

CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Petition No. 74/MP/2019
With IA No. 57/2019

Coram:
Shri P.K. Pujari, Chairperson
Shri I.S.Jha, Member
Shri Arun Goyal, Member

Date of Order: 5th of June, 2020

In the matter of

Petition under Section 79 of the Electricity Act, 2003 read with the Letter of Award dated 29.10.2018 and Article 12 of the Power Purchase Agreement 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.

And
In the matter of

Azure Power India Private Limited
Asset No. 301-4,
World Mark 3
Aerocity, New Delhi-110 017

..... **Petitioner**

Vs.

NTPC Limited
NTPC Bhawan, SCOPE Complex,
7, Institutional Area,
Lodhi Road, New Delhi-110 003 and others

.....**Respondents**

Parties present:

Shri Jafar Alam, Advocate for the Petitioner
Shri Saahil Kaul, Advocate for the Petitioner
Shri Binod, Advocate for the Petitioner
Shri M.G. Ramachandran, Senior Advocate for NTPC
Ms. Poorva Saigal, Advocate for NTPC
Shri Ishpaul Uppal, NTPC

ORDER

This Petition has been filed by the Petitioner, Azure Power India Private Limited seeking declaration that imposition of GST is Change in Law event under Article 12 of the PPA dated 22.4.2019 entered into with NTPC for sale of 300 MW to NTPC for onwards sale to the Bihar Discoms on back-to-back basis.

2. The Petitioner has filed Interlocutory Application No. 57/2019 for amendment of the Petition.

3. The matter was admitted on 4.6.2019 and notice was issued to the Respondents.

4. During the hearing on 4.6.2020, the learned counsel for the Petitioner submitted that subsequent to filing of the Petition, the Respondent, NTPC has terminated the PPA due to non-fulfillment of conditions subsequent by the Discoms. Accordingly, the learned counsel sought permission to withdraw the Petition. Learned senior counsel for the respondent, NTPC had no objection in this regard.

5. Based on the submissions of the learned counsel for the Petitioner and the learned senior counsel for the Respondent, NTPC, the Commission permitted the Petitioner to withdraw the Petition.

6. Accordingly, the Petition No. 74/MP/2019 along with IA No. 57/2019 is disposed of as withdrawn.

Sd/-
(Arun Goyal)
Member

Sd/-
(I.S.Jha)
Member

Sd/-
(P.K. Pujari)
Chairperson