

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 365/MP/2019**

Subject : Petition under Section 79(1)(b) read with Section 79 (1)(f) of the Electricity Act, 2003 for (i) declaration of 'Change in Law' event; and (ii) grant of consequential relief to compensate for the increase in capital cost due to introduction and imposition of safeguard duty by way of Notification No.01/2018- Customs SG dated 30.7.2018 issued by the Department of Revenue, Ministry of Finance, in terms of Article 17 of the Power Purchase Agreement dated 17.4.2017 between Mahindra Renewables Private Limited and M.P Power Management Company Limited and Power Purchase Agreement dated 17.4.2017 between Mahindra Renewables Private Limited and Delhi Metro Rail Corporation.

Petitioner : Mahindra Renewables Private Limited (MRPL)

Respondents : M. P Power Management Company Limited (MPPMCL) and Ors.

Date of Hearing : 7.7.2020

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

Parties present : Shri Hemant Sahai, Advocate, MRPL  
Ms. Anukriti Jain, Advocate, MRPL  
Shri Apoorva Misra, Advocate, MRPL  
Shri Aditya Kumar Singh, Advocate, MRPL  
Shri Devjeet Ghosh, MRPL  
Shri G. Umapathy, Advocate, MPPMCL  
Shri Tarun Johri, Advocate, DMRC

**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 imposition of safeguard duty qualifies as 'Change in Law' in terms of Article 17 of the Power Purchase Agreements (PPAs) executed between the Petitioner and the Respondents and the consequential compensation on account thereto. Learned counsel submitted that the issue involved in the Petition stands covered by the Commission's earlier order dated 15.10.2019 in



Petition Nos.19/MP2019 and 46/MP/2019 relating to Change in Law arising out of imposition of safeguard duty.

3. Learned counsel for the Respondent, M.P Power Management Company Limited (MPPMCL) submitted that in the present case, the Petitioner entered into Supply Agreement with EPC contractor on 5.2.2018. However, safeguard duty on the import of solar modules was imposed from 30.7.2018 and the Petitioner has not been provided any details regarding import of solar modules prior to imposition of safeguard duty w.e.f 30.7.2018 under the Supply Agreement dated 5.2.2018. He further submitted that in terms of Article 17 of the PPA, the liability for increase in the rates of taxes, duties, levies and cost of raw material, for failure of EPC contractor to implement the Project in time is entirely on account of EPC contractor and the remedy available in such instances is against the EPC contractor and not against the Respondent. Learned counsel submitted that the import of solar cell/module was not a requirement of PPA and it was a voluntary commercial decision of the Petitioner and any increase in cost including on account of taxes, etc. is required to be borne by the Petitioner.

4. Learned counsel for the Respondent, Delhi Metro Rail Corporation (DMRC) sought a week's time to file written submission. Learned counsel further submitted that in line with the Commission's earlier orders, the Respondents ought to be given an option of payment on annuity basis in the present case as well. He added that the claims of the Petitioners towards imposition of safeguard duty ought to be restricted to 250 MW i.e. installed capacity and for any additional capacity, the liability relating to taxes/duties ought not to be passed on to the Respondent.

5. In rebuttal, the learned counsel for the Petitioner submitted that all the contentions raised by the Respondents have been squarely dealt with by the Commission in its order dated 15.10.2019 in Petition No.19/MP2019 and 46/MP/2019.

6. Based on the request of the learned counsel for the parties, the Commission permitted the parties to file their written submission by 24.7.2020 with copy to each other.

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

**By order of the Commission**

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