

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 179/MP/2020

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Article 12 of the Power Purchase Agreements dated 19.7.2016, 21.10.2016, 21.10.2016 and 13.1.2017 executed between Tata Power Renewable Energy Limited and Solar Energy Corporation of India Limited for seeking compensation on account of Change in Law events due to enactment of GST Laws.

Date of Hearing : 20.10.2022

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

Petitioner : Tata Power Renewable Energy Limited (TPREL)

Respondents : Solar Energy Corporation of India Limited (SECI) and 4 Ors.

Parties Present : Shri Kunal Kaul, Advocate, TPREL
Shri Rahul M Ranade, TPREL
Shri Anup Jain, Advocate, MSEDCL
Shri Udit Gupta, Advocate, MSEDCL
Shri Vyom Chaturvedi, Advocate, MSEDCL
Shri M. G. Ramachandran, Sr. Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Ms. Anushree Bardhan, Advocate, SECI

Record of Proceedings

The learned counsel for the Petitioner submitted that the present Petition has been filed seeking declaration that introduction/enactment of Goods and Services Tax amounts to a Change in Law, which has resulted in additional expenditure to be incurred by the Petitioner and to compensate/restitute the Petitioner on account of such Change in Law along with carrying cost. The learned counsel submitted that while there cannot be any dispute as to the enactment of GST is a Change in Law and the Petitioner's entitlement to compensation, the remaining outstanding issues, namely, GST on O&M, cut-off date for GST compensation and carrying cost, have now been settled in terms of the judgment of Appellate Tribunal for Electricity (APTEL) vide judgment dated 15.9.2022 in Appeal Nos. 256 of 2019 and Ors. in the matter of Parampujya Solar Energy Pvt. Ltd. v. CERC and Ors. ('Parampujya Judgment').

2. Learned senior counsel for the Respondent, SECI submitted that insofar as the issue of the cut-off date for GST compensation is concerned, in the Parampujya Judgment, the APTEL has directed the Commission to examine the prudence of such expenditure. The learned senior counsel further submitted that in case of 'supply of goods', the date of issue of invoice cannot be after the date of supply of goods as per the Section 12, Section 14 and Section 31 of the CGST Act, 2017. The learned senior counsel further submitted that while the Petitioner has agreed to the

annuity mode of payment at discount rate of 10.41% as approved by the Commission vide order dated 20.8.2021 in Petition No. 536/MP/2020 filed by SECI, the Respondent, MSEDCL has computed the annuity by considering the discount rate of 9-9.35% and a period of 25 years instead of 13 years.

3. In rebuttal, the learned counsel for the Petitioner submitted that the Petitioner in its rejoinder has already provided the justification in the raising of invoices after the COD of its project. The learned counsel submitted that neither any review petition nor any appeal has been filed by MSEDCL against the Commission's order dated 20.8.2021 in the Petition No. 536/MP/2020 and therefore, the principle laid down in the said order ought to be applied in the case of the Petitioner.

4. Based on the request of the learned senior counsel and learned counsel for the parties, the Commission permitted the parties to file their respective written submissions, if any, within two weeks with copy to the other side.

5. Subject to the above, the Commission reserved the matter for order.

**By order of the Commission
Sd/-**

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