

Presentation of deferred tax recoverable from beneficiaries (customers) accounted as 'Deferred Asset for Deferred Tax Liability' under Ind AS

A. Facts of the Case

1. A company (hereinafter referred to as the 'company') is a central public sector enterprise (CPSE) incorporated with an objective to plan, promote and organise an integrated and efficient development of hydroelectric power. The company has extended its objective to include development of power in all aspects through conventional and non-conventional sources in India and abroad. The company's shares are listed in BSE and NSE. The company has adopted Indian Accounting Standards (Ind ASs) during the 1st Phase, i.e., from April 1, 2016.
2. The company constructs hydropower projects and operates them on build, own, operate & maintain (BOOM) basis. Electricity being a regulated product, tariff for each power station is determined by the Central Electricity Regulatory Commission (CERC) based on the CERC Tariff Regulations issued for a period of five years at a time. The currently applicable tariff period is 2014-15 to 2018-19, i.e. 2014-19.
3. Tariff is fixed by the CERC based on the capital cost incurred for the power station. Tariff Regulations provide for recovery of costs incurred on running and maintenance of the power station, depreciation of property, plant & equipment, interest on loans & borrowings for construction of the plant and interest on working capital, plus a specified pre-tax rate of return on equity invested in the plant. Annual Fixed Charges (AFC) i.e. tariff, for a hydropower station is the sum of the following items:
 - (a) Return on Equity (ROE): ROE is allowed @ 15.5% for run-of-the-river type power stations and @ 16.5% for storage-type power stations grossed up at the effective tax rate. Normative Debt: Equity ratio of capital cost allowed by the CERC after prudence check is 70:30.
 - (b) Interest on loan capital: calculated on the normative average loan of the year by applying the weighted average rate of interest.
 - (c) Depreciation: depreciation is allowed at the rates prescribed in the tariff regulations on Straight Line Method (SLM) for the first 12 years from commercial operation date. The balance depreciation upto 90% of capital cost of the asset is spread over the balance life of 23 years. Total life of a hydro-power station is considered as 35 years.
 - (d) Interest on working capital: Provided on normative basis @ bank rate prevailing as on 1st April of the relevant year on the following items:
 - (i) Receivables equivalent to two months of annual fixed charges + (ii) Maintenance spares @ 15% of operation and maintenance expenses + (iii) Operation and maintenance expenses for one month.
 - (e) Operation and Maintenance expenses (O&M Expenses): Provided on the basis of normalised actual O&M expenses after escalation @ 6.64% in case of existing power stations and @ 2% of capital cost for new power stations.
4. The AFC so arrived at is recovered in two parts: A) Capacity Charges and B) Energy Charges. Capacity charges amounting to 50% of the AFC is recovered on the basis of Plant Availability Factor (PAF) which is defined as the average of the daily declared capacities (DCs) for all the days during the period expressed as a percentage of the installed capacity in MW less the normative auxiliary energy consumption. Energy charges amounting to 50% of the AFC are recovered on the basis of energy scheduled to be supplied to the beneficiary, excluding free energy.
5. *Provisions of Central Electricity Regulatory Commission (CERC) for recovery of tax on Income:* Income tax on core business, i.e. generation and sale of power is allowed as a component of tariff for recovery from beneficiaries. However, the method

of recovery of income tax has undergone change in the various tariff periods. The relevant regulations for recovery of income tax as a component of tariff under the various tariff periods have been reproduced by the querist as under:

CERC (Terms and Conditions of Tariff) Regulations, 2004 (For tariff period 2004-09):

Regulation 7: Tax on Income:

- (1) Tax on the income streams of the generating company or the transmission licensee, as the case may be, from its core business, shall be computed as an expense and shall be recovered from the beneficiaries.
- (2) Any under-recoveries or over-recoveries of tax on income shall be adjusted every year on the basis of income-tax assessment under the Income-Tax Act, 1961, as certified by the statutory auditors.

Provided that tax on any income stream other than the core business shall not constitute a pass through component in tariff and tax on such other income shall be payable by the generating company or transmission licensee, as the case may be.

Provided further that the generating station-wise profit before tax in the case of the generating company and the region-wise profit before tax in case of the transmission licensee as estimated for a year in advance shall constitute the basis for distribution of the corporate tax liability to all the generating stations and regions.

Provided further that the benefits of tax-holiday as applicable in accordance with the provisions of the Income-Tax Act, 1961 shall be passed on to the beneficiaries.

Provided further that in the absence of any other equitable basis the credit for carry forward losses and unabsorbed depreciation shall be given in the proportion as provided in the second proviso to this regulation.

Provided further that income-tax allocated to the thermal generating station shall be charged to the beneficiaries in the same proportion as

annual fixed charges, *the income-tax allocated to the hydro generating station shall be charged to the beneficiaries in the same proportion as annual capacity charges* and in case of interstate transmission, the sharing of income-tax shall be in the same proportion as annual transmission charges.

Regulation 10- Recovery of Income-tax and Foreign Exchange Rate Variation:

Recovery of income-tax and foreign exchange rate variation shall be done directly by the generating company or the transmission licensee, as the case may be, from the beneficiaries without making any application before the Commission.

Provided that in case of any objections by the beneficiaries to the amounts claimed on account of income-tax or foreign exchange rate variation, the generating company or the transmission licensee, as the case may be, may make an appropriate application before the Commission for its decision.

CERC (Terms and Conditions of Tariff) Regulations, 2009 (For tariff period 2009-14):

Regulation 15: Return on Equity:

- (1) Return on equity shall be computed in rupee terms, on the equity base determined in accordance with regulation 12.
- (2) Return on equity shall be computed on pre-tax basis at the base rate of 15.5% to be grossed up as per clause (3) of this regulation.
- (3) *The rate of return on equity shall be computed by grossing up the base rate with the normal tax rate for the year 2008-09* applicable to the concerned generating company or the transmission licensee, as the case may be.

Provided that return on equity with respect to the actual tax rate applicable to the generating company or the transmission licensee, as the case may be, in line with the provisions of the relevant Finance Acts of the respective year during the tariff period shall be trued up separately for each year of the tariff period along with the tariff petition filed for the next tariff period.

- (4) Rate of return on equity shall be rounded off to three decimal points and be computed as per the formula given below:

Rate of pre-tax return on equity = Base rate / (1-t)

Where 't' is the applicable tax rate in accordance with clause (3) of this regulation.

Illustration:

- (i) In case of the generating company or the transmission licensee paying Minimum Alternate Tax (MAT) @ 11.33% including surcharge and cess:

$$\text{Rate of return on equity} = 15.50 / (1 - 0.1133) = 17.481\%$$

- (ii) In case of generating company or the transmission licensee paying normal corporate tax @ 33.99% including surcharge and cess:

$$\text{Rate of return on equity} = 15.50 / (1 - 0.3399) = 23.481\%$$

Regulation 39: Tax on Income.

Tax on the income streams of the generating company or the transmission licensee, as the case may be, shall not be recovered from the beneficiaries, or the long-term transmission customers, as the case may be.

Provided that the deferred tax liability, excluding Fringe Benefit Tax, for the period up to 31st March, 2009 whenever it materializes, shall be recoverable directly from the beneficiaries and the long-term customers.

CERC (Terms and Conditions of Tariff) Regulations, 2014 (For tariff period 2014-19):

Regulation 25. Tax on Return on Equity:

- (1) The base rate of return on equity as allowed by the Commission under Regulation 24 shall be grossed up with the effective tax rate of the respective financial year. For this purpose, the effective tax rate shall be considered on the basis of actual tax paid in respect of the financial year in line with the provisions of the relevant Finance Acts by the concerned generating company or the transmission licensee, as the case may be. The actual tax income on other income stream (i.e., income of non-generation or non-transmission business, as the case may be) shall not be considered for the calculation of "effective tax rate".

- (2) Rate of return on equity shall be rounded off to three decimal places and shall be computed as per the formula given below:

$$\text{Rate of pre-tax return on equity} = \text{Base rate} / (1 - t)$$

Where "t" is the effective tax rate in accordance with Clause (1) of this regulation and shall be calculated at the beginning of every financial year based on the estimated profit and tax to be paid estimated in line with the provisions

of the relevant Finance Act applicable for that financial year to the company on pro-rata basis by excluding the income of non-generation or non-transmission business, as the case may be, and the corresponding tax thereon. In case of generating company or transmission licensee paying Minimum Alternate Tax (MAT), "t" shall be considered as MAT rate including surcharge and cess.

Illustration:

- i) In case of the generating company or the transmission licensee paying Minimum Alternate Tax (MAT) @ 20.96% including surcharge and cess:

$$\text{Rate of return on equity} = 15.50 / (1 - 0.2096) = 19.610\%$$

- ii) In case of generating company or the transmission licensee paying normal corporate tax including surcharge and cess:

a) Estimated Gross Income from generation or transmission business for F.Y. 2014-15 is ₹ 1000 crore.

b) Estimated Advance Tax for the year on above is ₹ 240 crore.

c) Effective Tax Rate for the year 2014-15 = ₹ 240 Crore / ₹ 1000 Crore = 24%

d) Rate of return on equity = $15.50 / (1 - 0.24) = 20.395\%$

- (3) *The generating company or the transmission licensee, as the case may be, shall true up the grossed up rate of return on equity at the end of every financial year based on actual tax paid together with any additional tax demand including interest thereon, duly adjusted for any refund of tax including interest received from the income tax authorities pertaining to the tariff period 2014-15 to 2018-19 on actual gross income of any financial year.* However, penalty, if any, arising on account of delay in deposit or short deposit of tax amount shall not be claimed by the generating company or the transmission licensee as the case may be. Any under-recovery or over-recovery of grossed up rate on return on equity after truing up, shall be recovered or refunded to beneficiaries or the long term transmission customers/DICs as the case may be on year to year basis.

Regulation 49. Deferred Tax liability with respect to previous tariff period:

The deferred tax liability before 1.4.2009 shall be recovered from the beneficiaries or the long term transmission customers/DICs as the case may be, as and when the same gets materialised. No claim on account of deferred tax liability arising from 1.4.2009 upto 31.03.2014 shall be made from the beneficiaries or the long term transmission customers/DICs as the case may be.

(Emphasis supplied by the querist.)

6. Accounting for tax on income by the company:

- i) The company accounts for tax on income (including deferred tax) as per applicable Accounting Standard (AS) 22 'Accounting for Taxes on Income'/Ind AS 12 'Income Tax'. Tax expense of the company consists of current tax and deferred tax.
- ii) As per CERC regulation 2004-09, tax on income computed as an expense shall be recovered from the beneficiaries. Accordingly, an asset towards Deferred Tax 'Recoverable for tariff period up to 2009' has been created against deferred tax expenditure charged to profit and loss account upto 31st March, 2009 as the same is recoverable from the beneficiaries when the same becomes a part of current tax during any subsequent year.
- iii) As per CERC Regulation 2009-14, beneficiaries were not liable to pay the income tax on the income streams of the generating companies or the transmission licensees unlike the provisions under 2004 Tariff Regulations and the liability of the beneficiaries was only limited to paying a rate of return grossed up at the applicable tax rate. Consequently, the generating companies were not allowed to recover the deferred tax liabilities created during the period 2009-14. Accordingly, during F.Y. 2009-10 to F.Y. 2013-14, the company has not created deferred tax recoverable (asset) against deferred tax expenditure. In other words, since return on equity was grossed up at the applicable tax rate (i.e. normal tax rate / MAT), no additional recovery towards deferred tax was required to be made.
- iv) The tariff norms for the period 2014-19 notified by the CERC provide for grossing up of the return on equity with the effective tax rate of the financial year based on the actual

tax paid during the year on income from generation of power. Accordingly, deferred tax provided during the year on income from generation and further recoverable from beneficiaries in future periods is accounted for as 'Deferred tax adjustment against Deferred Tax Liability'. The 'Deferred tax adjustment against Deferred Tax Liability' so created for the year is netted off from the 'Deferred Tax expense' in the profit & loss account and from deferred tax liability in the balance sheet. The asset so created during the tariff period 2014-19 will be reversed in future years (including tax holiday period) when the related deferred tax liability forms a part of current tax and becomes recoverable from beneficiaries by way of grossing up of the Return on Equity.

- v) Accordingly, the balances appearing under 'Recoverable for tariff period up to 2009' and 'Deferred tax adjustment against Deferred Tax Liabilities' for tariff period 2014-19 have been reduced from the deferred tax liabilities in the financial statements and presented as under:

Presentation in the Balance Sheet as at 31st March 2017

Deferred Tax Liability (Net)	(₹ In Crore)	
Deferred Tax Liabilities	XXXX	XXXX
Less: Recoverable for tariff period up to 2009	XXXX	
Less: Deferred tax adjustment against Deferred Tax Liabilities (For tariff period 2014-19)	XXXX	

Presentation in the Profit & Loss for the year ended 31st March 2017

Provision for Taxation	(₹ In Crore)	
(i) Current Tax	XXXXX	XX XX
(ii) Deferred Tax	XXXX	
Less: Recoverable for tariff period up to 2009	(XXXX)	
Less: Deferred tax adjustment against Deferred Tax Liabilities (For tariff period 2014-19)	XXXX	

7. Comments by the Office of the C&AG during the Phase-II audit of accounts for the F.Y. 2016-17

- i) C&AG had issued a half margin to the company on the presentation of deferred asset for deferred

tax liability in the financial statements. Similar half margin was issued to another power sector CPSU. The replies by both companies were considered and it was decided in the review meeting by the C&AG that opinion from the Expert Advisory Committee of the Institute of Chartered Accountants of India should be obtained on the presentation of 'Deferred asset for deferred tax liability' in the financial statements of the company. Accordingly, the half margin was dropped on the basis of assurance on the above lines.

Though there are certain variations in the queries raised by the C&AG to the CPSUs, the basic observation of the C&AG regarding presentation of 'Deferred asset for deferred tax liability' as per Ind AS 114, 'Regulatory Deferral Accounts' and the reply to the same provided to C&AG are as under:

ii) Observation of the C&AG

"The Company has recognised ₹ XXXX crore as Deferred Assets for Deferred Tax Liability and the same has been presented as a deduction from Deferred Tax Liability, as detailed below:

Note on Deferred Tax Liabilities (Net)	
Deferred Tax Liability	₹ XXXX crore
Less: Deferred Assets for deferred tax liability	₹ XXX crore
Net deferred tax liability	₹ XXXX crore"

Observation of the C&AG is based on the following paragraphs of Ind AS 114- Regulatory Deferral Account Balances (as quoted by Audit):

"Indian Accounting Standard (Ind AS) 114, Regulatory Deferral Accounts emphasises primarily on the presentation and disclosure requirements for regulatory deferral account balances. The Standard permits an entity within its scope to continue to account for regulatory deferral account balances in its financial statements in accordance with its previous GAAP (in this case Guidance Note issued by ICAI on Rate Regulated Activities) when it adopts Ind ASs, subject to the limited changes referred to in paragraph 2. However, Ind AS stipulates that the presentation and disclosure of these accounts shall be according to the requirements of Ind AS 114.

Important stipulations of Ind AS 114 are narrated below:

Paragraph 8 of the Standard says that an entity that is within the scope of, and that elects to apply, this Standard shall apply all of its requirements to all regulatory deferral account balances that arise from all of the entity's rate-regulated activities.

Paragraph 11 re-emphasises that the presentation of such amounts shall comply with the presentation requirements of this Standard, which may require changes to the entity's previous GAAP presentation policies.

Paragraph 18 under 'Presentation-Changes in presentation' says that this Standard introduces presentation requirements, outlined in paragraphs 20–26, for regulatory deferral account balances that are recognised in accordance with paragraphs 11–12. When this Standard is applied, the regulatory deferral account balances are recognised in the balance sheet in addition to the assets and liabilities that are recognised in accordance with other Standards. These presentation requirements separate the impact of recognising regulatory deferral account balances from the financial reporting requirements of other Standards.

Paragraph 20 says that an entity shall present separate line items in the balance sheet for: (a) the total of all regulatory deferral account debit balances; and (b) the total of all regulatory deferral account credit balances.

Paragraph 23 says that an entity shall present, a separate line item in the profit or loss section of the statement of profit and loss, for the remaining net movement in all regulatory deferral account balances for the reporting period, excluding movements that are not reflected in profit or loss, such as amounts acquired. This separate line item shall be distinguished from the income and expenses that are presented in accordance with other Standards by the use of a sub-total, which is drawn before the net movement in regulatory deferral account balances.

Appendix B to Ind AS 114

Application Guidance

"Application of Ind AS 12 Income Taxes

B9 Ind AS 12 requires, with certain limited exceptions, an entity to recognise a deferred tax liability and (subject to certain conditions) a deferred tax asset for all temporary differences. A rate-regulated entity shall apply Ind AS 12 to all of its activities, including its rate regulated activities, to identify the amount of income tax that is to be recognised.

B10 In some rate-regulatory schemes, the rate regulator permits or requires an entity to increase its future rates in order to recover some or all of the entity's income tax expense. In such circumstances, this might result in the entity recognising a regulatory deferral account balance in the balance sheet related to income tax, in accordance with its accounting policies established in accordance with paragraphs 11–12. The recognition of this regulatory deferral account balance that relates to income tax might itself create an additional temporary difference for which a further deferred tax amount would be recognised.

B11 Notwithstanding the presentation and disclosure requirements of Ind AS 12, when an entity recognises a deferred tax asset or a deferred tax liability as a result of recognising regulatory deferral account balances, the entity shall not include that deferred tax amount within the total deferred tax asset (liability) balances. Instead, the entity shall present the deferred tax asset (liability) that arises as a result of recognising regulatory deferral account balances either:

- (a) with the line items that are presented for the regulatory deferral account debit balances and credit balances; or
- (b) as a separate line item alongside the related regulatory deferral account debit balances and credit balances.

B12 Similarly, when an entity recognises the movement in a deferred tax asset (liability) that arises as a result of recognising regulatory deferral account balances, the entity shall not include the movement in that deferred tax amount within the tax expense (income) line item that is presented in the statement of profit and loss in accordance with Ind AS 12. Instead, the entity shall present the movement in the deferred tax asset (liability) that arises as a result of recognising regulatory deferral account balances either:

- (a) with the line items that are presented in the statement of profit and loss for the movements in regulatory deferral account balances; or
- (b) as a separate line item alongside the related line items that are presented in the statement of profit and loss for the movements in regulatory deferral account balances."

Continuation of existing accounting policies

"B3 For the purposes of this Standard, a regulatory

deferral account balance is defined as the balance of any expense (or income) account that would not be recognised as an asset or a liability in accordance with other Standards, but that qualifies for deferral because it is included, or is expected to be included, by the rate regulator in establishing the rate(s) that can be charged to customers..."

From the above extracts of Ind AS 114 and a review of the implementation of this Ind AS by the company, Audit observed the following:

- a) *The Company needed to present the Regulatory Deferral Account created in the form of 'Deferred Assets against Deferred Tax Liability' in the face of the Balance Sheet itself against the line item "Regulatory Deferral Account Balances." Instead the Company showed the same as deduction from Deferred Tax Liabilities which is against the principles set out in Ind AS 114.*
- b) *As a result of deviation from the Ind AS 114 requirements, Balance Sheet- Regulatory Deferral Account Balances is understated by ₹ XXXX crore with corresponding understatement of Balance Sheet- Deferred Tax Liabilities (Net) by an equal amount. Total of the Balance Sheet is also understated by ₹ XXXX crore.*
- c) *Similarly in the Statement of Profit and Loss, "Profit for the period before Regulatory Deferral Account Balances) is overstated by ₹ XXXX crore with corresponding understatement of Tax Expense. This has also resulted in understatement of "Net movement in Regulatory Deferral Account Balances-Income / (Expenses)" by ₹ XXXX crore."*

(Emphasis supplied by the querist)

- iii) *Reply to the comments of C&AG as per 7(ii) above were as under:*

"The company has recognised Deferred Tax Liability as per Ind AS 12 to recognise tax effect of timing differences. Such Deferred Tax Liability would reverse in future years. The company has recognised a Deferred Asset for Deferred Tax Liability which would also reverse in future years along with the deferred tax liability. The Deferred Asset against Deferred Tax Liability is thus not a regulatory asset as per the definition of the Regulatory Asset given in the Guidance Note.

Paragraphs B10 and B11 referred by audit are not applicable in the instant case for the following reasons:

Paragraph B10 of Ind AS 114 provides a background

explaining the circumstances when an additional temporary difference might arise on recognising a regulatory deferral account balance that relates to income tax. If a regulatory deferral account balance that relates to income tax gives rise to a temporary difference, then para B 11 provides the disclosure guidance. B11 is applicable when “an entity recognises a deferred tax asset or a deferred tax liability as a result of recognising regulatory deferral account balances”.

Deferred Tax Liability has been recognised by the Company in accordance with requirements of Ind AS 12. Since Deferred Tax Liability is not arising from a regulatory deferral account balance, the “Deferred Asset for Deferred Tax Liability” also does not meet the requirement of paragraph B11.

Reference of Audit is invited to provisions of paragraph 33 of Ind AS 1- Presentation of Financial Statements which permits offsetting of income and expense, assets and liabilities when it reflects the substance of the transaction or other event or when separate disclosure detracts from the ability of users both to understand the transactions, other events and conditions that have occurred and to assess the entity’s future cash flows. In the present case, the Deferred Tax Liability and Deferred Asset against Deferred Tax Liability are closely related, as such separate disclosure thereof would not reflect the substance of the transaction. Accordingly, the Deferred Asset for Deferred Tax Liability has been deducted from the Deferred Tax expense with adequate disclosure on the face of the profit and loss account as well as the notes to the Balance Sheet.

It may also be seen that similar provisions for netting are available in Ind AS 18 Revenue which provides that the entity may net any income with related expenses when it reflects the substance of the transaction.

It is also submitted that under Ind AS 12 also, the netting of deferred tax assets and deferred tax liabilities is permitted to reflect the substance of the underlying asset/liability.

In view of above, it is submitted that presentation of the deferred asset for deferred tax liability in the financial statements is in order.”

B. Query

8. Keeping in view the above, opinion of the Expert Advisory Committee is solicited as to whether in terms of Ind AS 114, ‘Regulatory Deferral Accounts’,
 - a) ‘Deferred Asset for Deferred Tax Liability’ created during the year (pertaining to 2014-

19 period) and reversal of ‘Deferred Asset for Deferred Tax Liability’ pertaining to earlier periods (tariff period 2004-09) are to be presented as an adjustment to expenditure on deferred tax in the statement of profit and loss or to be presented as a movement in regulatory deferral account balance (as a separate line item in the statement of profit and loss), and

- b) Balance in ‘Deferred Asset for Deferred Tax Liability A/c’ pertaining to tariff period 2004-09 and 2014-19 is to be presented as an adjustment to deferred tax liability in the balance sheet or to be presented as a regulatory deferral account balance (as a separate line item in balance sheet).

C. Points considered by the Committee

9. The Committee notes that the company in the extant case has applied Indian Accounting Standards (Ind ASs) notified under Companies (Indian Accounting Standards) Rules, 2015 for accounting periods commencing from 1 April, 2016 onwards. The Committee further notes that the querist has opted to apply Ind AS 114 in its first Ind AS financial statements for financial year 2016-17.
10. The Committee notes that the basic issue raised in the query relates to whether the presentation of regulatory deferral asset on deferred tax liability balance, recognised as per the requirements of Ind AS 114, is appropriate and in line with the requirements contained in Ind ASs. The Committee has, therefore, considered only this issue and has not examined any other issue that may arise from the Facts of the Case, such as, recognition of deferred tax liability, etc. Further, this opinion is restricted to the financial reporting requirements under Ind AS and does not deal with the regulatory aspects of the CERC tariff regulations or any other related regulations. The Committee also presumes that the ‘Deferred Asset for Deferred Tax Liability’ has been appropriately recognised as per the requirements of Ind AS 114/Guidance Note on Accounting for Rate Regulated Activities.
11. The Committee notes from the above that the CERC tariff norms for the period 2004-2009 provides for recovery of income tax directly from beneficiaries and tariff norms for the period 2014-19 provides for grossing up of the return on equity with the effective tax rate for the financial

year based on the actual tax paid during the year on income from generation of power, rather than the applicable tax rate. Considering these norms the company has recognised an asset balance referred to as 'Deferred Tax Adjustment against Deferred Tax Liability'/'Deferred Asset for Deferred Tax Liability'/'Recoverable for tariff period up to 2009' (which is hereinafter referred to as 'Deferred Tax Adjustment against Deferred Tax Liability'. The Committee presumes that these terminologies referred to by the querist and the Office of C&AG are used interchangeably and refer to the same account balance in question. The Committee further notes that the company has presented deferred tax liability in the balance sheet after netting of 'Deferred Tax Adjustment against Deferred Tax Liability', which has been disclosed in the deferred tax schedule in the financial statements. Similarly, the deferred tax expense presented in the statement of profit and loss is net of the 'Deferred Tax Adjustment against Deferred Tax Liability', which has been disclosed under 'Provision for Taxation' heading in the financial statements.

12. With regard to the nature of the 'Deferred Tax Adjustment against Deferred Tax Liability', the Committee notes that Appendix A to Ind AS 114 defines 'regulatory deferral account balance' as a 'Regulatory Asset' or a 'Regulatory Liability' as defined in the Guidance Note on Accounting for Rate Regulated Activities. Paragraph 21 of the Guidance Note states that a regulatory asset is an entity's right to recover fixed or determinable amounts of money towards incurred costs as a result of the actual or expected actions of its regulator under the applicable regulatory framework. The Committee further notes that paragraph 5 of Ind AS 12, 'Income Taxes' defines deferred tax assets and liabilities as follows:

"Deferred tax liabilities are the amounts of income taxes payable in future periods in respect of taxable temporary differences.

Deferred tax assets are the amounts of income taxes recoverable in future periods in respect of:

- (a) **deductible temporary differences;**
- (b) **the carry forward of unused tax losses; and**
- (c) **the carryforward of unused tax credits.**

Temporary differences are differences between the carrying amount of an asset or liability in the balance sheet and its tax base. Temporary differences may be either:

- (a) ***taxable temporary differences, which are temporary differences that will result in taxable amounts in determining taxable profit (tax loss) of future periods when the carrying amount of the asset or liability is recovered or settled; or***
 - (b) ***deductible temporary differences, which are temporary differences that will result in amounts that are deductible in determining taxable profit (tax loss) of future periods when the carrying amount of the asset or liability is recovered or settled."***
13. The Committee notes that 'Deferred Tax Adjustment against Deferred Tax Liability' that the company has recognised in the extant case would reverse in future by way of tariff adjustment. The Committee further notes that future reversals of 'Deferred Tax Adjustment against Deferred Tax Liability' balance would affect the tariff recoverable from the beneficiaries in future periods and therefore fulfills the definition of regulatory deferral account balance under Ind AS 114. The Committee further notes that such deferral account balance would not be recoverable through adjustment in future income tax liabilities arising on the company as assessed under Income Tax Act and is, therefore, not a deductible temporary difference resulting into deferred tax asset under Ind AS 12. Rather, it is a regulatory deferral account balance, as mentioned in paragraph B10 of Ind AS 114.
14. The Committee notes that Ind AS 12 does not allow deferred tax liabilities to be offset with assets other than deferred tax assets under Ind AS 12 and as discussed in paragraph 13 above, 'Deferred Tax Adjustment against Deferred Tax Liability' balance is not a deferred tax asset under Ind AS 12. Accordingly, the Committee is of the view that 'Deferred Tax Adjustment against Deferred Tax Liability' cannot be offset with deferred tax expense or liability in the financial statements.
15. Further, with regard to presentation of 'Deferred Tax Adjustment against Deferred Tax Liability',

the Committee notes paragraphs 20, 22 and 23 of Ind AS 114, which provide as follows:

“20 An entity shall present separate line items in the balance sheet for:

- (a) **the total of all regulatory deferral account debit balances; and**
- (b) **the total of all regulatory deferral account credit balances.”**

“22 An entity shall present, in the other comprehensive income section of the statement of profit and loss, the net movement in all regulatory deferral account balances for the reporting period that relate to items recognised in other comprehensive income. Separate line items shall be used for the net movement related to items that, in accordance with other Standards:

- (a) **will not be reclassified subsequently to profit or loss; and**
- (b) **will be reclassified subsequently to profit or loss when specific conditions are met.**

23 An entity shall present a separate line item in the profit or loss section of the statement of profit and loss, for the remaining net movement in all regulatory deferral account balances for the reporting period, excluding movements that are not reflected in profit or loss, such as amounts acquired. This separate line item shall be distinguished from the income and expenses that are presented in accordance with other Standards by the use of a sub-total, which is drawn before the net movement in regulatory deferral account balances.”

Accordingly, the Committee is of the view that the company should follow the above- reproduced requirements of Ind AS 114 in respect of ‘Deferred Tax Adjustment against Deferred Tax Liability’ in its financial statements.

16. Incidentally, the Committee wishes to point out that in view of paragraph B10 of Ind AS 114, the company should also examine as to whether or not the recognition of regulatory deferral account balance in the extant case, viz., ‘Deferred Tax Adjustment against Deferred Tax

Liability’ is creating an additional temporary difference for which a further deferred tax amount needs to be recognised. Further, if a deferred tax/deferred liability (as the case may be) is created considering the requirements of B10, the same should also be presented as per the requirements of Ind AS 114 and not Ind AS 12.

D. Opinion

17. On the basis of the above, the Committee is of the opinion that the nature of the ‘Deferred Tax Adjustment against Deferred Tax Liability’ is in the nature of regulatory deferral account balance under Ind AS 114 and not in the nature of deferred tax asset for reasons mentioned in paragraphs 12 and 13 above. The presentation by the entity of deferred tax liabilities balance in balance sheet and deferred tax expense in statement of profit and loss, each net of ‘Deferred Tax Adjustment against Deferred Tax Liability’ is not in compliance with the requirements of Ind AS 114 and Ind AS 12. The same should be in accordance with paragraphs 20, 22 and 23 of Ind AS 114, as discussed in paragraphs 14 and 15 above.

1.	The Opinion is only that of the Expert Advisory Committee and does not necessarily represent the Opinion of the Council of the Institute.
2.	The Opinion is based on the facts supplied and in the specific circumstances of the querist. The Committee finalised the Opinion on June 5-6, 2018. The Opinion must, therefore, be read in the light of any amendments and/or other developments subsequent to the issuance of Opinion by the Committee.
3.	The Compendium of Opinions containing the Opinions of Expert Advisory Committee has been published in thirty five volumes. A CD of Compendium of Opinions containing thirty five volumes has also been released by the Committee. These are available for sale at the Institute’s office at New Delhi and its regional council offices at Mumbai, Chennai, Kolkata and Kanpur.
4.	Recent opinions of the Committee are available on the website of the Institute under the head ‘Resources’.
5.	Opinions can be obtained from EAC as per its Advisory Service Rules which are available on the website of the ICAI, under the head ‘Resources’. For further information, write to eac@icai.in . ■