

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 138/MP/2019

Subject : Petition under Section 142 of the Electricity Act, 2003 for non-compliance of the Commission's directions contained in orders dated 9.10.2018.

Petitioners : ACME Kurukshetra Solar Energy Private Limited and Ors.

Respondents : NTPC Limited and Ors.

Date of Hearing : 15.10.2019

Coram : Shri P. K. Pujari, Chairperson
Dr. M. K. Iyer, Member
Shri I. S. Jha, Member

Parties Present : Shri Sanjay Sen, Sr. Advocate, ACME
Ms. Anukriti Sharma, Advocate, ACME
Shri Shresht Sharma, Advocate, ACME
Shri M. G. Ramachandran, Sr. Advocate, NTPC
Ms. Poorva Saigal, Advocate, NTPC
Ms. Tanya Saigal, Advocate, NTPC
Shri Nishant Gupta, NTPC
Shri I. Uppal, NTPC

Record of Proceedings

Learned senior counsel for the Petitioners and the Respondent NTPC, made extensive arguments in support of their contentions and reiterated the submissions made in their respective pleadings.

2. Learned senior counsel for the Petitioner further submitted that the Respondent, NTPC is relying on para 375 of the order dated 9.10.2018 in Petitions No. 188/MP/2017 and others, wherein the Commission has observed that *the amount as determined by Petitioners shall be on 'back to back' basis to be paid by Discoms to the Petitioners under the respective 'Power Sale Agreements'*. Learned senior counsel submitted that the word 'Petitioner' in the aforesaid para is a typographical error as can be seen on harmonious reading with para 349 of the order and with due regard to the fact that the Discoms are not signatory to the PPAs between the Petitioner and NTPC. Learned senior counsel further submitted that the said order does not modify the terms of the PPAs and apart from Late Payment Surcharge, obligation of NTPC to pay under the PPAs is not subject to receipt under the PSA. In response, the learned senior counsel for the Respondent, NTPC, by referring to the paras 349 and 375 of the said order, submitted that there is no typographical error as contended by the Petitioner and the Commission, after recognizing back-to-back arrangement of PPAs and PSA, has concluded that the amount determined as payable shall be on a back to back basis and paid by



Discoms to the intermediary nodal agency under the respective PSAs to be remitted to the SPD under the PPAs.

3. On the request of the learned senior counsels for the parties, the Commission allowed the Petitioner and the Respondents to file their respective written submissions by 30.10.2019 with copy to each other. The Commission directed that the due date of filing written submissions should be strictly complied with.

4. Subject to the above, the Commission reserved order in the matter.

By order of the Commission

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

