

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 45 of 2025

In the matter of:

Petition seeking review of the Commission's Order dated 11.04.2025 on the determination of Annual Fixed Charges for FY 2025-26 alongwith truing up of FY 2023-24 of M/s Sravanthi Energy Private Limited.

In the matter of:

M/s Sravanthi Energy Private Limited ... Petitioner

AND

In the matter of:

Uttarakhand Power Corporation Limited ... Respondent

CORAM

Shri M.L. Prasad Chairman

Shri Anurag Sharma Member (Law)

Date of Order : June 20, 2025

M/s Sravanthi Energy Private Limited (hereinafter referred to as "SEPL" or "the Petitioner") has filed a Petition for review of the Commission's Order dated 11.04.2025 on determination of AFC charges for FY 2025-26 alongwith truing up of FY 2023-24 under Section 94(1)(f) of the Electricity Act, 2003 (herein after referred to as "the Act"), Regulation 54(1) of the Uttarakhand Electricity Regulatory Commission (Conduct of Business), Regulations, 2014 (herein after referred to as "UERC CBR"), Regulation 103 of the Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff), Regulations, 2021, and under Section 114 r/w Order XLVII of the Code of Civil Procedure 1908.

1. Background

1.1 The Commission had notified Uttarakhand Electricity Regulatory Commission (Terms and

Conditions for Determination of Multi Year Tariff) Regulations, 2021 (hereinafter referred to as “UERC Tariff Regulations, 2021”) for the fourth Control Period from FY 2022-23 to FY 2024-25 specifying therein terms, conditions, and norms of operation for licensees, generating companies and SLDC. Subsequently, the Commission notified Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2024 (hereinafter referred to as “UERC Tariff Regulations, 2024”) for the fifth Control Period from FY 2025-26 to FY 2027-28 specifying therein terms, conditions, and norms of operation for licensees, generating companies and SLDC. The Commission had issued tariff Order dated April 11, 2025, for FY 2025-26 alongwith the truing up for FY 2023-24, in accordance with the provisions of the aforesaid Regulation.

The Petitioner filed a Review Petition dated 05.05.2025 on the grounds that the Commission vide tariff Order dated 11.04.2025 has disallowed certain expenditure and had considered Non-Tariff Income in excess while carrying out truing-up for FY 2023-24, which is an apparent error on the face of record resulting in financial loss to M/s SEPL.

1.2 The Petitioner through the current Review Petition has raised the following issues for reconsideration of the Commission:

A. Consideration of Late Payment Surcharge amount as part of Non-Tariff Income in FY 2023-24.

B. Consideration of partial addition to fixed assets under the head Vehicles in FY 2023-24.

1.3 The Commission held a hearing in the matter on 03.06.2025 to decide on the admissibility of the Petition.

1.4 The issues raised by the Petitioner in the Petition, Respondent’s submission alongwith the analysis of the Commission on the same are dealt in the subsequent section of this Order.

2. Respondent’s submission and Petitioner’s Response

2.1 The Commission forwarded a copy of the Review Petition to Uttarakhand Power Corporation Private Limited (hereinafter referred to as “UPCL” or “the Respondent”) for seeking its comments on the same. UPCL submitted its comments on the admissibility of the Review Petition filed by the Petitioner vide its letter no. 3799/UPCL/Comm/SE-II/B-II dated 30.05.2025.

- 2.2 UPCL submitted that the issues raised in the Review Petition by M/s SEPL have already been adjudicated by the Commission vide its Order dated 11.04.2025 and the Petitioner is seeking reconsideration of the issues involved in the present case. UPCL submitted that the Petitioner has neither been able to establish the discovery of the new fact nor any error apparent on the face of the record. Moreover, the impugned Order contains adequate reasons to justify the conclusions arrived at by the Commission and no other sufficient cause of review is made out in the present Review Petition.
- 2.3 In response to the same, the Petitioner during the hearing reiterated its earlier submission made in the Review Petition and submitted that there is an error apparent on the face of record w.r.t the contested issues and the same needs review by the Commission. The Petitioner during the hearing, and subsequently vide its submission dated 04.06.2025, once again reiterated the submission made in the Review Petition.

3. Petitioner's submission, and Commission's Analysis and Findings

3.1 Powers of the Commission and Grounds for Review

3.1.1 Before going into the merits of the Petition filed by UPCL on various issues, the Commission first looks into the powers vested in it to review its Orders, for the purpose of taking a view on maintainability of the Petition. In this regard, reference is drawn to Section 94(1)(f) of the Act which specifically empowers the Commission to undertake review, which can be exercised in the same manner as a Civil Court exercises such powers under section 114 and Order XLVII of the Code of Civil Procedure, 1908 (Civil Procedure Code 1908). The powers available to the Commission in this connection have been defined in Section 114 and Order 47 of the CPC. Under the said provisions, review of the Order is permitted on three specific grounds only, namely:

- i. Discovery of new and important matter or evidence, which after the exercise of due diligence was not within the applicant's knowledge or could not be produced by him at the time of passing of the Order.
- ii. Mistake or error apparent on the face of the record; or
- iii. Any other sufficient reasons.

3.1.2 The application for review has to be considered with great caution to necessarily fulfil one

of the above requirements to be maintainable under law. On the discovery of new evidence, the application should conclusively demonstrate that (1) such evidence was available and is of undoubted character; (2) that it was so material that its absence might cause miscarriage of justice; (3) that it could not be even with reasonable care and diligence brought forward at the time of proceedings/passing of Order. It is well settled principle that new evidence discovered, if any, must be one, relevant, and second, of such character that had it been given during earlier proceedings, it might possibly have altered the Judgment.

3.1.3 With regard to mistake or error apparent on the face of the record, the error should be apparent enough to be noticed and presented before the Court during review proceedings to take cognizance. However, if it is a case that the Petitioner was not able to properly explain a legal position at the time of proceedings, it does not make a ground for a review. It may be pointed out here that Hon'ble Supreme Court and Hon'ble High Courts have in catena of Judgement have held that review jurisdiction is not a substitute for an appeal and cannot be exercised for reconsideration of issues already decided by a Court in its original Order. The error and mistake for correction in review proceeding should be apparent on the face of the record and the same should be self-evident. Hon'ble Supreme Court in the case of Lily Thomas & Ors. Vs Union of India & Ors. [(2000) 6 SCC 224] has categorically decided this question leaving no room for further doubts. This position was also reiterated by the Hon'ble Supreme Court in the case of State of Haryana Vs. Mohinder Singh [2002 (9) SCC 629].

3.1.4 As regard the third ground of review under order XLVII of the CPC namely "for any other sufficient reason", it is a well settled principle that the expression "any other sufficient reason" will have a meaning analogous to grounds specified immediately before. This position of order XLVII cannot be used to nullify the specific requirements stipulated in the earlier portions of the same provision. In this connection the decision of the Hon'ble Supreme Court, again in the case of Lily Thomas etc. vs. Union of India and others spells out the position unambiguously. In view of this well settled position the scope of the third condition of order XLVII of the CPC that is, "any other sufficient reason", cannot be extended to include all other reasons irrespective of whether they are in conformity with the specific requirements stipulated under order XLVII itself or not.

3.1.5 It is a well-settled law that a review of the Orders of the Court/Commission should be used sparingly after examining the facts placed before the Court. An erroneous view or erroneous Judgment is not a ground for review, but if the Judgment or Order completely ignores a positive rule of law and the error is so patent that it admits of no doubt or dispute, such an error may be corrected in the review. A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only against a patent error. A review can only lie if one of the grounds listed above is made out.

3.1.6 With this background on legal provisions related to Review Petition, the Commission has examined the issues raised by the Petitioner to assess whether all or any of the issues raised by the Petitioner qualify for review.

3.2 Issues for Review raised in the Petition

3.2.1 Late Payment Surcharge

Petitioner's Submissions

- a. The Petitioner submitted that the Commission had wrongly considered an amount of Rs. 0.57 Crore on account of Late Payment Surcharge under the head Non-Tariff Income in FY 2023-24.
- b. The Petitioner submitted that, earlier, it was showing the amount of Surcharge/(Rebate) on sale of power under the head 'Revenue from Operations' in its audited accounts. The Petitioner submitted that it had booked an amount of Rs. 50.85 Crore in FY 2020-21 and Rs. 17.08 Crore in FY 2022-23 as surcharge on sale of power under the head 'Revenue from Operations' in its audited accounts' totaling to Rs. 67.93 Crore, and the Commission never carried out any adjustment of the same in the true-up of the respective years as the matter related to late payment surcharge was being dealt with separately through a separate proceeding and had not attained finality since then. The Petitioner further submitted that it does not charge any Interest on Working Capital from UPCL in accordance with the Order of the Commission dated 18.04.2020, provided that the funds are received from UPCL within the specified time frame as provided in the said Order.
- c. The Petitioner submitted that subsequently after issuance of Commission's Order

dated 16.08.2023, the delay in receipt of funds beyond the prescribed timelines was addressed separately on the quantum of Late Payment Surcharge ("LPS") in accordance with the Order dated 16.08.2023 from the Commission, wherein the Commission approved the following methodology for payment of energy bills of State Gas based generators by UPCL:

"1. In case UPCL makes payment through any mode to State Gas based generators within 3 working days from the date of receipt of the bill, it shall be entitled to deduct a rebate of 1.00% from the amounts payable to the generators on such bills. The rebate has been kept so as to ensure that UPCL derives some benefit for making timely payment which can be utilised to offset the cost of overdraft, if any. Besides, since the generators are not claiming interest on working capital, hence, the amount of rebate has to be moderate so that cash flows of the generators are also not stressed.

2. No LPS would be levied on the State discom, i.e. UPCL if the bills are paid within a period of 7 working days from the date of receipt of the bills, post which LPS shall be levied in accordance with the applicable provisions of Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 notified by MoP vide notification dated 03.06.2022, on the amount remaining unpaid considering the due date as 7 working days from receipt of bills."

The Petitioner submitted that, accordingly, it recalculated the amount of total surcharge/LPS accumulated for the previous Financial Years and upto YTD August 2023, which worked out to Rs. 68.51 Crore, as against the earlier computed amount of Rs. 67.93 Crore, and the same was duly submitted with UPCL for the settlement of the same. In view of the revised calculation as discussed above, the differential amount of LPS of Rs. 0.57 Crore (Rs. 68.51 Crore – Rs. 67.93 Crore) was recorded by the Petitioner in the financial statements of the Petitioner Company under the head 'Other Incomes' in FY 2023-24, which was an accounting adjustment in the books of accounts of the Company and the Petitioner has not received any payment against the same in FY 2023-24. The Petitioner further submitted that the Commission in the past also has not adjusted the amount of LPS/Surcharge booked by the Petitioner Company in its books of accounts while determining the AFC as the matter related to LPS was being dealt separately through a separate proceeding before the Commission and had not attained finality since then, and going by the same principles the amount of LPS of Rs. 0.57 Crore should not be considered as part

of NTI of the Petitioner Company.

- d. The Petitioner further submitted that no opportunity was provided to the Petitioner before adjusting this amount to justify its claim. The Petitioner submitted that it has not considered this amount as part of NTI in its Tariff Petition, however, the Commission, without providing an opportunity to the Petitioner, had considered the same as part of NTI, which is against the principles of natural justice and an error apparent on the face of the record.
- e. The Petitioner, accordingly, requested the Commission to exclude the amount of Rs. 0.57 Crore, on account of LPS booked in FY 2023-24, from the non-tariff income as the same is a direct financial burden on the Petitioner company which is an apparent error on the face of records and needs to be reviewed.
- f. The Petitioner, apart from the above limited submission w.r.t the review of the tariff Order dated 11.04.2025 on the aforesaid issue, also raised its concern on the treatment of LPS under the provisions of the Regulations and Orders passed by the Commission, which has been dealt separately in the later paras of this Order.

Commission's Analysis and Ruling

- a. The Commission analysed the submissions made by the Petitioner and observed that the Petitioner has claimed review towards the LPS amount being considered as Non-Tariff Income by the Commission, on the ground that the said amount is an accounting adjustment carried on in the books of the Petitioner and no actual receipt of funds took place against the same in FY 2023-24. The Petitioner also contended that the Commission in the past had not carried out any adjustment of the same while approving the AFC of the Petitioner for the respective years, and going by the same principles the said amount should not be considered as part of Non-Tariff Income in FY 2023-24.
- b. The Commission in the tariff Order dated 11.04.2025, considered the amount of LPS as part of the NTI in view of the Regulation 46(c) of the MYT Regulations, 2024 which states that the amount of 'Interest on delayed or deferred payment on bills' shall form part of the NTI of the generation business of the generating company.

- c. The Petitioner in its audited financial statements for FY 2023-24 modified the presentation of LPS in its books of accounts by showing the same under the head 'Other Income', which they were earlier showing as an adjustment to the 'Revenue from operations'. The Commission in the past was not carrying out any adjustment with respect to the same as the matter related to the LPS was pending before the Commission in a separate proceeding and had not attained finality till then. Now in FY 2023-24 the Petitioner included the amount of LPS under the head 'Other Income' and the same got overlooked by the Commission because this was not deliberated by the Petitioner in the Petition and, hence, the same inadvertently got included as part of Non-Tariff Income of the Petitioner.
- d. The Commission is of the view that the aforesaid adjustment of the amount of LPS of Rs. 0.57 Crore under the head Non-Tariff Income in FY 2023-24 is a mistake or error apparent on the face of the record, and therefore, the same needs to be reviewed. Accordingly, in view of the above discussion the Commission allows the review on the ground of inadvertent adjustment of the amount of LPS of Rs. 0.57 Crore under the head NTI while carrying out the truing up of FY 2023-24. The same alongwith carrying cost works out to Rs. 0.72 Crore, which shall be recovered equally in the monthly bills for recovery of AFC for FY 2025-26, to be raised by the Petitioner on UPCL, for the balance months of FY 2025-26, i.e., June, 2025 to March, 2025.
- e. The Petitioner apart from the above ground raised for review of the tariff Order dated 11.04.2025, made additional submission before the Commission regarding the treatment of the amount of LPS in the ensuing tariff proceedings. The Petitioner submitted that the amount of LPS claimed by the Petitioner relates to long pending dues of SEPL on the invoices raised to UPCL under the terms of PPA, and any adjustment of the same by treating it as part of NTI would jeopardize the financial position of the Company. The Petitioner submitted that it had not been claiming IoWC from UPCL in lieu of timely payment (which was usually delayed by UPCL) and had been managing its funds on its own, and if the amount of LPS is considered as NTI then it would pass on no benefit to the Petitioner as from one hand the same would be claimed from UPCL by the Petitioner and through the other it would be returned back in the form of reduction in AFC. The Petitioner submitted that in such

a situation the provisions of LPS will become futile as the net gain of the Petitioner in the entire transaction would be Nil.

- f. The Petitioner submitted that, had this been the intent then there was no point in claiming the amount of LPS from UPCL and raising litigation for the same since past so many years. The aforesaid treatment of including the amount of LPS as part of NTI could have merit only if the Petitioner was claiming IoWC on periodic basis in normal course of business from UPCL like other generators, which in actuality it had foregone in lieu of timely payment from UPCL. Moreover, had UPCL made payments against the invoices raised by the Petitioner in a timely manner, then this issue would have never have come up.
- g. The Petitioner further submitted that since it is not claiming any IoWC from UPCL and at times had to incur costs to arrange short term finance to meet its operational needs, due to delay in release of payment by UPCL, which is not passed on as part of tariff to it, therefore, the amount of LPS does not merit adjustment in the form of inclusion as part of NTI.
- h. The Petitioner, while referring to the Commission's Order dated 12.07.2024, submitted that the Commission had laid down the methodology for computing the LPS on account of delayed payment of invoices by UPCL applicable for all invoices raised by the Petitioner prior to 01.09.2023, wherein the amount of LPS for the period of delay from the due date and upto 60 days from the date of the receipt of bill/invoice by UPCL shall be reckoned as deemed working capital. Further, the amount of LPS for the period of delay beyond 60 days from the date of receipt of the bill/invoice by UPCL till the date of actual payment shall be dealt with in accordance with the provisions of the MYT Regulations, i.e. the amount of LPS would be considered as part of NTI.
- i. The Petitioner submitted that the aforesaid treatment would not hold good in the case of the Petitioner Company for the primary reason that the Petitioner had foregone the claim of IoWC in lieu of timely receipt of payment from UPCL and the same was infact a financial burden on SEPL as the Petitioner had to manage funds for meeting its working capital requirement in the absence of receipt of timely payment from

UPCL. Moreover, no additional cost was allowed to the Petitioner for incurring the cost of financing the delayed payment by UPCL. The Petitioner submitted that the said adjustment would be like allowing the Petitioner's claim on one hand and returning the same back through the other in the form of reduced AFC, which would be against the principles of natural justice. The Petitioner requested the Commission to consider the entire amount of LPS received from UPCL as deemed working capital interest and not to include the same as part of NTI to protect the financial interest of the Petitioner Company.

- j. The Commission analysed the submission made by the Petitioner as discussed above w.r.t the proposed treatment of LPS, for all the invoices raised by the Petitioner on UPCL prior to 01.09.2023, for the purpose of determination of AFC of the Petitioner Company, and observed that the Petitioner has not only raised the issue that is premature but has infact also made presumptions from the impugned Order dated 11.04.2025 which are non-existent.
- k. The Commission is fully aware about the intent and application of its Order dated 17.04.2017 and also its Order dated 12.07.2024 regarding foregoing of the IoWC and considering it as deemed IoWC, the Commission while passing Order dated 12.07.2024 has never mentioned the implication as has been assumed by the Petitioner. The said Order was issued for computational purpose by UPCL, however, the Commission would like to state that it is not dealing with the tariff implication arising out of the interpretation of the Order dated 12.07.2024 at this juncture as the actual execution of the transaction arising out of the said Order dated 12.07.2024 has taken place in the FY 2024-25, for which the true-up shall be carried out alongwith the ensuing tariff proceedings to be commenced from December, 2025. Accordingly, the Petitioner may raise the matter before the Commission in the ensuing tariff proceedings while filing Petition for true-up of FY 2024-25, wherein the Commission shall take appropriate view in the matter after due deliberation.

3.2.2 Addition to Fixed Assets for FY 2023-24 under the head Vehicles

Petitioner's Submissions

- a. The Petitioner submitted that it had claimed additional capitalization of an amount

of Rs. 0.27 Crore in FY 2023-24 under the head vehicles, in Phase-I of the Petitioner's project, as per the audited accounts for the truing-up exercise, but the Commission in its Order dated April 11, 2025, has considered the same only to the extent of 50%, stating that the additional capitalisation under the head Vehicles cannot be solely attributed to Phase-1 of the Petitioner's project as the same would serve the requirements of the entire plant.

- b. The Petitioner submitted that although the said vehicle would serve the purpose of commutation between the corporate office and the Plant, it does not imply that the same is being equally used for Phase-1 and Phase-2 of the project. The Petitioner submitted that the Phase-1 is fully operational for which the PPA exists with UPCL, however, Phase-2 is occasionally operated based on external tie-ups, and as and when required. The purposed visit of officials from the corporate office to the Phase-2 of the Petitioner's project is very rare and generally the vehicle is utilized for the operations related to the Phase-1 of the project. Moreover, the Petitioner has also capitalized the same in the Phase-1 in the audited accounts of the Company. The Petitioner further submitted that the allocation of capitalization on account of the same to the Phase-2 of the Petitioner's project is not correct as both the Phase-1 and Phase-2 of the Petitioner's project are located in the same vicinity and any requirement, whatsoever, related to Phase-2 is served along with official visit to Phase-1 of the project by the officers of the Company. Moreover, the said vehicle was specifically procured to cater to the operations related to Phase-1 of the Petitioner Company and there was no intent to utilize it specifically for Phase-2 also.
- c. The Petitioner submitted that non-consideration of the full capitalization by the Commission, as discussed above, has resulted in financial loss to the Petitioner, which is an apparent error on the face of records and needs to be reviewed. Further, the Commission has carried out the aforesaid adjustment without hearing the Petitioner which is against the principles of natural justice. The Petitioner submitted that full value of capitalization, i.e. Rs. 0.27 Crore, under the head Vehicles as per the audited accounts of FY 2023-24, should be considered in Phase-1 of the Petitioner's project, for approving the various AFC elements including Depreciation, Interest on Loan Capital and Return on Equity.

Commission's Analysis and Ruling

- a. The Commission analysed the claims made by the Petitioner in this regard. The Petitioner in its submission had itself elaborated the grounds on which the disallowance is made, which clearly concludes that the matter has already been deliberated in detail by the Commission in the Tariff Order dated 11.04.2025. The relevant extract of the tariff Order dated 11.04.2025 is reproduced hereunder:

“4.1.3.2

...

The Commission observed that the expenditure under the head vehicle comprise of purchase of 1 Nos. four wheelers. The Petitioner, w.r.t. justification sought by the Commission for the procurement of vehicle for the plant, submitted that the vehicle is required for business purposes for commutation between corporate office and plant. The Commission analysed the submission made by the Petitioner and is of the view that vehicles procured will be required for the plant, however, the capitalization of Rs. 0.27 Crore claimed by the Petitioner under the head Vehicles cannot be solely attributed to Phase-1 of the Petitioner's project as the same would serve the requirements of the entire plant. The Commission, accordingly, has allocated only 50% of the capitalization under the head Vehicles, amounting to Rs. 0.14 Crore, to the Phase-1 of the Petitioner's plant for the purposes of truing of FY 2023-24.

...”

- b. As can be seen from the above quoted extract of the tariff Order dated 11.04.2025, the Commission has already deliberated on the issue and had disallowed the partial addition under the head Vehicles duly giving reasons for the view firmed up by the Commission in the matter. The Commission while analysing the additional capitalization claims for the Petitioner's plant for FY 2023-24, sought justification for individual capitalization done during FY 2023-24 in the Phase-I of the Petitioner's project, in response to which, the Petitioner w.r.t capitalization under the head Vehicles submitted that the vehicle is required for business purposes for commutation between corporate office and plant. The Commission after analysing the submission made by the Petitioner was of the view that although the vehicle procured would be required for the plant, however, the capitalization of Rs. 0.27 Crore claimed by the Petitioner under the head Vehicles cannot be solely attributed

to Phase-1 of the Petitioner's project as the same would serve the requirements of the entire plant. The Commission, accordingly, allocated only 50% of the capitalization under the head Vehicles, amounting to Rs. 0.14 Crore, to the Phase-1 of the Petitioner's plant for the purposes of truing of FY 2023-24.

- c. As can be seen from the above, the Commission has already delved on the issue before finalizing its view to allow partial capitalization under the head Vehicles in FY 2023-24. A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only against a patent error. A review can only lie if one of the grounds of review as listed in previous paras above is made out, which in the present case, with respect to the disallowance of partial capitalization under the head Vehicles, does not get fulfilled.
- d. Hence, **there is no error apparent on the face of record and there is no new evidence which can be considered and hence this issue does not qualify for review.**

3.3 Besides above, the Commission has delved upon the principles settled by judicial pronouncements for reviewing any Order, which are succinctly summarized in the matter of Kamlesh Verma Vs Mayawati & Ors. (2013) 8 SCC 320 which is being reproduced below:

"20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him; (ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reason" has been interpreted in Chajju Ram vs. Neki¹⁷, and approved by this Court in Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulouse Athanasius & Ors.¹⁸ to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd. & Ors. ²⁵ ,.

20.2. When the review will not be maintainable: -

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review. (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated.

Moreover, error referred to by Petitioner for seeking review is far from being the 'error' that invokes reviewing jurisdiction. Therefore, the Review Petition cannot be entertained and is rejected as non-maintainable. In view of the same there is no error apparent on the face of record and hence issue do not qualify for review.

3.4 Similarly, in **Col. Avatar Singh Sekhon v. Union of India and Others (1980) Supp SCC 562**, the Hon'ble Supreme Court had observed that a review of an earlier order cannot be done unless the court is satisfied that the material error, which is manifest on the face of the order, would result in miscarriage of justice or undermine its soundness. Further, in the matter of **Lily Thomas & Ors. Vs Union of India & Ors. [(2000) 6 SCC 224]** the Hon'ble Supreme Court had observed that, "...Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence..."

XXX XXX XXX

"...Error apparent on the face of the proceedings is an error which is based on clear ignorance or disregard of the provisions of law. In *T.C. Basappa v. T. Nagappa* this Court held that such error is an error which is a patent error and not a mere wrong decision..."

Further, in the matter of **State Of Haryana And Ors. vs Mohinder Singh And Ors.** the Hon'ble Supreme Court in its order dated 12th November 2002 had observed as follows:

"3. ...

Reliance has been placed in support thereof on the decision reported in *Parsion Devi and Ors. v. Sumitra Devi and Ors.*, wherein it has been observed as follows:-

"9. Under Order 47 Rule 1 CPC a judgment may be open to review *inter alia* if there is a mistake or an error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise".

10. Considered in the light of this settled position we find that Sharma, J. clearly overstepped the jurisdiction vested in the Court under Order 47 Rule 1 CPC. The observations of Sharma, J. that "accordingly, the order in question is reviewed and it is held that the decree in question was of composite nature wherein both mandatory and prohibitory injunctions were provided" and as such the case was covered by Article 182 and not Article 181 cannot be said to fall within the scope of Order 47 Rule 1 CPC. There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction."

4. Mr. Raju Ramachandran, learned senior counsel appearing for the respondents with equal force contended that the High Court purported to do substantial justice by allowing the claim in the review petition and the same would not call for any interference, particularly having regard to the fact that the High Court, according to the learned counsel, merely set right an otherwise serious anomaly, and that too keeping in view an earlier decision in almost a similar case, as against which an unsuccessful attempt to appeal before this Court, seems to have been also made.

5. We have carefully considered the submissions of learned counsel appearing on either side. The division bench in the High Court, in our view, **completely overstepped the limits of its review jurisdiction and on the face of it appears to have proceeded as though it is a rehearing of the whole petition which had been earlier finally disposed of. It has often been reiterated that the scope available for a litigant invoking the powers of review is not one more chance for rehearing of the matter already finally disposed of. The course adopted in this case by the High Court appears to be really what has been held by this Court to be not permissible.** ..."

[Emphasis added]

Accordingly, in view of the above discussion the Commission allows the review on the ground of inadvertent adjustment of the amount of LPS of Rs. 0.57 Crore under the head NTI while carrying out the truing up of FY 2023-24. The same alongwith carrying cost works out to Rs. 0.72 Crore, which shall be recovered equally in the monthly bills for recovery of AFC for FY 2025-26, to be raised by the Petitioner on UPCL, for the balance months of FY 2025-26, i.e., June, 2025 to March, 2025.

The review on the issue of disallowance of partial capitalization under the head Vehicles sought by the Petitioner points to a dissatisfaction / disagreement with the view of the Commission taken in the impugned Order. Mere dissatisfaction over the view of a Court or disagreement with the view of the Court and calling such view as erroneous/ wrongful, does not open doors to seek review which has a very narrow and limited scope, well defined by provisions of Section 114 r/w Order 47 of CPC and the judicial pronouncements.

- 3.5 The Commission, in view of the above, partially allows the Review Petition filed by M/s SEPL against the Commission's Order dated 11.04.2025, and accordingly, Petition No. 45 of 2025 stands disposed off.
- 3.6 Ordered Accordingly.

(Anurag Sharma)
Member (Law)

(M.L. Prasad)
Chairman