

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 149/MP/2013

Subject : Petition under section 79(l) (K) of the electricity Act, 2003 read with Regulations 3(4), 14 and 15 of CERC (Terms and Conditions for recognition and issuance of renewable energy certificate for Renewable Energy Generation) Regulations, 2010.

Date of hearing : 13.8.2013

Coram : Shri V.S.Verma, Member
Shri M. Deena Dayalan, Member

Petitioner : Bajaj Hindustan Limited

Respondents : National Load Despatch Centre
Uttar Pradesh New and Renewable Energy

Parties present : Shri Sushil Malik, Advocate for the petitioner
Shri Niraj Kumar, Advocate for the petitioner
Shri Shailendra Verma, NLDC0

Record of Proceedings

Learned Counsel for the petitioner submitted that the present petition has been filed on account of non issuance of RECs by National Load Despatch Centre (NLDC) contrary to the directions of the Commission in orders dated 18.10.2012 and 8.1.2013 in Petition Nos. 36/MP/2012 and 125/2012, respectively.

2. Learned counsel further submitted as under:

(a) The Government of Uttar Pradesh vide its notification dated 6.2.1998 has abolished the electricity duty fixed @ 3 paise per unit on the electricity consumed for industrial and other purposes from its electricity generating source by any other person. The said notification dated 6.2.1998 has been replaced by notification dated 13.9.2012 wherein new rates of electricity duty on various

categories have been notified and there is no reference at all to the consumption from the own sources.

(b) NLDC vide its letter dated 29.5.2013 had informed that since there is waiver of electricity duty in the State of UP, RECs for self consumption cannot be issued to the petitioner.

(c) NLDC by relying on para 9 of the order dated 8.1.2013 has rejected the application of the petitioner on the ground that exemption from payment of electricity duty amounts to waiver of electricity duty under the second proviso to Regulation 5 of the REC Regulations.

(d) Since electricity duty is no longer leviable on self consumption, the petitioner cannot be stated to be availing waiver of electricity duty. It is neither the case of waiver or withdrawal.

(e) According to Black's Law dictionary, the word 'waiver' means renunciation, repudiation, abandonment or surrender of some claim or 'declining to take advantage'. The petitioner had neither applied for nor sought for any 'waiver of electricity duty' and the abolition of the electricity duty on self consumption is not a concessional benefit envisaged in the REC Regulations.

(f) Once UPNEDA has verified the eligibility criteria of the petitioner's eleven unit and has granted certificate of accreditation, and NLDC has in terms of Regulation 5 of the REC Regulations registered the petitioner as eligible entity for issuance of RECs, the petitioner becomes eligible for RECs.

3. The representative of NLDC submitted that similar petitions (Petition Nos. 122,123 and 129/MP/2013) are already pending before the Commission and requested to club the present petition with said petitions.

4. After hearing the learned counsel of the petitioner and representative of NLDC, the Commission directed to admit the petition.

5. The Commission directed the petitioner to serve copy of the petition to the respondents immediately who may file their responses by 27.8.2013, with an advance copy to the petitioner. The petitioner may file its rejoinder, if any, on or before 6.9.2013

6. Subject to above, the Commission reserved order in the petition.

By order of the Commission,

SD/-
(T. Rout)
Chief (Law)