

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 12/SM/2022 (Suo Motu)

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

Date of Order: 19th December, 2022

In the matter of

Non-compliance of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012 and the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020.

**And
In the matter of**

Shyam Indus Power Solutions Private Limited,
16A, Second Floor, Najafgarh Road,
Moti Nagar, Shivaji Marg,
New Delhi.

ORDER

By order dated 11.11.2008, Shyam Indus Power Solutions Private Limited (hereinafter referred to as “the licensee”) was granted inter-State trading licence for Category ‘A’ to trade in electricity as an electricity trader in accordance with the Central Electricity Regulatory Commission (Procedure, Terms and Conditions of trading licence and other related matters) Regulations, 2004. Consequent to the notification of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions of Trading licence and other related matters) Regulations, 2009 as amended vide notification dated 7.6.2010, the licence of the Respondent stands re-categorized as Category-IV, subject to the terms and conditions contained in the licence. Based on the request of the Respondent, vide order dated 5.6.2017 in Petition No. 72/MP/2017, licence of the Respondent was upgraded

from Category "IV" to Category "III". Further, the Central Electricity Regulatory Commission (Procedure, Terms and Conditions of trading licence and other related matters) Regulations, 2020 (hereinafter referred to as 'the Trading Licence Regulations') were notified on 30.1.2021 through which the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009 and all subsequent amendments thereof were repealed from the date of commencement of Trading Licence Regulations.

2. On account of default in payment of annual licence fee for the years 2021-22 and 2022-23, Shyam Indus Power Solutions Private Limited was issued notice vide order dated 8.9.2022 under Section 19 (3) of the Electricity Act, 2003 ('the Act') read with Regulation 9 (15) of the Trading Licence Regulations for revocation of licence for willful default in depositing the licence fee and non-compliance of the regulations. Relevant portion of the said order dated 8.9.2022 is extracted as under:

'2. Under clause (4) of Regulation 7 of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012 as amended from time to time (hereinafter referred to as 'the Payment of Fees Regulations'), the licensees are required to pay licence fee within thirty days of the date of grant of licence and thereafter, annually by 30th April of each year. Further, as per Regulation 9 (15) of the Trading Licence Regulations, the licensee is required to regularly pay the licence fee specified by the Commission from time to time.

3. It has been brought to our notice by office of the Commission that the Respondent has not paid the licence fee for the years 2021-22 and 2022-23, which was payable by 30.4.2021 and 30.4.2022 respectively despite issuance of reminder dated 26.5.2022.

4. As per Regulation 9 (16) of the Trading Licence Regulations, the trading licensee shall not omit or neglect to undertake trading activity". It has been brought to our notice by office of the Commission that Respondent has not undertaken any trading activity in the last three years.

5. In accordance with the Section 19 of the Electricity Act, 2003 (hereinafter referred to as "the Act"), where the licensee, in the opinion of the Commission,

makes willful and prolonged default in doing anything required of him by or under the Act or the Rules or the Regulations, the Commission may revoke the licence after serving a notice of not less than three months.

6. *The Respondent has not responded to the letter issued by office of the Commission for depositing the licence fee. The conduct of the licensee amounts to non-compliance and contravention under the provisions of the Trading Licence Regulations and Payment of Fees Regulations. In our view, the licensee is not entitled to hold licence when he has failed to pay the licence fee and also neglected to undertake any trading activity in the last three years, in violation of the regulations. Accordingly, we direct the Respondent to file its response as to why its inter-State trading licence be not revoked for willful default in depositing the licence fee as well as for not undertaking any trading activity in the last three years. This order shall also be treated as notice under sub-section (3) of Section 19 of the Act and if no reply is received within two months and unless otherwise directed by the Commission, the licence of the licensee shall stand revoked after expiry of the period of three months from the date of issue of this order.”*

3. In response to the order dated 8.9.2022, Shyam Indus Power Solutions Private Limited has not filed any response. Regulation 17 of the Trading Licence Regulations provides as under:

“17. Contravention by Trading Licensee

Contraventions of the provisions of the Act, Rules and Regulations framed thereunder and non-compliance of the orders of the Commission by a Trading Licensee shall cover the following:

(1) Violations and non-compliance of the provisions of the Act, Rules and the Regulations specified under Regulation 9(22) of these Regulations;

(2) Under-reporting of transaction volume in monthly reporting;

(3) Failure to meet the Net Worth criteria specified in these regulations;

(4) Charging trading margins beyond the limits defined in these regulations;

(5) Non-compliance of the orders of the Commission including the orders issued for contravention of any regulation of the Commission;

(6) Non-payment of the licence fees and surcharge, if applicable within the due date as specified in Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012 or statutory re-enactment thereof;

(7) Delay or non-submission of monthly transaction information sought under clause (2) of Regulation 11;

(8) Failure to comply with Regulation 15 of these regulations;

(9) Failure to comply with clause (23) of Regulation 9 specified in these regulations;

(10) Non-submission or delay in submission of any report required to be submitted by the Trading Licensee under any of the regulations mentioned in clause (1) of this regulation;

(11) Delay in submission of any other information sought by the Commission;

(12) Failure to make mandatory disclosures or reporting in accordance with the provision to clause (2) of Regulation 11 of these regulations on Trading Licensee's website."

4. Shyam Indus Power Solutions Private Limited Limited has not only contravened the provisions of Regulation 9 (16) and Regulation 17(6) of the Trading Licence Regulations by not paying licence fees, but has also not complied with the directions of the Commission issued vide order dated 8.9.2022 by not responding to the notice. Therefore, Shyam Indus Power Solutions Private Limited has committed contravention in terms of Regulations 17(5) of the Trading Licence Regulations.

5. Regulation 19 of the Trading Licence Regulations further provides for the penalty for contravention of the regulations and non-compliance with the directions of the Commission which is extracted as under:

"19. Penalties for Contravention and non-compliance

Where the charge of contraventions is established against the Trading Licensee, the Commission may:

(1) give warning to the Trading Licensee subject to such conditions as may be deemed fit in the facts and circumstances of the case; or

(2) direct that the Trading Licensee shall pay, by way of penalty, a sum which shall

not exceed rupees one lakh for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction; and/or

(3) debar the Trading Licensee from trading in short term market or long term market or through power exchanges or banking or Cross Border Trade of Electricity for a period as may be specified by the Commission; or

(4) suspend the licence for a period as may be specified by the Commission; or

(5) revoke the licence of the Trading Licensee; or

(6) issue such other directions or impose such other conditions as the Commission may deem appropriate;

Provided that in case of debarment or suspension, National Load Despatch Centre or concerned Regional Load Despatch Centre or State Load Despatch Centre, as the case may be, shall take appropriate action with regard to scheduling and despatch of electricity in respect of the transactions of the Trading Licensee.”

6. The Commission is of the view that it will be appropriate to revoke the licence under Regulation 19(5) of the Trading Licence Regulations of Shyam Indus Power Solutions Private Limited for contravention of the provisions of the regulations and non-compliance with the directions of the Commission. Accordingly, we revoke the licence granted to Shyam Indus Power Solutions Private Limited.

7. Let an extract copy of this order be sent to the Central Government in Ministry of Power and Central Electricity Authority in terms of sub-section (7) of Section 15 of the Electricity Act, 2003 for their information and record.

8. The Petition No.12/SM/2022 is disposed of with the above.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S.Jha)
Member