

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 176/MP/2020

- Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 for allowing the claim of the Petitioner of increase/change in Central Excise Duty on account of changes in individual components as a Change in Law event relating to Power Purchase Agreements dated 18.12.2013 and 19.12.2013 entered into between the Petitioner and the Respondents.
- Date of Hearing : 23.7.2021
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Adhunik Power and Natural Resources Limited (APNRL)
- Respondents : Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) and Anr.
- Parties Present : Shri Deepak Khurana, Advocate, APNRL
Shri Tejasv Anand, Advocate, APNRL
Shri Ravi Kishore, Advocate, PTC
Shri Amit Griwan, APNRL

Record of Proceedings

Case was called out for virtual hearing.

2. Learned counsel for the Petitioner, APNRL submitted that the present Petition has been filed pursuant to the liberty granted by the Commission in its order dated 19.8.2019 in Petition No. 17/MP/2019, seeking declaration that the increase/change in Central Excise Duty on account of change in individual components constitutes Change in Law event in terms of Power Purchase Agreements entered into with the Respondents and consequential compensation on account thereof. Learned counsel mainly submitted the following:

- (a) Subsequent to cut-off date i.e. 27.2.2013, though the rate of Central Excise Duty had been decreased from 6.18% to 6% in terms of the Ministry of Finance, Government of India Notification Nos. 14/2015 and 15/2015 dated 1.3.2015, overall burden in terms of the amount of money payable by the Petitioner towards Central Excise Duty has increased on account of increase in components on which Central Excise Duty is calculated.
- (b) The Petitioner had originally made its claims towards the aforesaid Change in Law event in the Petition No. 17/MP/2019. However, in absence of certain details, the Commission vide order dated 19.8.2019 granted liberty to the Petitioner to approach the Commission along with full details in support of its claims.

(c) Pursuant to the aforesaid order, the Petitioner had approached Assistant Commissioner, Central GST and Central Excise, Division III, Jamshedpur, Jharkhand vide letters dated 21.8.2019 and 16.10.2019 seeking clarification as regards certain duties and taxes to be added in the assessable value of coal for the period from 27.2.2013 to 30.6.2017 for arriving at the assessable value of coal for payment of Central Excise Duty. In response, the Assistant Commissioner, Central GST and Central Excise, Division III, Jamshedpur, Jharkhand furnished the requisite clarification vide its letter dated 22.10.2019, which has been filed along with the Petition.

(d) TANGEDCO, in its reply, has mainly raised two objections regarding limitation and non-issuance of Change in Law notice to the Respondents. However, both the objections have already been dealt with by the Commission in its order dated 19.8.2019 in Petition No. 17/MP/2019.

(e) The Commission has already considered the increase/change in Central Excise Duty on account of changes in individual components as Change in Law event on basis of clarification issued by Assistant Commissioner, Central GST and Central Excise and has consequently allowed the compensation to the generator in catena of its decisions. Reliance was placed on the decision dated 27.4.2018 in Petition No. 126/MP/2016 (BALCO v. TANGEDCO and Ors.), dated 29.3.2020 in Petition No. 327/MP/2018 (Dhariwal Infr. Ltd. v. TANGEDCO).

2. Learned counsel for the Respondent, PTC submitted that PTC is proforma Respondent in the present case and has nothing to add.
3. None was present on behalf of Respondent, TANGEDCO despite notice.
4. Considering the submissions made by the learned counsel for the Petitioner and Respondent, PTC, the Commission reserved the matter for order.

By order of the Commission
Sd/-

(T.D. Pant)
Joint Chief (Law)