

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.192/MP/2024 along with IA No. 44/2024

- Subject : Petition under Section 79(1)(c) of the Electricity Act, 2003 read with Regulation 41 and 42 of the Central Electricity Regulatory Commission (Connectivity and General Network Access) Regulations, 2022 seeking exercise of this Commission's "Power to Relax" and "Power to Remove Difficulty" and to declare that ASSPL/ Petitioner No.2 fulfils all conditions for utilisation of Connectivity dated 10.5.2022 under Regulation 5.8(xi)(b) of the Central Electricity Regulatory Commission (Connectivity and General Network Access) Regulations, 2022 in light of Order dated 21.4.2024.
- Petitioner : ACME Solar Holdings Pvt. Ltd. (ASHPL) and Anr.
- Respondent : Central Transmission Utility of India Limited (CTUIL)
- Date of Hearing : **29.5.2024**
- Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri Ramesh Babu V., Member
- Parties Present : Shri Basava Prabhu Patil, Sr. Advocate, ASHPL
Shri Girik Bhalla, Advocate, ASHPL
Ms. Priyanka Vyas, Advocate, ASHPL
Shri Shubham Arya, Advocate, CTUIL
Ms. Pallavi Saigal, Advocate, CTUIL
Ms. Anumeha Smiti, Advocate, CTUIL
Shri Swapnil Verma, CTUIL
Shri Siddharth Sharma, CTUIL
Shri Akshyavat Kislay, CTUIL

Record of Proceedings

Learned senior counsel for the Petitioners submitted that the present Petition has been filed *inter alia* seeking a declaration that the Petitioners fulfil all the conditions for utilisation of the connectivity dated 10.5.2022 under Regulation 5.8(xi)(b) of the GNA Regulations in light of order dated 21.4.2024 passed by the Commission in Petition No. 283/MP/2023. Learned senior counsel further submitted that by way of the order dated 21.4.2024, the Commission relaxed the provisions of Regulation 24.6 of the GNA Regulations and allowed the Petitioners to convert its connectivity granted under LoA/PPA route to the land route as provided in Regulation 5.8(xi) of the GNA Regulations subject to fulfilment of certain conditions by the Petitioners which *inter alia* included the submissions of the required land documents to CTUIL within four weeks. Learned senior counsel submitted that the connectivity dated 10.5.2022 had been granted in the name of the ASHPL [parent company of Petition No. 2, ACME Sikar Solar Pvt. Ltd. (ASSPL)], whereas the entire required land (approx. 900 acres) has been acquired by ASSPL, which is the Project



SPV and since this was a case of transfer of connectivity under the LoA route to land route on account of termination of the PPA executed between ASSPL and Maharashtra State Electricity Distribution Co. Ltd., the land acquired by Project SPV, ASSPL ought to be considered by CTUIL towards the compliance with Regulation 5.8(xi)(b) of the GNA Regulations. However, CTUIL has refused to consider the land documents (lease deeds) signed by ASSPL (a subsidiary of ASHPL) and has asked to submit the lease deeds signed by ASHPL. Learned senior counsel submitted that the provisions of Regulation 5.8(xi)(b) read with Regulation 15 of the GNA Regulations ought to be given a purposive interpretation, which furthers the objectives of the GNA Regulations rather than narrow and pedantic interpretation of the said provisions.

2. In response to the Commission's specific query regarding the possibility of transferring the land documents from ASSPL (Subsidiary Co.) to ASHPL (Parent Co.), learned senior counsel submitted that ASSPL has arranged the requisite land by way of lease deeds with the concerned landowners and these deeds as such do not permit the further sub-lease.

3. Learned counsel for Respondent, CTUIL, mainly submitted as under:

(a) The present Petition is nothing but an abuse of process of law and is barred by Order II Rule 2 of the Code of Civil Procedure Code, 1908.

(b) At the time of filing of Petition No. 238/MP/2023, the Petitioners were well aware that the land documents were in the name of a subsidiary and not the Connectivity Grantee, the Petitioner No.1, ASHPL (Parent Co.) as required under the GNA Regulations and despite this, neither they revealed this aspect on record therein nor they chose to seek any relief/relaxation in this regard. In this context, the reliance was placed on the Minutes of the 4th Meeting with RE Developers and their association held on 17.10.2023.

(c) Only after having secured the conversion of connectivity granted under the LoA/PPA route to land route from this Commission, under its "Power to Relax", in an earlier round vide order dated 21.4.2024 in Petition No. 283/MP/2023, the Petitioners have now approached this Commission seeking further exercise of its "Power to Relax" for consideration of lease deeds signed by the subsidiary company for the connectivity granted to the parent company.

(d) Further, the Commission, in its order dated 12.5.2024 in Petition No. 9/MP/2024 (ACME Cleantech Solutions Pvt. Ltd. and Anr. v. CTUIL), has clearly observed that the utilization of documents with the parent company by its subsidiary company to fulfil certain conditions under the GNA Regulations is not allowed under Regulation 11A(4) or Regulation 15 of the GNA Regulations. In this regard, reference was made to paragraph 28 of the order dated 12.5.2024.

(e) CTUIL may be permitted to file its brief submissions in the matter.

4. In response, learned senior counsel for the Petitioners mainly submitted as under:

(a) The order dated 12.5.2024 in Petition No. 9/MP/2024 is distinguishable and does not apply to the facts of the present case. The said case pertained to Regulation 11A (4) of the GNA Regulations, i.e., conversion of connectivity granted on the basis of the land route or BG route to the LoA route. Also, the Petitioner, ACME Sun therein, had sought a change in the configuration (Solar to

Wind with ESS) in terms of Clause 5(xiii) of the Detailed Procedure under the GNA Regulations and since ACME Sun was not a Connectivity Grantee, the Commission held the said application to be premature.

(b) Subsequent to the 4th Meeting with RE Developers and their association held on 17.10.2023, the issue involved in the present case was also discussed in the 8th Meeting with RE Developers and their associations held on 14.2.2024, wherein CTUIL was requested to engage with the Commission to allow the same through Suo-motu order under Power to Remove Difficulties, and CTUIL had indicated that the matter had already been referred to the Commission.

(c) The Petitioners are already in compliance with all the conditions laid down by the Commission in its order dated 21.4.2024 in Petition No. 283/MP/2023 and are expecting to achieve the commercial operation of its RE Project by September 2024 as against the deadline of October 2024 given by the Commission in the said order. Petitioner No.2, SPV/Subsidiary Company, has already achieved the financial closure and has infused 10% of the Project cost under equity as required.

(d) The Petitioners may also be permitted to file their brief submissions in the matter, and the interim protection granted by the Commission by Record of Proceedings for the hearing dated 17.5.2024 may be extended until the outcome of the present Petition.

5. Considering the submissions made by the learned senior counsel and learned counsel for the parties, the Commission permitted both sides to file their respective brief submissions, if any, within a week with a copy to the other side. The Respondent, CTUIL, was also directed not to take any coercive action in connection to the Petitioners' connectivity application, which is the subject matter of the present case, till the outcome of the present matter.

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

By order of the Commission

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