

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 281/MP/2019**

Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 for (i) approval of 'Change in Law' and (ii) consequential relief to compensate for the increase in capital cost due to introduction of the Central Good and Services Tax Act, 2017, the Integrated Goods and Services Tax Act, 2017 and the State Goods and Services Tax Acts enacted by respective States, in terms of Article 12 of the Power Purchase Agreements dated 21.7.2017 between Mytrah Vayu (Sabarmati) Private Limited and PTC India Limited.

Petitioner : Mytrah Vayu (Sabarmati) Private Limited (MVSPL)

Respondents : PTC India Limited (PTC) and Ors.

Date of Hearing : 7.7.2020

Coram : Shri I. S. Jha, Member  
Shri Arun Goyal, Member

Parties present : Shri Hemant Sahai, Advocate, MVSPL  
Ms. Anukriti Jain, Advocate, MVSPL  
Shri Aditya Kumar Singh, Advocate, MVSPL  
Shri Mahesh Kollipara, MVSPL  
Shri Ravi Kishore, Advocate, PTC  
Ms. Rajshree Chaudhary, Advocate, PTC  
Shri H. L. Choudhary, PTC  
Shri M. G. Ramachandran, Sr. Advocate, SECI  
Ms. Poorva Saigal, Advocate, SECI  
Ms. Tanya Sareen, Advocate, SECI  
Shri Shreedhar Singh, SECI  
Shri Shubham Mishra, SECI

**Record of Proceedings**

The matter was heard through video conferencing.

2. Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter-alia*, seeking declaration that the enactment of GST Law qualifies as 'Change in Law' in terms of Article 12 of the Power Purchase Agreements executed between the Petitioner and the Respondent No.1, PTC India Limited (PTC) and consequential compensation thereto. Learned counsel submitted that the issue involved in the Petition



stands covered by the Commission's earlier orders relating to Change in Law event arising out of enactment of GST Law. Learned counsel referred to the judgment of Hon'ble Supreme Court dated 4.3.1975 in the case of Mamleshwar Prasad & Anr. V. Kanahaiya Lal (1975 AIR 907) and submitted that a prior decision of the court on identical facts and law binds the court on the same points in a later case. Accordingly, the Commission may pass an appropriate order in line with its earlier orders on the subject matter.

3. Learned counsel for the Respondent, PTC, submitted that on account of the nationwide lockdown due to Covid-19 pandemic, the Respondent could not file its reply as per the Commission's direction and requested for two weeks' time to file reply. Learned counsel further submitted that in the instant Petition, the Petitioner has sought prayers only against PTC and not against the Distribution licensees despite the whole arrangement being back-to-back in nature. The ultimate liability of payment being that of the Distribution licensees, their objections, if any, also ought to be taken into consideration. Accordingly, the Commission may direct the Distribution licensees to file their reply. Learned counsel further submitted that the Commission has examined the role of SECI/NTPC in its earlier orders including their obligations of payment. However, such orders were set-up under the Guidelines pertaining to the Solar Projects. He added that the instant case, PTC's role needs to be examined in light of the Guidelines issued by Ministry of New and Renewable Guidelines and the provisions of the Power Purchase Agreement and Power Supply Agreement. Accordingly, PTC may be permitted to file its reply covering the above aspects.

4. In rebuttal, learned counsel for the Petitioner submitted that Distribution licensees have already been impleaded as party to the Petition and notices have also been issued to them to file their reply. However, they have not filed reply in the matter. Learned counsel further submitted that the role of trader and their payment obligation has already been examined by the Commission in its order dated 28.1.2020 in Petition No.138/MP/2019.

5. Learned senior counsel for the Respondent No.2, Solar Energy Corporation of India Limited (SECI), submitted that it has already filed its reply, which may be taken into consideration.

6. After hearing the learned counsels and learned senior counsel for the parties, the Commission directed PTC to file its submission, if any, on or before, 20.7.2020 with copy to the Petitioner who may file its response thereon, if any, by 30.7.2020.

7. Subject to the above, the Commission reserved order in the matter.

**By order of the Commission**

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

