

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

I.A. No. 40/2017 in Petition No. 8/MP/2014

- Subject : Evolving a mechanism for grant of an appropriate adjustment/compensation to offset financial/commercial impact of change in law during Construction and Operating period.
- Petitioner : EMCO Energy Limited.
- Respondents : Maharashtra State Electricity Distribution Co. Limited and others.

I.A. No. 39/2017 in Petition No. 112/MP/2015

- Subject : Petition under Section 79 of the Electricity Act, 2003 read with statutory framework governing procurement of power through competitive bidding and Article 13.2(b) of the Power Purchase Agreement dated 7.8.2007 executed between GME Kamalanga Energy Limited and Bihar State Power (Holding) Company Limited for compensation due to change in law impacting revenues and costs during the operating period.
- Petitioners : GMR Kamalanga Energy Limited and GMR Energy Limited.
- Respondents : Bihar State Power (Holding) Company Limited and others.
- Date of hearing : 22.8.2017
- Coram : Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member
- Parties present : Shri Vishrov Mukherjee, Advocate, GKEL &GWEL
Shri Yashaswi Kant, Advocate, GKEL &GWEL
Shri M.G. Ramachandran, Advocate, Prayas
Ms. Poorva Saigal, Advocate, Prayas
Ms. Swapna Seshadri, Advocate, DNHDCL

Record of Proceedings

Learned counsel for the applicants submitted that the present Interlocutory Applications have been filed by the petitioners pursuant to the Commission's order dated 1.2.2017 seeking compensation for change in Central Excise Duty taking into consideration royalty and stowing excise duty and other charges for determining excisable value of coal. Learned counsel further submitted that in terms of the Commission's order dated 1.2.2017, the applicants approached the concerned

authority to seek a clarification regarding the component of assessable value for the purpose of calculation of excise duty on coal and the same has been clarified by the Office of Assistant Commissioner, Customs and Central Excise Division, Bilaspur on 23.3.2017.

2. Learned counsel for DNH Distribution Company Limited (DNHDCL) objected to the IA and submitted that DNHDCL has filed an appeal before the APTEL against the Commission's order dated 1.2.2017 in Petition No. 8/MP/2014, therefore, no IA can be filed at this stage when the main petition itself has been disposed of by the Commission.

3. The Commission observed that a similar issue has already been decided by the Commission vide order dated 22.6.2017 in I.A. No. 55 of 2016 in Review Petition No. 19/RP/2016 in Petition No. 153/MP/2015. The Commission admitted the IAs and directed to issue notices to the respondents on the IAs.

4. Learned counsels for DNHDCL and Prayas accepted notice to the IAs and requested for a hearing on IAs. Request was allowed by the Commission.

5. The Commission directed the applicants to serve the copy of the IAs on the respondents immediately, if not served already. The Commission directed the respondents to file their replies, on affidavit, by 11.9.2017 with an advance copy to the applicants, who may file their rejoinder, if any, by 29.9.2017. The Commission directed that due date of filing the replies and rejoinders should be strictly complied with. No extension shall be granted on that account.

6. The IAs shall be listed for hearing on 12.10.2017.

By order of the Commission
Sd/-
(T. Rout)
Chief (Legal)