

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 176/MP/2021

Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 along with Section 79(1)(k) of the Electricity Act, 2003 for (I) declaration of the event of introduction and imposition of Safeguard Duty by way of Notification No.1/2018-Customs SG dated 30.7.2018 and Notification No. 2/2020-Customs SG dated 29.7.2020 issued by the Department of Revenue, Ministry of Finance as 'Change in Law' and (II) grant of consequential relief to compensate for the increase in capital cost due to the Change in Law, in terms of Article 12 of the Power Purchase Agreement dated 5.7.2018 executed between SPRNG Agnitra Private Limited and NTPC Limited.

Date of Hearing : 12.10.2021

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

Petitioner : SPRNG Agnitra Private Limited (SAPL)

Respondent : NTPC Limited (NTPC)

Parties Present : Ms. Molshree Bhatnagar, Advocate, SAPL
Shri Samarth Kashyap, Advocate, SAPL
Shri Venkatesh, Advocate, NTPC
Shri Ashutosh K. Srivastava, Advocate, NTPC
Shri Abhiprav Singh, Advocate, NTPC
Ms. Mehak Verma, Advocate, NTPC
Shri Rishub Kapoor, Advocate, NTPC
Shri Shashank Kumar, SAPL
Shri I. Uppal, NTPC
Shri Manjo Kumar, NTPC

Record of Proceedings

Case was called out for virtual hearing.

2. The learned counsel for the Petitioner submitted that the present Petition has been filed seeking appropriate order(s)/ direction(s) declaring the introduction and imposition of Safeguard Duty by way of Notification No.1/2018-Customs SG dated 30.7.2018 and Notification No.2/2020-Customs SG dated 29.7.2020, issued by the Department of Revenue, Ministry of Finance, as Change in Law and for grant of consequential relief to compensate the Petitioner for increase in the capital cost due to the aforesaid Change in Law events. The learned counsel further submitted that in terms of the Commission's previous orders and the directions of Ministry of New and Renewable Energy vide letters dated 12.3.2020 and 23.3.2020, the Petitioner has repeatedly approached the Respondent, NTPC to reconcile its Safeguard Duty

claims and requested for expeditious payment. However, neither any response has been received from NTPC nor any steps have been taken by NTPC so far.

3. The learned counsel for the Respondent, NTPC objecting to the maintainability of the Petition mainly submitted the following:

(a) In the present case, the generator (located in the Ananthapuramu Ultra Mega Solar Park, Andhra Pradesh) and the end procures, namely, AP Discoms are located in the State of Andhra Pradesh. Therefore, the generation and supply of power is within the same State. Also, as per the bid documents (RfS), the entire power was to be sold to AP Discoms only and the bid process was not conducted under Jawaharlal Nehru National Solar Mission Guidelines. Thus, the Petition is not maintainable before the Commission as per the decision of the Commission in order dated 24.5.2021 in Petition No. 611/MP/2020 (Rihand Floating Solar Pvt. Ltd. v. SECI).

(b) Similar issue of maintainability is already under consideration before the Commission in the Petition No. 156/MP/2021 (Ayana Anathapuramu Solar Pvt. Ltd. v. NTPC Ltd.) and Petition No. 626/MP/2020 (SB Energy Solar Pvt. Ltd. v. NTPC Ltd.), where the Petitioners/ generators therein are also located in the same Solar Park as the Petitioner in the present case.

(c) Similar Record of Proceeding as issued in Petition No. 156/MP/2021 for the hearing dated 17.9.2021 may also be issued in the present case.

4. Considering the submissions made by the learned counsels for the parties, the Commission directed the Respondent, NTPC to file its reply on the maintainability of the Petition within two weeks after serving copy to the Petitioner, who may file its rejoinder, if any, within one week thereafter.

5. The Petitioner shall be listed for hearing on 'admission' along with Petition No. 156/MP/2021 and Petition No. 626/MP/2020 in due course, for which separate notice will be issued.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)