

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 31/RP/2024

Subject : Review Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Order XLVII Rule 1 of the Code of Civil Procedure, 1908

Petitioner : Chhattisgarh State Power Distribution Co. Ltd. (CSPDCL)

Respondents : Adani Solar Energy Jaisalmer One Pvt. Ltd. and Ors.

Date of Hearing : **6.8.2026**

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

Parties Present : Shri Sitesh Mukerjee, Sr. Advocate, CSPDCL
Shri Ravi Sharma, Advocate, CSPDCL
Shri Aryan Chanda, Advocate, CSPDCL
Ms. Deepa Mishra, Advocate, CSPDCL
Ms. Ankita Kumari, Advocate, CSPDCL
Shri Amit Kapur, Advocate, Adani Solar
Ms. Sakshi Kapoor, Advocate, Adani Solar
Shri Palash Moolchandani, Advocate, Adani Solar
Shri Adamya Ojha, Advocate, Adani Solar
Shri Anushree Bardhan, Advocate, SECI
Ms. Ritika Singh, Advocate, SECI
Ms. Rashmi Vaish, Advocate, SECI
Shri Ayush Sharma, Advocate, SECI
Shri Harsh Jain, Advocate, SECI

Record of Proceedings

The learned senior counsel for the Petitioner submitted that the present Petition has been filed seeking review of the Commission's order dated 1.5.2024 passed in Petition No. 109/MP/2023 ("Impugned Order") allowing Change in Law reliefs to Respondent No.1/ Adani Solar. The learned senior counsel further submitted as under:

- (a) By the Impugned Order, the Commission has granted the Change in Law relief to Adani Solar towards (i) requirement of installation of bird diverters in terms of Hon'ble Supreme Court's order dated 19.4.2021 in IA No. 85618/2020 in Writ Petition (Civil) No. 838/2019 ("SC GIB Order"), (ii) increase in rate of BCD from 5% to 20% on Solar Inverters in terms of Ministry of Finance's Notification Nos. 3/2021-Customs and 7/2021-Customs dated 1.2.2021, and (iii) increase in the rate of GST from 5% to 12% in terms of Ministry of Finance's Notification No. 8/2021-Central Tax (Rate) dated 30.9.2021 read with Ministry of Finance's (State of Rajasthan) Notification dated 30.9.2021.

- (b) As regards the requirement of mandatory installation of bird diverter in terms of SC GIB Order, it may be noted that the Project of Adani Solar was originally located in the State of Tamil Nadu and not Rajasthan. Having chosen to relocate the Project of its own volition, Adani Solar ought not to have been allowed any Change in Law relief arising from such relocation, as there existed no causal relationship between the said Change in Law event and Adani Solar's Project. In this regard, the reliance was also placed on Clauses 3.7.9 & 3.10 of the RfP.
- (c) The scope of review under regulatory jurisdiction is quite different from one under ordinary civil jurisdiction/provisions of CPC. In this regard, the reliance was placed on the judgments of the Hon'ble Supreme Court in UPPCL v. NTPC and Ors., [2009 (6) SCC 235] and All India Power Engineer Federation & Ors. v. Sasan Power Limited, [2017 (1) SCC 487].
- (d) The purchase of goods, namely, renewable energy devices & parts, cannot be segregated from the supply of services & installation as goods supplied, service of installation, commissioning, etc. all form part of a single transaction or continuous transaction by the same purchaser for the same project. Hence, an increase in GST from 5% to 12% ought to have been applied to 70% of the composite supply of goods and services. However, the Impugned Order erroneously allows relief for the increase in GST rate on the complete supply of goods or 100% of its value. The Commission ought to have considered the values of goods (70%) and services (30%) based on the preliminary estimated cost submitted by Adani Solar under the RfP.
- (e) The Impugned Order also allows an increase in the quantum of Social Welfare Surcharge, payable under Section 110 of the Finance Act, 2018, on the import of goods, as a Change in Law event under Article 12 of the PPA. However, Article 12 of the PPA, which includes the statutory changes in taxes, duties or cess, does not include the social welfare surcharge therein and accordingly, ought not to have been considered a Change in Law.
- (f) The Petitioner may also be permitted to file its written submissions.

2. In response, the learned counsel for Respondent No.1/Adani Solar submitted that certain arguments advanced by the learned senior counsel for the Petitioner are admittedly beyond the Pleadings. Accordingly, the learned counsel sought liberty to file his written submissions after the Petitioner files its written submissions and requested that the matter be taken for the reply arguments thereafter.

3. Considering the above, the Commission permitted the Petitioner to file its written submissions within a week with a copy to the other side, who may file their written submissions, if any, within a week thereafter.

4. The Review Petition will be listed for hearing on **22.9.2026 at 2.30 P.M.**

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