

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 729/MP/2020

Subject : Petition under Section 79 of the Electricity Act, 2003 for execution of order dated 19.8.2019 passed in Petition No. 17/MP/2019; and initiation of proceedings/appropriate action under Section 142 read with Section 149 of the Electricity Act, 2003 and Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 against the Respondents for non-compliance of the order dated 19.8.2019 passed in Petition No. 17/MP/2019.

Date of Hearing : 13.4.2023

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

Petitioner : Adhunik Power and Natural Resources Limited (APNRL)

Respondents : Tamil Nadu Generation and Distribution Corp. Ltd. (TANGEDCO) and 5 Ors.

Parties Present : Ms. Shreyanshi Srivastava, Advocate, APNRL
Shri Ashwini Tak, Advocate, APNRL
Shri Ravi Kishore, Advocate, PTCIL
Shri Keshav Singh, Advocate, PTCIL
Shri Dhruv Tripathi, Advocate, PTCIL
Ms. Anusha Nagarajan, Advocate, TANGEDCO
Shri Rahul Ranjan, Advocate, TANGEDCO

Record of Proceedings

At the outset, learned proxy counsel for the Petitioner prayed for adjournment due to the non-availability of the arguing counsel.

2. Learned counsel for the Respondent, TANGEDCO mainly submitted as under:

(a) Pursuant to the order dated 19.8.2019 in Petition No. 17/MP/2019, reconciliation of the Change in Law claims of the Petitioner, as allowed by the Commission, was undertaken and a Tripartite Agreement was executed on 18.12.2020, wherein it was mutually agreed upon that TANGEDCO will adopt the notified price of G12 grade coal published by Coal India Limited for coal purchased by the Petitioner through e-auction. In terms of the said agreement, TANGEDCO worked out the compensation for the period from January, 2016 to October, 2020 as Rs. 130.13 crore (out of which Rs. 25 crore were already paid on ad-hoc basis) as against the claim of Petitioner and PTCIL of Rs. 151 crore.

(b) Further, in consideration of TANGEDCO agreeing to settle the entire amount in lump sum, the Petitioner also agreed to offer a waiver of Rs. 2.02 crore on a carrying cost and Rs.2.34 crore on late payment surcharge and consequently, TANGEDCO paid an amount of Rs.100.75 crore to PTCIL on 7.7.2021 which in turn paid Rs. 97.81 crore to the Petitioner on 9.7.2021 after deducting the applicable TDS.

(c) The Petitioner vide its additional affidavit dated 6.12.2021 has contended that TANGEDCO had to consider actual base price notified by CIL for the grade supplied to the Petitioner instead of G12 grade coal for the purpose of Change in Law claims. In the said affidavit, the Petitioner has acknowledged the receipt of all dues except for Rs. 7.94 crore on the above account. However, the Petitioner had itself accepted the computation of Change in Law on basis of price of G12 grade coal.

3. Considering the submissions made by the learned counsel for the parties and keeping in view that substantial amount has already been paid, the Commission deemed it appropriate that parties file their respective written submissions in the matter and dispense with the need for further oral hearing.

4. Accordingly, the Commission directed the parties to file their respective written submissions, if any, within three 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)