

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 184/MP/2018

- Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreement executed by the Petitioner and Solar Energy Corporation of India Limited dated 5.2.2015 seeking relief on account of a 'Change in Law' viz. the introduction of Goods and Service Tax Laws at the Central level and change in the rate of Service Tax, resulting in additional recurring expenditure in the form of an additional tax burden to be borne by the Petitioner after the Effective Date of the Power Purchase Agreement.
- Petitioner : Azure Power Mars Private Limited (APMPL)
- Respondents : Solar Energy Corporation of India Limited (SECI) and Anr.

Petition No. 185/MP/2018

- Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreement executed by the Petitioner and Solar Energy Corporation of India Limited dated 28.3.2014 seeking relief on account of a 'Change in Law' viz. the introduction of Goods and Service Tax Laws at the Central level and change in the rate of Service Tax, resulting in additional recurring expenditure in the form of an additional tax burden to be borne by the Petitioner after the Effective Date of the Power Purchase Agreement.
- Petitioner : Azure Sunshine Private Limited (ASPL)
- Respondents : Solar Energy Corporation of India Limited (SECI) and Anr.

Petition No. 188/MP/2018

- Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreement executed by the Petitioner and NTPC Vidyut Vyapar Nigam Limited dated 25.1.2012 seeking relief on account of a 'Change in Law' viz. the introduction of Goods and Service Tax Laws at the Central level and change in the rate of Service Tax, resulting in additional recurring expenditure in the form of an additional tax burden to be borne by the Petitioner after the Effective Date of the Power Purchase Agreement.
- Petitioner : Azure Solar Private Limited (ASPL)
- Respondents : NTPC Vidyut Vyapar Nigam Limited (NVVN) and 16 Ors.



Petition No. 190/MP/2018

Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreement executed by the Petitioner and Solar Energy Corporation of India Limited dated 28.3.2014 seeking relief on account of a 'Change in Law' viz. the introduction of Goods and Service Tax Laws at the Central level and change in the rate of Service Tax, resulting in additional recurring expenditure in the form of an additional tax burden to be borne by the Petitioner after the Effective Date of the Power Purchase Agreement.

Petitioner : Azure Green Tech Private Limited (AGPL)

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

Petition No. 191/MP/2018

Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreement executed by the Petitioner and Solar Energy Corporation of India Limited dated 28.3.2014 seeking relief on account of a 'Change in Law' viz. the introduction of Goods and Service Tax Laws at the Central level and change in the rate of Service Tax, resulting in additional recurring expenditure in the form of an additional tax burden to be borne by the Petitioner after the Effective Date of the Power Purchase Agreement.

Petitioner : Azure Clean Energy Private Limited (ACEPL)

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

Petition No.293/MP/2018

Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreements executed by the Petitioner and NTPC Limited dated 19.4.2016 seeking relief on account of a 'Change in Law' viz. the introduction of Goods and Services Tax laws at the Central level and change in the rate of Service Tax, resulting in additional recurring expenditure in the form of an additional tax burden to be borne by the Petitioner after the Effective Date of the Power Purchase Agreements.

Petitioner : Azure Power India Private Limited (APIPL)

Respondents : NTPC Limited (NTPC) and 2 Ors.

Petition No.294/MP/2018

Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreement

executed by the Petitioner and Solar Energy Corporation of India Limited dated 14.10.2015 seeking relief on account of a 'Change in Law' viz. the introduction of Goods and Services Tax laws at the Central level and change in the rate of Service Tax, resulting in additional recurring expenditure in the form of an additional tax burden to be borne by the Petitioner after the Effective Date of the Power Purchase Agreement..

Petitioner : Azure Power India Private Limited (APIPL)

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

Petition No.150/MP/2019

Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreements dated 03.05.2016 and 08.05.2016 executed by the Petitioner with the Respondents, seeking relief on account of a 'Change in Law' viz. the introduction of Goods and Services Tax laws at the Central level and change in the rate of Service Tax, resulting in additional recurring expenditure in the form of an additional tax burden to be borne by the Petitioner after the Effective Date of the Power Purchase Agreements.

Petitioner : Azure Power India Private Limited (APIPL)

Respondents : Ordnance Factory Bhandara and Anr.

Petition No.70/MP/2019

Subject : Petition before the Central Electricity Regulatory Commission seeking an appropriate mechanism for grant of an appropriate adjustment/ compensation to offset financial/ commercial impact of Change in Law events on account of imposition of Goods and Service Tax.

Petitioner : Solar Edge Power and Energy Private Ltd. (SEPEPL)

Respondents : Solar Energy Corporation of India Limited and Anr.

Petition No.52/MP/2019

Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 for (i) approval of 'Change in Law'; and (ii) consequential relief to compensate for the increase in capital cost due to introduction of the Central Goods and Services Tax Act, 2017, the Integrated Goods and Services Tax Act, 2017 and the State Goods and Services Tax Acts enacted by respective states, in terms of Article 12 of the power purchase agreement dated 2.8.2016 between Solitaire Powertech Private Limited and Solar Energy Corporation of India Limited.

Petitioner : Solitaire Powertech Private Ltd. (SPPL)

Respondents : Solar Energy Corporation of India Limited and 5 Ors.

Petition No.471/MP/2019 along with IA No.60/2020

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Article 12 of the Power Purchase Agreements dated 28.06.2016 and 04.01.2017, executed between Tata Power Renewable Energy Limited and NTPC Ltd., for seeking compensation on account of Change in Law events viz. introduction/ enactment of Central and State Specific Laws for implementing Goods & Services Tax.

Petitioner : Tata Power Renewable Energy Limited (TPREL)

Respondents : NTPC Limited and 5 Ors.

Date of Hearing : 9.9.2022

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

Parties Present : Shri Buddy Ranganadhan, Advocate, APMPL
Ms. Priya Dhankhar, Advocate, Azure
Shri Rishabh Bhardwaj, Advocate, Azure
Shri Vishal Binod, Advocate, APIPL
Shri Nishant Talwar, Advocate, SPPL
Shri Nitish Gupta, Advocate, SPPL
Ms. Anushree Bardhan, SECI & NVVN
Ms. Tanya Sareen, Advocate, SECI & NVVN
Ms. Surbhi Kapoor, Advocate, SECI & NVVN
Shri Anukirat Singh, Advocate, SECI & NVVN
Shri Anand Ganesan, Advocate, PSPCL & Rajasthan Discoms
Ms. Ritu Apurva, Advocate, PSCPL & Rajasthan Discoms
Ms. Amal Nair, Advocate, PSPCL & Rajasthan Discoms
Shri Ajitesh Garg, Advocate, NTPC
Shri Shubham Arya, Advocate, HPPC
Shri Ravi Nair, Advocate, HPPC
Ms. Sikha Sood, Advocate, HPPC
Shri Sidhant Kumar, Advocate, AP Discoms
Ms. Manya Chandok, Advocate, AP Discoms
Shri M. U. Khan, Advocate, Ordnance Factory
Shri Pratush Singh, TPREL

Record of Proceedings

Since the issue involved in all the petitions was common, they were taken up for hearing together.

2. During the course of hearing, the learned counsel for the Petitioner, APMPL in Petition No. 184/MP/20218 referred to the judgments of Appellate Tribunal for

Electricity dated 27.4.2021 in Appeal No. 172/2017 & and Ors. (CGPL v. CERC & Ors.) dated 20.9.2021 in Appeal No. 215/2021 (TPREL v. MERC & Ors.) and the provisions of the Power Purchase Agreement and made detailed submissions in the matter. The learned counsel for the Petitioners in the rest of the Petitions adopted the submissions made by the learned counsel for APMPL.

The learned counsel for the Petitioner, APIPL in Petition Nos. 293/MP/2018 & 294/MP/2018 pointed out that as such the O&M of the Projects is being carried out by the Petitioners themselves and not through a third party intermediary and the Project covered in Petition No. 293/MP/2018 being located in the Solar Park, the Petitioner is required to pay the O&M under the Implementation Agreement entered into with the Solar Park Implementing Agency. Whereas, the learned counsel for the Petitioner in Petition No. 70/MP/2019 sought for short accommodation on account of non-availability of arguing counsel.

3. The learned counsel for the Respondents in these matters, namely, PSPCL, Rajasthan Utilities, SECI, NVVN and AP Discoms made the detailed submissions in the matters.

4. Based on the request of the learned counsel for the parties, the Commission permitted the Respondents to file their respective written submissions, if any, within two weeks with copy to the Petitioners, who may file their written submissions, if any within ten days thereafter. The Commission also permitted the parties to file their respective reply and/or rejoinder, if any, in these matters within two weeks.

5. Subject to the above, the Commission reserved the order in these matters.

By order of the Commission

Sd/-

(T.D. Pant)

Joint Chief (Law)