

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 273/MP/2021

Subject : Petition under Section 79(1)(a) of the Electricity Act, 2003 read with Article 12 of the Power Purchase Agreement dated 21.12.2018 executed between NTPC Limited and Uttar Pradesh Power Corporation Limited, seeking compensation due to increase in costs on account of change in rates of Goods and Service Tax amounting to a Change in Law event with respect to the Solar Power PV Project having Project capacity of 140 MW at Bihaur, Uttar Pradesh.

Date of Hearing : 24.1.2022

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : NTPC Limited (NTPC)

Respondent : Uttar Pradesh Power Corporation Limited

Parties Present : Shri Adarsh Tripathi, Advocate, NTPC
Shri Ajitesh Garg, Advocate, NTPC
Shri Vikram Singh Baid, Advocate, NTPC

Record of Proceedings

Case was called out for virtual hearing.

2. Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter alia*, seeking a declaration that the change in rate of GST applicable to supply and service contracts pursuant to the Ministry of Finance's Notification Nos. 24/2018 and 27/2018 dated 31.12.2018, for setting up of the Petitioner's solar power plants, amount to Change in Law event under the Power Purchase Agreement. The learned counsel mainly submitted the following:

(a) The Petitioner has already issued Change in Law notice to the distribution licensee, namely UPPCL on 4.5.2020 with all the relevant detail relating to Change in Law event, its implication and computation of compensation, etc. The said notice also fulfils all the requirements of notice as envisaged in the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 ('the Change in Law Rules'). However, no reply has been received from UPPCL till date.

(b) Accordingly, notice may be issued to the Respondent, UPPCL to clarify its position regarding the aforesaid Change in Law event.

(c) The present Petition is squarely covered by the judgment of Appellate Tribunal for Electricity dated 20.9.2021 in Appeal No. 215 of 2021 in the matter of Tata Power Renewable Energy Ltd. v. MERC and Ors.

(d) If the Commission decides to direct the Petitioner to comply with the Change in Law Rules, the filing fees paid by the Petitioner be adjusted against the Petition to be filed by the Petitioner in future in terms of the Change in Law Rules.

3. After hearing the learned counsel for the Petitioner, the Commission reserved the order on 'admissibility' of the matter.

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