

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 74/MP/2019

Subject : Petition under Section 79 of the Electricity Act, 2003 read with the Letter of Award dated 29.10.2018 and Article 12 of the draft Power Purchase Agreement issued by NTPC Limited inter alia seeking declaratory and compensatory reliefs on account of a 'Change in Law' viz. the issuance of Notification Nos. 24 and 27 of 2018- Central Tax (Rate) and 25 and 28 of 2018 Integrated Tax (Rate) dated 31.12.2018 by the Ministry of Finance, Government of India, inter alia effectively amending the Goods and Services Tax rates applicable on setting up of solar power projects, resulting in additional non-recurring expenditure in the form of an additional tax burden applicable with effect from 1.1.2019.

Petitioner : Azure Power India Private Limited

Respondent : NTPC Limited

Date of Hearing : 4.6.2019

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

Parties present : Shri Jafar Alam, Advocate, Azure
Shri Saahil Kaul, Advocate, Azure
Ms. Poorva Saigal, Advocate, NTPC
Ms. Anushree Bardhan, Advocate, NTPC
Ms. Ranjitha Ramachandran, Advocate, NTPC
Ms. Tanya Sareen, Advocate, NTPC

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed for seeking declaration that imposition of GST is Change in Law event under Article 12 of the draft PPA and to grant prior in-principle approval to the Petitioner to enable it to tie up adequate additional financing arrangements for the development of Solar Power Generating System. Learned counsel requested the Commission to issue notice to the Respondent.

2. Learned counsel for NTPC objected to the maintainability of the Petition and submitted that there is no provision in the PPA for in-principle approval of expenditure as the Petitioner is yet to incur the expenses. Learned counsel sought permission to file reply to the Petition on the maintainability as well as on merits. Learned counsel further submitted that the distribution companies should be made parties to the Petition.

3. Learned counsel for the Petitioner sought permission to amend the Petition through an Interlocutory Application which was allowed by the Commission.

4. After hearing the learned counsels for the Petitioner and NTPC, the Commission

admitted the Petition and directed to issue notice to the Respondents.

5. The Commission directed NTPC to submit the list of distribution companies to whom power would be supplied by the Petitioner. The Commission directed the Petitioner to implead the distribution companies as parties to the Petition and to file revised memo of parties by 18.6.2019.

6. The Commission directed the Petitioner to file IA for amendment of the Petition by 14.6.2019.

7. The Commission directed the Petitioner to serve copy of the Petition, IA and the RoP on the Respondent and the distribution companies immediately. NTPC was directed to file its reply on maintainability as well as on merits by 25.6.2019 with an advance copy to the Petitioner. The distribution companies were directed to file their replies by 25.6.2019, with an advance copy to the Petitioner, who may file its rejoinder, if any, by 9.7.2019. The Commission directed that due date of filing the replies and rejoinder should be strictly complied with. No extension shall be granted on that account.

8. The Petition and IA shall be listed for hearing in due course for which separate notice shall be issued to the parties.

By order of the Commission

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