



नईदिल्ली
NEW DELHI

याचिकासंख्या./ Petition No. 200/MP/2021 &
201/MP/2021

कोरम/ Coram:

श्रीआई. एस. झा, सदस्य/ Shri I. S. Jha, Member
श्रीअरुणगोयल, सदस्य/ Shri Arun Goyal, Member
श्रीपी. के. सिंह, सदस्य / Shri P. K. Singh, Member

आदेशदिनांक/ Date of Order: 06th July, 2022

IN THE MATTER OF:

In the matter of application filed for relaxation of time limit and for issuance of Renewable Energy Certificates

AND IN THE MATTER OF:

Grace Infrastructure Private Limited
A-5 Industrial Estate, Thattanchavady,
Pondicherry 605009

...Petitioner

Versus

National Load Despatch Centre (NLDC)
B-9, Qutab Institutional Area,
New Delhi

...Respondent

AND IN THE MATTER OF:

Leo Fasteners,
Registered Partnership Firm

A-27/A, Industrial Estate, Thattanchavady
Pondicherry 605009

...Petitioner

Versus

National Load Despatch Centre (NLDC)
B-9, Qutab Institutional Area,
New Delhi

Respondent

Parties Present: Shri Venkat Shastry Somayajla, GIPL & Leo Fasteners
Shri Gajendra Sinh Vasava, NLDC
Shri Kailash Chand Saini, NLDC

आदेश/ ORDER

The Petitioner, Grace Infrastructure Private Limited (in Petition No. 200/MP/2021), is a company engaged in wind power generation, through WEGs installed at Devarkulam, Manur, Vagaikulam, Kalugumalai, Dharapuram and Theni in the State of Tamil Nadu. The Petitioner has installed 5 projects with total installed capacity of 51.5 MW registered for Renewable Energy Certificates under Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (REC Regulations, 2010) whereas the Petitioner, Leo Fasteners (in Petition No. 201/MP/2021), is a company engaged in wind power generation, through WEG installed at Metrathi and Kalugumalai in the State of Tamil Nadu. The Petitioner has 4 MW capacity project registered for Renewable Energy Certificate under the REC Regulations, 2010. The Petitioners are seeking condonation of delay in applying for issuance of RECs for the energy injected from August 2019 to November 2020 in Petition No. 200/MP/2021 and from November 2019 to November, 2021 in Petition No. 201/MP/2021.

2. The Respondent, National Load Despatch Centre (NLDC) is designated as the Central Agency under Regulation 3 of the REC Regulations, 2010 and is entrusted with the functions inter alia of granting registration and issuance of RECs as per the said REC Regulations.

3. The Petitioners have made the following prayers:

In Petition No. 200/MP/2021

The Hon'ble Commission may be pleased to condone the delay and relax the time limit stipulated in Regulation 7 of Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 by exercising its power to relax under the said Regulations and further direct the National Load Despatch Centre (NLDC) to issue the Renewable Energy Certificates for the period Aug'2019 to Nov'2020 and pass such other order(s) as deemed fit, necessary and appropriate and thus render justice.

In Petition No. 201/MP/2021

The Hon'ble Commission may be pleased to Condone the delay and relax the time limit stipulated in Regulation 7 of Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 by exercising its power to relax under the said Regulations and further direct the National Load Despatch Centre (NLDC) to issue the Renewable Energy Certificates for the period Nov'2019 to Nov'2020 and pass such other order(s) as deemed fit, necessary and appropriate and thus render justice.

Submissions of the Petitioner:

4. The Petitioners have submitted as under:

- a) **In Petition No. 200/MP/2021**: The Petitioner Company's nut manufacturing division was demerged and merged with Fastenex Private Limited, (being one of the Group Companies) through a Scheme of Amalgamation Arrangement (Demerger) under Sections 230 to 232 of the Companies Act, 2013, vide CA No.1211 to 1214/CAA/2019, National Company Law Tribunal Order dated 04.03.2021 passed by the NCLT, Chennai. The Petitioner was tied up with the demerger process and had to complete the audit and other due diligence/compliance requirements as per the provisions of the Companies Act, 2013. After

the completion of the audit, majority of the Company secretarial compliances was completed in the FY 2020.

- b) **In Petition No. 201/MP/2021**: The Petitioner was tied up to complete the audit and other due diligence requirements of Income Tax Act 1961 and compliances as per the provisions of the Indian Partnership Act, 1932. After the completion of the audit, majority of the compliances were completed in FY 2020.
- c) During March 2020, the Petitioners planned to complete the entire process of making necessary application to NLDC for issuance of RECs. However, due to COVID-19 Pandemic and as the local Government had announced full lockdown in Pondicherry City, it had to shut down office in the 3rd week of March'2020 and resumed office only in July'2020, with the permission of the Local Government.
- d) As the lockdown was released in a phased manner, the firm operated at less than 25% manpower and accordingly teams were working with minimum workforce on alternative working days in order to maintain physical distance and safety of staff in the office. Many employees, including four employees from Finance Department were infected by COVID-19 and this resulted in the delay in making the application to NLDC. Therefore, the petitioner could not present the application within the stipulated time limit.
- e) There was also a delay in obtaining the verified EIR from SLDC due to which it was unable to submit the physical copy of its application seeking request for issuance of RECs. The COVID-19 pandemic situation has badly hindered the working schedules and caused further delay.
- f) The Hon'ble Supreme Court of India, vide its Order dated 08.03.2021 in Suo Motu Writ Petition No. 3 of 2020 had clarified that, in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021. Further, vide Order dated 27.04.2021, the Hon'ble Supreme Court has extended limitation period for the filing of cases in courts and tribunals with effect from 14.03.2021 until further Orders.
- g) There was a delay in submitting application to NLDC for the project as detailed in the table given below:

Project Identification	Pending	REC	No. of days of delay as of 15.03.20 *
Grace008	Aug'19 to Nov'20	16568	15 days

Project Identification	Pending	REC	No. of days of delay as of 15.03.20 *
Lfast001	Nov'19 to Nov'20	5836	-

*(Delay in days considered, as per Hon'ble Supreme Court Order dated 08.03.2021)

5. During the hearing held on 22.03.2022, representative of the Respondent submitted that the Respondent does not have any objection towards both the Petitions and the Commission may pass an order as deemed fit. After hearing the representative of the Petitioners and the Respondent, the Commission admitted the Petition and directed the Petitioners to furnish the following details/information on affidavit by 14.04.2022:

- (a) Installed capacity of the projects, capacity registered under REC, accreditation and registration of the projects along with relevant information on mode of sale of electricity;
- (b) Energy Injection Report (EIR) for the relevant period;
- (c) A copy of the Audit Report for the financial year, 2020;
- (d) Project-wise explanation and reason for delay in obtaining the verified EIR from SLDCs and thereafter submitting the same for issuance of REC at NLDC; and
- (e) Any incidental information, thereof.

6. In light of the above directions, the Petitioners vide Affidavit dated 08.04.2022 submitted information regarding the installed capacity of all projects along with corresponding Accreditation and Registration Numbers for the same. However, information pertaining to the mode of sale and the energy injection report verified and issued by the State Nodal Agency were not provided in the additional information submitted by the Petitioners.

Analysis and Decision:

7. We have heard the Petitioners and the Respondent and have carefully perused the records.
8. The Petitions came up for hearing on 22.3.2022. During the hearing, the Petitioners submitted that the Petitions have been filed for seeking condonation of delay and relaxation of time limit stipulated in Regulation 7 of the REC Regulations, 2010 by exercising the power to relax under the said regulation and for direction to the Respondent, NLDC for issuance of the Renewable Energy Certificates.
9. The representative of NLDC submitted that it does not have any objection towards the Petitions and that the Commission may pass an Order as deemed fit.
10. The brief facts of the case are that due to demerger (in Petition No. 200/MP/2021) and audit and other due diligence requirements of Income Tax Act 1961 and compliances as per the provisions of the Indian Partnership Act, 1932 (in Petition No. 201/MP/2021) and further due to the COVID-19 pandemic (in both the Petitions), the petitioners were not able to submit the application within the stipulated time limit. The Petitioners have further submitted that there was also a delay in obtaining the verified EIR from SLDC and therefore, they were unable to submit the physical copy of its application seeking issuance of RECs.
11. The only issue involved is *whether the delay in application for issuance of RECs for the months of August'2019 to November'2020 (in Petition No. 200/MP/2021) and for the months of November'2019 to November'2020(in Petition No. 201/MP/2021) may be condoned and whether the Respondent may be directed to issue equivalent RECs for the energy injected?*
12. The relevant provisions of Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency (REC Issuance Procedures) 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.
.....”*

13. Further, Regulation 7(2) of the REC Regulations, 2010 provides as under:

“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

(1A) The eligible distribution licensees shall apply to the Central Agency for Certificates within three months from the date of obtaining the certification, as provided in clause (1A) of the Regulation 5, from the concerned Appropriate Commission

(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:

(3) The Certificates shall be issued by the Central Agency within fifteen days from the date of application by the eligible entities.

(4) The Certificates shall be issued to the eligible entity on the basis of the units of electricity generated from renewable energy sources and injected into the Grid [or deemed to be injected in case of self-consumption by eligible captive generating plant and duly accounted in the Energy Accounting System as per the Indian Electricity Grid Code or the State Grid Code as the case may be, and the directions of the authorities constituted under the Act to oversee scheduling and dispatch and energy accounting, or based on written communication of distribution licensee to the concerned State Load Dispatch Centre with regard to the energy input by renewable energy generators which are not covered under the existing scheduling and dispatch procedures.”

14. From the above, the Commission observes that as per mandate of the REC Regulations, 2010 and the REC Issuance Procedures, the eligible entity has to make Web Based Application for issuance of REC as per the details given in the Energy Injection Report and has to also submit the same information in physical form with the Central Agency (NLDC) within six months. The

Central Agency has to verify the application in terms of the Energy Injection Reports issued by the concerned SLDC.

15. The Commission observes that the Petitioners have accepted the delay in submitting the application for issuance of RECs for the months of August'2019 to November' 2020 (in petition no. 200/MP/2021) and for the months of November'2019 to November'2020 (in petition no 201/MP/2021). As submitted by the counsels of the Petitioners, the delay was caused due to demerger process through a Scheme of Amalgamation Arrangement in case of Petition 200/MP/2021 and due to audit process in Petition No 201/MP/2021 along with restricted physical movement due to COVID-19 protocols in both the Petitions. The Petitioners have prayed for condoning the delay and for directing NDLC to issue RECs for the months of August 2019 to November 2020 (in Petition No. 200/MP/2021) and November 2019 to November 2020 (in Petition No. 201/MP/2021). The Respondent, NLDC has stated that it does not have any objection towards the Petition filed by the Petitioners and that the Commission may pass an appropriate Order in the matter.

16. In our view, the delay in the application for issuance of REC is procedural in nature due to the reasons stated by the petitioners and condoning the delay causes no harm to any of the stakeholders, including the Respondent. Accordingly, we hereby condone the delay in submitting the application for issuance of RECs. Further, NLDC is directed to issue the RECs after due verification and satisfying itself that the projects meet all conditions and the Petitioners have submitted all required documents for issuance of RECs.

17. The Petition No. 200/MP/2021 &201/MP/2021 is disposed in terms of the above.

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