

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 626/MP/2020 with IA No. 20/2021 & IA No. 42/2021  
and  
Petition No. 156/MP/2021 with IA No. 59/2021  
and  
Petition No. 176/MP/2021**

**Coram:**

**Shri P.K. Pujari, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P.K. Singh, Member**

**Date of Order: 16<sup>th</sup> December, 2021**

**Petition No. 626/MP/2020 with IA No. 20/2021 & IA No. 42/2021**

**In the matter of**

Petition under Sections 79(1)(a) and 79(1)(b) of the Electricity Act, 2003 read with Article 12.2 of the Power Purchase Agreement dated 05.07.2018 between the Petitioner and NTPC Limited seeking relief on account of Change in Law event, viz., the imposition of Safeguard Duty by Notification No. 01/2018 Customs (SG) dated 30.07.2018 issued by the Department of Revenue, Ministry of Finance, Government of India.

**And**

**In the matter of**

SB Energy Solar Private Limited,  
1st Floor, Worldmark-2,  
Asset Area-8 Hospitality District, Aerocity, NH – 8,  
New Delhi-110037

**...Petitioner**

Vs

NTPC Limited,  
NTPC Bhawan, SCOPE Complex,  
7 Institutional Area, Lodhi Road,  
New Delhi -110003

**...Respondent**

**Petition No. 156/MP/2021 with IA No. 59/2021**

**In the matter of**

Petition under Section 79(1)(a) and (b) of the Electricity Act, 2003 read with Article 12.2 of the Power Purchase Agreement dated 17.07.2018 between the Petitioner

and NTPC Limited seeking relief on account of Change in Law event, viz., the imposition of Safeguard Duty by Notification No. 01/2018 Customs (SG) dated 30.07.2018 issued by the Department of Revenue, Ministry of Finance, Government of India.

**And  
In the matter of**

Ayana Anathapuramu Solar Private Limited,  
FB 801, 8<sup>th</sup> Floor, Golden Grand Apartment,  
Tumkur Road, Yeshwanthpur,  
Bangalore- 560022, Karnataka.

**...Petitioner**

Vs

NTPC Limited,  
NTPC Bhawan, SCOPE Complex,  
7 Institutional Area, Lodhi Road,  
New Delhi – 110003

**...Respondent**

**Petition No. 176/MP/2021**

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.

**And  
In the matter of**

Sprng Agnitra Private Limited,  
Unit No. FF-48 A, First Floor,  
Omaze Square, Plot No.14, Jasola Distrcit Centre,  
New Delhi.

**...Petitioner**

Vs

NTPC Limited,  
NTPC Bhawan, SCOPE Complex,  
7 Institutional Area, Lodhi Road,  
New Delhi – 110003

**...Respondent**

**Parties present:**

Shri Jafar Alam, Advocate, SB Energy  
Shri Saahil Kaul, Advocate, SB Energy  
Shri Sanjay Sen, Senior Advocate, AASPL

Shri Aniket Persoon, Advocate, AASPL  
Ms. Mandakini Ghosh, Advocate, AASPL  
Ms. Priya Dhankhar, Advocate, AASPL  
Shri Venkatesh, Advocate, SAPL & NTPC  
Shri Ashtoush K. Srivastava, Advocate, SAPL & NTPC  
Shri Nihal Bhardwaj, Advocate, NTPC  
Shri Jayant Bajaj, Advocate, NTPC  
Shri A.S.Pandey, NTPC  
Shri Kumar Sambasivan, AASPL

### **ORDER**

#### **Petition No. 626/MP/2016 with IA No. 20 and IA No. 42**

The Petitioner, SB Energy Solar Private Limited, has filed the present Petition with the following prayers:

*“(a) Admit the instant Petition and list the same for urgent hearing (through video conferencing);*

*(b) Direct the Respondent to pay a lump sum compensation as relief for the Change in Law effected by notification no. 01/2018-Customs (SG) dated 30.07.2018 by the Department of Revenue, Ministry of Finance, Government of India, along with carrying costs and income tax implications, if any, at actuals, under Article 12 of the Power Purchase Agreement dated 05.07.2018;*

*(c) Direct the Respondent to pay the Petitioner for the Goods and Services Tax levied on the Safeguard Duty paid by the Petitioner, along with carrying costs and income tax implications, if any, at actuals, under Article 12 of the Power Purchase Agreement dated 05.07.2018;*

*(d) Direct the Respondent to process the claims of the Petitioner within a period of 60 days from the date of submission of the claims by the Petitioner;*

*(e) Direct the Respondent to reimburse the legal and administrative costs incurred by the Petitioner in pursuing the instant Petition; and*

*(f) Any errors/ omissions (especially those attributable to COVID-19 outbreak) may kindly be condoned, and opportunity be kindly given to rectify the same and also submit additional pleadings at a suitable later date, if required.”*

#### **Petition No. 156/MP/2021 with IA No. 59/2021**

2. The Petitioner, Ayana Anathapuramu Solar Private Limited, has filed the Petition with the following prayers:

*“(a) Admit the instant Petition and list the same for urgent hearing (through video conferencing);*

*(b) Direct the Respondent to pay a lump sum compensation as relief for the Change in Law effected by notification no. 01/2018-Customs (SG) dated 30.07.2018 by the Department of Revenue, Ministry of Finance, Government of India, along with carrying costs and income tax implications, if any, at actuals, under Article 12 of the Power Purchase Agreement dated 17.07.2018;*

*(c) Direct the Respondent to pay the Petitioner for the Goods and Services Tax levied on the Safeguard Duty paid by the Petitioner, along with carrying costs and income tax implications, if any, at actuals, under Article 12 of the Power Purchase Agreement dated 17.07.2018;*

*(d) Direct the Respondent to process the claims of the Petitioner within a period of 60 days from the date of submission of the claims by the Petitioner;*

*(e) Direct the Respondent to reimburse the legal and administrative costs incurred by the Petitioner in pursuing the instant Petition; and*

*(f) Any errors/ omissions (especially those attributable to COVID-19 outbreak) may kindly be condoned, and opportunity be kindly given to rectify the same and also submit additional pleadings at a suitable later date, if required.”*

### **Petition No. 176/MP/2021**

3. The Petitioner, Sprng Agnitra Private Limited, has filed the present Petition along with the following prayers:

*“(a) Declare and hold that the introduction of Safeguard Duty dated 30.07.2018 and 29.07.2020 qualifies as ‘Change in Law’ in terms of Article 12 of the Power Purchase Agreement dated 05.07.2018 executed between the Petitioner and NTPC Limited and that the Petitioner is entitled to be restituted accordingly, with consequential payments;*

*(b) Direct the Respondent to compensate and pay the Petitioner immediately in a lumpsum payment of the claims mentioned in the petition in terms of Article 12 of the Power Purchase Agreement dated 5.7.2018 along with carrying cost to be calculated from the date on which amounts have been incurred and the date of actual payment; and*

*(c) Direct the Respondents to pay any other consequential cost pursuant to declaration of prayers (a) and (b).”*

4. The matters were heard on 14.12.2021 through video conferencing. During the course of hearing, the learned counsels for the Petitioners submitted that the

Commission in its order dated 15.4.2021 in Petition No. 52/AT/2021 has held that where there is no composite scheme for generation and sale of electricity in more than one State and that the seller (generator) and the sole procurer are located in the same State, this Commission will not have jurisdiction under Section 79(1)(b) of the Electricity Act, 2003. Accordingly, the learned counsels for the Petitioners sought permission of the Commission to withdraw the present Petitions with liberty to approach the Appropriate Commission(s) on the issues. The learned counsel for the Respondent, NTPC had no objection in this regard.

5. In view of the submissions made by the learned counsels of the Petitioners, the Petitioners are permitted to withdraw these Petitions as sought with liberty to approach the Appropriate Commission(s).

6. Accordingly, the Petition No. 626/MP/2020 along with IA No. 20/2021 & IA No. 42/2021, Petition No. 156/MP/2021 along with IA No. 59/2021 and Petition No. 176/MP/2021 are disposed of as withdrawn in terms of the above.

**Sd/-  
(P.K. Singh)  
Member**

**sd/-  
(Arun Goyal)  
Member**

**sd/-  
(I.S. Jha)  
Member**

**sd/-  
(P.K. Pujari)  
Chairperson**