

**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.
- Date of Hearing : 28.4.2022
- Coram : Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Parties Present : Shri Aniket Prasoon, Advocate, Azure  
Ms. Shweta Vashist, Advocate, Azure  
Shri Rishabh Bhardwaj, Advocate, Azure  
Shri Md. Aman Sheikh, Advocate, Azure  
Shri M. G. Ramachandran, Sr. Advocate, SECI & NVVN  
Ms. Tanya Sareen, Advocate, SECI & NVVN  
Shri Anand Ganesan, Advocate, PSPCL & Rajasthan Discoms  
Ms. Swapna Seshadri, Advocate, PSPCL & Rajasthan Discoms  
Ms. Poorva Saigal, Advocate, HPPC  
Shri Shubham Arya, Advocate, HPPC  
Shri Ravi Nair, Advocate, HPPC  
Shri Nipun Dave, Advocate, HPPC  
Ms. Reeha Singh, Advocate, HPPC  
Ms. Anushree Bardhan, Advocate, NVVN

Ms. Sikha Sood, Advocate, NVVN  
Ms. Aanandini Thakare, Azure  
Ms. Maulishree Gupta, Azure  
Ms. Neha Singh, SECI  
Shri Anurag Gupta, NVVN  
Ms. Renu Sarin, NVVN

### **Record of Proceedings**

Cases were called out for virtual hearing.

2. At the outset, learned counsel for the Petitioners submitted that the present Petitions have been re-listed for hearing in pursuance of the judgment of Appellate Tribunal for Electricity ('APTEL') dated 3.2.2022 in Appeal No. 61 of 2021 and Ors. filed by the Petitioners challenging the common order dated 19.11.2019 passed by the Commission in the present Petitions. Learned counsel submitted that the Commission in its order dated 19.11.2019 had disallowed the Change in Law claims of the Petitioners for additional tax burden incurred on account of Service Tax and GST on Operation & Maintenance ('O&M') expenses on the basis that the outsourcing of the O&M services was not the requirement of the PPAs/bid documents and that it was a pure commercial decision of the Petitioners taken for its own advantage. Therefore, any increase in cost including taxes, etc. in the event the Petitioners choose to employ services of the other agencies cannot increase the liability of the Respondents. The APTEL vide judgment dated 3.2.2022 has set aside the said findings of the Commission and has remitted the matters back to the Commission for fresh consideration in light of the relevant law presently governing the subject that being the judgment of APTEL dated 27.4.2021 in Appeal No. 172 of 2017 and Appeal No. 154 of 2018 [Coastal Gujarat Power Ltd. v. Central Electricity Regulation Commission and Ors. ('CGPL Judgment')]
3. Learned counsel for the Respondents, PSCPL, Rajasthan Discoms and HPPC sought time to file their respective submissions on the aspect as to why the CGPL Judgment does not apply to the present matters. Learned counsel for the Petitioners sought liberty to file the submissions on the aspect that the CGPL Judgment squarely applies to the present matters.
4. After hearing the learned counsels for the parties, the Commission directed the Petitioners to file their written submissions on affidavit by 10.5.2022 on the limited scope of the remand after serving a copy to the Respondents, who may file their reply by 24.5.2022. The Petitioners are at liberty to file their rejoinder, if any, within a week thereafter.
5. The Petitions shall be listed for hearing in due course for which separate notice will be issued.

**By order of the Commission**

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