

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 262/MP/2022

Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreement dated 30.3.2021 executed by the Petitioner and NTPC Limited, seeking relief on account of Changes in Law increasing the rate of Goods and Services Tax and imposing Basic Customs Duty.

Date of Hearing : 21.3.2023

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

Petitioner : Rising Sun Energy (K) Private Limited (RSEKPL)

Respondents : NTPC Limited (NTPC) and Anr.

Parties Present : Shri Saahil Kaul, Advocate, RESKPL
Shri Adarsh Tripathi, Advocate, NTPC
Shri Ajitesh Garg, Advocate, NTPC

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter-alia*, seeking relief of account of Change in Law events, viz. (i) increase in the rate of Goods & Service Tax relating to the setting up of solar power generating station in terms of Notification No. 8/2021 – Central Tax (Rate) and Notification No. 8/2021 – Integrated Tax (Rate) dated 30.9.2021 issued by the Ministry of Finance, Government of India and Notification No.8/2021- State Tax (Rate) issued by Department of Finance, Government of Rajasthan, and (ii) imposition of Basic Custom Duty on imported solar photovoltaic cells and modules w.e.f. 1.4.2022 in terms of Office Memorandum No. 283/3/2018-Grid Solar dated 9.3.2021 issued by Ministry of New & Renewable Energy, Government of India and Finance Act, 2022 dated 30.3.2022. Learned counsel submitted that both the above events have occurred after the last date of bid submission i.e. 10.2.2021 and consequently, qualify as Change in Law events under the Power Purchase Agreement dated 30.3.2021.

2. Learned counsel for the Respondent, NTPC sought time to file reply to the petition. Learned counsel further submitted that the Respondent No. 2, CSPDCL – being the distribution licensee & the ultimate beneficiary of the power also needs to be heard and a fresh notice may be issued to the Respondent No. 2 to file its reply.

3. In response, learned counsel for the Petitioner submitted that as such the Petitioner has no objection towards issuance of notice to Respondent No. 2 once



again, the Commission however, in catena of its orders, has already held that the liability of trader/Respondent No. 1 to make payments to the generator is not conditional upon receipt of such payments from the distribution companies.

4. After hearing the learned counsel for the Petitioner and the Respondent No.1, the Commission granted one more opportunity to the Respondents particularly CSPDCL (Respondent 2) to file their reply, if any, within three weeks copy to the Petitioner, who may file its rejoinder within two weeks thereafter.

5. The Petition shall be listed for hearing on 23.5.2023.

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