



Petition No. 1952 of 2023
BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

(Date of Order: 22.05.2023)

PRESENT:

Hon'ble Shri Raj Pratap Singh, Chairman
Hon'ble Shri Sanjay Kumar Singh, Member

IN THE MATTER OF: Petition under Section 86(1)(b), Section 86(1)(e) and Section 86(1)(f) of the Electricity Act, 2003 read with Article 12 of the Power Purchase Agreement dated 12.02.2019 filed on behalf of M/s. Tata Power Renewable Energy Limited, seeking: (i) declaration of event of Change in Law due to change in the rate of Basic Custom Duty from 5% to 20% effective from 02.02.2021 on the import of Solar Inverters vide Notification No. 07/2021- Customs dated 01.02.2021 issued by the Ministry of Finance (ii) declaration of event of change in law due to change in the rate of GST on the Solar Inverters vide Ministry of Finance's Notification No. 8/2021-Central Tax (Rate) dated 30.09.2021 (iii) approval of the cost incurred due to change in the rate of Basic Custom Duty and (iv) approval of the cost incurred due to change in the rate of GST.

Tata Power Renewable Energy Ltd. (TPREL),
Corporate Centre, A Block, 34,
Sant Tukaram Road, Carnac Sunder,
Mumbai-400009

.....Petitioner

Versus

1. U.P Power Corporation Ltd. (UPPCL),

(Through its managing Director),
Shakti Bhawan, 14-Ashok Marg,
Lucknow-226001

2. U.P. New & Renewable Development Agency (UPNEDA),

(Through its Senior Project Officer)
Vibhuti Khand, Gomti Nagar,
Lucknow-226010

.....Respondent(s)

The following were present:

1. Shri Deepak Raizada, C.E(PPA), UPPCL

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2. Shri Mahendra Singh, S.E (PPA), UPPCL.
3. Shri Shivam Sinha, Counsel, TPREL
4. Ms. Anuja Jain, Advocate, TPREL
5. Shri Shantanu Singh, TPREL

ORDER
(Date of Hearing - 16.05.2023)

1. The Petitioner, TPREL has filed this Petition seeking declaration of Change in Law event on account of Basic Custom Duty and GST and approval of cost incurred along with carrying cost for the same.
2. The Prayers of the Petitioner are as follows:
 - a) Allow the present Petition.
 - b) Declare the Notification dated 01.02.2021 an event of change of law under Article 12 of the PPA resulting in change of Basic custom duty from 5% to 20% after executing the PPA.
 - c) Declare the Notification dated 30.09.2021 as an event of change in law under Article 12 of the PPA resulting in the change of the GST rate from 5% to 12% after executing the PPA.
 - d) Allow the Petitioner to claim additional cost of Rs.93,06,502/- (Rupees ninety-three lakhs six thousand five hundred two only) (including GST @ 13.8%) along with an estimated carrying cost of Rs. 14,67,796 (Rupees Fourteen Lakhs sixty-seven thousand seven hundred and ninety-six only) calculated at (SBI 1-year MCLR rate plus 1.25%) up to 31.12.2022 on account of the change in law event, i.e., increase in rate of Basic Custom Duty by the Ministry of Finance vide its notification dated 01.02.2021 and the change in the GST Rate due to notification dated 30.09.2021 and direct the Respondent to pay increased tariff.
 - e) Condone any inadvertent omissions/errors and permit the Petitioner to add/alter this filing and make further submissions as may be required in future.
 - f) Pass such other orders that this Commission deems fit in the facts of this case.
3. The matter came up for hearing today.

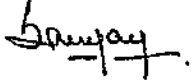
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4. During the hearing proceeding Sh. Shivam Sinha, Counsel of TPREL submitted that instant Petition has been filed for declaration of Change in Law event i.e., BCD and GST and approval of cost incurred on account of the same.
 5. Sh. Deepak Raizada, on behalf of UPPCL sought six-week time to file reply.
 6. After hearing the parties, the Commission directed the Petitioner to share a copy of Petition with the Respondent(s) and allows six weeks' time to UPPCL to file its reply with a copy to the Petitioner and the Petitioner may file its rejoinder within four weeks' time thereafter.

List the matter for next hearing on 01.08.2023.


(Sanjay Kumar Singh)
Member


(Raj Pratap Singh)
Chairman

Place: Lucknow

Dated: 22.05.2023

