

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.163/MP/2022

- Subject : Petition under Section 79 of the Electricity Act, 2003 and Article 12 read with Article 16.3.1 of the Power Purchase Agreements executed by the Petitioners and NTPC Limited dated 12.5.2016, inter alia, seeking relief on account of Change in Law viz. the introduction of Goods and Service Tax laws and seeking refund of amounts wrongfully sought to be deducted from the monthly tariff payable to the Petitioners putatively in lieu of Change in Law compensation paid earlier.
- Date of Hearing : **9.10.2023**
- Coram : Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Rising Sun Energy Private Limited (RESPL) and 2 Ors.
- Respondents : NTPC Limited and 2 Ors.
- Parties Present : Shri Syed Jafar Alam, Advocate, RESPL
Shri Saahil Kaul, Advocate, RESPL
Shri B. S. Dandona, RESPL
Ms. Shraddha Deshmukh, Advocate, RUVNL
Shri R Birda, RUVNL
Shri Adarsh Tripathi, Advocate, NTPC
Shri Ajitesh Garg, Advocate, NTPC

Record of Proceedings

Learned counsel for the Petitioner submitted that pursuant to the directions of the Commission vide Record of Proceeding for the hearing dated 16.8.2022, the Change in Law claims of the Petitioner towards GST have been reconciled to the extent of Rs. 15.01 crore (Rs. 14.86 + Rs. 0.15 crore), whereas its claims to the tune of Rs.1.2 crore pertaining to the post-commissioning period along with interest/carrying costs have not been reconciled and thus, require adjudication by the Commission in the present case. Learned counsel also submitted that apart from approx. Rs. 5 crore as earlier paid by the Respondent, NTPC, no further amount has been received from the Respondent so far, even towards the reconciled amount, and accordingly, the Respondent may be directed to release at least the reconciled amount forthwith. Learned counsel further submitted that, insofar as the unreconciled/ disputed claims are concerned, the parties may be permitted to file their respective written submissions, and the Commission may accordingly adjudicate on these aspects.



2. Learned counsel for the Respondent, NTPC, submitted that the Respondent has also raised the invoices on the end beneficiary, RUVNL for such GST claims. However, NTPC has yet to receive such an amount from RUVNL. Learned counsel further submitted that without having received any payment towards Change in Law compensation from RUVNL, NTPC has already paid approximately Rs. 5 crore towards Change in Law compensation to the Petitioner and while the Respondent has no objection towards payment of reconciled GST amounts to the Petitioner, a corresponding direction may also be issued to RUVNL to make such payment to NTPC. Learned counsel also added that, insofar as the unreconciled/disputed claims are concerned, the matter may be listed for hearing on the above aspect after the parties have filed their respective responses/comments thereon.

3. Learned counsel for the Respondent, RUVNL, submitted that NTPC has raised the bills/invoices towards GST claims on them only recently, and they are in the process of releasing such claims to the extent of the reconciled amount.

4. Considering the submissions made by the learned counsel for the parties, the Commission directed the Respondent, NTPC, to make payment of all the reconciled amounts of the Petitioner's Change in Law claims towards GST within 10 days. As regards NTPC's request for corresponding direction upon RUVNL, the Commission clarified that RUVNL will be liable to pay NTPC all the reconciled claims that NTPC has to pay to the Petitioner. However, payment to the Petitioner by NTPC will not be conditional upon the payment to be made by RUVNL to NTPC.

5. The Commission further permitted the parties to file their respective submissions on the unreconciled/disputed claims, if any, within two weeks with a copy to the other side.

6. The Petition will be listed for hearing on the aspect of unreconciled/disputed claims on **22.12.2023**.

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