

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.255/MP/2022

- Subject : Petition under Section 79(1)(b) and 79(1)(f) of the Electricity Act, 2003 read with Article 12 of the long-term Power Purchase Agreement dated 3.5.2019 entered into between Torrent Solargen Limited and Solar Energy Corporation of India Limited for approval of Change in Law events and consequential compensation.
- Date of Hearing : **23.8.2023**
- Coram : Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Torrent Solargen Limited (TSL)
- Respondents : Solar Energy Corporation of India Limited (SECI) and Anr.
- Parties Present : Ms. Divya Chaturvedi, Advocate, TSL
Shri Saransh Shaw, Advocate, TSL
Shri Jai Dhanani, Advocate, TSL
Shri M. G. Ramachandran, Sr. Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Ms. Anushree Bardhan, Advocate, SECI
Ms. Surbhi Kapoor, Advocate, SECI
Shri Aneesh Bajaj, Advocate, SECI
Shri Shubham Arya, Advocate, HPPC
Ms. Reeha Singh, Advocate, HPPC

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter alia*, for approval of a Change in Law and consequential relief to compensate the Petitioner for an increase in its Project cost due to the revision of Goods and Services Tax applicable on renewable energy devices and manufacturing parts for wind mills and wind operated electricity generators, in terms of the Notification No. 8/2021 dated 30.9.2021 issued by the Department of Revenue, Ministry of Finance, Government of India.

2. Learned senior counsel for the Respondent No. 1, SECI, stated that the said Notification would amount to a Change in Law under the Power Purchase Agreement. Learned senior counsel further submitted that reconciled claims towards Change in Law are to be paid on a monthly annuity basis unless the distribution licensees/buying entities specifically agree to make a lump-sum payment and further duly make such payment in discharge of their obligations. Learned senior counsel also submitted that, as per the order of the Hon'ble Supreme Court dated 12.12.2022 in Civil Appeal No. 8880 of 2022, the enforceability of the Commission's order(s) to be passed in pursuance of the APTEL's judgment dated 15.9.2021 in

Parampujya Case has been stayed with regard to the issues of carrying cost, compensation on account of the impact of the Change in Law for the period post Commercial Operation Date of the Projects, and towards O&M expenses. Learned senior counsel also urged the Commission to clarify whether the late payment surcharge would be payable as per the Late Payment Surcharge Rules, 2022, or as per the provisions of the PPA & the PSA.

3. In response, learned counsel for the Petitioner clarified that the Change in Law claims of the Petitioner are for the period prior to the Commercial Operation Date only. However, the Petitioner is praying for the carrying cost as the expression 'relief' used in the Change in Law clause, as held by the Hon'ble Supreme Court in various judgments, is of the widest amplitude. Learned counsel also submitted that in the Petition, the Petitioner has also prayed for a direction to SECI for making payment towards increase in Interest During Construction (IDC) as a result of a Change in Law event leading to an increase in the project cost. However, the said prayer of IDC may be considered as withdrawn with a liberty to raise such a prayer in the future if necessary.

4. Further, considering the request of the learned senior counsel for SECI and the learned counsel for the Petitioner, the Commission permitted the parties to file their respective written submissions, if any, within two weeks. The Commission also directed the Petitioner to file an affidavit indicating the withdrawal of its prayer relating to IDC claims within two weeks.

5. Subject to the above, the Commission reserved the matter for order.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)