

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.256/MP/2021

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Article 12 of the Power Purchase Agreement dated 30.11.2018 seeking in-principal approval for Change in Law event i.e. Finance Department (Tax Division), Government of Rajasthan Notifications dated 19.11.2019 and 30.3.2020 in terms of which Land Tax is imposed upon Adani Solar Energy Four Private Limited 50 MW Power Plant's land measuring 10,11,715 sq. meter with effect from 19.11.2019.

Petitioner : Adani Solar Energy Four Private Ltd. (ASEFPL)

Respondent : Solar Energy Corporation of India Limited (SECI)

Petition No.274/MP/2021

Subject : Petition under Section 79 of the Electricity Act 2003 read with Article 12 of the Power Purchase Agreements dated 6.10.2017 seeking in-principal approval for Change in Law event i.e., Finance Department (Tax Division), Government of Rajasthan Notifications dated 19.11.2019 and 30.3.2020 in terms of which Land Tax is to be imposed upon the Project land of 2 x 50 MW (100 MW) Solar PV Power Plants established by SB Energy Three Private Limited in the State of Rajasthan.

Petitioner : SB Energy Three Private Limited (SBETPL)

Respondent : Solar Energy Corporation of India Limited (SECI)

Petition No.275/MP/2021

Subject : Petition under Section 79 of the Electricity Act 2003 read with Article 12 of the Power Purchase Agreements dated 27.4.2018 seeking in-principal approval for Change in Law event i.e., Finance Department (Tax Division), Government of Rajasthan Notifications dated 19.11.2019 and 30.3.2020 in terms of which Land Tax is to be imposed upon the Project land of 2 x 100 MW (200 MW) Solar PV Power Plants established by SB Energy Four Private Limited in the State of Rajasthan having land admeasuring 20,23,430 Sq. meter each with effect from 19.11.2019.

Petitioner : SB Energy Four Private Limited (SBEFPL)

Respondent : Solar Energy Corporation of India Limited

Date of Hearing : 13.12.2022

Coram : Shri I. S. Jha, Member



Shri Arun Goyal, Member
Shri P. K. Singh, Member

Parties Present : Shri Amit Kapur, Advocate, ASEFPL, SBETPL & SBEFPL
Shri Akshat Jain, Advocate, ASEFPL, SBETPL & SBEFPL
Shri Avdesh Mandloi, Advocate, ASEFPL, SBETPL & SBEFPL
Shri Shikhar Verma, Advocate, ASEFPL, SBETPL & SBEFPL
Shri M. G. Ramachandran, Sr. Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Ms. Srishti Khindaria, Advocate, SECI

Record of Proceedings

Learned counsel for the Petitioners submitted that present Petitions have been filed seeking in-principle approval for Change in Law events i.e. Finance Department (Tax Division), Government of Rajasthan (GoR) Notifications dated 19.11.2019 and 30.3.2020 in terms of which Land Tax has been imposed for their Solar PV Projects located in the State of Rajasthan with effect from 19.11.2019.

2. In response to the specific query of the Commission regarding provisions permitting the in-principle approval, the learned counsel for the Petitioner mainly submitted the following:

(a) Regulation 11 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 permits the generating company undertaking any additional capitalization on account of Change in Law or Force Majeure condition to file a petition for in-principle approval for incurring such expenditure after prior notice to the beneficiaries. The purpose for introducing such provisions, as captured in its Explanatory Memorandum, is to provide regulatory certainty to the generating company.

(b) Although the aforesaid regulations apply to the generating company governed under Section 62 of the Electricity Act, 2003 ('the Act'), the rationale for introducing such provision i.e. to provide regulatory certainty squarely applies to the generating company governed under Section 63 of the Act such as the Petitioners herein.

(c) For the generating companies governed under Section 63 also, the Commission has given in-principle approval to Change in Law event and the additional expenditure to be incurred in the matters concerning the installation of the emission control systems. There is no reason as to why similar dispensation ought not to be adopted in these cases wherein the Petitioners are only seeking in-principle approval of Change in Law events.

(d) The in-principle approval of Change in Law event is necessary to securing funds for the payment of land tax and to ensure the regulatory certainty.

(e) As on the effective date/ last date of bid submission under the PPAs, no land tax was applicable on the project lands in terms of GoR's Notification dated 6.3.2013. Thereafter, GoR by Notification dated 19.11.2019 reinstated payment of land tax on the specified categories of land including land measuring 500 hectares or above. The rate of land tax was further increased by way of Notification dated 30.3.2020 i.e. for industrial land above 10,000 sq.

meter the applicable land tax is Rs. 2 per sq. meter. Thus, with effect from 19.11.2019, land tax is applicable upon the land of the Petitioners' projects.

3. Learned senior counsel for the Respondent, SECI submitted that the land tax is yet to be levied upon the project land of the Petitioners. The learned senior counsel submitted that the reliance on the Regulation 11 of the Tariff Regulations, 2019 is misplaced as it pertains to the additional capital expenditure to be incurred by the generating company whereas the projects of the Petitioners have already achieved the commercial operation under the PPAs and the nature of levy of the land tax is on year-to-year basis. The learned senior counsel further added that there is certain exemption to the industrial land from levy of land tax and the Petitioners ought to examine as to whether they are covered by the said exemption.

4. In response to the specific query of the Commission regarding status of land, the learned counsel for the Petitioner stated that the land allocation process is underway which will have an incidence of land tax. The learned counsel further sought liberty to file necessary clarification on this aspect.

5. Considering the submissions made by the learned counsel for the Petitioners, the Commission permitted the Petitioners to file an additional affidavit clarifying the status of land, likely impact due the above GoR Notifications etc. within a week with copy to the Respondents/SECI, who may file its response thereon, if any, within a week thereafter.

6. Subject to the above, the Commission reserved the matters for order on 'admissibility'.

By order of the Commission

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