

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 307/MP/2023 along with IA No.48/2024

Subject : Petition under Section 79(1)(f) for adjudication of dispute on the issue of Payment of Interest on Delayed Payment by the Respondent.

Petitioner : Shree Cement Limited (SCL)

Respondents : Telangana State Power Coordination Committee and Ors.

Date of Hearing : **9.9.2024**

Coram : Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member

Parties Present : Ms. Swapna Seshadri, Advocate, SCL
Shri Anand Ganesan, Advocate, SCL
Ms. Harsha V Rao, Advocate, SCL
Ms. Aishwarya Subramani, Advocate, SCL
Shri D. Abhinav Rao, Advocate, Telangana Discoms
Shri Rahul Jajoo, Advocate, Telangana Discoms

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed *inter alia* seeking direction upon the Respondents to pay the delayed payment surcharge as payable to the Petitioner in terms of the Purchase Orders dated 16.11.2018 & 27.4.2019 along with carrying cost till the date of actual payment. Learned counsel mainly submitted as under:

- (a) The Respondents had issued the Purchase Orders dated 16.11.2018 and 27.4.2019 for the procurement of power from the Petitioner from its 300 MW generating units located in Rajasthan to the delivery point located in Telangana State periphery.
- (b) During the contract period under the said POs, i.e. 15.1.2019 to 30.4.2019 and 1.7.2019 to 31.3.2020, the Petitioner duly supplied the electricity to the Respondents, and bills were raised by the Petitioner at the tariff provided in the agreements. The Respondents were required to make payment within 30 days from the receipt of Seller's monthly energy bills, failing which they were required to pay the late payment surcharge at the rate of 1% per month.
- (c) Admittedly, there have been substantial delays in the payments to be made by the Respondents on the invoices raised by the Petitioner, and accordingly, the Petitioner is entitled to a late payment charge as provided in the agreements, along with carrying costs.
- (d) The Respondents, in their reply, have raised the objections only on the aspects of jurisdiction and limitation. However, insofar as the jurisdiction is concerned, the Petitioner has already demonstrated that during the contract

periods, apart from the supply to Telangana Discoms, i.e., the Respondents, the Petitioner had also supplied power to the various other discoms of Punjab, Tamil Nadu, BYPL, DIAL, IEX and Nepal Electricity Authority thereby constituting generating and sale of power in more than one state, making the transaction an inter-state transaction.

(e) Reliance placed by the Respondents on the judgment of APTEL in the case of Southern Power Distribution Co. of AP Limited v. APERC and Anr. (Appeal No. 397 of 2022) is misplaced. The instant case involves a dispute between the generator and purchaser, where the power plant is located in Rajasthan and the consumer is in Telangana. Hence, in light of the settled law laid down in Energy Watchdog v. CERC and Ors. (2017) 14 SCC 80, the instant transaction formed a composite scheme and falls within the jurisdiction of the Central Commission.

(f) Insofar as the limitation is concerned, the last payment against the invoice was made by the Respondents only on 25.3.2021, and hence, the claim for late payment surcharge arose only on the said date when the payment of the invoice was made by the Respondents without late payment surcharge.

2. Learned proxy counsel for the Respondents; however, prayed for adjournment and requested to list the matter on another date for the submissions of the Respondents.
3. Considering the request of the learned counsel for the Respondents, the Commission adjourned the matter.
4. The matter remains part-heard and will be listed for hearing on **10.10.2024**.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)