

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**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 (Azure)

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

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

Respondents : Ordnance Factory Bhandara and Anr.



Date of Hearing : 14.7.2022

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

Parties Present : Shri Vishal Binod, Advocate, Azure  
Shri Adarsh Tripathi, Advocate, NTPC  
Shri Ajitesh Garg, Advocate, NTPC  
Shri Vikram Singh Baid, Advocate, NTPC  
Shri Sidhant Kumar, Advocate, AP Discoms  
Ms. Manyaa Chandok, Advocate, AP Discoms  
Shri M. G. Ramachandran, Sr. Advocate, SECI  
Ms. Sikha Sood, Advocate, SECI  
Ms. Tanya Sareen, Advocate, SECI  
Ms. Neha Singh, SECI  
Ms. Mugdha Roshan Chandurkar, Advocate, Ordnance Factory  
Shri Shabbir Sheikh, Ordnance Factory

### **Record of Proceedings**

Cases were called out for virtue hearing.

2. At the outset, the Commission observed that in the instant Petitions, the Petitioners have sought reliefs on account of Change in Law viz. change in the rates of Service Tax and introduction of GST Laws leading to an additional expenditure on the Operation & Maintenance (O&M) services. It was further observed that the Commission is yet to dispose of petition Nos. 184/MP/2018 & Others remanded by Appellate Tribunal for Electricity ('APTEL') vide its judgment dated 3.2.2022 in Appeal Nos. 61 of 2021 and Ors. where issues involved pertain to the similar claims of O & M services.

3. In response to the aforesaid observations, learned counsel for the Petitioner submitted that the present Petitions may be taken-up for hearing along with Petition Nos. 184/MP/2018 & Ors remanded by APTEL.

4. Learned counsel for the Respondent, NTPC submitted that in terms of the liberty granted by the Commission, the Respondent has filed an additional affidavit in Petition No. 293/MP/2018 to bring on record the certain subsequent communications exchanged between the parties after the Commission's order dated 3.1.2022 in the matter. Learned counsel submitted that since NTPC is only an intermediary and the AP Discom being the ultimate beneficiaries, NTPC cannot be solely saddled with the liability of bearing the impact of Change in Law and any entitlement of the Petitioner towards the impact of Change in Law will further entitle NTPC to be compensated by AP Discom in a similar manner. Therefore, AP Discoms may once again be directed to file their reply in the matter.

5. Learned counsel for the Respondent, AP Discom sought liberty to file its reply in Petition No. 293/MP/2018. In response, learned counsel for the Respondent, NTPC also sought liberty to respond to such reply, if required.

6. Learned senior counsel for the Respondent, SECI submitted that the present Petitions may be heard together along with Petition Nos. 184/MP/2018 and Ors.

7. Learned counsel for the Respondents, Ordnance Factory in Petition No. 150/MP/2019 submitted that the Respondents have already filed their reply in the said matter. Learned counsel for the Petitioner, however, submitted that reply filed by the Respondents is not supported by any affidavit. The said submission was refuted by learned counsel for the Respondents.

8. After hearing the learned counsel for the parties, the Commission permitted the Respondent, AP Discoms to file its reply in the Petition No. 293/MP/2018 within two week after serving copy to the Petitioner, who may file its rejoinder, if any by within two weeks thereafter. The Respondent, NTPC was also permitted to file additional affidavit on the reply of AP Discom, if any, within two weeks.

9. The Petitions shall be listed along with Petition Nos.293/MP/2018 and Ors. for hearing in due course for which separate notice will be issued.

**By order of the Commission**

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