

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 72/MP/2020 along with IA No. 67/2022**

- Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 for (i) approval of 'Change in Law'; and (ii) consequential relief(s) to compensate for the increase in capital cost and associated costs due to (a) introduction of the Central Goods and Services Tax Act, 2017, the Integrated Goods and Service Tax Act, 2017 and the State Goods and Services Acts enacted by respective States and (b) imposition and introduction of Safe Guard Duty on the import of solar cells (whether or not assembled in modules or panels) by way of Notification No.01/2018-Customs SG dated 30.7.2018 issued by the Department of Revenue, Ministry of Finance, in terms of Article 12 read with Article 16.3.1 of the Power Purchase Agreements dated 6.10.2017 between SB Energy Three 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 : SB Energy Three Private Limited (SBETPL)
- Respondents : Solar Energy Corporation of India Limited (SECI) and Anr.
- Parties Present : Shri Sanjay Sen, Sr. Advocate, SBETPL  
Ms. Molshree Bhatnagar, Advocate, SBETPL  
Ms. Parichita Chowdhury, Advocate, SBETPL  
Ms. Mandakini Ghosh, Advocate, SBETPL  
Ms. Tanya Sareen, Advocate, SECI  
Ms. Anushree Bardhan, Advocate, SECI  
Shri Aneesh Bajaj, Advocate, SECI  
Ms. Swapna Seshadri, Advocate, RUVNL  
Shri Ukarsh Singh, Advocate, RUVNL  
Shri Amal Nair, Advocate, RUVNL

**Record of Proceedings**

Learned senior counsel for the Petitioner submitted that the instant Petition has been filed, *inter-alia*, seeking declaration that the introduction of GST Laws and imposition of Safeguard Duty, are Change in Law events and seeking consequential compensation for additional recurring/non-recurring capital cost incurred by the Petitioner. Learned senior counsel submitted that SECI has already reconciled of the Petitioner's claims arising out of Change in Law events, namely, introduction of GST Laws and imposition of Safeguard Duty and referred to the letters of SECI dated 19.4.2021 in this regard. Learned counsel submitted that the issues involved in the

present case are squarely covered by the earlier orders of the Commission and insofar as the carrying cost claim of the Petitioner, although the PPAs in question does not have restitution clause as such, the Petitioner is entitled to carrying cost in terms of judgment of Appellate Tribunal for Electricity dated 15.9.2022 in Appeal No. 256 of 2019 and batch, titled as Parampujya Solar Energy Pvt. Ltd. v. CERC and Ors ('Parampujya Judgment').

2. Learned counsel for the Respondent No.1, SECI submitted that SECI has already filed its reply dated 4.1.2023 in the matter. Learned counsel further submitted that SECI vide its letters dated 19.4.2021 & 1.2.2022 had reconciled the Petitioner's claims in respect of Safeguard Duty and GST till the Commercial Operation Date of the Project(s), which were then forwarded to the Respondent No.2, RUVNL. However, RUVNL had communicated the revised reconciliation of the aforesaid claims only till commissioning date as against the cut-off date considered by SECI as per the Commission's order dated 20.8.2021 in Petition No. 536/MP/2020. Learned counsel further submitted that in terms of the order of the Hon'ble Supreme Court dated 12.12.2022 in Civil Appeal No. 8880 of 2022, the order of Commission implementing the directions of the APTEL in paragraph 109 of the Parampujya Judgment is not to be enforced till further order(s) by the Hon'ble Supreme Court. Learned counsel also submitted that in the present case also, the end procurer - RUVNL may be directed to make payment towards the reconciled and evaluated claims of GST and Safeguard Duty payable by SECI to the Petitioner, on back-to-back basis under the PSA in a time bound manner, as being directed in other similar cases.

3. Learned counsel for Respondent No.2, RUVNL submitted that the reconciliation issue(s) between SECI and RUVNL are not part of the subject matter of the present petition.

4. Based on the request of the learned senior counsel and learned counsel for the parties, the Commission permitted the parties to file their respective written submissions, if any, within two weeks with copy to the other side.

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

**By order of the Commission**

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