

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 394/TDL/2014**

**Coram:**

**Shri Gireesh B.Pradhan, Chairperson**

**Shri A.K.Singhal, Member**

**Shri A.S.Bakshi, Member**

**Date of Order: 17.9.2015**

**In the matter of**

Application for grant of inter-State trading licence to Gita Power and Infrastructure Private Limited.

**And**

**In the matter of**

Gita Power and Infrastructure Private Limited (FPIPPL)  
No.6, Sardar Patel Road,  
Guindy, Chennai-600 032

**..... Petitioner**

**The following was present:**

Shri Jatin Agarwal , FPIPPL

**ORDER**

The petitioner, Gita Power and Infrastructure Private Limited, a company registered under the Companies Act, 1956 (1 of 1956) has made the present application under sub-section (1) of Section 15 of the Electricity Act, 2003 (hereinafter referred to as "the Act") read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Trading licence and other related matters) Regulations, 2009

(hereinafter referred to as “Trading Licence Regulations”) amended from time to time, for grant of Category `III` licence for inter-State trading in electricity whole of India.

2. Regulation 6 of the Trading Licence Regulations provides for the procedure for grant of trading licence as under:

**“6. Procedure for grant of licence**

(1) Any person desirous of undertaking inter-State trading in electricity shall make an applicant to the Commission for grant of licence in the manner specified in Form-I appended to these regulations and such applicant shall be accompanied by :-

(a) Such fee as may be prescribed by the Central Government from time to time payable through Bank Draft or pay order drawn in favour of Assistant Secretary, Central Electricity Regulatory Commission, New Delhi.

(b) Copies of the annual reports in case of the persons incorporated under the Companies Act, 1956 (1 of 1956) and audited accounts along with the Director’s Report, Auditors’ Report, the Schedules and notices on accounts for three years immediately preceding the year in which the application has been made and the special balance sheet as on any date falling within 30 days immediately preceding the date of making the application:

Provided that where the applicant has not been incorporated, registered or formed during the period of three years immediately preceding the year in which the application is made, the application shall be accompanied by the copies of the annual reports and audited accounts for such lesser period for which the applicant has been in existence.

(2) The application for grant of licence, along with annexures and enclosures shall also be submitted to the Commission on compact disc (CD).

(3) The applicant shall post complete application along with annexures and enclosures on his own website so as to facilitate access to the application by any person through internet and shall keep them on the website till the disposal of his application.

(4) The applicant shall within 7 days after making such application, publish a notice of his application, in two daily newspapers having circulation in each of the five regions in addition to those published from Delhi, including one economic daily newspaper in Form II, with the following particulars, name  
xxxxxx

(5) The applicant shall within 7 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published and shall also file the original complete page of the newspaper in which the notice has been published.

(6) The applicant may file his reply to the objections or suggestions received in response to the notice within 45 days of its publication in the newspapers.

(7) The Commission after consideration of the objections or suggestions received in response to the notice published by the applicant and his reply may propose to grant

*licence.*

*(8) When the Commission proposes to grant licence, it shall publish a notice of its proposal in two daily newspapers, as the Commission may consider appropriate, stating the name and address of the person to whom it proposes to issue the licence, with such other details as the Commission considers appropriate, to invite further objections or suggestions to its proposal.”*

3. The petitioner has made the application as per Form-I along with CD and paid the fee of Rupees one lakh as prescribed by the Government of India.

4. The petitioner has posted the application for grant of trading licence on its website in terms of Regulation 6(3) of the Trading Licence Regulations. The petitioner has placed on record the relevant copies of the newspapers in original in which notice of its application has been issued. The notices under sub-section (2) of Section 15 of the Act read with clause (4) of Regulation 6 of the Trading Licence Regulations have been published by the petitioner on 9/10.10.2014 in all editions of ‘The Times of India` and The Economics Time’. No objection has been received in response to the public notices.

5. The petitioner company has been incorporated under the Companies Act, 1956 on 2.3.2012. Proviso to clause (1) of Regulation 3 of the Trading Licence Regulations provides that the applicant should have been authorized to undertake trading in electricity by its Memorandum of Association. Trading in electricity is covered under Main Objects of the Memorandum of Association of the petitioner. Para 5 of the Main Objects of the company reads as under:

“5. To engage in the business of purchasing, procuring, selling, importing, exporting and trading all forms of electric power on commercial basis, either individually or on joint venture basis.”

6. Transmission of electricity is not covered under the Main Objects of the Memorandum of Association of the petitioner. However, the petitioner vide its affidavit dated 26.9.2014 has submitted that during the subsistence of the trading licence if granted by the Commission, it shall not apply for any transmission licence before any concerned authority without surrendering the trading licence granted to it. The affidavit has been taken on record.

7. The petitioner, vide Record of Proceedings for the hearing dated 18.6.2015, was directed to submit the following information:

(a) Details of shares allotment starting from the period of incorporation to the special balance sheet date along with the list of share holders and their share holdings duly reconciled with the amount of share capital and securities premium as mentioned in the schedules of financial account pertains to concerned periods.

(b) Relationship of the petitioner company with Caromia Holding Limited, Cyprus. and Gita Holding Pvt. Ltd, Cyprus and OPG Power Ventures Plc. Douglas, Isle of Man and Provide the details of approval received under FEMA from RBI / Central Government for the investment made in the petitioner company by these foreign companies. Provide the shareholding pattern of foreign companies.

(c) Group structure chart consisting of all entities of OPG group along with the details of location of these companies and % of share holding made by one company on other company. This chart should clearly indicate the position of the petitioner company in the group structure.

8. The petitioner vide its affidavit dated 2.7.2015 has submitted the information called for. The petitioner has submitted that Caromia Holding Limited Cyprus which holds 97.73% of shares in its company is the immediate holding company of the petitioner's company. The petitioner has submitted that OPG Power Venture PLC which holds 0.52% of share in its company and 100% shares in Caromia Holding Company is its ultimate holding company. According to the petitioner, it has invested 70.11% and 51% shareholding in its subsidiary companies, namely OPG Power generation Pvt. Ltd. and OPGS Power Gujarat Private Limited respectively.

9. The petitioner vide letter dated 24.8.2015 was directed to submit the details of fair valuation (for share premium purpose) determined as per the discounted free cash flow method certified by a merchant banker registered with SEBI or a Chartered Accountant in accordance with revised pricing guidelines of Reserve Bank of India dated 4.5.2010. The petitioner vide its affidavit dated 1.9.2015 has submitted allotment-wise details of fair valuation for share premium purpose duly certified by Chartered Accountant as under:

<b>Detail of valuation for share premium and against every Share Allotments</b>							
<b>S. No.</b>	<b>Date of Allotment</b>	<b>Name of the Shareholder</b>	<b>No of Shares Allotted</b>	<b>Face Value in ₹</b>	<b>Share premium per share in ₹</b>	<b>Value per share certified by CA in ₹</b>	<b>Valuation method</b>
1	Subscription to MOA	Arvind Gupta	5,000	10	0		
2	Subscription to MOA	Sudha Gupta	5,000	10	0		
3	20.11.2009	Gita Holdings Pvt. Ltd	469338	10	490	10.92	Net Asset Value
4	30.8.2011	Caromia Holdings Ltd	17,316	10	29990	29627	DFCF
5	9.11.2011	Caromia Holdings Ltd	15,723	10	29990	28423	DFCF

6	28.02.2012	Caromia Holdings Ltd	51,800	10	29990	27413	DFCF
7	10.5.2012	Caromia Holdings Ltd	13,208	10	29990	24537	DFCF
8	29.06.2012	Caromia Holdings Ltd	13,256	10	29990	23898	DFCF
9	25.01.2013	Gita Holdings Pvt. Ltd [Refer below Note (i)]	(469,33 8)	10	0		
10	25.01.2013	Caromia Holdings Ltd [Refer below Note (ii)]	3,97,00 2	10	0		
11	25.01.2013	OPG Power Ventures Plc [Refer below Note (ii)]	3,000	10	0		
12	28.01.2013	Caromia Holdings Ltd	29,609	10	29990	20515	DFCF
13	02.12.2013	Caromia Holdings Ltd	9,320	10	29990	21994	DFCF
14	24.03.2014	Caromia Holdings Ltd	9,437	10	29990	21628	DFCF
15	30.07.2014	Caromia Holdings Ltd	4,000	10	29990	29490	DFCF
		<b>Total</b>	<b>573,671</b>				
<p><b>Note: for cancellation/allotment dated 25.01.2013 as per Scheme of Arrangement approved by the High Court of Madras.</b></p> <p>(i) 469338 Equity shares stand cancelled.</p> <p>(ii) 400002 Equity Shares issued to the existing shareholders of Gita Holdings Pvt. Limited, Cyprus</p>							

10. The petitioner has calculated the share premium towards the net worth of the company. Net worth has been defined in Regulation 2 (1) (o) of the Trading Licence Regulations as under:

“2. (1) (o) ‘net worth’ means aggregate value of the paid up equity capital and free reserves (excluding reserves created out of revaluation) reduced by the aggregate value of accumulated losses, deferred expenditure (including miscellaneous expenses) not written off and loans and advances to the associates.”

11. In accordance with Regulation 3 (3) of the Trading Licence Regulations, a person applying for Category ‘III’ trading licence should have net worth of ₹ five crore, and should have maintained minimum current ratio and liquidity ratio of 1:1, as on date of audited balance sheet accompanying the application. The petitioner has submitted the special audited balance sheet as on 31.8.2014.

12. Based on the special audited balance sheet as on 31.8.2014, net worth and liquidity ratios has been worked out as under:

<b>Net Worth Computation</b>	<b>As per Audited Special Balance Sheet as on 31-08-2014</b>
Particulars	(₹ in lakh)
A) Paid up equity capital (1)	57.37
<b>B) Reserves &amp; Surplus.</b>	0.00
B.1. Capital Reserves	142.31
B.2. Capital Redemption Reserve	0.00
B.3. Debenture Redemption Reserve	0.00
B.4. Revaluation Reserve	0.00
B.5. Share Options Outstanding Account & Reserves other than free reserves	0.00
B.6. Securities Premium Reserve	51384.09
B.7. Surplus (P & L Account)	442.28
B.8. Other Free Reserves (i.e. General Reserve)	45711.67
<b>Total of Reserve &amp; Surplus</b>	<b>97680.35</b>
<b>Free Reserves &amp; Surplus Considered for Net worth (2) (B6+B7+B8)</b>	<b>97538.04</b>
<b>C) Loans &amp; Advances given to associates (3)</b>	3804.92
<b>D) Deferred Expenditure (including Misc. Expenses) not written off (4)</b>	0.00
<b>Net Worth (1+2-3-4)</b>	<b>93790.49</b>

13. The net worth of the petitioner is further represented by the following:

<b>Net worth (Asset approach), Current Ratio and Liquidity Ratio Computation</b>	<b>31.8.2014</b>
<b>A) Non-current Assets</b>	(₹ in lakh)
A.1. Net block of Tangible Asset	2275.59
A.2 Net Block of Intangible Asset	0.00
A.3 Capital work in progress	0.00
A.4 Intangible Assets under development	0.00
A.5 Non-Current Investments	90851.63
A.6 Deferred Tax Assets	0.00
A.7 Long-term loans and advances	3804.92
A.7.1 Less: Loans and Advances given to Associates included in above	3804.92
A.7.2 <b>Net Long Term Loans &amp; Advances (A.7 - A.7.1)</b>	<b>0.00</b>

A.8 Other Non-Current Assets	0.00
A.9 Deferred Expenditure (including Misc. Expenses) not written off (Not considered for net worth computation)	0.00
<b>Total Non-Current Assets</b>	96932.14
<b>Total Non-Current Assets considered for net worth (1)</b>	<b>93127.22</b>
<b>B. Non-Current Liabilities, Pref. Share &amp; Share Application money and Reserves other than free reserves</b>	<b>31.8.2014</b>
B.1 Share application money pending allotment	0.00
B.2 Preference Share Capital	0.00
B.3 Long term Borrowings	0.00
B.4 Deferred tax Liabilities	0.00
B.5 Other Long Term Liabilities (i.e. Advance from customers and Retention money)	4235.90
B.6 Long Term provisions	7.86
B.7 Reserves other than free reserves	142.31
<b>Total Non-Current Liabilities, Reserves other than free reserves considered for Net worth (2)</b>	<b>4386.07</b>
<b>C. Current Assets</b>	<b>31.8.2014</b>
C.1. Current Investments	2097.36
C.2. Inventories	0.00
C.3. Trade Receivables	0.00
C.4. Cash and cash equivalents	263.16
C.5 Short Term Loans & Advances	6443.12
C.5.1 Less: Loans & Advances given to associates	0.00
C.5.2 <b>Net Short Term Loan &amp; Advances(C.5 - C.5.1)</b>	<b>6443.12</b>
C.6 Other current assets	0.00
C.7 Deferred Expenditure (including Misc. Expenses) not written off (not considered for net worth & Liquidity purpose)	0.00
<b>Total Current Assets</b>	<b>8803.64</b>
<b>Total Current Asset considered for Net worth (3)</b>	<b>8803.64</b>
<b>D. Current Liabilities</b>	<b>31-08-2014</b>
D.1. Short-term Borrowings	0.00
D.2. Trade payables	3745.96
D.3. Other Current liabilities (i.e. Statutory & other liabilities)	6.43
D.4. Short-term provisions	1.91
<b>Total Current Liabilities considered for Net worth (4)</b>	<b>3754.30</b>



14. Based on the above, the net worth, current ratio and liquidity ratio work out as under:

S. No.	Particulars	31.8.2014
1.	Net worth ( ₹ in lakh)	93790.49
2.	Current ratio	2.34
3.	Liquidity ratio	2.34

15. On consideration of the above facts, we are ***prima facie*** satisfied that the petitioner meets the net worth requirements specified by the Commission for grant of Category `III` trading licence and fulfills other conditions for grant of trading licence subject to the condition that the petitioner shall maintain the net worth as per the Trading Licence Regulations during the subsistence of the trading licence, if granted. The Commission proposes to grant Category `III` trading licence to the petitioner. We direct that a notice under clause (a) of sub-section (5) of Section 15 of the Act be issued inviting further suggestions or objections to the proposal of the Commission.

16. List this petition for further directions on 15.10.2015.

Sd/-  
(A.S. Bakshi)  
Member

sd/-  
(A.K. Singhal)  
Member

sd/-  
(Gireesh B Pradhan)  
Chairperson