in the present petition, and the corresponding CIL-notified price for the respective grade of coal. However, the Petitioner has not furnished the said details. At the same time, it is noted that the Talaipalli Coal Mine Project has not yet achieved its Peak Rated Capacity of 25 MTPA, and the Coal Handling Plant (CHP) is yet to be commissioned, resulting in additional transportation costs. Thus, the circumstances and cost drivers influencing the input price are broadly similar to those considered by the Commission in its order dated 26.5.2026 in Petition No. 60/MP/2022 relating to the Pakri-Barwadih Mine. Accordingly, following the approach adopted therein, we allow the input price determined in paragraph 144 of this order to be charged by the Petitioner. However,

the same shall be subject to the Petitioner furnishing, at the time of truing up, the year-wise comparison of the RoM coal cost (at the point of loading into the railway wagons), the input price of coal claimed, and the corresponding CIL-notified price for the respective grade of coal, in terms of Regulation 36M of the 2019 Tariff Regulations.

147. The input price of coal, as approved above, is subject to truing-up in terms of Regulation 13 of the 2019 Tariff Regulations.

148. The Petitioner has sought reimbursement of the fee paid by it for filing the Petition and publication expenses. We have considered the Petitioner's submissions. The filing fee is reimbursed in certain cases: (a) Main petitions for determination of tariff, (b) revisions of tariff due to additional capital expenditure, and (c) Petitions for truing up of expenditure. Filing fees paid for filing the Review Petitions, Interlocutory Applications, and other Miscellaneous Applications will not be reimbursed under the tariff. Since the Petition is in the nature of tariff determination, we allow all reimbursement of the filing fee and the expenses on publication of notices. Accordingly, the filing fee and publication expenses are allowed to be reimbursed from the beneficiaries.

149. Petition No. 386/MP/2023 is disposed of in terms of the above.

Sd/-	Sd/-	Sd/-	Sd/-
(Ravinder Singh Dhillon)	**(Harish Dudani)**	**(Ramesh Babu V.)**	**(Jishnu Barua)**
Member	**Member**	**Member**	**Chairperson**