



Petition No. 1741 of 2021

BEFORE

THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Date of Order: 14.12.2021

PRESENT:

Hon'ble Shri Raj Pratap Singh, Chairman
Hon'ble Shri Kaushal Kishore Sharma, Member
Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

IN THE MATTER OF : Petition under Section 86 of the Electricity Act, 2003 read with Articles 12 and 17 of the Power Purchase Agreement, dated 14.02.2019 between Adani Solar Energy Chitrakoot One Limited (formerly Adani Wind Energy (TN) Limited) and NOIDA Power Company Limited claiming imposition of Safeguard Duty on import of Solar Cells vide Notification dated 29.07.2020 as Change in Law.

Adani Solar Energy Chitrakoot One Limited
"Adani Corporate House", 4th Floor – South Wing,
Shantigram, Near Vaishno Devi Circle, S. G. Highway,
Khodiyar, Ahmedabad, Gujarat – 382421.

.....Petitioner

Versus

Noida Power Company Limited
Commercial Complex, H Block,
Alpha-II Sector, Greater NOIDA City,
Uttar Pradesh – 2013018.

.....Respondent

The following were present:

1. Sri. Sourav Roy, Counsel, Petitioner
2. Sri. Sanket Srivastava Representative, NPCL

ORDER

(Date of Hearing 25.11.2021)

1. The petitioner, Adani Energy Renewable Holding One Ltd. has filed instant petition seeking compensation for Change in Law on account of imposition of Safeguard Duty in terms of Articles 12 and 17 of the PPA dated 14.2.19 for its 25 MW solar project at village Chibbon, Tehsil Rajapur, District Chitrakoot, U.P.
2. The petitioner has prayed as follows:



- A. Admit the Petition;
- B. Hold and declare that the imposition of Safeguard Duty on import of solar cells *vide* Notification No. 02/2020-Customs (SG) dated 29th July 2020, is an event under Change in Law;
- C. Hold and declare that the Petitioner is entitled to an amount of Rs. 9,07,84,279.83/- as Change in Law compensation calculated till the date of actual commissioning;
- D. Grant additional compensation at the rate of 18.07% for the amount payable in Prayer C above from actual commissioning date till the date of raising Supplementary Bill;
- E. Restore the Petitioner to the same economic condition as it was prior to occurrence of the Change in Law event either-
 - i. By granting compensation that includes the loss of RoE as pleaded in Petition, OR,
 - ii. In the alternative, by way of "Carrying Cost", on the same principles as contained in Article 10.3.3 of the PPA.
- F. Pass such other order(s) and / or direction(s) as this Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.

The matter came up for hearing today.

3. Sri. Sourav Roy counsel for petitioner submitted that the bid deadline was 27.11.18 and the petitioner is seeking compensation for change in law on account of Ministry of Finance GOI Notification no.02/2020-Customs (SG) dated 29.7.20.
4. The Commission decided to issue notice to parties and allow 4 weeks' time to respondent to file reply with a copy to the petitioner. The petitioner is allowed 2 weeks' time to file rejoinder in matter.

List the matter on 10.2.2022.

(Vinod Kumar Srivastava)
Member

(Kaushal Kishore Sharma)
Member

(Raj Pratap Singh)
Chairman

Place: Lucknow
Dated: 14.12.2021