



नई दिल्ली
NEW DELHI

याचिका संख्या. /Petition No.: 138/MP/2018

कोरम/Coram:

श्री पी. के. पुजारी, अध्यक्ष/Shri P. K. Pujari, Chairperson
डॉ. एम. के. अय्यर, सदस्य/ Dr. M.K. Iyer, Member
श्री आई. एस. झा, सदस्य/ Sh. I.S. Jha, Member

आदेश दिनांक /Date of Order: 12th of April, 2019

IN THE MATTER OF:

Petition under Section 79 of the Electricity Act 2003 read with Regulation 14 & 15 of the Central Electricity Regulatory Commission (Terms and Conditions of Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 challenging the illegal and arbitrary rejection of grant of REC application of the Petitioner by the Respondent.

AND IN THE MATTER:

DCM Shriram Ltd.
1st Floor, Kanchenjunga Building,
18 Barakhamba Road,
New Delhi - 110001

...Petitioner

VERSUS

National Load Despatch Centre
Power System Operation Corporation Limited
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi – 110016

...Respondent

Parties Present: Shri Manish K. Bishnoi, Advocate, DCM Shriram
Shri Archit Gupta, Advocate, DCM Shriram
Shri R.K. Bharti, DCM Shriram
Shri Puneet D., DCM Shriram
Shri Arjun Krishnan, Advocate, NLDC
Shri Sumit Srivastava, Advocate, NLDC
Shri Ashok Kumar Ranjan, NLDC

आदेश/ ORDER

The Petitioner, M/s DCM Shriram Ltd., is engaged in manufacture of sugar and has set up bagasse based co-generation plants at Hariawan, Ajbapur and Loni in Uttar Pradesh. It has filed the petition under Section 79 of the Electricity Act 2003 read with Regulation 14 & 15 of the Central Electricity Regulatory Commission (Terms and Conditions of Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (hereinafter referred to as the “REC Regulations”) challenging the illegal and arbitrary rejection of application for grant of 5127 RECs for the month of January 2016 to the Petitioner for its co-generation plant at Hariawan, Uttar Pradesh.

2. The Respondent, National Load Despatch Centre (hereinafter referred to as “NLDC”) is designated as Central Agency as per notification dated 29.01.2010 under Regulation 3(1) of the REC Regulations.
3. The Petitioner has made the following prayers:
 - a) Direct the Respondent to issue 5127 RECs for the energy generated and supplied from its bagasse based co-generation plant at Hariawan in the month of January 2016
 - b) Direct the Respondent to pay the costs of the instant petition;

- c) Pass any other or further order/s as the Commission may deem fit and proper in facts and circumstances of the present case.

Brief facts of the case:

4. On 08.10.2011, the Petitioner was registered under REC mechanism for issuance of RECs for its co-generation plants at Hariawan, Ajbapur and Loni, in the State of Uttar Pradesh. .
5. In May 2016, the Petitioner had applied for issuance of RECs for the month of January 2016 for its co-generation plants at Hariawan, Ajbapur and Loni. The Petitioner had also applied for issuance of RECs for the month of February 2016 for co-generation plants at Hariawan through web based application along with online energy report.
6. On 28.05.2016, the Petitioner submitted the hard copies of the aforesaid online application along with copy of the energy injection report signed and stamped by authorised signatory, SLDC and payments details of issuance fee enclosed in a letter.
7. On 08.06.2016, the documents were delivered to the Respondent.
8. On 14.06.2016, the Respondent informed the Petitioner vide email that the hard copy of the application for issuance of RECs for the month of January 2016 for other co-generation plants at Ajbapur and Loni and also for the month of February 2016 for the plant at Hariawan was received on 08.06.2016. However, the hard copy of the application for the month of January 2016 for the plant at Hariawan has not been received by the Respondent.
9. On 28.07.2016, the Petitioner again sent the aforesaid documents to the Respondent.
10. On 26.08.2016, the Respondent vide email communicated to the Petitioner that for project at Hariawan the application regarding issuance of REC for January 2016 has been received later than six months and therefore the application was not accepted.
11. On 29.08.2016, the Petitioner replied vide email explaining that all documents for issuance of REC for all the plant were sent together by speed post.

12. On 07.09.2016, the Petitioner sought information from the Head Post Office regarding the delivery of consignments via which the applications of issuance of REC for all plants were sent.
13. On 23.09.2016, the Department of Posts informed that the respective consignments were delivered on 08.06.2016 and also sent the proof of delivery of all consignments.
14. On 30.09.2016, the Petitioner again wrote to the Respondent informing that the Department of Posts has confirmed that all 4 consignments by which the applications were sent were delivered on 08.06.2016 and requested that the RECs be issued for Hariawan plant for January 2016 since RECs for the month of January 2016 for other co-generation plants at Ajbapur, Loni and of February 2016 for Hariawan plant has already been issued.
15. On 03.10.2016 and 13.12.2016, the Petitioner sent reminder letters to the Respondent and also tried to meet the concerned officials but got no response.
16. On 09.09.2017 the Petitioner again sent reminder to the Respondent stating all the facts and requesting for issuance of REC for the month of January 2016. However, there was no response from the Respondent.
17. Hence the Petition.

Submissions of the Petitioner:

18. The Petitioner has submitted that amongst other businesses, it owns and operates 3 projects of bagasse based co-generation plants in the State of Uttar Pradesh. The projects have been registered under REC mechanism as below:

S. No	Location	State	Date of Registration
1	Hariawan	Uttar Pradesh	08.10.2011
2	Ajbapur	Uttar Pradesh	08.10.2011
3	Loni	Uttar Pradesh	08.10.2011

19. The Petitioner has submitted that it had applied for issuance of RECs in May 2016 for the month of January 2016 for its co-generation plants at Hariawan, Ajbapur and Loni & had also applied for issuance of RECs for the month of February 2016 for co-generation plants at Hariawan through web based application along with online energy report.
20. The Petitioner submitted the hard copy of the aforesaid online application along with copy of the energy injection report signed and stamped by authorised signatory, SLDC and payments details of issuance fee enclosed in a letter dated 28.05.2016. The documents were delivered to the Respondent on 08.06.2016. However, there was no response with respect to plant at Hariawan. Therefore the Petitioner again sent the aforesaid documents vide letter dated 28.07.2016. The Respondent vide email dated 26.08.2016 informed the Petitioner that for project DCM Shriram Ltd at Hariawan having registration number UPONSDLCS003R081011, the application for issuance of RECs for January 2016 was received later than six months and, therefore, the application was not accepted. The officials of the Petitioner immediately tried to get in touch with the Respondent and also tried several times to meet. Since, the Petitioner was unsuccessful in meeting the concerned official of the Respondent, the Petitioner replied to the aforesaid email dated 26.08.2016 vide email dated 29.08.2016 explaining that all documents for issuance of REC for all the plant were sent together by speed post.
21. The Petitioner has submitted that it sought information from the Head Post Office regarding the delivery of consignments via which the applications of issuance of RECs for all plant were sent vide its letter dated 07.09.2016. Department of Posts vide letter dated 23.09.2016 informed that the respective consignments were delivered on 08.06.2016 and sent the proof of delivery of all consignments. The Petitioner upon receiving the delivery details from the Department of Post, wrote again to the Respondent vide letter dated 30.09.2016 informing that the Department of Posts has confirmed that all four consignments by which the applications were sent were delivered on 08.06.2016 and in fact RECs were already issued for the month of January 2016 for other co-generation plants at Ajbapur and Loni and that of February 2016 of Hariawan plant. The Petitioner again requested that the RECs for Hariawan plant for January 2016 may be issued.

22. The Petitioner has submitted that it sent reminder letters dated 03.10.2016 and 13.12.2016 and also tried to meet the concerned officials but got no response. Later, the Petitioner again sent letter dated 09.09.2017 stating all the facts and requesting for issuance of RECs for the month of January 2016.
23. The Petitioner has submitted that as per Regulation 7 of the CERC (Terms and Conditions of Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (hereinafter referred to as “REC Regulations”), the eligible entity has to apply to the Central Agency for RECs, within 6 months from the corresponding generation. It had applied for issuance of RECs for January 2016 in May/June 2016 which is well within in the time period of 6 months stipulated in the REC Regulations.
24. The Petitioner has submitted that it even got confirmation from the Department of Posts that the application for the issuance of RECs for all plants including the plant in question was delivered to the Respondent on 08.06.2016. This clearly exhibits that the application was made well within time. The Petitioner has submitted that the Respondent has even issued RECs for the month of January 2016 for the other plants at Ajbapur and Loni and also for February 2016 for Hariawan plant in December 2017 when in fact applications were sent on the same date and were also delivered on the same date and there is no justified reason for the Respondent to not issue RECs for the month of January 2016 for the Hariawan plant.

Submissions of the Respondent:

25. The Respondent has submitted that it is obligated under Regulation 3(3) of the REC Regulations, to issue detailed procedures with regards to registration, accreditation and issuance of REC certificates, to eligible entities which in turn are approved by the Commission before coming into force. Neither the REC Regulations nor the aforesaid procedure vests any discretionary power on the Respondent to relax, extend or condone the delay insofar as the compliance with any of the provisions contained *therein* are concerned.
26. The Respondent has submitted that as per the Energy Injection Report provided by Uttar Pradesh State Load Despatch Centre, the Petitioner is entitled for issuance of 5062 RECs. The present petition is devoid of merit as the Petitioner itself has failed to take necessary

action to submit its application regarding issuance of 5127 RECs within the stipulated time. The non-issuance of RECs for the period of January 2016 is due to the default of the Petitioner itself as it failed to submit applications for issuance of RECs along with relevant documents, within the stipulated time limit of six months, and thus defaulted in complying with a mandatory requirement under the REC Regulations and procedures as amended/ revised/ modified by the Commission from time to time.

27. The Respondent has submitted that the Regulation 7 of the REC Regulations stipulates as:

“7. Denomination and Issuance of Certificates

(1) The eligible entity other than distribution licensee shall apply to the Central Agency for certificates within six months from the corresponding generation from eligible renewable energy projects:

Provided that the application for issuance of certificates may be made on 10th, 20th and last day of the month.

(2) The Certificates shall be issued to the eligible entity after the Central Agency duly satisfies itself that all the conditions for issuance of Certificate, as may be stipulated in the detailed procedure, are complied with by the eligible entity.

...”

28. The Respondent has submitted that as per Clause 7 of the *Procedure for Issuance of Renewable Energy Certificate to the Eligible Entity by Central Agency* (hereinafter referred to as the “REC Procedures”) as approved by Order dated 16.03.2018 by the Commission, stipulates that an eligible entity must apply to the Respondent for issuance of REC within six months from the month of which the RECs are sought. Clause 7 of the REC Procedures is extracted below:

“7. Timelines

7.1 *The RE Generator as an Eligible Entity shall apply for issuance of renewable energy certificates within six (6) months from the month in which renewable energy was generated and injected into the electricity grid. Thereafter, the eligible entity shall not be eligible to apply for issuance of RECs against the said generation. However, the eligible entity shall apply for issuance of RECs for the complete month in sequential manner.*

For example, in the month of July, the applicant may apply for issuance of RECs for the months of January, February, March, April, May and June of that calendar year. Further in the month of July, the eligible entity shall also ensure that while submitting the physical application along with the complete documents for issuance of RECs corresponding to generation in the month of January, the application should reach to Central Agency latest by 31st July for considering the application. Thereafter, application for injection corresponding to January shall not be considered.

However, since the monthly injection report for January would not be available with the Central Agency before month end, application for issuance of RECs against energy injected during January can be made on 10th, 20th and last day in the subsequent six months. However, the eligible entity shall ensure that it should apply first for January before applying for February.

...

29. The Respondent has submitted that reading the REC Regulations and REC Procedures, it is clear that for issuance of RECs, the eligible entity is obligated to make an application within the stipulated period of six months. Also, the Respondent is entrusted with the responsibility of scrutinising the said application for the purpose of ascertaining whether all conditions mentioned in the detailed procedures are being duly complied with by the eligible entity.
30. The Respondent has submitted that the step by step procedure as laid down under Clause 3 of the REC Procedures also becomes relevant. Relevant provisions are extracted below:-

“3.STEP-WISE DESCRIPTION OF THE PROCEDURE

3.1. Step-1: An application for issuance of Renewable Energy Certificate shall be made by the Eligible Entity to the Central Agency. The eligible entity shall apply for Issuance of REC on the Web Based Application as per the details given in the Energy Injection Report (EIR issued by the SLDC / Recommendation of SERC for issuance of RECs) and shall also submit the same information in physical form with the Central Agency. The online application shall be acceptable by the Central Agency only if complete in all respect. The physical application for issuance of certificate shall include (i) Energy Injection Report (EIR) for RE projects /Recommendation of SERC for issuance of RECs for distribution licensee, and shall be made in the specified format (FORMAT-3.1: “Application for Issuance of Renewable Energy Certificates to the Eligible Entities”/FORMAT-3.1.1 for distribution licensee) (ii) Print out of online application duly signed and stamped by Authorized Signatory (iii) Commissioning Certificate for RE Generator, only for issuance for the first

month after registration. The application shall be accompanied with the details of payment of the applicable fee & charges towards issuance of certificates as determined by CERC from time to time. While making application for issuance of RECs, the Applicant (Eligible Entity) shall quote the unique Registration Number assigned to it by Central Agency at the time of registration.

3.2. Step - 2: After receipt of physical application for issuance of renewable energy certificates from the Eligible Entity, the Central Agency shall undertake a preliminary scrutiny within 6 working days to ensure that the Application Form is complete in all respect along with necessary documents and applicable fees and charges. As part of preliminary scrutiny, the Central Agency shall satisfy that the following conditions are fulfilled by the RE generators or distribution licensee, as the case may be:

- a) The application is made in the format specified by the Central Agency from time to time.*
- b) The status of Accreditation of the Eligible Entity with the State Agency has not expired. The status of Registration of the Eligible Entity with the Central Agency has not expired.*
- c) The duly certified EIR/ Recommendation of SERC for issuance of RECs is attached for the same period for which application is made towards issuance of Renewable Energy Certificate by the Eligible Entity.*
- d) The application is accompanied with fees & charges.*

Step – 3: After conducting the preliminary scrutiny, the Central Agency shall intimate in writing to the Applicant for submission of any further information or clarification, if necessary, to further consider the application for issuance of Renewable Energy Certificates or reject the application.

...”

31. The Respondent has submitted that while the hard copy of the application for issuance of RECs for the month of January 2016 for other co-generation plants at Ajbapur and Loni and also for the month of February 2016 for the plant at Hariawan was received on 08.06.2016, the hard copy of the application for the month of January 2016 for the plant at Hariawan was not received by the Respondent. The same was communicated to the Petitioner vide email dated 14.06.2016. The Respondent, however, received the hard copy of the application for January 2016 only on 17.08.2016 vide letter dated 28.07.2016 of the Petitioner, which was beyond the mandated time.
32. The Respondent has submitted that based on the above facts, the request for issuance of RECs for the month of January 2016 was rejected. The Respondent has placed its reliance on

the judgement of the full bench of the Hon'ble Supreme Court in *Ramchandra Keshav Adke v. Govind Joti Chavare*, (1975) 1 SCC 559 wherein it is the age-old fundamental principle of law is acknowledged i.e. when a statute provides for a thing to be done in a particular manner it must be done in that way or not at all. Relevant paragraphs of the aforesaid judgement are extracted below:-

“24. Next point to be considered is, what is the consequence of non-compliance with this mandatory procedure?”

25. A century ago, in Taylor v. Taylor Jassel, M.R. adopted the rule that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden. This rule has stood the test of time. It was applied by the Privy Council, in Nazir Ahmed v. Emperor and later by this Court in several cases, to a Magistrate making a record under Sections 164 and 364 of the Code of Criminal Procedure, 1898. This rule squarely applies “where, indeed, the whole aim and object of the legislature would be plainly defeated if the command to do the thing in a particular manner did not imply a prohibition to do it in any other.” The rule will be attracted with full force in the present case, because non-verification of the surrender in the requisite manner would frustrate the very purpose of this provision. Intention of the legislature to prohibit the verification of the surrender in a manner other than the one prescribed, is implied in these provisions. Failure to comply with these mandatory provisions, therefore, had vitiated the surrender and rendered it non-est for the purpose of Section 5(3) (b).”

Submissions filed by the Petitioner through Rejoinder

33. The Petitioner has reiterated its stand taken in the Petition and as such the same has not been reproduced for the sake of brevity. Additionally, the Petitioner has submitted that it did not respond to the Respondent's email dated 14.06.2016 because of the fact that it was under a bonafide impression that its application for issuance on REC's along with accompanying documents might not have been scrutinized in such short duration of time as the same were delivered to the Respondent on 08.06.2016. Hence, they did not again furnish the said documents to the Respondent.

34. The Petitioner has clarified that the hard copy of the application for January 2016 which was received by the Respondent on 17.08.2016 vide letter dated 28.07.2016 was not the fresh application but instead it was just a reminder sent to the Respondent along with the documents with respect to the earlier letter dated 28.05.2016 because of the fact that the Respondent showed no response for issuance of REC for the month of January 2016 for its co-generation plants at Hariawan despite making repeated requests in this regard.

Analysis and Decision:

35. We have heard the learned counsels for the Petitioner and the Respondents and have carefully perused the records.
36. The brief facts of the case are that the Petitioner owns and operates 3 projects based on bagasse based co-generation in the State of Uttar Pradesh, as below:

S. No	Location	State	Certificate of Registration	Date of Registration
1	Hariawan	Uttar Pradesh	UP0NSDLCS003R081011	08.10.2011
2	Ajbapur	Uttar Pradesh	UP0NSDLCS001R081011	08.10.2011
3	Loni	Uttar Pradesh	UP0NSDLCS002R081011	08.10.2011

37. All the above projects are accredited and registered as Eligible Entities under REC mechanism. The Registration was granted by the Respondent vide certificate number UP0NSDLCS003R081011 dated 08.10.2011. The Petitioner has been receiving the RECs for the electricity generated from the bagasse based co-generation plant since 2011. In May, 2016, the Petitioner had applied for issuance of RECs for the month of January 2016 for its co-generation plants at Hariawan, Ajbapur and Loni. The Petitioner had also applied for issuance of RECs for the month of February 2016 for co-generation plants at Hariawan through web based application along with online energy report. The Petitioner sent four letters dated 28.05.2016 (sent via Speed Post on 07.06.2016). The letters included physical copy of the application for REC issuance for the 3 projects in the following manner:-
- a. UPONSDSCLS001ROB1011 (DCM Shriram - Ajbapur) Jan & Feb 2016 in one envelope

- b. UPONSDSCLS002ROB1011 (DCM Shriram - Loni) Jan & Feb 2016 in one envelope
- c. UPONSDSCLS003ROB1011 (DCM Shriram.- Hariawan) Jan 2016 in one envelope
- d. UPONSDSCLS003ROB1011 (DCM Shriram - Hariawan) Feb 2016 in one envelope

38. The Petitioner again sent the aforesaid documents to the Respondent on 28.07.2016. On 26.08.2016, the Respondent vide email communicated to the Petitioner that for project at Hariawan, the application regarding issuance of 5127 RECs for January 2016 has been received later than six months and therefore the application was not accepted. On 07.09.2017, the Petitioner sought information from the Head Post Office regarding the delivery of consignments via which the applications of issuance of REC for all plants were sent. The Department of Posts, Office of the Director, New Delhi GPO, New Delhi informed that the respective consignments were delivered on 08.06.2016 and also sent the proof of delivery of all consignments. On 30.09.2016, the Petitioner again wrote to the Respondent informing that the Department of Posts has confirmed that all 4 consignments by which the applications were sent were delivered on 08.06.2016 and requested that the 5127 RECs be issued for Hariawan plant for January 2016 since RECs for the month of January 2016 for other co-generation plants at Ajbapur, Loni and of February 2016 of Hariawan plant has already been issued. The Petitioner sent reminders to the Respondent stating the facts and requesting for issuance of 5127 RECs for the month of January 2016.
39. Per Contra, the Respondent has submitted that on 14.06.2016, it has informed the Petitioner vide email that the hard copy of the application for issuance of RECs for the month of January 2016 for the plant at Hariawan has not been received but the Petitioner failed to act on the intimation. The Respondent received the application for issuance of RECs for the month of January 2016 for the project at Hariawan after six months and hence as per relevant REC Regulations and REC Procedures, the RECs have not been issued to the Petitioner. The Petitioner is operating under the provisions of REC Regulations; which is the law governing the transaction. Hence the petition may be dismissed.
40. From the submissions of the parties, the following issues arise before this Commission:-
41. ***Issue No 1: Whether there is procedural delay in filing of the hard copy of the application for issuance of RECs for the month of January 2016 for the plant at Hariawan? And whether the***

delay (if any) in filing of the hard copy of the application for issuance of RECs for the month of January 2016 for the plant at Hariawan should be condoned? and

42. **Issue No. 2:** *Whether Respondent should be directed to issue 5127 RECs for the energy injected from plant at Hariawan for the month of January 2016?*
43. No other issues were pressed or claimed.
44. We discuss the issues one by one:
45. **Issue No 1:** *Whether there is procedural delay in filing of the hard copy of the application for issuance of RECs for the month of January 2016 for the plant at Hariawan? And whether the delay (if any) in filing of the hard copy of the application for issuance of RECs for the month of January 2016 for the plant at Hariawan should be condoned?*
46. The Petitioner has submitted that it owns and operates 3 projects based on bagasse based co-generation in the State of Uttar Pradesh located at Hariawan, Ajbapur and Loni respectively. All the above projects are accredited and registered as Eligible Entities under REC mechanism since 08.10.2011 and the Petitioner has been receiving the RECs for the electricity generated ever since. The Petitioner sent physical copy of the application for RECs issuance for the three projects vide four letters via Speed Post on 07.06.2016. Subsequently, RECs have been issued by the Respondent for plants at Ajbapur and Loni for the months of January and February 2016 and for the month of February 2016 for the plant at Hariawan. However, 5127 RECs for the month of January 2016 for the project at Hariawan have not been issued by the Respondent despite the receipt of documents on 08.06.2016 along with applications for other projects as also confirmed by the Department of Posts. The Petitioner has submitted that they have applied for the RECs within the stipulated time of six months. Per Contra, the Respondent has submitted that it received the application for issuance of RECs for the month of January 2016 for the project at Hariawan after six months and hence as per relevant REC Regulations and REC Procedures, the RECs have not been issued to the Petitioner.

47. The Commission observes that the Relevant Provisions of *Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency* stipulates as under:-

3. STEP-WISE DESCRIPTION OF THE PROCEDURE

3.1. **Step - 1:** *An application for issuance of Renewable Energy Certificate shall be made by the Eligible Entity to the Central Agency. The eligible entity shall apply for Issuance of REC on the Web Based Application as per the details given in the Energy Injection Report (EIR issued by the SLDC / Recommendation of SERC for issuance of RECs) and shall also submit the same information in physical form with the Central Agency. The online application shall be acceptable by the Central Agency only if complete in all respect. The physical application for issuance of certificate shall include (i) Energy Injection Report (EIR) for RE projects /Recommendation of SERC for issuance of RECs for distribution licensee, and shall be made in the specified format (FORMAT-3.1: “Application for Issuance of Renewable Energy Certificates to the Eligible Entities”/FORMAT-3.1.1 for distribution licensee) (ii) Print out of online application duly signed and stamped by Authorized Signatory (iii) Commissioning Certificate for RE Generator, only for issuance for the first month after registration. The application shall be accompanied with the details of payment of the applicable fee & charges towards issuance of certificates as determined by CERC from time to time. While making application for issuance of RECs, the Applicant (Eligible Entity) shall quote the unique Registration Number assigned to it by Central Agency at the time of registration.*

3.2. **Step - 2:** *After receipt of physical application for issuance of renewable energy certificates from the Eligible Entity, the Central Agency shall undertake a preliminary scrutiny within 6 working days to ensure that the Application Form is complete in all respect along with necessary documents and applicable fees and charges. As part of preliminary scrutiny, the Central Agency shall satisfy that the following conditions are fulfilled by the RE generators or distribution licensee, as the case may be:*

- a) The application is made in the format specified by the Central Agency from time to time.*
- b) The status of Accreditation of the Eligible Entity with the State Agency has not expired. The status of Registration of the Eligible Entity with the Central Agency has not expired.*
- c) The duly certified EIR/ Recommendation of SERC for issuance of RECs is attached for the same period for which application is made towards issuance of Renewable Energy Certificate by the Eligible Entity.*
- d) The application is accompanied with fees & charges.*

3.3. **Step - 3:** *After conducting the preliminary scrutiny, the Central Agency shall intimate in writing to the Applicant for submission of any further information or clarification, if necessary, to further consider the application for issuance of Renewable Energy Certificates or reject the application.*

3.4. Step - 4: While considering any application for issuance of Renewable Energy Certificate, the Central Agency shall verify and ascertain availability of following information:

- a) Verification of the time period for which the Central Agency may have already issued Renewable Energy Certificates to the concerned Eligible Entity.*
- b) Verification of Renewable Energy Certificates claimed by the Eligible Entity from the duly certified Energy Injection Reports by the concerned State Load Despatch Centre in respect of concerned Eligible Entity.*
- c) Details of fee & charges made for issuance of certificates.*
- d) Confirmation of Compliance Auditor report, if any.*

3.5. Step - 5: The Central Agency shall issue Renewable Energy Certificates to the Eligible Entity only after confirming, the claims made by the Eligible Entity, with the duly certified EIR forwarded by the SLDC/ Recommendation of SERC for issuance of RECs . In case of any discrepancy, in the EIR enclosed by the Eligible Entity along with Application and regular EIR received by Central Agency from concerned State Load Despatch Centre, the information contained in regular EIR furnished by concerned State Load Despatch Centre shall be considered as final and binding for the purpose of issuance of Renewable Energy Certificates.

... ”

48. Regulation 7(2) of the *Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010* provides as follows:

“7. Denomination and Issuance of Certificates

(1) The eligible entity other than distribution licensee shall apply to the Central Agency for certificates within six months from the corresponding generation from eligible renewable energy projects:

Provided that the application for issuance of certificates may be made on 10th, 20th and last day of the month.

(2) The Certificates shall be issued to the eligible entity after the Central Agency duly satisfies itself that all the conditions for issuance of Certificates, as may be stipulated in the detailed procedure, are complied with by the eligible entity.

... ”

49. From the above, the Commission observes that as per mandate of the REC Regulations and the REC Procedures, the eligible entity has to apply for issuance of REC on the Web Based Application as per the details given in the Energy Injection Report (EIR issued by the SLDC / Recommendation of SERC for issuance of RECs) and shall also submit the same information

in physical form with the Central Agency within six months. Central Agency has to verify the application in terms of the Energy Injection Reports by the concerned State Load Despatch Centre in respect of the concerned Eligible Entity, fee & charges for issuance of certificates and compliance auditors report if any.

50. The Commission observes that in the instant case the ‘application for issuance of 5127 RECs for the month of January 2016 for Hariawan project’ was sent by the Petitioner before the due date and the physical copy was also sent on 28.05.2016 (sent via Speed Post on 07.06.2016) i.e. before the expiry of six months. The Department of Posts, Office of the Director, New Delhi GPO, New Delhi has also confirmed the fact that the parcel was duly delivered to the Respondent on 08.06.2016. During the course of hearing, learned counsel for the Respondent agreed that the RECs were denied on account of procedural and technical issues for which Respondent has no power/authority to condone the same and that it could be done only by the Commission. The Commission observes that the Petitioner has placed on record sufficient proofs regarding sending the ‘application for issuance of 5127 RECs for the month of January 2016 for Hariawan project’ by speed post and the fact has been duly verified by the Department of Posts. In the circumstances explained above the Commission holds that the Petitioner has filed the application for issuance of 5127 RECs for the month of January 2016 for Hariawan project within the stipulated time of six months. Therefore, any delay in this regard is condoned.

Issue No. 2: Whether Respondent should be directed to issue 5127 RECs for the energy injected from plant at Hariawan for the month of January 2016?

51. The Commission observes that as per the principle laid down for grant of RECs, if the Petitioner is engaged in generation of electricity from renewable energy sources then it shall be eligible for issuance of RECs if it sells the electricity generated to the distribution licensee of the area in which the eligible entity is located, at the pooled cost of power purchase of such distribution licensee as determined by the Appropriate Commission or selling power to third party/open access or for generating and injecting power for captive use subject to the eligibility criteria as per the Central Electricity Regulatory Commission (Terms and Conditions of Recognition and Issuance of Renewable Energy Certificate for Renewable

Energy Generation) Regulations, 2010 as amended from time to time. Further, the main objective of REC Regulations is to promote the generation of renewable energy and we observe that there was generation of renewable energy for the period mentioned above. Therefore, the Commission holds that M/s DCM Shriram Ltd. (the Petitioner) is entitled for RECs for the month of January 2016 as per terms and conditions of The Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010. Accordingly, we direct Respondents to process the case of the Petitioner for grant of RECs for the generation in the month of January 2016 for the Hariawan project subject to the review of the application in line with the energy injection report.

52. Accordingly, the Petition No. 138/MP/2018 is disposed of.

Sd/-
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सदस्य

Sd/-
डॉ एम के अय्यर
सदस्य

Sd/-
पी के पुजारी
अध्यक्ष