



नई दिल्ली  
NEW DELHI

याचिका संख्या./ Petition No. 355/MP/2022 &  
358/MP/2022

कोरम/ Coram:

श्री आई. एस. झा, सदस्य / Shri I. S. Jha, Member  
श्री अरुण गोयल, सदस्य/ Shri Arun Goyal, Member  
श्री पी. के. सिंह, सदस्य / Shri P. K. Singh, Member

आदेश दिनांक/ Date of Order: 24<sup>th</sup> of February, 2023

**IN THE MATTER OF:**

In the matter of application filed for relaxation of time limit and for issuance of Renewable Energy Certificates

**AND IN THE MATTER OF:**

**Grace Infrastructure Private Limited (GIPL)**  
A-5 Industrial Estate, Thattanchavady,  
Pondicherry 605009

...Petitioner

Versus

**National Load Despatch Centre (NLDC)**  
B-9, Qutab Institutional Area, New Delhi

...Respondent

**Parties Present:** Shri V. Ramesh Kumar, GIPL  
Shri Kailash Chand Saini, NLDC  
Shri Gajendra Singh Vasava, NLDC

### **आदेश/ ORDER**

The Petitioner, Grace Infrastructure Private Limited, is a Private Limited Company, registered under Indian Companies Act 1956, engaged in the following:

- i) Wind power generation, through WEGs installed at Devarkulam, Manur, Vagaikulam, Kalugumalai, Dharapuram and Theni in the State of Tamil Nadu.
  - ii) Nut manufacturing plant at Pondicherry
2. The present application is being filed seeking relaxation of the time limit specified in Regulation 7 of Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010. (REC Regulations, 2010).
3. The Respondent, National Load Dispatch Centre (NLDC), is designated as the Central Agency under Regulation 3 of the REC Regulations, 2010 and is entrusted with the functions inter alia of granting registration and issuance of RECs as per the said REC Regulations.
4. The Petition has made the following prayers:

#### **In Petition No. 358/MP/2022**

*The Hon'ble Commission may be pleased to condone the delay and relax the time limit stipulated in Regulation 7 of Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 by exercising its power to relax under the said Regulations and further direct the National Load Dispatch Centre (NLDC) to issue the Renewable Energy Certificates for the period Oct'2019 to Nov'2020 and pass such other order(s) as deemed fit, necessary and appropriate and thus render justice.*

**In Petition No. 355/MP/2022**

*The Hon'ble Commission may be pleased to condone the delay and relax the time limit stipulated in Regulation 7 of Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 by exercising its power to relax under the said Regulations and further direct the National Load Despatch Centre (NLDC) to issue the Renewable Energy Certificates for the period Dec 2020 to Aug'2021 and pass such other order(s) as deemed fit, necessary and appropriate and thus render justice.*

**Submissions of the Petitioner in both Petitions :**

5. The Petitioner has submitted as under:
  - a) Petitioner's nut manufacturing division was demerged and merged with Fastenex Private Limited through a Scheme of Amalgamation Arrangement (Demerger) under Sections 230 to 232 of the Companies Act, 2013, vide CA No.1211 to 1214/CAA/2019 of National Company Law Tribunal (NLCT) Order dated 04.03.2021 passed by the NCLT, Chennai. The Petitioner was engaged in the demerger process last year and had to complete the audit and other due diligence/compliances requirements as per the provisions of the Companies Act, 2013. After the completion of the audit, majority of the company secretarial compliances were completed in the FY 2020.
  - b) During March 2020, the Petitioner planned to complete the entire process of making necessary application to NLDC for issuance of RECs. However, due to COVID-19 Pandemic situation and announcement of full lock down in Pondicherry City by local Government , it had shut down the office on 3<sup>rd</sup> week of March' 2020 and resumed office in July'2020, with the permission of Local Government.
  - c) As the lock down was released in a phased manner, the company operated with less than 33% manpower, teams were setup with minimum workforce and were rotated in order to maintain physical distance and safety of employees in the office. Therefore, they could not present the application within the stipulated time limit. Further, they found that many employees, including four employees from Finance Department were infected by COVID-

- 19(first wave) and this resulted in delay in submitting the application to NLDC. Therefore, the Petitioner could not present the application within the stipulated time limit.
- d) There was also a delay in obtaining the verified EIR from SLDC and therefore, they were unable to submit the physical copy of application seeking request for issuance of RECs, to the Respondent NLDC. The COVID-19 pandemic situation has badly hindered the working schedules and caused further delay.
- e) The Hon'ble Supreme Court of India, vide its Order dated 08.03.2021 in Suo Moto Writ Petition No. 3 of 2020 had clarified that, in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021. Further, vide Order dated 27.04.2021, the Hon'ble Supreme Court has extended limitation period for the filing of cases in courts and tribunals with effect from 14.03.2021 until further orders.

**Additionally, in Petition No. 355/MP/2022:**

- f) The Petitioner had submitted petition vide No:200/MPC/2021 with the Commission during May, 2021 for relaxation of the time limit and condoning the delay for the period from August, 2019 to November, 2020. Since their case hearing was pending with Commission, they were under the impression that "*Application to NLDC for issuance of REC's*" for subsequent periods were also barred and NLDC also has not communicated to them(oral/ writing) stating that Applications for the periods December, 2020 to August, 2021 can be made either by electronic mode or paper mode and hence the delay.
- g) On 22.03.2022, after hearing, the Commission accepted their request for condonation of delay of application for REC issuance. The Petitioner has filed with NLDC, the applications for "*Issuance of REC's*" for all the projects Grace001, Gipla002, Giplc004, Grace006, Grace007, Grace 008 for the period December, 2020 to August, 2021, along with relevant documents on 26.03.2022. Subsequently, they have written to NLDC for accepting their applications for issuance of RECs Period: Dec 20 to Aug 21, but NLDC rejected the applications stating that applications were made to NLDC beyond the due date. The Petitioner submitted that due to this, there is an unintentional delay in submitting its application to NLDC for REC issuance, for the period December, 2020 to August, 2021

since the applications was made on 26.03.2022 on completion of hearing with Commission on 22.03.2022.

- h) During May 2021 to Dec 2021, they have planned to complete the entire process of submitting necessary application to NLDC for issuance of RECs for the period December, 2020 to August, 2021. However, there was widespread COVID-19 Second wave situation and local Government had announced full lock down in Pondicherry City due to which they had to resume office in 3<sup>rd</sup> week of May, 2021 with a limited manpower in various departments.
- i) There was a delay in submitting application (in petition no. 358/MP/2022) to NLDC for the projects as detailed in the table given below

| <b>Project Identification</b> | <b>Pending</b>   | <b>REC</b>   |
|-------------------------------|------------------|--------------|
| Grace001                      | Oct'19 to Nov'20 | 12,108       |
| Gipla002                      | Oct'19 to Nov'20 | 7,510        |
| Giplc004                      | Nov'19 to Nov'20 | 23,625       |
| Grace006                      | Nov'19 to Nov'20 | 13,516       |
| Grace007                      | Nov'19 to Nov'20 | 9,530        |
|                               | <b>Total</b>     | <b>66289</b> |

- j) There was a delay in submitting application (in petition no. 355/MP/2022) to NLDC for the project detailed in the table given below:

| <b>Project Identification</b> | <b>Pending</b> | <b>REC</b>    |
|-------------------------------|----------------|---------------|
| Grace001                      | Dec'20 -Aug'21 | 9244          |
| Gipla002                      | Dec'20 -Aug'21 | 6913          |
| Giplc004                      | Dec'20 -Aug'21 | 17497         |
| Grace006                      | Dec'20 -Aug'21 | 18629         |
| Grace007                      | Dec'20 -Aug'21 | 11195         |
| Grace008                      | Dec'20 -Aug'21 | 8572          |
|                               | <b>TOTAL</b>   | <b>72,050</b> |

**Hearing dated 10.01.2023:**

6. During the course of hearing on 10.01.2023, learned counsel for the Petitioner submitted that the delays were mainly on account of the demerger process of the Petitioner's nut manufacturing division with another group company and the outbreak of Covid-19 & consequent lockdown were not intentional. Learned counsel for the Respondent submitted that they do not have any objection to the prayers made by the Petitioner. After hearing the parties, the Commission admitted the matters and reserved them for Orders.

**Analysis and Decision:**

7. We have heard the Petitioner and the Respondent and have carefully perused the records.
8. The Petition came up for hearing on 10.01.2023. During the hearing, the Petitioner submitted that the Petitions have been filed for seeking condonation of delay and relaxation of time limit stipulated in Regulation 7 of the REC Regulations, 2010 by exercising the power to relax under the said regulation and for direction to the Respondent, NLDC for issuance of Renewable Energy Certificates.
9. The representative of the Respondent NLDC submitted that Respondent has no objection to the Petitions and that the Commission may pass an Order as deemed fit.
10. The brief facts of the case in Petition No.358/MP/2022 and Petition No. 355/MP/2022 are that due to demerger and audit and other due diligence/compliances requirements as per the provisions of the Companies Act, 2013 and further due to the COVID-19 first and second wave pandemic respectively, the Petitioner was not able to submit the application to NLDC for issuance of RECs within the stipulated time limit. Further in Petition No. 355/MP/2022, the Petitioner submitted that they had made petition vide No: 200/MPC/2021 with CERC during May'2021 for relaxation of the time limit and condoning the delay for the period from Aug'19 to Nov'20. Since their case hearing was pending with CERC, they were under the impression that "Application to NLDC for issuance of REC's" for subsequent periods are also barred and NLDC also had not communicated to them (oral/ writing) stating that the applications for the period from Dec 2020 to August 2021 can be made either by electronic mode or paper mode and hence the delay.

11. In both the petitions, the Petitioner has further submitted that there was also a delay in obtaining the verified EIR from SLDC and therefore, they were unable to submit the physical copy of its application seeking issuance of RECs.
12. The only issue involved is *whether the delay in application for issuance of RECs for the months of October '2019 to November'2020 (in Petition No. 358/MP/2022) and for the months of December'2020 to August'2021 (in Petition No. 355/MP/2022) may be condoned and whether the Respondent may be directed to issue equivalent RECs for the energy injected.*
13. The relevant provisions of Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency (REC Issuance Procedures) stipulates as under:-

### ***“3. STEP-WISE DESCRIPTION OF THE PROCEDURE***

*3.1. Step - 1: An application for issuance of Renewable Energy Certificate shall be made by the Eligible Entity to the Central Agency. The eligible entity shall apply for Issuance of REC on the Web Based Application as per the details given in the Energy Injection Report (EIR issued by the SLDC / Recommendation of SERC for issuance of RECs) and shall also submit the same information in physical form with the Central Agency. The online application shall be acceptable by the Central Agency only if complete in all respect. The physical application for issuance of certificate shall include (i) Energy Injection Report (EIR) for RE projects /Recommendation of SERC for issuance of RECs for distribution licensee, and shall be made in the specified format (FORMAT-3.1: “Application for Issuance of Renewable Energy Certificates to the Eligible Entities”/FORMAT-3.1.1 for distribution licensee) (ii) Print out of online application duly signed and stamped by Authorized Signatory (iii) Commissioning Certificate for RE Generator, only for issuance for the first month after registration. The application shall be accompanied with the details of payment of the applicable fee & charges towards issuance of certificates as determined by CERC from time to time. While making application for issuance of RECs, the Applicant (Eligible Entity) shall quote the unique Registration Number assigned to it by Central Agency at the time of registration.*

*3.2. Step - 2: After receipt of physical application for issuance of renewable energy certificates from the Eligible Entity, the Central Agency shall undertake a preliminary scrutiny within 6 working days to ensure that the Application Form is complete in all respect along with necessary documents and applicable fees and charges. As part of preliminary scrutiny, the Central Agency shall satisfy that the following conditions are fulfilled by the RE generators or distribution licensee, as the case may be: a) The*

*application is made in the format specified by the Central Agency from time to time. b) The status of Accreditation of the Eligible Entity with the State Agency has not expired. The status of Registration of the Eligible Entity with the Central Agency has not expired. c) The duly certified EIR/ Recommendation of SERC for issuance of RECs is attached for the same period for which application is made towards issuance of Renewable Energy Certificate by the Eligible Entity. d) The application is accompanied with fees & charges.*

*3.3. Step - 3: After conducting the preliminary scrutiny, the Central Agency shall intimate in writing to the Applicant for submission of any further information or clarification, if necessary, to further consider the application for issuance of Renewable Energy Certificates or reject the application.*

*3.4. Step - 4: While considering any application for issuance of Renewable Energy Certificate, the Central Agency shall verify and ascertain availability of following information: a) Verification of the time period for which the Central Agency may have already issued Renewable Energy Certificates to the concerned Eligible Entity. b) Verification of Renewable Energy Certificates claimed by the Eligible Entity from the duly certified Energy Injection Reports by the concerned State Load Despatch Centre in respect of concerned Eligible Entity. c) Details of fee & charges made for issuance of certificates. d) Confirmation of Compliance Auditor report, if any.*

*3.5. Step - 5: The Central Agency shall issue Renewable Energy Certificates to the Eligible Entity only after confirming, the claims made by the Eligible Entity, with the duly certified EIR forwarded by the SLDC/ Recommendation of SERC for issuance of RECs. In case of any discrepancy, in the EIR enclosed by the Eligible Entity along with Application and regular EIR received by Central Agency from concerned State Load Despatch Centre, the information contained in regular EIR furnished by concerned State Load Despatch Centre shall be considered as final and binding for the purpose of issuance of Renewable Energy Certificates.  
.....”*

14. Further, Regulation 7(2) of the REC Regulations, 2010 provides as under:

***“7. Denomination and issuance of Certificates***

*(1) The eligible entity other than distribution licensee shall apply to the Central Agency for certificates within six months from the corresponding generation from eligible renewable energy projects:*

*Provided that the application for issuance of certificates may be made on 10th, 20th and last day of the month*

*(1A) The eligible distribution licensees shall apply to the Central Agency for Certificates within three months from the date of obtaining the certification, as provided in clause (1A) of the Regulation 5, from the concerned Appropriate Commission*



*(2) The Certificates shall be issued to the eligible entity after the Central Agency duly satisfies itself that all the conditions for issuance of Certificate, as may be stipulated in the detailed procedure, are complied with by the eligible entity:*

*(3) The Certificates shall be issued by the Central Agency within fifteen days from the date of application by the eligible entities.*

*(4) The Certificates shall be issued to the eligible entity on the basis of the units of electricity generated from renewable energy sources and injected into the Grid [or deemed to be injected in case of self-consumption by eligible captive generating plant and duly accounted in the Energy Accounting System as per the Indian Electricity Grid Code or the State Grid Code as the case may be, and the directions of the authorities constituted under the Act to oversee scheduling and dispatch and energy accounting, or based on written communication of distribution licensee to the concerned State Load Dispatch Centre with regard to the energy input by renewable energy generators which are not covered under the existing scheduling and dispatch procedures.”*

15. From the above, the Commission observes that as per mandate of the REC Regulations, 2010 and the REC Issuance Procedures, the eligible entity has to make Web Based Application for issuance of REC as per the details given in the Energy Injection Report and has to also submit the same information in physical form with the Central Agency (NLDC) within six months. The Central Agency has to verify the application in terms of the Energy Injection Reports issued by the concerned SLDC.

16. The Commission observes that the Petitioners have accepted the delay in submitting the application for issuance of RECs for the months of October’2019 to November’ 2020 (in petition no. 358/MP/2022) and for the months of December’2020 to August ’2021 (in petition no 355/MP/2022). As submitted by the counsels of the Petitioner, the delay was caused due to demerger process through a Scheme of Amalgamation Arrangement and further due to audit process along with restricted physical movement due to COVID-19. The Petitioners have prayed for condoning the delay and for directing NLDC to issue RECs for the months of October’2019 to November’ 2020 (in petition no. 358/MP/2022) and for the months of December’2020 to August’2021 (in petition no 355/MP/2022). The Respondent, NLDC has stated that it does not have any objection to the Petition filed by the Petitioners and that the Commission may pass an appropriate Order in the matter.

17. In our view, the delay in the application for issuance of REC is procedural in nature due to the reasons stated by the Petitioner is not going to prejudice any of the stakeholders, including the Respondent. Accordingly, we hereby condone the delay in submitting the application for issuance of RECs. Further, NLDC is directed to issue the RECs after due verification and satisfying itself that the projects meet all conditions and the Petitioners have submitted all required documents for issuance of RECs.
18. The Commission has condoned the delay and relaxed the time limit but in future the Petitioner should follow the timelines strictly and avoid any delay. It is clarified that this order is being passed in the backdrop of peculiar facts and circumstances and not to be quoted as a precedent. It is clarified that Compliance with the provisions of the REC Regulations and the Detailed Procedure shall continue to be prerequisites for consideration of the applications for issue of RECs.
19. The Petition No. 355/MP/2022 & 358/MP/2022 is disposed in terms of the above.

Sd/-  
(पी. के. सिंह)  
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(अरुण गोयल)  
सदस्य

Sd/-  
(आई. एस. झा)  
सदस्य