

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 72/MP/2020**

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(s) to compensate for the increase in capital cost and associated costs due to (a) introduction of the Central Goods and Services Tax Act, 2017, the Integrated Goods and Service Tax Act, 2017 and the State Goods and Services Acts enacted by respective States and (b) imposition and introduction of Safe Guard Duty on the import of solar cells (whether or not assembled in modules or panels) 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 12 read with Article 16.3.1 of the Power Purchase Agreements dated 6.10.2017 between SB Energy Three Private Limited and Solar Energy Corporation of India Limited.

Petitioner : SB Energy Three Private Limited (SBETPL)

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

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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(s) to compensate for the increase in capital cost due to (a) introduction of the Central Goods and Services Tax Act, 2017, the Integrated Goods and Service Tax Act, 2017 and the State Goods and Services Acts enacted by respective States and (b) imposition and introduction of Safe Guard Duty on the import of solar cells (whether or not assembled in modules or panels) 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 12 read with Article 16.3.1 of the Power Purchase Agreements dated 6.10.2017 between SB Energy One Private Limited and Solar Energy Corporation of India Limited.

Petitioner : SB Energy One Private Limited (SBEOPL)

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



Date of Hearing : 4.6.2020

Coram : Shri P. K. Pujari, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member

Parties present : Shri Hemant Sahai, Advocate, SBETPL and SBEOPL  
Shri Apoorva Mishra, Advocate, SBETPL and SBEOPL  
Ms. Parichita Choudhary, Advocate, SBETPL and SBEOPL  
Shri Aditya Kumar Singh, Advocate, SBETPL and SBEOPL  
Shri Sidharth Mohapatra, SBETPL and SBEOPL  
Shri M. G. Ramachandran, Sr. Advocate, SECI  
Ms. Poorva Saigal, Advocate, SECI  
Ms. Tanya Sareen, Advocate, SECI  
Shri Abhinav Kumar, SECI  
Shri Ajay Kumar, SECI

### **Record of Proceedings**

The matters were listed for hearing through video conferencing.

2. Learned counsel for the Petitioners submitted that the instant Petitions have been filed, *inter-alia*, seeking declaration that the introduction of GST Laws and imposition of Safeguard Duty, are Change in Law events and seeking consequential compensation for additional recurring/non-recurring capital cost incurred by the Petitioners.

3. Learned counsel further submitted that, after filing of the instant Petitions, Ministry of New and Renewable Energy (MNRE) vide its letter dated 12.3.2020 read with letter 23.3.2020, has clarified that since the Commission has already laid down the principles to be followed with regard to 'Change in Law' compensation on account of imposition/enhancement of effective rates of GST and levy of Safeguard Duty on import of Solar PV cells and modules in earlier cases, there is no need to ask every Developer to approach the Commission for seeking order individually in similar cases. In terms of the said letters, the Petitioners have already started discussion with the Respondent, SECI in respect of their claims. Accordingly, the Commission may adjourn the matters sine die and may take up the same after the outcome of the discussions between the Petitioners and the Respondent.

4. Learned senior counsel for the Respondent, SECI submitted that issues involved in the Petitions stand covered by the Commission's earlier orders relating to Change in Law arising out of GST Laws and Safeguard Duty. Learned senior counsel submitted that in terms of MNRE letters, the Petitioners are required to submit computations of their claims and the parties will carry out reconciliation of such claims in accordance with the Commission's earlier orders on the subject matter.

5. After hearing the learned counsel for the Petitioners and learned senior counsel for the Respondent, SECI, the Commission admitted the Petitions.



6. The Commission observed that the Petitioners and SECI are already in discussion for reconciliation of the Petitioners' claims arising out of Change in Law events, namely, introduction of GST Laws and imposition of Safeguard Duty as per the MNRE's letters dated 12.3.2020 and 23.3.2020. Accordingly, the Commission adjourned the matters sine die. The Petitioners may get the Petitions revived based on the outcome of the discussions or settlement reached, if any, amongst the parties.

**By order of the Commission**

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

