

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 374/MP/2020

- Subject : Petition under Section 79(1)(f) of the Electricity Act, 2003 read with Article 17 of the Power Purchase Agreement dated 17.4.2017 executed by ACME Jaipur Solar Power Private Limited with M. P. Power Management Company Limited and Delhi Metro Rail Corporation Limited and in terms of the directions issued by the Central Government vide tis Notification bearing No. 23/43/2018-R&R dated 27.8.2018 for allowing pass through of additional expenditure incurred by the generator on account of events pertaining to 'Change in Law' along with this Commission order dated 9.10.2018.
- Date of Hearing : 6.10.2021
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : ACME Jaipur Solar Power Private Limited (AJSPPL)
- Respondents : M. P. Power Management Co. Ltd. (MPPMCL) and 2 Ors.
- Parties Present : Shri Hemant Sahai, Advocate, AJSPPL
Shri Shreshth Sharma, Advocate, AJSPPL
Ms. Jyotsna Khatri, Advocate, AJSPPL
Shri G. Umamathy, Advocate, MPPMCL
Shri Tarun Johri, Advocate, DMRC
Shri V. Bharadwaj, MPPMCL
Shri Sanjay V Kute, DMRC
Shri Surendra Kumar Gupta, DMRC

Record of Proceedings

Case was called out for virtual hearing.

2. During the course of hearing, the learned counsel for the Petitioner advanced detailed submissions regarding liability of the Respondents to pay the GST claims against the invoices submitted by the Petitioner for the period during which the Petitioner was not registered under GST as the Petitioner has paid GST to its vendors who are registered under GST. Further, detailed submissions were made regarding compensation to the Petitioner for works contracts by considering pre-GST tax rate of 11% [VAT of 5% + Service Tax of 6% (i.e. 15% of 40% value of services)] on 40% value of services and 15% tax rate on balance 60% value of services, which increased to 18% post-GST.

3. The learned counsel for the Respondents, MPPMCL and Delhi Metro Rail Corporation advanced their detailed submissions refuting the claims of the Petitioner on the grounds that (i) claims are barred by *res judicata*, (ii) the Petitioner has failed

to establish one to one co-relation for its claims in the absence of its GST returns and (iii) agreements entered into by the Petitioner with ACME Solar Holding Company Limited are service contracts and not the works contracts.

4. After hearing the learned counsels for the parties, the Commission reserved the matter for order.

By order of the Commission

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