

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 216/MP/2022

- Subject : Petition under Section 79(1)(b) and 79(1)(f) of the Electricity Act, 2003 read with Article 12 of the Power Purchase Agreement dated 13.06.2020 executed between ABC Renewable Energy (RJ- 01) Pvt. Ltd. And NTPC Ltd. seeking declaration that change in rate of Goods and Services Tax from 5% to 12% w.e.f. 1.10.2021 on account of amendment to Notification Nos. 1/2017-Central Tax (Rate), 01/2017-Intergrated Tax (Rate) dated 28.06.2017 and Finance Department (Govt. of Rajasthan) Notification No. F.12(56)FD/Tax/2017-Pt-I-40 dated 29.6.2017 by way of Notification No. 8/2021-Central Tax (Rate), Notification No. 8/2021- Integrated Tax (Rate) dated 30.9.2021 and Finance Department (Govt. of Rajasthan) Notification No. F.12(1)FD/Tax/2021-60 dated 30.9.2021 as a 'change in law' event under Article 12 of the PPA and to further direct NTPC Ltd. to pay the compensation along with applicable carrying cost towards additional expenditure incurred on account of increase in rate of Goods and Services Tax and paid by the Petitioner, in order to restitute the Petitioner to the same economic position as it would have been prior to the Notifications dated 30.9.2021.
- Date of Hearing : 22.9.2022
- Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : ABC Renewable Energy (RJ-01) Pvt. Ltd. (AREPL)
- Respondents : NTPC Limited (NTPC) and 2 Ors.
- Parties Present : Shri Nishant Kumar, Advocate, AREPL
Shri Animesh Kumar, Advocate, AREPL
Ms. Shubhangi Tiwari, Advocate, AREPL
Shri Kapil Sharma, AREPL
Shri Adarsh Tripathi, Advocate, NTPC
Shri Ajitesh Garg, Advocate, NTPC

Record of Proceedings

The learned counsel for the Petitioner submitted that the present Petition has been filed, *inter-alia*, seeking declaration that change/increase in rate of the Goods and Service Tax from 5% to 12% w.e.f. 1.10.2021 on account of amendment to the Notification Nos. 1/2017-Central Tax (Rate), 1/2017-Intergrated Tax (Rate) dated 28.6.2017 and Finance Department (Govt. of Rajasthan) Notification No. F.12(56)FD /Tax/2017-Pt-I-40 dated 29.6.2017 by way of Notification No.8/2021-Central Tax (Rate), Notification No. 8/2021- Integrated Tax (Rate) dated 30.9.2021 and Finance Department (Govt. of Rajasthan) Notification No.F.12(1)FD/Tax/2021-60 dated 30.9.2021 as Change in Law event under Article 12 of the Power purchase

Agreement dated 13.6.2020 read with Supplementary Power Purchase Agreement dated 5.5.2021 entered into between the Petitioner and NTPC and further direction to NTPC to pay the compensation along with applicable carrying cost towards the additional expenditure incurred by the Petitioner on account of the aforesaid Change in Law event.

2. Learned counsel for the Respondent, NTPC accepted the notice and sought time to file reply to the Petition.

3. After hearing the learned counsel for the Petitioner and the Respondent, NTPC, the Commission ordered as under:

(a) Admit. Issue notice to the Respondents.

(b) The Petitioner to serve copy of the Petition on the Respondents and the Respondents to file their reply to the Petition, if any, within four weeks after serving copy of the same to the Petitioner, who may file its rejoinder within four weeks thereafter.

(c) Parties to comply with the above directions within specified timeline and no extension of time shall be granted.

4. The Petition shall be listed for hearing on 13.12.2022.

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Law)**