

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.722/MP/2020

Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 for the declaration of 'Change in Law' event due to introduction and imposition of safeguard duty by way of Notification No. 2/2020-Customs (SG) dated 29.7.2020 issued by the Department of Revenue, Ministry of Finance, Government of India, in terms of Article 12 of the Power Purchase Agreement dated 17.9.2019 executed between the Petitioner and the Respondent No.1.

Petitioner : Azure Power Forty One Private Limited (APFOPL)

Respondents : Solar Energy Corporation of India Limited (SECI) and 2 Ors.

Petition No.723/MP/2020

Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 for the declaration of 'Change in Law' event due to introduction and imposition of safeguard duty by way of Notification No. 2/2020-Customs (SG) dated 29.7.2020 issued by the Department of Revenue, Ministry of Finance, Government of India, in terms of Article 12 of the Power Purchase Agreement dated 27.11.2019 executed between the Petitioner and the Respondent No.1.

Petitioner : Azure Power Maple Private Limited (APMPL)

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

Date of Hearing : 29.9.2022

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

Parties Present : Shri Shaswat Kumar, Advocate, Azure Power
Shri Rahul Chouhan, Advocate, Azure Power
Shri A. Saxena, Advocate, Azure Power
Shri M. G. Ramachandran, Sr. Advocate, SECI
Ms. Anushree Bardhan, Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Shri Aneesh Bajaj, Advocate, SECI

Record of Proceedings

The learned counsel for the Petitioners submitted that the present Petitions have been filed seeking approval of Change in Law event occurred due to coming into force of the Notification No. 2/2020-Customs (SG) dated 29.7.2020 issued by



Department of Revenue, Ministry of Finance, Government of India and for determination of suitable mechanism to compensate the Petitioners for the expenditure incurred/to be incurred by the Petitioner due to such Change in Law along with carrying cost in terms of Article 12 of the Power Purchase Agreements.

2. Learned senior counsel for the Respondent, SECI submitted that the imposition of Safeguard Duty has already been held as Change in Law event and the only issue that remains for consideration is the methodology for payment of compensation on account of Safeguard Duty. The learned senior counsel submitted that the Commission while approving the annuity methodology as proposed by SECI for making payments in respect of GST and/or Safeguard Duty vide order dated 20.8.2021 in Petition No. 536/MP/2020 has approved the discounting factor at 10.41% based on the interest rate specified in the Renewable Tariff Regulations, 2017 read with Renewable Tariff order dated 11.1.2019. However, subsequently, there has been fall in the interest rate and in the Renewable Tariff Regulations, 2020 read with Renewable Tariff order dated 31.3.2021, the Commission has considered the interest rate of 9% and the term of loan repayment as 15 years instead of 13 years as considered earlier.

3. *In rebuttal*, the learned counsel for the Petitioners submitted that the methodology for payment of compensation approved by the Commission vide order dated 20.8.2021 in Petition No. 536/MP/2020 only applies to the cases covered therein. The learned counsel submitted that on this aspect, the Petitioners in their rejoinder have made the detailed submissions which may be considered by the Commission. The learned counsel also pointed out that the amount of total compensation involved in these matters is nominal and SECI may be directed to make the payment in one lump-sum.

4. After hearing the learned counsel for the parties, the Commission reserved the order in the matters.

By order of the Commission

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