

**APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI  
(APPELLATE JURISDICTION)**

**Appeal No. 23 of 2020**  
**&**  
**Appeal No. 278 of 2021**

**Dated : 28.10.2022**

**Present: Hon'ble Mr. Justice R. K. Gauba, Officiating Chairperson  
Hon'ble Mr. Sandesh Kumar Sharma, Technical Member**

**Appeal No. 23 of 2020**

**In the matter of:**

Avaada Energy Private Limited  
(Formerly Giriraj Renewables Pvt. Ltd.-  
Demerged Undertaking of Welspun Energy Pvt. Ltd.)  
3<sup>rd</sup> Floor, PTI Building,  
4, Parliament Street,  
New Delhi 110001

... **Appellant**

**Versus**

1. Central Electricity Regulatory Commission  
3<sup>rd</sup> & 4<sup>th</sup> Floor, Chanderlok Building,  
36 Janpath,  
New Delhi – 110 001
2. Solar Energy Corporation of India Ltd.  
Through : Chairman  
Having its registered office at:  
1st Floor, A-Wing, D-3  
District Centre, Saket,  
New Delhi-110017
3. Maharashtra State Electricity Distribution Company Ltd.  
Through : Chairperson  
Prakashgad, Plot no. G-9  
Anant Kanekar Marg  
Bandra (E), Mumbai – 400051

...**Respondents**

Counsel for the Appellant(s) : Mr. Gopal Jain, Sr. Adv.  
Mr. Sajan Poovayya, Sr. Adv.  
Mr. Basava Prabhu S. Patil, Sr. Adv.

Mr. Ankur Sood  
Ms. Shreshtha Mathur  
Ms. Romila Mandal  
Mr. Amit Ojha  
Mr. Ankush Bhardwaj  
Mr. Geet Ahuja

Counsel for the Respondent(s) : Mr. M. G. Ramachandran, Sr. Adv.  
Mr. Prabhas Bajaj  
Ms. Tanya Sareen for R-2

Mr. Buddy A. Ranganadhan  
Mr. Anup Jain  
Mr. Akshay Goel  
Mr. Udit Gupta  
Mr. Shashwat Kumar  
Mr. Rahul Chouhan  
Ms. Himangini Mehta  
Mr. Naman Mittal for R-3

**Appeal No. 278 of 2021**

**In the matter of:**

Solar Energy Corporation of India Limited  
1st Floor, D-3, A – Wing, District Centre  
Prius Platinum Building, Saket, New Delhi – 110017

.....**Appellant**

**Versus**

1. M/s. Welspun Energy Private Limited  
Through its Chairman/Managing Director  
3<sup>rd</sup> Floor, PTI Building,  
4, Parliament Street, New Delhi- 110001

2. Maharashtra State Electricity Distribution Company Limited  
Through its Chairman/Managing Director  
Prakashgad, 6<sup>th</sup> Floor, Station Road,  
Bandra (E), Mumbai- 400051

3. Central Electricity Regulatory Commission  
Through Secretary,  
3rd and 4th Floor, Chanderlok Building,  
36, Janpath, New Delhi – 110 001

..... **Respondents**

Counsel for the Appellant(s) : Mr. M. G. Ramachandran, Sr. Adv.

Mr. Prabhas Bajaj  
Ms. Tanya Sareen

Counsel for the Respondent(s) : Mr. Gopal Jain, Sr. Adv.  
Mr. Sajan Poovayya, Sr. Adv.  
Mr. Basava Prabhu S. Patil, Sr. Adv.  
Mr. Ankur Sood  
Ms. Shreshtha Mathur  
Ms. Romila Mandal for R-1

Mr. Buddy A. Ranganadhan  
Mr. Anup Jain  
Mr. Akshay Goel  
Mr. Udit Gupta  
Mr. Shashwat Kumar  
Mr. Rahul Chouhan  
Ms. Himangini Mehta  
Mr. Naman Mittal for R-2

## **J U D G M E N T**

### **PER HON'BLE MR. SANDESH KUMAR SHARMA, TECHNICAL MEMBER**

1. The first captioned Appeal No. 23 of 2020 (in short "Appeal-23") has been filed by M/s. Avaada Energy Private Limited, assailing the order dated 13.01.2020 (hereinafter "Impugned Order-125") passed by the Central Electricity Regulatory Commission (hereinafter "CERC" or "Central Commission") in Petition No. 125/MP/2019.

2. The second captioned Appeal No. 278 of 2021 (in short "Appeal-278") has been filed by M/s. Solar Energy Corporation of India Limited (in short "SECI") under Section 111 of the Electricity Act 2003 challenging the order dated 17.12.2018 (hereinafter referred to as "Impugned Order-95") passed by the Central Commission in Petition No.95/MP/2017.

### ***Parties in the two captioned Appeals***

3. M/s. Avaada Energy Private Limited (in short “Avaada” or “Generator”) (erstwhile M/s. Welspun Energy Private Limited) is the Appellant in the first captioned Appeal i.e. Appeal-23 and is Respondent No. 1 in the second captioned Appeal i.e. Appeal-278. It is a company incorporated under the Companies Act, engaged in the business of generation of power, holding renewable energy portfolios of 1983.4 MW with operational capacity of 695.5 MW and 1287.9 MW under implementation.

4. The Central Electricity Regulatory Commission, i.e. Respondent No. 1 in Appeal-23 and Respondent No. 3 in Appeal-278, which has passed the Impugned Order, is a statutory body constituted under Section 76 of the Electricity Act, 2003 and has been vested with the powers to adjudicate disputes under Section 79 of the Electricity Act, 2003 between a generating company and a licensee as defined under the Electricity Act, 2003.

5. The Respondent No. 2 in Appeal-23 and Appellant in Appeal-278 is Solar Energy Corporation of India Limited (SECI) has been designated by the Government of India as the nodal agency for facilitation and implementation of Jawaharlal Nehru National Solar Mission (in brief “JNNSM”) and achievement of targets for renewable energy based power generation set therein, also granted a trading licensee under the provisions of the Act.

6. The Respondent No. 3 in the first captioned Appeal and Respondent No. 2 in the second captioned Appeal, Maharashtra State Electricity Distribution Company Limited (in brief “MSEDCL”), is a distribution licensee in terms of the Act and is engaged in distribution of electricity to the consumers in the State of Maharashtra.

## ***Factual Matrix***

7. On 04.08.2015, Ministry of New and Renewable Energy, Government of India notified Jawaharlal Nehru National Solar Mission (JNNSM) Phase-II Guidelines for Implementation of Scheme for Setting up of 2000 MW Grid Connected Solar PV Power Projects under Batch-III, State specific VGF Scheme (hereinafter referred to as '**Guidelines**').

8. In pursuance of the above, on 27.08.2015, the SECI issued the Request for Selection Document (hereinafter referred to as 'RfS document') for 500 MW Grid Connected Solar Photo Voltaic Power Projects under JNNSM Phase-II, Batch-III Tranche-I in the State of Maharashtra.

9. M/s Avaada was declared as a successful bidder for development of 100 MW capacity, accordingly, on 10.03.2016, the SECI issued Letter of Intent (hereinafter referred to as "LoI") to Avaada for establishing 100 MW solar power project.

10. In continuation of LOI, the SECI and Avaada signed the PPA on 26.07.2016 for the sale and procurement of solar power, the Effective Date of as per the PPA was 10.04.2016.

11. Subsequently, on 04.11.2016, the SECI and MSEDCL entered into Power Sale Agreement (hereinafter referred to as "PSA") whereunder MSEDCL agreed to procure the 500 MW solar power from SECI who in turn will procure the said quantum of power from solar power projects including the project of Avaada.