

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.186/MP/2021

Subject : Petition under Section 79(1)(c) read with Sections 142 and 146 of the Electricity Act, 2003 regarding non-compliance of the order dated 8.6.2013 in Petition No. 245/MP/2012 passed by the Commission and for consequential directions.

Date of Hearing : **9.11.2023**

Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : Dakshin Gujarat Vij Company Limited (DGVCL)

Respondents : Arcelor Mittal Nippon Steel India Limited (AMNSIL) and 4 Ors.

Parties Present : Shri M. G. Ramachandran, Sr. Advocate, DGVCL
Ms. Srishti Khindaria, Advocate, DGVCL
Ms. Swapna Seshadri, Advocate, DGVCL
Ms. Shivani Verma, Advocate, DGVCL
Dr. Abhishek Manu Singhvi, Sr. Advocate, AMNSIL
Shri Gopal Jain, Sr. Advocate, AMNSIL
Shri Ruby Singh, Advocate, AMNSIL
Shri Aditya P Das, GRID-INDIA
Shri Gajendra Singh, WRLDC
Shri Alok Mishra, WRLDC

Record of Proceedings

At the outset, learned senior counsel for Respondent No.1, Arcelor Mittal Nippon Steel India Limited (AMNSIL), submitted that the Respondent has filed its additional affidavit in compliance with the directions of the Commission vide Record of Proceedings for the hearings dated 21.8.2023 and 11.10.2023. Learned senior counsel for Respondent No.1 referred to the said affidavit and mainly submitted as under:

(a) Respondent No. 1, AMNSIL, has already filed Review Petition Nos. 2243 of 2023 and 2244 of 2023 before the Gujarat Electricity Regulatory Commission (GERC) seeking review of the order dated 10.7.2023 in Petition Nos. 1420 of 2014 and 1601 of 2016, holding the Respondent liable for Cross Subsidy Surcharge (CSS) and these Review Petitions are likely to be decided in the near future.

(b) Further, in terms of GERC's order dated 10.7.2023 in Petition No. 1420 of 2014, the Respondent has already approached the Chief Electrical Inspector (CEI) for determination and certification of captive status in connection with its power consumption from its captive generating units. Pending such certification, there is no clarity as to the extent of the demand for CSS. The adjustment towards captive consumption, if allowed, would significantly reduce the demand for CSS.

(c) Without prejudice to the above and in compliance with the direction of this Commission, the Respondent has also indicated the liquidation plan, according to

which, the Respondent will pay 25% of the principal outstanding amount within 60 days from the date on which GERC disposes of the Respondent's pending review petitions confirming the purporting liability and the balance 75% of the principal outstanding amount would be paid within two years (eight equal quarterly instalments) from the date on which APTEL disposes of any appeal which may be preferred and the Respondent does not succeed in any such appeal it may prefer.

(d) Keeping in view that the very basis for CSS demand raised on the Respondent is pending consideration before GERC in the Review Petitions, wherein notices have also been issued, it may not be appropriate to direct the Respondent to liquidate the entire arrears at this stage, especially when the Respondent is also yet to avail its statutory right of first appeal. In any case, the Respondent has already been paying the current CSS dues from July 2023 onwards.

2. Learned senior counsel for the Petitioner mainly submitted as under:

(a) Insofar as captive consumption is concerned, Respondent No.1 has failed to satisfy the conditions required to be met for captive consumption. All the contentions of Respondent No.1 regarding the non-applicability of CSS have already been dealt with in detail and rejected by the GERC in its orders dated 10.7.2023.

(b) No stay has been granted by GERC in the Review Petitions filed by the Respondent No.1 against its orders dated 10.7.2023.

(c) Total outstanding dues of Respondent No.1 for the period January 2020 to June 2023 are Rs.1561 crore (Rs.1294 crore towards CSS + Rs. 267 crore towards DPC up to 10.7.2023). Month-wise details of CSS have already been furnished by the Petitioner vide its affidavit dated 26.7.2023. Also, there is no claim of captive consumption for the period post January, 2020.

(d) There is clear non-compliance/violation of the specific stipulation contained in the Commission's order dated 8.6.2023 by Respondent No.1, and accordingly, the connectivity to ISTS granted to Respondent No.1 by the said order deserves to be recalled.

3. After hearing the learned senior counsels for the parties, the Commission expressed its displeasure towards the liquidation plan submitted by Respondent No.1 wherein the liquidation of the CSS arrears has been proposed only after the outcome of its review petitions before GERC (25%) and outcome of the appeal, if any, filed by it before the APTEL thereafter (75%). The Commission observed that such a conditional liquidation plan is not in accordance with the letter & spirit of the Commission's directions dated 21.8.2023 & 11.10.2023. The Commission also noted that as on the date, there is no stay by any authority, including GERC on the liability of Respondent No.1 towards the CSS, including the arrears post December, 2019. In view of the above, the Commission granted last opportunity to Respondent No.1, to file on an affidavit by **15.12.2023** an unconditional concrete liquidation plan for the payment of the arrears pertaining to CSS.

4. The Petition will be listed for the final hearing on **19.1.2024**.

By order of the Commission

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