

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.204/MP/2024

Subject : Petition under Section 79 of the Electricity Act, 2003 and the Power Purchase Agreement dated 12.4.2022 between AMP Energy Green Five Pvt. Ltd and Solar Energy Corporation of India Ltd. seeking compensation and relief on account of allowed change in law events being increase in Goods and Service Tax on Solar Modules and renewable energy equipment from 5% to 12% pursuant to the Ministry of Finance Notification No. 08/2021 - Integrated Tax (Rate) and Notification No. 8/2021 - Central Tax (Rate) dated 30.9.2021 and the Order dated 19.4.2021 passed by the Supreme Court in WP(C) No. 838 of 2019 pursuant to this Commission's Order dated 8.3.2023 in Petition No. 245/AT/2022

Petitioner : AMP Energy Green Private Limited and Anr.

Respondent : Solar Energy Corporation of India Limited (SECI) and Ors.

Date of Hearing : **28.4.2025**

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

Parties Present : Shri Sujit Ghosh, Sr. Advocate, AMP Energy
Ms. Mannat Waraich Advocate, AMP Energy
Shri Mridul Gupta, Advocate, AMP Energy
Ms. Shikha Ohri, Advocate, SECI

Record of Proceedings

During the course of the hearing, the learned counsel for the Petitioners submitted that the instant Petition has been filed *inter alia* seeking compensation on account of Change in Law events viz. (i) increase in rate of Goods and Service Tax on Solar Modules and renewable energy equipment from 5% to 12% pursuant to the GST notification dated 30.9.2021, and (ii) GIB Order dated 19.4.2021 passed by the Hon'ble Supreme Court in WP(C) No. 838 of 2019. Learned counsel further submitted that the aforesaid Change in law events have already been recognized/allowed by the Commission at the time of tariff adoption for the Petitioner's 100 MW Solar Power Project vide order dated 8.3.2022 in Petition No.245/AT/2022.

2. Learned counsel for the Respondent, SECI, submitted that SECI, by its email dated 3.6.2024, had shared an indicative checklist of documents required to establish one-to-one correlation between the Petitioners' Change in Law claims and the additional expenditure incurred on account thereof. However, the Petitioners are yet to furnish certain documents as per the said checklist. Learned counsel submitted that the EPC contract executed between Petitioner No. 2 and AMPIN Energy Transition Pvt. Ltd. (EPC Contractor) appears to be a works contract and in case of composite works contract, any



increase in rate of GST, which Petitioner No. 2 can claim as per the Notification dated 30.9.2021, is only for the increase of GST from 5% to 12% on goods (which constitutes 70% of the gross consideration), there being no increase in tax on service part of 30% as per the said Notification. Learned counsel further submitted that the Rajasthan Appellate Authority for Advance Ruling vide decision dated 11.1.2022 in the case of *Utsav Corporation* has clarified that if the supply contract entered into by a developer involves supply of solar power based devices including carrying out the activity of erection, installation, commissioning of such system, it will fall under composite supply of works contract wherein the value of goods is to be taken as 70% of gross consideration (with tax incidence @ 12%) and value of services is to be taken as 30% of gross consideration (with tax incidence @ 18%). Further, all the agreements executed by the EPC contractor for purchase of goods/services for Petitioner No.2's Project predate the EPC contract executed by it with Petitioner No.2. Learned counsel, accordingly, submitted that the extent to which relief admissible to Petitioner No. 2 on account of Notification dated 30.9.2021 of GST is subject to the joint reconciliation/examination and verification of documents to be submitted by Petitioner No. 2, to SECI and the Buying Entities and hence, the Petitioner may be directed to furnish the certified documents as per the checklist furnished by SECI vide affidavit dated 3.6.2024 at Annexure R-4. Learned counsel further submitted that SECI has also sought a copy of the recommendation and decision of the Committee constituted in accordance with the Hon'ble Supreme Court's GIB Order dated 19.4.2021 concerning the installation of bird divertors at the Petitioner's Project, which has not been furnished by the Petitioners. Learned counsel also submitted that in terms of Article 12 of the PPA, the Petitioners are entitled to Change in Law compensation for any increase in the Project cost on account of Change in Law only up to the SCD/Extended SCD of the Project. The SCD of the Project, in the present case, was revised/extended to the operationalization date (actual start date) of connectivity of the Project and accordingly, the cut-off date for liability of a Change in Law claim and the methodology for payment of reconciled claim would be determined as per the provisions of the PPA only.

3. Learned counsel for the Petitioners submitted that the Petitioners intended to provide all the available supporting documents at the reconciliation stage after the passing of the order by the Commission. However, if the Commission so directs, the Petitioners will provide all the available supporting documents to SECI at this stage itself.

4. Considering the submissions made by the learned counsel for the parties, the Commission directed the Petitioner to furnish all requisite and relevant documents /information in support of its claims of Change in Law compensation to the Respondent, SECI, within two weeks. The parties are expected to complete the exercise of verification and reconciliation within three weeks thereafter and are also permitted to file their affidavit within a week thereafter, indicating the outcome of such exercise, including the points of disagreement, if any.

5. The Petition will be listed for hearing on **22.7.2025**.

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