

**BEFORE THE GUJARAT ELECTRICITY REGULATORY
COMMISSION
GANDHINAGAR**

Petition No. 1881 of 2020.

In the Matter of:

Petition under Section 86 of the Electricity Act, 2003 for recovery of termination compensation under the Power Purchase Agreement (PPA) dated 04.04.2007.

Petitioner : Gujarat Urja Vikas Nigam Limited

Represented By : Learned Advocates Ms. Ranjitha
Ramachandran, Ms. Anushree Bardhan and Ms.
Srishti Khindaria alongwith Ms. Sailaja
Vachharajani, Ms. Girija Dave and Shri Kandarp
Mistry

V/s.

Respondent : M/s Modern Tube Industries Limited

Represented By : Nobody was present.

CORAM:

Mehul M. Gandhi, Member

S. R. Pandey, Member

Date: 05/07/2021.

Daily Order

1. The present matter was listed for hearing on 24.06.2021 through virtual hearing by Video Conferencing on account of prevailing COVID 19 pandemic.

2. Heard Ld. Advocate Ms. Ranjitha Ramachandran, on behalf of the Petitioner GUVNL. She submitted that the present Petition is filed under Section 86 of the Electricity Act, 2003 for recovery of termination compensation under the Power Purchase Agreement (PPA) dated 29.05.2007. She submitted that details regarding delivery of Default Notice, Termination Notice, copy of Petition to the Respondent as well as contact address, registered address, email IDs etc. of the Respondent are provided in affidavit dated 23.06.2021 filed by the Petitioner so as to demonstrate that copy of Petition sent to the Respondent by RPAD on address as per memo of parties of the Petition has been duly delivered to the Respondent. Even, scanned copy of the Petition emailed at info@inoxpipfit.com and rahulmoderntubes@gmail.com to the Respondent as per available record with the Petitioner has not bounced back. Further, after delivery of the Petition copy, the Petitioner has received letter dated 27.02.2021 from one of the Director of the Respondent company enquiring about the location, condition and all other information about the power project. It is also submitted that neither any notice for admission of any insolvency resolution or liquidation process against the Respondent is received by the Petitioner nor such information is available on the Ministry of Corporate Affairs website. She submitted that although the service of Petition is complete but the Petitioner has not received any reply from the Respondent and the Respondent was not present during the last hearing held on 15.06.2021 or even today which clearly shows that the Respondent has chosen not to remain present before the Commission. She submitted that the matter may be adjourned one last time by the Commission on account of non-appearance by the Respondent for providing one last opportunity of hearing to the Respondent and thereafter, the matter may be disposed ex-parte by the Commission. However, since the Respondent has not filed any reply in the matter despite being provided with adequate time and opportunity, the Commission may foreclose the stage of filing reply by the Respondent.
3. We have considered the submissions of the Petitioner GUVNL. We note that the matter was earlier kept for hearing on 15.06.2021 during which nobody remained present on behalf of the Respondent. The Commission passed Daily Order dated 18.06.2021 for the said hearing, deciding to adjourn the matter so as to provide an opportunity of hearing to the Respondent. The matter was thereafter listed for hearing today but the Respondent neither remained present during today's proceedings nor made any written communication about their inability to remain present, despite being served the hearing notice to them. We also note that the Office of the Commission sent hearing

intimation notice to both the Petitioner and the Respondent by Speed Post as well as by Email.

- 3.1. We have also noted the submissions of the Petitioner that copy of the Petition is served to the Respondent by RPAD on address on memo of parties of the Petition and other details in this regard including letter from one of the Director of the Respondent company provided vide affidavit dated 23.06.2021. It is also submitted that neither any notice for admission of any insolvency resolution or liquidation process against the Respondent is received by the Petitioner nor such information is available on the Ministry of Corporate Affairs website.
- 3.2. As the Respondent has not remained present today and as submitted by the Petitioner that one last opportunity of hearing may be provided to the Respondent by the Commission prior to deciding the matter ex-parte. Hence, we decide to grant one last opportunity of hearing to the Respondent prior to deciding the matter and accordingly, decide to adjourn the matter on account of non-appearance of the Respondent. We direct the Respondent to remain present during the next date of hearing or to communicate its inability to remain present in case of unavoidable circumstances in advance. We also note that the Respondent has not filed any reply in the present Petition till date and hence one last opportunity to file reply within three weeks' time is granted to the Respondent to file its reply, if any, with copy to the Petitioner. The Petitioner is at liberty to file its rejoinder-reply, within two weeks' after receipt of reply with copy to the Respondent.
- 3.3. We also note that the Respondent is already provided with two opportunities of hearing by the Commission to enable making submissions and advancing oral arguments but nobody has remained present during these hearings. We therefore, make it clear that, if the Respondent does not remain present during the next date of hearing or does not communicate in advance its inability to remain present on the next date of hearing due to unavoidable circumstances, the Commission will proceed ex-parte in the matter based on the records of the present Petition.
- 3.4. We also direct staff of the Commission to provide copy of this Daily Order by post to the Respondent including its Director at the addresses as per affidavit dated 23.06.2021 filed by the Petitioner before the Commission and also email scanned copy

of this Daily Order and hearing intimation notice for next date of hearing at the email addresses info@inoxpipfit.com and rahulmoderntubes@gmail.com of the Respondent. As the Respondent has not remained present today and Petitioner GUVNL having no objection to adjourn the matter for providing one last opportunity of hearing, we once again decide to adjourn the matter on account of non-appearance of the Respondent.

4. The next date of hearing will be intimated separately.
5. We order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.
Date: 05/07/2021.