

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 211/MP/2016

Subject : Petition under Section 19 of the Electricity Act, 2003 read with Regulation 14 and Regulation 7 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading license and other related matters) Regulations, 2009 seeking revocation of the Inter-State Trading License granted to M/s Global Energy Private Limited.

Petitioner : Jindal Power Limited.

Respondent : Global Energy Private Limited

Date of hearing : 20.12.2016

Coram : Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

Parties present : Shri S. Venkatesh, Advocate, JPL
Shri Shashank Khurana, Advocate, JPL
Shri Pratyush Singh, Advocate, JPL
Shri Shushil Sharma, Advocate, JPL
Shri Anshuman Sharma, JPL
Shri MN Ravi Shankar, JPL

Record of Proceedings

Learned counsel for the petitioner submitted that the present petition has been filed for revocation of the inter-State trading licence granted to Global Energy Private Limited (GEPL) which is category-I inter-State trading licensee. Learned counsel for the petitioner further submitted as under:

(a) The petitioner has set up a 3400 MW coal based thermal power station at Tamnar, Raigarh district in the State of Chhattisgarh. The petitioner supplied power to GEPL for different periods under the mutually agreed terms and conditions through binding Letter of Intent (LOI).

(b) Pursuant to the issuance of LoI, various bills were raised upon GEPL from time to time. However, GEPL defaulted by not making payments towards the supply of power for the months of February 2015 and March 2016.

(c) As against the total bill of Rs. 44.70 crore for the month of February 2015 and March 2015, GEPL made partial payment of Rs. 10 crore.

(d) Subsequently, GEPL furnished 6 Post-Dated Cheques to the petitioner and furnished two Bank Guarantees amounting of Rs 12 crore in favour of the petitioner as a payment security mechanism.

(e) On 28.9.2015, the petitioner presented two cheques for encashment with its bank which were returned dishonored on 29.9.2015 with remark 'payment stopped by drawer'. Pursuant to the cheques being dishonored, on 29.9.2015, the petitioner encashed the bank guarantee of Rs.12 crore in order to secure its outstanding payment due and payable by GEPL.

(f) On 28.10.2015, the petitioner again presented two cheques with its bank for encashment. However, both cheques were returned dishonored on 28.10.2015.

(g) GEPL being a trading licensee is bestowed with the obligations under Regulation 7 (h) of the Trading Licence Regulations to carry out trading of electricity in accordance with the agreed terms and conditions with the buyer and also to ensure timely payment of dues to the seller for purchase of the agreed quantum of electricity. However, in the present facts of the case, GEPL has acted in contravention of the agreed terms and conditions under the Lols and has also defaulted in paying the outstanding dues to the petitioner for purchase of electricity. Therefore, the inter-state license granted to GEPL is liable to be revoked.

2. In response to the Commission's query regarding pendency of matter before the Hon'ble High Court and Metropolitan Magistrate, Patiala House Court, learned counsel for the petitioner submitted that the petitioner, in order to safeguard its rights, has initiated proceedings against GEPL under Section 138 of the Negotiable Instruments Act, 1881 before the Hon'ble Metropolitan Magistrate, Patiala House Court which is still pending.

3. The Commission observed that GEPL has filed a Civil Suit before the High Court of Delhi seeking a declaration that the petitioner is not entitled to encash the post dated cheques and bank guarantee. Learned counsel for the petitioner replied in affirmative.

4. After hearing the learned counsel for the petitioner, the Commission directed to issue notice to the respondent on admissibility of the petition.

5. The Commission directed the petitioner to serve copy of the petition on the respondents by 30.12.2016. The respondent was directed to file its reply on affidavit, by 25.1.2017 with an advance copy to the petitioner, who may file its rejoinder, if any, on or before 17.2.2016.

6. The Commission directed the petitioner to place on record on or before 23.1.2017, status of civil suit pending before the Hon'ble High Court and proceedings initiated against GEPL before Metropolitan Magistrate, Patiala House Court.

7. The Commission directed the petitioner and the respondent that due date of filing the information, reply and rejoinder should be strictly complied with. No extension shall be granted on that account.

8. The petition shall be listed for hearing on 23.2.2017 on admissibility.

By order of the Commission

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