

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 174/MP/2022

Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 of the power purchase agreement dated 15.11.2018 filed on behalf of Clean Solar Power (Jodhpur) Private Limited seeking declaration that change in rate of Goods and Services Tax from 5% to 12% on solar cells and modules w.e.f. 01.10.2021 on account of amendment to Notification No. 01/2017- Central Tax (Rate) and Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 vide Notification No. 6/2021-Central Tax (Rate) and Notification No. 8/2021- Central Tax (Rate) dated 30.09.2021 as a 'change in law' event under Article 12.1 of the PPA and to further direct the Respondent (Solar Energy Corporation of India Limited) to pay compensation alongwith carrying cost towards additional amount incurred on account of increment in Goods and Services Tax paid by the Petitioner pursuant to notifications dated 30.09.2021 and to restitute the Petitioner to the same financial position as it would have been before the notifications dated 30.09.2021.

Date of Hearing : 22.8.2022

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

Petitioner : Clean Solar Power (Jodhpur) Private Limited (CSPJPL)

Respondent : Solar Energy Corporation of India Limited (SECI)

Parties Present : Shri Avijeet Lala, Advocate, CSPJPL
Shri Ravish Kumar, Advocate, CSPJPL
Ms. Nameeta Singh, Advocate, CSPJPL
Shri Servesh Singh, CSPJPL
Ms. Tanya Sareen, Advocate, SECI
Ms. Neha Singh, SECI

Record of Proceedings

Case was called out for virtual hearing.

2. Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter-alia*, seeking a declaration that change in rate of Goods and Services Tax (GST) from 5% to 12% on solar cells and modules w.e.f. 1.10.2021 on account of amendment of Notification No.1/2017-Central Tax (Rate) and Notification No.1/2017 – Integrated Tax (Rate) dated 28.6.2017 by way of Notification No. 6/2021- Central Tax (Rate) and Notification No. 8/2021- Central Tax (Rate) dated 30.9.2021 as Change in Law event under Article 12.1 of the Power Purchase Agreement dated 15.11.2018 and further direction to SECI to pay compensation along with carrying cost

towards additional amount incurred on account of incremental GST paid by the Petitioner pursuant to the above notifications.

3. In response to the specific query of the Commission regarding Scheduled Commission Date (SCOD) of its Project, the learned counsel for the Petitioner submitted that the original SCOD of the Project was 25.10.2020. The Petitioner, however, vide its letter dated 5.3.2020 had sought extension of SCOD on the grounds of delay in approval of Power Supply Agreement (PSA) with JBVNL & adoption of tariff, delay in operationalization of LTA and Covid-19 pandemic and consequently, SECI vide its letter dated 28.5.2020 extended the SCOD for a period equal to 60 days subsequent to operationalization of LTA or the actual date of commissioning, whichever is earlier. Learned counsel further submitted that the LTA granted to the Petitioner is yet to be operationalized and the Petitioner is supplying power to JBVNL through SECI on Short-Term Open Access basis. Learned counsel submitted that PSA with JBVNL is also yet to be approved by Jharkhand State Electricity Regulatory Commission and keeping in view such uncertainty around the approval of PSA, the Petitioner has as such not impleaded JBVNL as party to the present Petition.

4. Learned counsel for the Respondent, SECI accepted the notice and submitted JBVNL being the end-procurer of the power generated by the Petitioner, needs to be impleaded and accordingly, the Petitioner may be asked to implead JBVNL as party to the Petition.

5. After hearing the learned counsel for the parties, the Commission ordered as under:

(a) The Petitioner to implead Jharkhand Bijli Vitran Nigam Limited (JBVNL) and Central Transmission Utility of India Limited as party to the Petition and to file revised memo of parties within a week.

(b) Admit. Issue notice to the Respondents.

(c) The Petitioner to serve copy of the Petition on the Respondents including the impleaded Respondents and the Respondents to file their reply to the Petition, if any, within three weeks after serving copy of the same to the Petitioner, who may file its rejoinder within three thereafter.

(d) Parties to comply with the above directions within specified timeline and no extension of time shall be granted.

6. The Petition shall be listed for hearing on 15.11.2022.

By order of the Commission

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