



Petition No. 1764 of 2021
BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Date of Order: 22. 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 Article 12 of the Power Purchase Agreement dated 12.02.2019 seeking issuance of appropriate order(s)/ direction(s) for a mechanism for recovery of the compensation to offset financial/ commercial impact of Change in Law Events on account of increase in the customs duty on import of solar inverters due to notification no. 7/2021- customs dated 01.02.2021 and notification no. 3/2021- customs dated 01.02.2021 issued by the Department of Revenue, Ministry of Finance, Government of India.

1. Jakson Power Private Limited (JPPL)
A-626, 6th Floor, DLF Tower A, Jasola,
New Delhi- 110025

..... **Petitioner**

Versus

1. U.P. Power Corporation Ltd. (UPPCL)
Shakti Bhawan, 14, Ashok Marg, Lucknow.
2. UP New and Renewable Energy Development Agency. (UPNEDA)
Vibhuti Khand, Gomti Nagar, Lucknow-226010

..... **Respondents**

The following were present:

1. Shri Aditya Singh, Counsel, JPPL
2. Shri Deepak Raizada, C.E (PPA), UPPCL
3. Ms. Anukriti Jain, Advocate, JPPL

ORDER

(Date of Hearing: 09.12.2021)

1. The Petitioner, JPPL is a generating company within the meaning of section 2(28) of the Electricity Act and is developing Solar Power Project of 50 MW capacity located at Kheragarh, Agra for sale of the entire electrical energy to UPPCL at a tariff of 3.07/unit. The Petitioner and UPPCL executed the PPA on 12.02.2019. As

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per the PPA, SCOD for the project was 12.11.2020, however, extended by UPPCL to 12.04.2021. The COD of the project is 01.07.2021.

2. The Prayers of the Petitioner are as below: -

- a) Declare and hold that Customs Duty Notifications rescinding the earlier notification thereby imposing increased customs duty of 20% on import of solar inverters qualifies as 'Change in Law' in terms of Article 12 of the PPA dated 12.02.2019 executed between the Petitioner and UPPCL and the Petitioner is entitled to consequent relief thereunder.
- b) Direct Respondent No.1 to complete reconciliation within 15 days from date of order and make payment within 21 days after completing the reconciliation, as per either of the methodology stated in para 4.27.
- c) Grant carrying cost from the date of impact till reimbursement by the Respondent No.
- d) Pass any other such order, further relief(s) in the facts and circumstances of the case as this Ld. Commission may deem just and equitable in the circumstances of the present case.

3. During the hearing, Sh. Aditya Singh, Counsel of the Petitioner submitted that by way the instant petition, the Petitioner is seeking declaration for increase in the customs duty on import of solar inverters by the Department of Revenue, Ministry of Finance, Government of India as a Change in Law Event in terms of Article 12 of the PPA dated 12.02.2019.

4. Sh. Deepak Raizada on behalf of UPPCL stated that they have not received the copy of the instant petition and therefore, requested the Commission for 3-week time to file reply after receiving the petition copy.

5. After hearing the parties, the Commission directed the Petitioner to share the copy of the petition with the Respondent within a week. The Commission granted three-week time to the Respondent to file their reply with a copy to the Petitioner and the Petitioner can file their rejoinder within 2-week, thereafter.

List the matter on 8th March, 2022.

(Vinod Kumar Srivastava)

Member

(Kaushal Kishore Sharma)

Member

(Raj Pratap Singh)

Chairman

Place: Lucknow

Dated: 22.12.2021