

petitioner in hard copy as well as soft copy. It is imperative to highlight that the said consolidated cash flow sheet was submitted before the commission in pursuance of the query raised by the Hon'ble Commission. The said net cash availability was to be computed based on the total sum of the following:

- 3.4.1. Cash generated from operation before tax (A)
 - 3.4.2. Net cash used in investing activities (B)
 - 3.4.3. Net cash used in financial activities (C)
- 3.5. Therefore, the addition of A+B+C would result in the net increase/(decrease) in cash and cash equivalents. However, the Hon'ble Commission while passing the Impugned Order has computed net cash availability by adding A+B and the total of A+B+C, instead of adding A+B+C. The said arithmetical error has changed the net cash availability of the petitioner from INR 116.76 Lacs in FY 2016-17 to a mere INR 8.04 Lacs in FY 2016-17.
- 3.6. Similarly, the arithmetical error has resulted in a negative cash flow of INR 189.20 Lacs for the petitioner in FY 2020-21, whereas as per the sum of A+B+C, the petitioner had a positive cash flow of INR 76.30 Lacs. For the convenience of the Hon'ble Commission, the arithmetic error and the resulting changes in the net cash availability of the petitioner are being summarized in the chart below:

Table A: Incorrect Computation


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S r. N o.	Particulars	FY	FY	FY	FY	FY	FY	FY
		2022	2021	2020	2019	2018	2017	2016
		-23	-22	-21	-20	-19	-18	-17
1.	Cash Generated from operation before Tax (A)	543. 89	283. 47	403. 14	243. 58	223. 41	174. 26	401. 16
2.	Net Cash used in Investing activities (B)	(446. 86)	(455. 66)	(540. 94)	(583. 51)	(488. 23)	(287. 88)	(320. 91)
3.	Net Increase/(d ecrease) in cash and cash equivalents (A+B+C)	36.3 8	(81.2 4)	51.4 0	(122. 43)	(48.1 3)	(79.0 7)	72.2 1
4.	Net Cash availability	60.6 5	(90.9 5)	(189. 20)	(217. 50)	(216. 69)	(34.5 5)	8.04

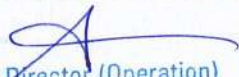
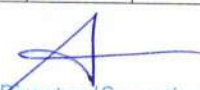

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Table B: Correct Computation

S r. N o.	Particulars	FY	FY	FY	FY	FY	FY	FY
		2022	2021	2020	2019	2018	2017	2016
		-23	-22	-21	-20	-19	-18	-17
1.	Cash Generated from operation before Tax (A)	543. 89	283. 47	403. 14	243. 58	223. 41	174. 26	401. 16
2.	Net Cash used in Investing activities (B)	(446. 86)	(455. 66)	(540. 94)	(583. 51)	(488. 23)	(287. 88)	(320. 91)
3.	Net Cash used in Financial Activities (C)	(36.2 0)	115. 14	214. 10	235. 13	220. 82	49.3 7	36.5 1
4.	Net Increase/(d ecrease) in	60.8 3	(57.0 5)	76.3 0	(104. 80)	(44.0 0)	(64.2 5)	116. 76


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cash and cash equivalents (A+B+C)							
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3.7. The result of this arithmetic error fundamentally alters the net cash availability of the petitioner as well as the interest on RoE which ought to have been excluded from the computation of non-tariff income.

3.8. Net Cash Availability is not a cornerstone for calculating the RoE as the same finds no place in the MYT Regulations 2021 or anywhere else. The consideration of Net Cash Availability by the Hon'ble Commission for calculating RoE is *prima facie* wrong and baseless and same requires reconsideration. Further, it is also necessary to highlight that the Hon'ble Commission approves certain amount of RoE each year as part of Annual Fixed Charges (AFC) as per applicable tariff regulations.

3.9. Further, the basis of pro-rata interest on the basis of net cash availability is without any reasoning or rationale nexus and without any express provision in the MYT Regulations 2021. Therefore, the Impugned Order required reconsideration.

B. Incorrect Calculation of Non-Tariff Income

3.10. While passing the Impugned Order, the Hon'ble Commission has misapplied the *proviso* to Regulation 46, which states as follows:-


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Provided that the interest earned from investments made out of Return on Equity corresponding to the regulated business of the Generating Company shall not be included in Non-Tariff Income.

- 3.11. The Hon'ble Commission has included and even recovered interest income based on the assessment of positive and negative cash flow of the petitioner. Given the inaccurate and incorrect computation of the net cash availability while passing the Impugned Order, the recovery of interest and the inclusion of interest earned from the existing FDs of the petitioner in the computation of non-tariff income amounts to an error apparent on the face of record.
- 3.12. From a reading of the Impugned Order, the Hon'ble Commission has allowed the petitioner to keep pro-rated interest earned to the tune of net cash availability during the year. As per the Impugned Order, the net cash availability in the FY 2016-17 is only INR 8.04 Lacs, whereas the actual cash available with the petitioner was INR 116.76 Lacs. Therefore, even the pro-rata interest allowed to the petitioner is incorrect.
- 3.13. The attention of the Hon'ble Commission is drawn to the fact that *firstly*, the rightful RoE has not been considered by the Hon'ble Commission as non-tariff income. *Secondly*, the Hon'ble Commission has considered the same as a deficiency and initiated a recovery, which is recurring in nature. The ripple effect of this incorrect calculation has led to the double recovery of interest from the petitioner.


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