

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 122/MP/2013

Sub : Petition under section 79 (1) (k) of the Electricity Act, 2003 read with Regulations 3 (4),14 and 15 of the CERC (Terms and Conditions for recognition and issuance of renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010.

Petition No. 123/MP/2013

Sub: Petition under section 79 (1) (k) of the Electricity Act, 2003 read with Regulations 3 (4),14 and 15 of the CERC (Terms and Conditions for recognition and issuance of renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010.

Date of hearing : 2.7.2013

Coram : Shri V.S.Verma, Member
Shri M. Deena Dayalan, Member

Petitioners : Dalmia Bharat Sugar & Industries Limited
DCM Shriram Consolidated Limited

Respondents : National Load Despatch Centre, New Delhi
Uttar Pradesh New and Renewable Energy Development Agency,
UP.

Parties present : Shri M.G Ramachandran, Advocate for petitioner
Shri Ranjitha Ramachandran, Advocate for petitioner
Shri Pankaj Rastogi, petitioner
Ms Minaxi Garg, NLDC
Ms. Joyti Prasad, NLDC

Record of Proceedings

Learned Counsel for the petitioners submitted that these petitions have been filed on account of non issuance of RECs by National Load Despatch Centre (NLDC) contrary to the directions of the Commission in order dated 8.1.2013 in Review Petition No. 125/2012 in Petition No. 36/MP/2012.

2. Learned Counsel for the petitioner submitted that NLDC by relying on para 9 of the order dated 8.1.2013 has rejected the application of the petitioner on the ground that exemption from payment of electricity duty amounts to waiver of electricity duty under the second proviso to Regulation 5 of the REC Regulations. Learned counsel submitted that in para 10 of the said order, the Commission has directed NLDC to satisfying itself by calling for a report from the State Agency or SLDC as to whether electricity duty on self consumption has been abolished in the State of Uttar Pradesh or not and accordingly process the case for registration of RC generators. Learned counsel submitted that UPNEDA in its letter dated 23.3.2013 has confirmed that electricity duty in self consumption is not leviable in the State of UP based on a clarification dated 12.3.2013 from the Govt. of UP. Learned counsel submitted that the Govt. of UP has clarified that electricity duty on self consumption was abolished under notification dated 6.2.1998. The subsequent notification dated 13.9.2012 has not reintroduced the provisions related to electricity duty on the electricity consumed for industrial and other purposes from its electricity generating source by any other person. Learned counsel also referred to the notification dated 7.12.2012 (Annexure A-9 of the petition) under which the electricity duty fixed @ 3 paise per unit on the electricity consumed for industrial and other purposes from its electricity generating source by any other person has been abolished by the order of the Hon'ble Governor of UP.

3. Learned counsel submitted that NLDC based on the report of the State Agency should have issued the RECs instead of sitting on judgment over the report of the State Agency.

4. The representative of NLDC submitted that since the petitioner is availing the benefits in the form of waiver of electricity duty, it would not be allowed to participate in REC mechanism. The representative of NLDC submitted that they had come to the conclusion based on the advice received from Learned Additional Solicitor General of India. The representative of NLDC requested for 10 days time to file its reply to the petition.

5. After hearing the learned counsel of the petitioners and the representative of the NLDC, the Commission directed to admit the petitions and issue notice to the respondents.

6. Learned counsel for the petitioners requested the Commission to list these petitions early so that the petitioners may not suffer due to the unfair rejection of RECs by NLDC.

7. The Commission directed the petitioners to serve copy of the petitions to the respondents immediately who may file their responses by 11.7.2013 and petitioners may file its rejoinder, if any, on or before 15.7.2013.

8. The petitions shall be listed for hearing on 16.7.2013.

By order of the Commission,

**SD/-
(T. Rout)
Joint Chief (Law)**