

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. MP/64/2014

Subject : Petition under Regulation 3 (4) and 14 of the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of renewable energy certificate for renewable energy generation) Regulations, 2010.

Date of hearing : 7.8.2014

Coram :
Shri Gireesh B. Pradhan, Chairperson
Shri Shri M. Deena Dayalan, Member
Shri A.K.Singhal, Member
Shri A.K.Bakshi, Member

Petitioner : M/s Shreenath Mhaskoba Sakar Karkhana Limited

Respondent : National Load Despatch Centre (NLDC)

Parties present : Shri Rajiv Yadav, Advocate for the petitioner
Ms. Jyoti Prasad, NLDC
Shri Shailendra Verma, NLDC,

Record of Proceedings

Learned counsel for the petitioner submitted that rejoinder to the reply of NLDC has already been filed and requested to hear the matter on merits which was allowed by the Commission. Learned counsel for the petitioner further submitted as under:

- (a) The petitioner has been wrongly denied RECs by NLDC on the ground that the petitioner is availing the benefit of electricity duty exemption in the State of Maharashtra.
- (b) Learned counsel referred to Section 5A of the Bombay Electricity Duty Act, 1958 and submitted that the State Government, in exercise of its powers under Section 5A, has issued a Notification dated 18.11.2010, whereby exemption from payment of electricity duty has

been granted in respect of captive consumption of non-conventional energy. As per the said Notification, the exemption is to remain effective for a period of 10 years from the date of commencement of the relevant non-conventional project.

(c) The exemption from payment of electricity duty in respect of self-consumption was stated to be operative by virtue of law, and was not voluntarily availed by the petitioner. Learned counsel relied upon the Commission's order dated 14.11.2013 in Petition Nos. 122,123 and 129/MP/2013 and submitted that waiver of electricity duty could operate as a disqualification only if the same had been willfully sought and obtained by the petitioner.

2. The representative of NLDC submitted that the exemption of electricity duty granted by the Government of Maharashtra, is indeed a 'benefit' which is being given renewable energy generators. Therefore, the said exemption from duty would indeed amount to a 'waiver of duty'. Accordingly, the petitioner is not entitled to issuance of RECs since it is availing of the benefit of waiver of electricity duty.

3. The Commission observed that exemption has been given under the notification issued by the Govt. of Maharashtra which has not abolished electricity duty from the statute. Therefore, it only means that exemption from levy of electricity duty has been kept in abeyance for 10 years and has not been abolished.

4. In response, learned counsel for the petitioner referred to para 14 of the order dated 16.7.2013 in Petition Nos. 122,123 and 129/MP/2013 and submitted that the decision in the said para is squarely applicable to the case of the petitioner.

5. The representative of NLDC submitted that as per second proviso to Regulation 5 of the REC Regulations, renewable energy generators availing such benefits are not eligible for issuance of RECs. The representative of NLDC placed on record the Maharashtra Energy Development Agency's letter dated 28.2.2013 stating that some renewable energy generators have been voluntarily paying electricity duty even though self-consumption is exempt from such duty.

6. In response, learned counsel for the petitioner referred to third proviso to Regulation 5 of REC Regulations and submitted that the generator cannot be eligible for issuance of RECs even if it wants to pay electricity duty under the REC Regulations as there is bar of three years.

7. After hearing the learned counsel for the petitioner and representative of NLDC, the Commission directed the petitioner and the respondent to file their written submissions with copy to each other, by 28.8.2014.

8. The Commission directed that the due date for filing written submissions should be strictly complied with failing which the information will not be taken note of.

9. Subject to the above, the Commission reserved order in the petition.

By order of the Commission

**Sd/-
(T. Rout)
Chief (Law)**