Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Misc. Application No. 51 of 2026

In the matter of:

Petition seeking review of the Commission's Order dated 04.06.2026 in Petition No. 18 of 2026 (Suo-Moto) in Review of the Benchmark Capital Cost for Solar PV, Solar Thermal and Grid Interactive Rooftop & Small Solar PV Plants to be applicable for FY 2026-27 and onwards till reviewed/revised by the Commission.

In the matter of:

UJVN Ltd. … Petitioner

AND

Uttarakhand Power Corporation Ltd. … Respondent

CORAM

Shri M.L. Prasad	**Chairman**
Shri Anurag Sharma	**Member (Law)**
Shri Prabhat Kishor Dimri	**Member (Technical)**

Date of Hearing: July 09, 2026

Date of Order : July 27, 2026

UJVN Ltd. has filed a present Review Petition dated 30.06.2026 for review of Commission's Suo-moto Order dated 04.06.2026 in Petition no. 18 of 2026 (Suo-moto) (hereinafter referred to as "Impugned Order") passed by the Commission in the Suo-moto proceedings in the matter of review of benchmark capital cost and generic tariff/capacity charges for solar energy based power plants and Battery Energy Storage System (BESS), under Section 94(1)(f) of the Electricity Act, 2003 (herein after referred to as "the Act") read with Section 144, Order XLVII of the Code of Civil Procedure 1908 and Regulation 54 read with Regulation 59 of the Uttarakhand Electricity Regulatory Commission (Conduct of Business), Regulations, 2014.

1. Background

1.1 The Commission in exercise of the powers vested in it under Section 61(h) and Section 86(1)(e) read with Section 181(2)(zd) of the Act, notified the UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2023 (hereinafter referred to as "RE Regulations, 2023") on 16th August, 2023 as amended from time to time. In accordance with the provisions of Regulation 12 of RE Regulations, 2023, the Commission vide impugned Order dated 04.06.2026 determined the generic tariff for solar power plants and BESS on Suo-moto basis based on the norms specified in the RE Regulations, 2023 as amended from time to time.

1.2 The Commission, as deliberated in the Impugned Order dated 04.06.2026, had decided to consider the benchmark capital cost for BESS of Rs. 1.60 Crore/MW and worked out Capacity Charges of Rs. 2,59,244/MW/month for the BESS projects to be commissioned within 18 months from the date of Impugned Order dated 04.06.2026.

1.3 During the proceedings UJVN Ltd. (hereinafter referred to as "Petitioner") had submitted that it has initiated implementation of BESS Plants in Uttarakhand in accordance with the tariff framework approved by the Commission through its Order dated 06.01.2026. Technical bids had already been opened, and techno-commercial evaluation was underway and revising the benchmark at such an advanced stage may disrupt the tendering process, create uncertainty for bidders, and potentially delay the project implementation.

In the matter, the Commission was of the view that bidding documents/RfPs generally contain enabling provisions reserving the right of the procuring entity to reject any or all bids/responses, cancel the RfP, or cancel the bidding process for any project at any stage without assigning any reasons whatsoever and without incurring any liability.

The Petitioner filed this Review Petition stating that there is non-consideration of important factors impacting the petitioner, which have led to errors apparent on the face of the record.

2. Petitioner's Submission

2.1. The Petitioner submitted that the present Review Petition has been filed under Section 94(1)(f) of the Act read with Section 114 and Order XLVII Rule 1 of the Code of Civil Procedure, 1908 and Regulation 54 of UERC (Conduct of Business) Regulations, 2014 seeking review of the Commission's Order dated 04.06.2026 passed in Petition No. 18 of 2026 (Suo-Moto). The Petitioner submitted that the Review Petition has been filed within the prescribed period of limitation.

2.2. The Petitioner submitted that the Commission notified RE Regulations, 2023 on 16.08.2023, followed by the First Amendment Regulations, 2024 and the Second Amendment Regulations, 2025 notified on 20.06.2024 and 27.11.2025, respectively. According to the Petitioner, the Second Amendment Regulations, 2025 were framed in consonance with the guidelines issued by the Ministry of Power, Government of India, governing procurement and utilization of BESS and the national framework for promotion of energy storage systems.

2.3. The Petitioner submitted that the State of Uttarakhand has been identified as an eligible State under the Viability Gap Funding (VGF) Scheme notified by the Ministry of Power on 09.06.2025 for development of BESS projects through tariff-based competitive bidding under Section 63 of the Act, 2003. Under the said Scheme, the State has been allocated 500 MWh of BESS capacity to be developed with support from the Power System Development Fund (PSDF). The Petitioner further submitted that, after the notification of the Second Amendment Regulations, 2025, it requested the Commission vide letter dated 08.12.2025 to determine a standalone BESS tariff in the form of capacity charges (Rs./MW/month) along with an appropriate trading margin in line with the national framework, as the existing energy-based tariff structure could result in practical, regulatory and financial difficulties in implementation of BESS projects.

2.4. The Petitioner submitted that, after considering the issues raised by stakeholders regarding the tariff framework for BESS projects, the Commission, vide Order dated 06.01.2026 issued in Petition No. 94 of 2025 (Suo-Moto), determined the ceiling tariff for BESS projects in the form of capacity charges of Rs. 3,96,747/MW/month based on the prevailing market conditions and cost parameters. According to the Petitioner, acting upon the aforesaid Order, it initiated the implementation of BESS projects in the State by preparing and approving Detailed Project Reports (DPRs) and floated competitive bids in February, 2026 for development of BESS projects at Dhakrani (30 MW/75 MWh), Tiloth (15 MW/37.5 MWh), Khatima (15 MW/37.5 MWh) and Pathri (16 MW/40 MWh). The Petitioner submitted that the projects were designed with a storage duration of 2.5 hours and two charging/discharging cycles, resulting in an effective storage duration of five hours. It was further submitted that technical bids were opened on 31.03.2026 and forty-three bids were received, whereafter the techno-commercial evaluation commenced.

2.5. The Petitioner submitted that the Commission thereafter issued the Draft Order dated 07.04.2026 proposing benchmark capital cost and generic tariff for renewable energy projects, including BESS projects to be commissioned during FY 2026-27. According to the Petitioner, the Draft Order proposed capacity charges of Rs. 2,54,583/MW/month for BESS projects, which represented a substantial reduction from the ceiling tariff determined by the Commission on 06.01.2026. The Petitioner submitted that it filed detailed objections to the Draft Order pointing out that the proposed tariff would adversely affect the ongoing tender process, impair recovery of capital investment, reduce bidder confidence and delay implementation of BESS projects within the timelines stipulated under the Ministry of Power Guidelines. The Petitioner further submitted that, notwithstanding the detailed submissions made by it and similar concerns raised by UPCL, the Commission, vide the Impugned Order dated 04.06.2026, determined the levelized capacity charges for BESS projects at Rs. 2,59,244/MW/month, which, according to the Petitioner, has resulted in serious financial and regulatory implications for the implementation of the projects. Further, the said revision was done within a span of 4 months, firstly, after notification of Second Amendment RE Regulations, 2025, vide letter dated 06.01.2026 and secondly, vide Order dated 04.06.2026.

2.6. The Petitioner submitted that, pursuant to the issuance of the Impugned Order dated 04.06.2026, the ceiling tariff applicable to BESS projects stood reduced from Rs. 3,96,747/MW/month to Rs. 2,59,244/MW/month. According to the Petitioner, the reduction in the benchmark tariff, after completion of the competitive bidding process, has created uncertainty regarding finalization of the tenders already undertaken on the basis of the ceiling tariff determined by the Commission vide Order dated 06.01.2026. It was submitted that the bidders had participated in the bidding process based on the prevailing regulatory framework and the subsequently revised ceiling tariff has materially altered the financial assumptions on which the bids were submitted.

2.7. The Petitioner submitted that, in view of the aforesaid circumstances, it submitted a letter dated 16.06.2026 to the Commission seeking permission to conclude the ongoing tender process on the basis of the ceiling tariff of Rs. 3,96,747/MW/month determined vide Order dated 06.01.2026. It was submitted that the bids had already been received and evaluated and that re-tendering or revising the bidding process would entail substantial delay in implementation of the projects, besides adversely affecting bidder participation and increasing project costs. It was also submitted that State of Punjab had, in May 2026, awarded a 100 MW/200 MWh (2- hours, double cycle) BESS project to M/s Ceigall India Ltd. at a capacity charge of Rs. 3,44,000/MW/month.

2.8. The Petitioner submitted that the BESS projects are proposed to be developed under the VGF Scheme of the Ministry of Power and are required to adhere to the timelines stipulated thereunder. According to the Petitioner, any delay in finalization of the bidding process on account of revision of the benchmark tariff would adversely impact the implementation schedule and may jeopardize the availability of VGF support. The Petitioner submitted that, if the ongoing tender process is cancelled and fresh bids are invited, the execution of BESPAs, financial closure and commissioning of the projects would be substantially delayed, thereby affecting compliance with the timelines prescribed under the Ministry of Power Guidelines.

2.9. The Petitioner submitted that the responsibilities entrusted to it extend beyond merely conducting the bidding process and include identification of suitable project sites, preparation of DPRs, obtaining statutory approvals, coordination with UPCL, SLDC and other Government agencies, execution and administration of long-term project agreements, monitoring of project implementation, supervision during construction and operation, compliance with regulatory requirements and management of contractual obligations throughout the project period. According to the Petitioner, these responsibilities involve recurring expenditure, deployment of technical and managerial manpower and continuous institutional support over the life of the project, which have not been adequately factored into the Impugned Order while revising the benchmark tariff.

2.10. The Petitioner submitted that the Commission, while passing the Impugned Order, has not adequately considered the financial implications arising from the revised benchmark tariff on the implementation of the BESS projects. According to the Petitioner, the revised ceiling tariff would not permit recovery of the actual expenditure likely to be incurred towards project development, bid process management, contract administration, regulatory compliance, monitoring and other project-specific activities. It was submitted that the reduction in the benchmark tariff would adversely affect the financial sustainability of the projects and the institutional viability of the Petitioner in discharging its responsibilities as the implementing agency.

2.11. The Petitioner submitted that the benchmark capital cost adopted by the Commission in the Impugned Order does not adequately reflect the actual capital expenditure required for development of BESS projects in the State. According to the Petitioner, the benchmark capital cost has been determined on the assumptions that are not representative of the prevailing market conditions and the project configuration proposed to be implemented by the Petitioner. It was submitted that the capital cost adopted by the Commission is substantially lower than the actual cost likely to be incurred for procurement, installation and commissioning of BESS projects, thereby resulting in an unrealistically low ceiling tariff.

2.12. The Petitioner submitted that, during the public consultation process, it had furnished detailed submissions supported by technical data, financial analysis and market information regarding the benchmark capital cost and the corresponding capacity charges. It was submitted that the Commission has not specifically dealt with the detailed cost components, financial analysis and project-specific data placed on record by the Petitioner and has instead relied upon generalized market trends and tariff discoveries in other States while determining the revised ceiling tariff.

2.13. The Petitioner submitted that the BESS projects proposed to be developed in Uttarakhand involve project-specific expenditure towards identification and development of suitable sites, preparation of DPRs, engineering studies, surveys, statutory approvals, execution of long-term agreements, coordination with various Government agencies, monitoring of implementation, project management and regulatory compliance, besides expenditure on battery systems, power conversion systems, transformers, switchgear, control systems, evacuation facilities and associated infrastructure. According to the Petitioner, these project-specific costs distinguish the proposed projects from conventional benchmark assumptions and have not been appropriately considered while determining the revised ceiling tariff.

2.14. The Petitioner submitted that it had engaged M/s AHA Solar Technologies Ltd. for undertaking financial modelling based on the parameters broadly consistent with those adopted by the Commission. According to the said financial analysis, the viable capacity charge works out to approximately Rs. 6,57,834/MW/month, whereas the Commission has approved capacity charges of only Rs. 2,59,244/MW/month. The Petitioner submitted that the significant difference between the viable tariff and the approved tariff is primarily attributable to the benchmark capital cost adopted by the Commission and not to any deficiency in the financial model prepared by the consultant.

2.15. The Petitioner further submitted that the recurring expenditure associated with implementation and operation of the projects is expected to increase over time on account of inflation, escalation in prices of equipment, spare parts and other project inputs. According to the Petitioner, while such costs are dynamic in nature, the ceiling tariff remains fixed unless revised by the Commission, thereby widening the gap between the permissible recovery and the actual expenditure incurred during implementation and operation of the projects.

2.16. The Petitioner submitted that the Ministry of Power Guidelines governing BESS provide a commissioning timeline of 18 months from the Effective Date of the Battery Energy Storage Purchase Agreement (BESPA) without levy of liquidated damages. According to the Petitioner, although the Commission has recorded the aforesaid provision in the Impugned Order, it has simultaneously held that the revised ceiling tariff would be applicable only to projects commissioned within 18 months from the date of the Impugned Order. The Petitioner submitted that such stipulation is inconsistent with the Ministry of Power

Guidelines, particularly when the BESPAs have not yet been executed. It was submitted that, if the projects are not commissioned within 18 months from the date of the Impugned Order and the Commission revises the benchmark tariff during the intervening period, practical difficulties would arise since the developers have submitted their bids based on the ceiling tariff prevailing at the time of issuance of the tender.

2.17. The Petitioner submitted that the regulatory framework should strike an appropriate balance between consumer interest and institutional viability in terms of Section 61 of the Electricity Act, 2003. According to the Petitioner, if additional financial, operational and compliance responsibilities continue to be imposed without providing corresponding recovery through the approved tariff, the intermediary implementation mechanism envisaged for development of BESS projects would become financially unsustainable, thereby adversely affecting timely implementation of renewable energy projects and achievement of the State's energy storage objectives.

2.18. The Petitioner submitted that the Impugned Order suffers from errors apparent on the face of the record as the Commission has not recorded detailed findings on the specific financial data, benchmark capital cost, project-specific expenditure and regulatory submissions placed on record by the Petitioner during the proceedings. According to the Petitioner, while revising the ceiling tariff, the Commission primarily relied upon tariff discoveries in other States without adequately examining the financial and operational aspects specific to the projects proposed to be implemented in Uttarakhand.

2.19. The Petitioner submitted that the Commission has not adequately considered the expanded operational, financial and regulatory responsibilities entrusted to the Petitioner as the implementing agency for the BESS projects. According to the Petitioner, the Impugned Order does not sufficiently account for the recurring expenditure towards identification and development of project sites, preparation of DPRs, surveys, statutory approvals, execution and administration of long-term agreements, coordination with UPCL, SLDC and other agencies, project monitoring, manpower deployment and compliance management over the life of the projects. It was further submitted that the Impugned Order also does not consider the long-term obligations to be discharged by the Petitioner during the implementation and operational phases of the BESS projects or the impact of inflation and escalation in project costs over time.

2.20. The Petitioner further submitted that the revised ceiling tariff is likely to necessitate cancellation or revision of the ongoing bidding process and issuance of fresh tenders, resulting in avoidable delays in implementation of the projects and adversely affecting the State's energy storage programme. According to the Petitioner, the Impugned Order also does not appropriately account for the impact of VGF while revising the ceiling tariff and creates uncertainty in implementation of the projects under the Ministry of Power's BESS Guidelines. It was further submitted that the findings in the Impugned Order regarding the applicability of the revised tariff are inconsistent with the commissioning timelines prescribed under the Ministry of Power Guidelines, thereby creating practical and regulatory difficulties in execution of the projects.

2.21. The Petitioner submitted that the Commission has also failed to consider the doctrine of legitimate expectation inasmuch as similar concerns relating to implementation challenges and financial implications had been considered by the Commission in the case of Solar PV projects, whereas no similar treatment has been accorded to BESS projects despite comparable practical and financial considerations. The Petitioner further submitted that the Impugned Order does not adequately take into account the State-specific challenges associated with implementation of BESS projects in Uttarakhand.

2.22. In view of the aforesaid submissions, the Petitioner prayed that the Commission may review the Impugned Order dated 04.06.2026 to the extent of the revised ceiling tariff determined for BESS projects and approve the ceiling tariff of Rs. 3,96,747/MW/month for the projects proposed to be allotted during FY 2026-27.

3. Respondent's Submission

3.1. The Commission fixed the matter for hearing on 09.07.2026 on the admissibility of the Review Petition and forwarded a copy of the Review Petition to UPCL for filing its comments. In compliance thereof, UPCL submitted its comments vide letter dated 06.07.2026. The submissions made by UPCL have been dealt with in the subsequent paragraphs of this Order

3.2. UPCL submitted that it is the Distribution Licensee in the State of Uttarakhand and has independently filed a Petition before the Commission seeking appropriate directions with regard to the procurement of Standalone BESS capacity undertaken pursuant to the benchmark Capacity Charges determined by the Commission vide Order dated 06.01.2026.

3.3. UPCL submitted that both it alongwith the Petitioner initiated their respective procurement processes for Standalone BESS projects based on the benchmark Capacity Charges determined by the Commission vide Order dated 06.01.2026. According to UPCL, the participating bidders structured their bids and commercial arrangements on the basis of the regulatory framework and the benchmark Capacity Charges prevailing at the time of initiation of the bidding process.

3.4. UPCL further submitted that the Commission, vide its subsequent Suo-moto Order dated 04.06.2026, revised the benchmark Capacity Charges with effect from 01.04.2026. According to UPCL, the revision of the benchmark Capacity Charges after commencement of the procurement process has created uncertainty regarding implementation of the ongoing procurement processes initiated under the earlier regulatory framework and has resulted in practical implementation difficulties.

3.5. UPCL submitted that regulatory certainty and consistency are essential for the successful implementation of competitively bid infrastructure projects in the power sector. According to UPCL, procurement processes initiated on the basis of a benchmark determined by the Commission should not be subjected to avoidable implementation difficulties solely on account of a subsequent revision of the benchmark, particularly where such procurement processes had already commenced under the regulatory framework prevailing at the relevant time.

3.6. UPCL further submitted that the uncertainty arising from the subsequent revision of the benchmark Capacity Charges has the potential to delay implementation of the BESS projects proposed under the Ministry of Power's Viability Gap Funding (VGF) Scheme. It was submitted that timely resolution of the issue is necessary to facilitate implementation of the projects and to avoid disruption of the procurement processes undertaken in accordance with the Commission's Order dated 06.01.2026.

3.7. In view of the above, UPCL submitted that, to the extent the present Review Petition seeks protection of the procurement processes initiated pursuant to the benchmark Capacity Charges determined vide the Commission's Order dated 06.01.2026, the Commission may consider granting such relief as may be permissible in law to address the implementation difficulties arising out of the subsequent revision of the benchmark Capacity Charges.

4. Commission’s Analysis and Findings

4.1. Powers of the Commission and Grounds for Review

4.1.1. Limitation – A Threshold Issue

Limitation (delay), being a threshold issue in the instant matter, is being taken up first, prior to examination of the substantive grounds raised in support of the review petition.

As per the mandate of Regulation 54 of UERC CBR, a review petition is required to be filed within 60 days from the date of issuance of the order sought to be reviewed.

The Impugned Order was issued on 04.06.2026 and, hence, the limitation period for filing a review petition was upto 03.08.2026. The present review Petition has been filed before the Commission on 30.06.2026, i.e. within the period specified under the above mentioned Regulation.

4.1.2. Statutory Power of Review

Before considering the merits of the Petition, it is necessary to delineate the scope of the Commission’s power of review.

Section **94(1)(f)** of the Electricity Act, 2003 empowers the Commission to undertake review of its decisions in the same manner as a Civil Court deals with the power of review under Section 114 read with Order XLVII of the Code of Civil Procedure, 1908.

Order 47 of the Code of Civil Procedure, 1908, specifies the following three grounds for the purpose of considering review:

(i) **Discovery of new and important matter or evidence** which, despite due diligence, was not within the knowledge of the applicant or could not be produced at the time of passing of the order.

(ii) **Mistake or error apparent on the face of the record.**

(iii) **Any other sufficient reason** interpreted to mean reasons analogous to (i) and (ii).

The import of these grounds can be better understood through authoritative judicial exposition by the Courts in India. The Commission shall proceed to examine these grounds in light of the judicial pronouncements by the courts in detail in the succeeding part of this order.

4.1.3. **Discovery of New Evidence**

For review on the ground of discovery of new evidence, the applicant must conclusively establish:

1. Discovery of new and important matter or evidence, which after the exercise of due diligence was not within the knowledge of the person seeking review, or could not be produced by him at the time when order was made.
2. The evidence is of such materiality that its absence would cause miscarriage of justice.
3. The evidence must be relevant and of such nature that, if considered, could potentially alter the judgment.

In this regard, it is relevant to refer to the Judgment of the Hon'ble Supreme Court in the case of *State of West Bengal and Others v. Kamal Sengupta and Another*, [(2008) 8 SCC 612] wherein it was held that:

"14. At this stage it is apposite to observe that where a review is sought on the ground of discovery of new matter or evidence, such matter or evidence must be relevant and must be of such a character that if the same had been produced, it might have altered the judgment. In other words, ***mere discovery of new or important matter or evidence is not sufficient ground for review ex debito justiciae. Not only this, the party seeking review has also to show that such additional matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the Court earlier****."*

Therefore, from the above it is evident that it is incumbent upon the party seeking review to establish/demonstrate that the additional matter or evidence was not within its knowledge earlier and, despite the exercise of due diligence, could not have been produced at the time when the order was passed. Failure to meet these strict tests disentitles a party from seeking review.

We shall now proceed further to examine the scope of the second ground; '*error apparent on the face of the record*'.

4.1.4. **Error Apparent and Miscarriage of Justice**

In *Col. Avatar Singh Sekhon v. Union of India* [(1980) Supp SCC 562], the Court emphasised that review cannot be undertaken unless the error is manifest on the face of the order and such error undermines its soundness or results in miscarriage of justice.

In *Parsion Devi v. Sumitra Devi* [(1997) 8 SCC 715], wherein it was further observed that a review is not an appeal in disguise, relevant para of the said order is reproduced hereunder:

> "*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***".

The principle was further affirmed by the Hon'ble Supreme Court in *Lily Thomas v. Union of India* [(2000) 6 SCC 224], wherein referring to *Parsion Devi v. Sumitra Devi (Supra)* the Court clarified that the error contemplated must be "self-evident" and not one that requires a process of reasoning, 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……***
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> …..
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> *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…"*

Similarly in the matter of *Jain Studios Ltd. v. Shin Satellite Public Co. Ltd.* (2006) 5 SCC 501, the Hon'ble Supreme Court has held that:

> *"…So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negatived. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter.* ***It is settled law that the power of review cannot be confused with appellate power which enables a superior Court to correct all errors committed by a subordinate Court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.***
> *…"*

In the case of State of *West Bengal and Others v. Kamal Sengupta* (2008 (8) SCC 612) and Another, (Supra) the Hon'ble Supreme Court had held that:

> *"15. The term `mistake or error apparent' by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position.* ***If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record*** *for the purpose of* Order 47 Rule 1 CPC or Section 22(3)(f) of *the Act. To put it differently an order or decision or* ***judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the Court/Tribunal on a point of fact or law. In any case, while exercising the power of review, the concerned Court/Tribunal cannot sit in appeal over its judgment/decision****."*

Let us now deliberate upon the third ground of review.

4.1.5. **Any Other Sufficient Reason**

The phrase "any other sufficient reason" under Order XLVII CPC has been judicially interpreted to mean reasons analogous to discovery of new evidence or error apparent. It cannot be expanded to include every conceivable reason. (*Lily Thomas*, supra).

In *Ajit Kumar Rath vs. State of Orissa and Others* [1999 (9) SCC 596], the Hon'ble

Supreme Court has held that:

"…A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that ***the expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule. Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment****."*

As evident from the above, a review against any Order/Judgment lies only to correct a patent error apparent on the face of the record; it cannot be treated as an appeal or a rehearing, and 'any other sufficient reason' must be analogous to the specified grounds.

It is relevant to refer to the judgement of the Hon'ble Supreme Court. In *Kamlesh Verma v. Mayawati & Ors.* [(2013) 8 SCC 320], the Hon'ble Court referring to various judgments culled out the grounds when the review will be maintainable and when it will be not. Relevant para of the said judgment is reproduced hereunder:

"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 Poulose 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 negatived.

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."

Further, the Hon'ble Supreme Court vide judgement dated 08.09.2025 in the matter of *Malleeswari Vs K. Suguna and another (2025 INSC 1080, SLP (C) No. 12787 of 2025)* while dealing with the scope and power of review referred to the various judgements such as (i)*Meera Bhanja v. Nirmala Kumari Choudhary, (1995) 1 SCC 170* wherein it was held that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of CPC., (ii) *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma, (1979) 4 SCC 389* wherein it was held that review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court, (iii) *Parsion Devi v. Sumitri Devi, (1997) 8 SCC 715* wherein it was held that in exercise of the jurisdiction under Order 47 Rule 1 of 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, (iv) *Lily Thomas v. Union of India, (2000) 6 SCC 224* wherein it was held that the power of review can be exercised for the correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power. (v) *Inderchand Jain v. Motilal, (2009) 14 SCC 663* wherein it was held that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered and (vi) *Shivdev Singh v. State of Punjab, AIR (1963) SC 1909* wherein it was held that it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors has carved out a distinction between power of review and appellate power and restated the power and scope of review jurisdiction, has summed up the ground of review. The relevant Para 17 of the said judgement is reproduced hereinbelow:

> *"17. Having noticed the distinction between the power of review and appellate power, we restate the power and scope of review jurisdiction. Review grounds are summed up as follows:*
>
> *17.1 The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed.*
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> *17.2 Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of the record.8 Such an error is a patent error and not a mere wrong decision.9 An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. (Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale, AIR (1960) SC 137.)*
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> *17.3 Lastly, the phrase 'for any other sufficient reason' means a reason that is sufficient on grounds at least analogous to those specified in the other two categories. (Chhajju Ram v. Neki, 1922 SCC OnLine PC 11 and approved in Moran Mar Basselios Catholicos v. Mar Poulose Athanasius, AIR (1954) SC 526.)*

4.1.6. In light of the above settled legal position, the Commission proceeds to examine whether the grounds raised by the Petitioner fall within the ambit of review.

4.2. **Commission's Analysis and Ruling**

4.2.1. Before examining the merits of the present Review Petition, the Commission notes that the present proceedings are confined to the benchmark capital cost and levelised Capacity Charges for BESS to be commissioned during FY 2026-27. Since the Petitioner has not sought review of the decision/findings of the Commission related to solar energy based power plants, those findings are beyond the scope of the present proceedings and are, therefore, not being considered.

4.2.2. The Petitioner has also relied upon the financial model prepared by M/s AHA Solar Technologies Ltd., which indicates a viable Capacity Charge of Rs. 6,57,834/MW/month. However, this financial model and the corresponding Capacity Charge were already submitted before the Commission during the proceedings leading to the Impugned Order and were duly considered by the Commission. The Petitioner has not brought any new material on record in this regard and has only repeated the same submissions. Therefore, this contention does not satisfy the requirements for review.

4.2.3. The Petitioner has also relied upon the doctrine of legitimate expectation by referring to the treatment given by the Commission to Solar PV Plants. The Commission declines to consider this contention as a ground for review. The relief granted to Solar PV Plants in the Impugned Order was based on specific circumstances affecting that sector, such as the implementation of ALMM List-II/DCR requirements from 01.06.2026 and the significant fluctuations in solar module prices, foreign exchange rates and metal prices. These factors were specific to Solar PV Projects and were considered by the Commission while passing the Impugned Order. Whether similar treatment should have been extended to BESS Projects was a matter considered by the Commission and were not accepted, the conclusion once reached by the Commission cannot be considered in a review Petition so as to reappreciate and rehear the case to arrive at a different conclusion/findings, as the same can be done only by an appellant court in an appeal, the review Petition cannot be an appeal in disguise. Further, merely because the Petitioner holds a different view does not make the decision liable for review. Therefore, this contention also does not satisfy the requirements for review.

4.2.4. The Commission finds that most of the grounds raised by the Petitioner are a repetition of the submissions already considered while passing the Impugned Order or seek a fresh examination of issues already decided. Since these grounds do not disclose any error apparent on the face of the record or any other valid ground for review, they cannot be entertained in review proceedings and are, accordingly, rejected.

4.2.5. The Petitioner and the Respondent have sought to bring certain subsequent market developments relating to global battery input costs and import economics on record, and have urged that the same be examined under the ground of "discovery of new and important matter or evidence" under Order XLVII Rule 1 CPC.

4.2.6. The Commission has examined this submission in light of the well-settled principles governing review jurisdiction and is unable to accept the same, for the reasons recorded hereinafter. It is a well settled fact that the ground of "discovery of new and important matter or evidence" under Order XLVII Rule 1 CPC is available only where twin conditions are cumulatively satisfied: first, that the matter or evidence, though in existence at the relevant time, was genuinely not within the knowledge of the party concerned, or, as the case may be, of the Commission itself; and second, that despite the exercise of due diligence, such matter or evidence could not have been discovered or produced before the order sought to be reviewed was passed admittedly, in the present case, the change in circumstance has occurred after the passing of the Order dated 04.06.2026 and, therefore, they could never have been discovered or produced at the time of passing of the order laying down the benchmark capital cost and levelized tariff. It is relevant to refer to a judgement of the Hon'ble Supreme Court dated 22 July, 2024, in the matter of S. Tirupathi Rao vs M Lingamaiah & Ors. [ARISING OUT OF SLP (CIVIL) NOS. 19647-48 OF 2022] wherein the Hon’ble Court has observed as under:

“Since the Division Bench (review) invoked the first clause, we hasten to emphasize that an applicant seeking review on the basis of discovery of new evidence has to demonstrate: first, that there has been discovery of new evidence, of which he had no prior knowledge or that it could not

be produced at the time the decree was passed or the order made despite due diligence; and secondly, that the new evidence is material to the order/decree being reviewed in the sense that if the evidence were produced in court when the decree was passed or the order made, the decision of the court would have been otherwise…"

4.2.7. The Hon'ble Apex Court has in various other Judgements has also held that this ground demands strict compliance and cannot be invoked merely because a party did not place material on record which was otherwise ascertainable through reasonable diligence, or which was already within the knowledge of the authority passing the order. A review is not an appeal in disguise, and material which existed and was discoverable at the relevant time, and was in fact within the knowledge of the Commission itself, as opposed to material that was concealed from, or genuinely inaccessible to, the Commission does not qualify as "new" evidence merely because a party chooses to place it on record afresh in review proceedings.

4.2.8. While applying these principles to the present facts and circumstances, the Commission notes that the submission of the Petitioner of certain facts as a justification for review, i.e. award of tender by the Punjab utility to M/s Ceigall India Ltd., and reduction of the VAT export rebate by China, are not well founded as all these event occurred/were announced in April 2026, i.e. prior to the Impugned Order dated 04.06.2026 and there is no reason for the Petitioner to assume that the same were not considered by the Commission while determining the benchmark capital cost for BESS, assuming for the sake of argument that the Petition bonafidely believed that these events are relevant then they should have placed these events on record during the proceedings, which was not done by them. Further, global battery price and import cost trends are widely tracked, publicly available developments that a Commission relies on whilst fixing benchmark costs for BESS projects, where batteries and imported equipments form 60-70% of the project cost, is expected to remain alive to as part of its ordinary regulatory function. What is sought to be introduced is, in substance, a continuing market trend rather than a discrete new fact incapable of discovery, and permitting review on this basis would convert the jurisdiction into a tool for continuous re-appraisal of the benchmark, which is impermissible.

4.2.9. The Commission is, therefore, of the considered view that the developments cited by the Petitioner and the Respondent do not meet the threshold laid down for "discovery of new and important matter or evidence" under Order XLVII Rule 1 CPC. At best, what is sought is a re-appraisal of the benchmark capital cost and levelised Capacity Charges on the basis of subsequent market trends, a course open, if at all, only in a fresh proceeding before the Commission and not through review of the Impugned Order.

4.2.10. It is a settled principle that review is a limited jurisdiction, and its object is to correct a patent error or account for evidence that was genuinely undiscoverable and not to provide a mechanism for continuous reconsideration of benchmarks or tariffs each time market conditions evolve. To permit review on the basis of information that was already available, or reasonably discoverable, prior to the Impugned Order would defeat the principle of finality that attaches to the Orders of this Commission, and would open the door to repeated re-litigation of settled benchmarks on the strength of incremental market movements.

4.2.11. In light of the above, the Commission holds that the ground of "discovery of new and important matter or evidence" is not made out. The Review Petition, to the extent it seeks reconsideration of the levelised Capacity Charges determined for BESS in the Impugned Order dated 04.06.2026 on this ground, is accordingly rejected.

4.2.12. It is to be noted that the Capacity Charge of Rs. 2,59,244/MW/month determined in the Impugned Order dated 04.06.2026 was fixed as a benchmark ceiling under Regulation 12 of the RE Regulations, 2023. Moreover, the BESS projects can have a different operation cycle such as 2 hours, 2.5 hours as proposed by UPCL and UJVN Ltd. and 4 hours which will carry different costs and different efficiencies. Further, there are various other factors and commercial terms that will impact the prices, including the technology and the location and, hence, it would be not be logical to apply similar norms on them as specified under the Regulations. Further, the BESS projects proposed by the Petitioner or by UPCL are of different capacities and are at different locations. UPCL has proposed to install BESS at distribution level whereas UJVN Ltd. has proposed to install the same at generation end, both serve different purposes and have different financial implications and different criteria for assessment and, therefore, cannot be equated. Furthermore, these projects are proposed to be installed through tariff-based competitive bidding under Operational Guidelines for the Viability Gap Funding (VGF) Scheme issued by the Ministry of Power, Government of India, as amended from time to time. These Guidelines requires the discovery of tariff through competitive bidding and submitting the same before the Commission for adoption as per Section 63 of the Electricity Act, 2003. Accordingly, for the reasons stated above, BESS ceiling capacity charges determined by the Commission for the standalone BESS projects under the RE Regulations cannot be applied to the projects to be installed under present VGF Scheme. Therefore, even otherwise no prejudice or injustice is being caused to the Petitioner, due to determination of the benchmark capital cost, as the tariff discovered for these projects through competitive bidding is to be adopted by the Commission taking into consideration the relevant aspects.

4.2.13. In order to obviate any confusion or difficulty in applying the RE Regulations in such matters, the Commission deems it necessary clarify that benchmark Capacity Charge of Rs. 2,59,244/MW/month determined in the Impugned Order under the RE Regulations, 2023 applies to BESS projects other than those constituting monetary assistance under present VGF Scheme notified by GoI.

4.2.14. Further, the Petitioner, upon completion of the ongoing tariff-based competitive bidding process, shall approach the Commission by filing an appropriate Petition under Section 63 of the Electricity Act, 2003 for adoption of the tariff discovered through the bidding process in accordance with the UERC (Conduct of Business) Regulations, 2014 and also consequent agreements, if any.

4.2.15. In view of the above, the Commission finds no merit in the Review Petition. The Review Petition is, therefore, rejected. Accordingly, Miscellaneous Application No. 51 of 2026 stands disposed off.

5. Ordered Accordingly.

(Prabhat Kishor Dimri) **Member (Technical)**	**(Anurag Sharma)** **Member (Law)**	**(M.L. Prasad)** **Chairman**