



नई दिल्ली
NEW DELHI

याचिका संख्या./ Petition No. 37/RP/2023

श्री जिष्णु बरुआ, अध्यक्ष/Shri Jishnu Barua, Chairperson
श्री अरुण गोयल, सदस्य/ Shri Arun Goyal, Member
श्री पी. के. सिंह, सदस्य / Shri P. K. Singh, Member

आदेश दिनांक/ Date of Order: 6th April, 2024

IN THE MATTER OF

Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 17 and 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking review of the Order dated 30.06.2023 passed by this Commission in Petition No. 72/MP/2020.

**AND
IN THE MATTER OF:**

Rajasthan Urja Vikas Nigam Limited,
Vidyut Bhawan, Janpat, Jyothi Nagar,
Jaipur – 302 005, Rajasthan

..... Review Petitioner

VERSUS

- 1. Adani Solar Energy Jodhpur Four Private Limited**
(formerly, known as SB Energy Three Private Limited)
1st Floor, Worldmark-2,
Asset Area – 8, Hospitality District,
Aerocity, NH – 8, Delhi-110 037.
- 2. Solar Energy Corporation of India Limited**



1st Floor, D-3, A Wing,
Prius Platinum Building District Centre,
Saket, New Delhi – 110 017.

...Respondents

Parties present: Ms. Swapna Seshadri, Advocate, RUVNL
Ms. Shivani Verma, Advocate, RUVNL
Shri Amal Nair, Advocate, RUVNL
Shri Anand Ganesan, Advocate, RUVNL
Shri Hemant Singh, Advocate, Adani Solar Energy
Shri Lakshyajit Singh, Advocate, Adani Solar Energy
Shri Sanjiv Kumar, Advocate, Adani Solar Energy

आदेश/ ORDER

The Review Petitioner, Rajasthan Urja Vikas Nigam Limited (RUVNL), has filed the present Review Petition seeking review of the Commission's order dated 30.6.2023 in Petition No. 72/MP/2020. The Review Petitioner has made the following prayers:

*“(a) Condone the delay of 19 days in filing the present Review Petition;
(b) Admit the present Review Petition;
(c) Review the Order dated 30.06.2023 passed by this Commission’
(d) Direct that the compensation towards a) claims of GST on outsources O & M in its entirety and b) carrying cost shall not be enforced and shall be subject to further orders of the Hon’ble Supreme Court in Civil Appeal No. 8880/2022; and
(e) Pass such other further order(s) as this Commission may deem just in the facts of the present case.”*

2. During the course of the hearing on 04.04.2024, the Review Petitioner fairly submitted that in view of the addendum dated 22.09.2023 issued by the Commission to its Order dated 30.06.2023 in Petition No.72/MP/2020, the issues raised in the instant Review Petition had been resolved to a large extent. The Review Petitioner,

however, referred to the said addendum dated 22.09.2023 and pointed out that a plain reading of sentence “....*directions issued in this Order so far as they relate to compensation for the period post Commercial Operation Date of the projects in question as also towards carrying cost shall not be enforced....*” gives rise to an interpretation that only the post Commercial Operation Date carrying cost compensation claim shall not be enforced whereas as in terms of the order(s) of Hon'ble Supreme Court in *Civil Appeal No. 8880/2022 in Telangana Northern Power Distribution Company Ltd. & Anr. V. Parampujya Solar Energy Pvt. Ltd. & Ors, and connected matters*, enforcement of carrying cost compensation claim has been stayed in entirety – be it pre or post Commercial Operation Date. Learned counsel, accordingly, requested the Commission to issue a suitable clarification/ correction on the above aspect so as to avoid any confusion and/or further litigations thereon.

3. In response, the Respondent, SB Energy Three Private Limited (now known as Adani Solar Energy Jodhpur Four Private Limited), submitted that the Commission's order dated 30.06.2023, read with addendum dated 22.09.2023 is very clear, and the prayers of the Review Petitioner, especially the prayer (d), having already been answered in terms thereof. Further, the present Review Petition stands infructuous, and no further clarification is required as now prayed for by RUVNL. Upon instruction, the learned counsel submitted that the Respondent is in agreement with the submission of the Review Petitioner, RUVNL, that in terms of the order(s) passed by the Hon'ble Supreme Court in *Civil Appeal No. 8880/2022 in Telangana Northern Power Distribution Company Ltd. & Anr. V. Parampujya Solar Energy Pvt. Ltd. & Ors, and connected matters*, in the instant matter the enforcement of the entire (pre and post COD) carrying cost compensation claim has been stayed, which will be

subject to the further order(s) passed by the Hon'ble Supreme Court therein. The submissions were taken on record.

4. Considering the submissions made by the contracting parties and keeping in view that the parties have a common understanding and at *ad-idem* on the enforceability of the direction awarding the carrying cost compensation in terms of the order(s) passed by the Hon'ble Supreme Court in Civil Appeal No. 8880 of 2022 and batch, as noted above, we do not find any need to issue any further clarification to the addendum dated 22.09.2023. The Review petition is accordingly disposed of.

Sd/-
(पी. के. सिंह)
सदस्य

sd/-
(अरुण गोयल)
सदस्य

sd/-
(जिष्णु बरुआ)
अध्यक्ष

