

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 362/MP/2022**

- Subject : Petition under Section 79(1)(b), 79(1)(f) and Section 79(1)(k) of the Electricity Act, 2003 for seeking compensation against additional cost incurred on account of implementation of the Goods and Service Tax Law vide Notification No.12/2017 as a "Change in Law Event" in terms of Article 12 of the Power Purchase Agreements dated 5.10.2016 executed between Indigrd Solar-II (AP) Private Limited and Solar Energy Corporation of India Limited.
- 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 : Indigrd Solar-II (AP) Private Limited (ISAPPL)
- Respondents : Solar Energy Corporation of India Limited (SECI) and 4 Ors.
- Parties Present : Shri Aditya K. Singh, Advocate, ISAPPL  
Ms. Pratiksha Chaturvedi, Advocate, ISAPPL  
Shri Saurav Kr. Jha, ISAPPL  
Ms. Tanya Sareen, Advocate, SECI  
Ms. Anushree Bardhan, Advocate, SECI  
Shri Aneesh Bajaj, Advocate, SECI

**Record of Proceedings**

Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter-alia*, seeking approval of introduction of the Central Goods and Services Tax Act, 2017, the Integrated Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017 ('GST Laws') as a 'Change in Law event' in terms of Article 12 of the Power Purchase Agreement (PPA) dated 5.10.2016 executed between the Petitioner and SECI and for compensation for additional cost incurred on account of the same along with consequential reliefs thereto. Learned counsel further submitted as under:

- (a) As per Article 12 of the PPA, any law which will be notified post 16.9.2016 and will have an impact on the Project cost or revenue will be considered as Change in Law event. Upon the implementation of GST Laws w.e.f 1.7.2017, GST has been levied on solar modules @ 5% and on various services @ 18% - thereby leading to the escalation in the capital as well as operational cost.
- (b) The Project of the Petitioner achieved its commercial operation on 8.10.2018. However, the Commercial Operation Date of the Project, under per the PPA, is 31.1.2019.

(c) The Hon'ble Supreme Court vide order dated 10.1.2022 in Suo-Motu Writ Petition (C) No. 3 of 2020 has excluded the period from 15.3.2020 till 28.2.2022 for the purposes of limitation due to outbreak of Covid-19. Keeping in view the aforesaid order, the last date for filing of this Petition would work out to 28.7.2023. However, the Petitioner has filed the present Petition on 7.10.2022.

(d) Although the provisions of the PPA do not require the Petitioner to issue the Change in Law notice, the Petitioner had issued the Change in Law notice to SECI in respect of GST Laws on 26.6.2020. Pertinently, the Petitioner's right to raise the Change in Law claims arose once the additional expenditure on account of GST Laws/Change in Law event got crystallized on the commissioning of its Project.

(e) In similar Petition bearing Petition No.310/MP/2022 (Indigrd Solar-I (AP) Pvt. Ltd. v. SECI), the Commission vide Record of Proceedings for the hearing dated 6.3.2022 has issued the notice on limitation aspect and has listed the matter for hearing on the aspect of limitation on 16.5.2023.

(f) Similar aspects concerning the Change in Law claim(s) during the construction period and the limitation has already been dealt with by the Commission vide order dated 7.11.2021 in Petition No. 533/MP/2020 (Raipur-Rajnandgaon-Warora Transmission Limited v. MSEDCL and Ors.).

2. Learned counsel for the Respondent No.1, SECI submitted that as per Article 12 of the PPA, the Petitioner was required to approach the Commission for seeking the approval of the Change in Law and despite the Change in Law event/GST Laws having been implemented w.e.f. 1.7.2017, the Petitioner filed the present Petition only on 28.11.2022. Learned counsel also submitted that certain details regarding the Change in Law impact on its Project was also given by the Petitioner only in December, 2021. The commission directed to issue notice on the aspect of limitation as preliminary issue. the Respondents were directed to file their response on the aspect of limitation within three weeks with copy to the Petitioner who may file its rejoinder thereof within three weeks thereafter.

4. The Petition shall be listed along with Petition No. 310/MP/2022 on the aspect of 'limitation' on 16.5.2023.

**By order of the Commission**

**Sd/-**

**(T.D. Pant)**

**Joint Chief (Law)**

