

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.49/MP/2023**

- Subject : Petition under Section 79(1)(f) and Section 79(1)(k) of the Electricity Act, 2003 read with Regulation 111-113 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 along with Article 12 of the Power Purchase Agreement dated 3.5.2021 executed between the Petitioner with Solar Energy Corporation of India Limited, inter alia, seeking declaratory relief/ in-principle approval of Change in Law events prayed by the Petitioner in the present petition to be recognised as Change in Law events under the Power Purchase Agreement and consequential order(s).
- Date of Hearing : 20.9.2023
- Coram : Shri Jishnu Barua, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioners : Vena Energy Vidyuth Private Limited (VEVPL)
- Respondents : Solar Energy Corporation of India Limited (SECI) and Anr.
- Parties Present : Ms. Molshree Bhatnagar, Advocate, VEVPL  
Shri Rishabh Sehgal, Advocate, VEVPL  
Shri Nimesh Jha, Advocate, VEVPL  
Ms. Tanya Sareen, Advocate, SECI  
Ms. Anushree Bardhan, Advocate, SECI

**Record of Proceedings**

During the course of the hearing, learned counsel for the Petitioner and the Respondent, SECI made detailed submissions in the matter. Learned counsel for the Petitioner, *inter alia*, submitted that the Petitioner vide its affidavit dated 28.7.2023 has clarified that at this stage, the Petitioner is only seeking a declaratory/in-principle approval of the Change in Law events viz. (i) imposition of Safeguard Duty by the Central Government vide Notification dated 29.7.2020, (ii) imposition of Custom Duty on imports of solar inverters by the Ministry of Finance vide Customs Notification dated 1.2.2021, (iii) imposition of Basic Custom Duty on Solar PV Cells & Modules/Panels etc. by the Ministry of New and Renewable Energy (MNRE) vide its OM dated 9.3.2021 and (iv) changes in the rate of GST on solar modules and other solar power generator equipment from 5% to 12% w.e.f 1.10.2021, all of which have occurred after the cut-off date of 28.7.2020. Whereas, learned counsel for the Respondent, SECI, *inter-alia*, submitted that the Respondent has no objection towards the recognition of the above events as Change in Law events. In the present case, Article 12.1.3 of the Power Purchase Agreement also provides that changes in rates of Safeguard Duty, GST and Basic Custom Duty after 28.7.2020, if any, will be considered as Change in Law subject to the Appropriate Commission recognizing such provisions at the time of adoption of tariff. Learned counsel also pointed out that MNRE's OM dated 9.3.2021

providing for the rate of Basic Custom Duty on Solar cells and Modules, may *per se* not constitute a Change in Law event and the Petitioner has not placed on record the relevant Customs Notification issued by the Central Government imposing Basic Custom Duty in pursuance of the said OM. Learned counsel also added that such Notifications came to be issued by the Ministry of Finance only in February/March, 2022 i.e. after the notification of Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 on 22.10.2021.

2. Considering the request of the learned counsel for the parties, the Commission permitted the parties to file their respective written submissions, if any, within three weeks with a copy to the other side.

3. Subject to the above, the Commission reserved the matter for order.

**By order of the Commission**

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