

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Date of Hearing: 29.8.2019

Petition No. 352/MP/2018

Subject : Petition under Section 79 the Electricity Act, 2003 read with Article 12 of the Power Purchase Agreements dated 22.9.2016, executed between Wardha Solar (Maharashtra) Private Ltd. and Solar Energy Corporation of India Ltd. for seeking approval of 'Change in Law' events due to enactment of the GST Laws.

Petitioner : Wardha Solar (Maharashtra) Private Limited (WS(M)PL)

Respondents : Solar Energy Corporation of India Limited (SECI) and Others

Petition No. 355/MP/2018

Subject : Petition under Section 79 the Electricity Act, 2003 read with Article 12 of the Power Purchase Agreements dated 22.9.2016, executed between Wardha Solar (Maharashtra) Private Ltd. and Solar Energy Corporation of India Ltd. for seeking approval of 'Change in Law' events due to enactment of the GST Laws.

Petitioner : Wardha Solar (Maharashtra) Private Limited (WS(M)PL)

Respondents : Solar Energy Corporation of India Limited (SECI) and Others

Petition No. 358/MP/2018

Subject : Petition under Section 79 the Electricity Act, 2003 read with Article 12 of the Power Purchase Agreements dated 22.9.2016, executed between Wardha Solar (Maharashtra) Private Ltd. and Solar Energy Corporation of India Ltd. for seeking approval of 'Change in Law' events due to enactment of the GST Laws.

Petitioner : Wardha Solar (Maharashtra) Private Limited (WS(M)PL)

Respondents : Solar Energy Corporation of India Limited (SECI) and Others

Petition No. 359/MP/2018

Subject : Petition under Section 79 the Electricity Act, 2003 read with Article 12 of the Power Purchase Agreements dated 22.9.2016, executed between Wardha Solar (Maharashtra) Private Ltd. and Solar Energy Corporation of India Ltd. for seeking approval of 'Change in Law' events due to enactment of the GST Laws.

Petitioner : Wardha Solar (Maharashtra) Private Limited (WS(M)PL)

Respondents : Solar Energy Corporation of India Limited (SECI) and Others

Petition No. 4/MP/2019

Subject : Petition under Section 79 the Electricity Act, 2003 read with Article 12 of the Power Purchase Agreements dated 2.8.2016, executed between Parampujya Solar Energy Private Limited. and Solar Energy Corporation of India Ltd. for seeking approval of 'Change in Law' events due to enactment of the GST Laws.

Petitioner : Parampujya Solar Energy Private Limited (PSEPL)

Respondents : National Thermal Power Corporation Ltd. (NTPC) and Others

Coram : Shri P.K. Pujari, Chairperson
Dr. M.K. Iyer, Member
Shri I.S. Jha, Member

Parties present : Ms. Poonam Verma, Advocate, PSEPL & WS(M)PL
Ms. Abiha Zaidi, Advocate, PSEPL & WS(M)PL
Ms. Aparajita Upadhyay, Advocate, PSEPL & WS(M)PL
Shri M.G Ramachandran, Senior Advocate, SECI
Ms. Ranjitha Ramachandran, Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Shri Shubham Arya, Advocate, SECI

Record of Proceedings

Learned counsel for the Petitioners submitted that the present Petitions have been filed for seeking compensation on account of Change in Law i.e notification of GST Laws. Learned counsel further submitted that all issues raised in the present Petitions have already been decided by the Commission in its order dated 18.4.2019 in Petition No. 164/MP/2018 and order dated 9.10.2017 in Petition No. 188/MP/2018. Accordingly, present Petitions may be disposed of in line with the above orders. Learned counsel further submitted as under:

- (a) After the decisions of the Commission, while SECI has started making payments towards compensation for Change in Law, SECI has withheld payments of GST on the additional DC modules which were installed after the commissioning of the projects. These DC modules are installed to achieve the required Capacity Utilization Factor (CUF) provided in the PPAs.
- (b) The purchase orders for these modules were placed before the SCOD of the projects and were installed after the COD.
- (c) SECI is misinterpreting the terms of the PPA and is withholding payment on the pretext that since these modules were installed after COD, GST compensation cannot be granted for the same.
- (d) As per the PPAs, CUF is required to be calculated on an annual basis. Therefore, the solar power generations can install the modules to achieve the desired CUF after the COD as well.

3. Learned senior counsel for the SECI submitted that the solar power generators are responsible to maintain the CUF under the PPA and any additional cost incurred by the Petitioner after COD to achieve the CUF cannot be passed on to SECI.

4. Learned counsel for the Petitioners sought permission to place on record the details of the payment withheld by SECI and PPA provisions to substantiate the claim for compensation for GST for these additional DC modules. Learned counsel for SECI also sought one week time to file its response thereon. Accordingly the Commission directed the Petitioners to file their written submissions, by 10.9.2019 with copy to the Respondent, SECI who may file its response, on or before, 17.9.2019. The Commission directed that due date of filing the written submissions should be strictly complied with. No extension shall be granted on that account.

5. Subject to the above, the Commission reserved order in the Petitions.

By order of the Commission

**Sd/-
(T.D. Pant)
Deputy Chief (Law)**