

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.302/MP/2023

Subject : Petition under Section 79(1)(b) & (f) of the Electricity Act, 2003 read with Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Article 12 of Power Purchase Agreement dated 08.12.2021 for approval of Change in Law and Determination of Quantum and Mechanism of Compensation on Account of Change in Law Event.

Petitioner : TP Saurya Limited (TPSL)

Respondent : Kerala State Electricity Board Limited (KSEBL)

Date of Hearing : **14.2.2024**

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

Parties Present : Shri Venkatesh, Advocate, TPSL
Shri Suhael Buttan, Advocate, TPSL
Shri Nikunj Bhatnagar, Advocate, TPSL
Shri Prabhas Bajaj, Advocate, KSEBL
Shri Priyanshu Tyagi, Advocate, KSEBL
Shri Rishav Rai, Advocate, KSEBL

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed seeking a declaration that the Notification No.8/2021- Central Tax (Rate) dated 30.9.2021 issued by the Ministry of Finance is a Change in Law event and, consequently, approval of quantum and mechanism of compensation payment to the Petitioner along with the carrying cost. Learned counsel pointed out that although the Letter of Award in favour of the Petitioner for a capacity of 110 MW was issued at the tariff of Rs. 2.97/kWh, subsequently, the Petitioner agreed to offer a reduced tariff of Rs. 2.44/kWh as a special case provided the rest of the conditions in respect of the Change in Law, pass-through benefit of BCD, and change in taxes, etc. remained unchanged. However, Respondent KSEBL, has refused to acknowledge the afore-stated Notification, in terms of which Goods and Service Tax rate applicable for the supply of renewable energy devices used by Solar Power Generators has been increased from 8.9% to 13.8%, as a Change in Law event.

2. Learned counsel for Respondent, KSEBL, accepted the notice and sought liberty to file its reply on the maintainability as well as on the merits of the case. Learned counsel submitted that Respondent is objecting to the maintainability of the present Petition as the Petitioner herein had specifically agreed/accepted that the Appropriate Commission in relation to the adjudication of any dispute would be the State Electricity Regulatory Commission.

3. Considering the submissions made by the learned counsel for the parties, the Commission ordered as under:

(i) Issue notice on the maintainability as well as on merits.

(ii) Respondent to file its reply on the maintainability as well as on merits within three weeks with a copy to the Petitioner, who may file its rejoinder within three weeks thereafter.

4. The Petition will be listed for hearing on the maintainability as well as on the merits on **24.4.2024**.

By order of the Commission

Sd/-

(T.D. Pant)

Joint Chief (Law)