

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.277/MP/2022

Subject : Petition under Section 79(1)(f) read with Section 19 of the Electricity Act, 2003 read with Regulations 9, 19 and 20 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Trading Licence and other related matters) Regulations, 2020 seeking recovery of penalty for less return of power by the Respondent as per the Banking Agreement dated 29.3.2022 and seeking revocation of the interstate trading licence granted to Svaryu Energy Limited (formerly Refex Energy Limited).

Petitioner : Haryana Power Purchase Centre (HPPC)

Respondent : Svaryu Energy Ltd. (SEL)

Petition No.278/MP/2022

Subject : Petition under Section 79(1)(f) read with Section 19 of the Electricity Act, 2003 read with Regulations 9, 19 and 20 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Trading Licence and other related matters) Regulations, 2020 seeking recovery of penalty for less return of power by the Respondent as per the Banking Agreement dated 17.3.2022 and seeking revocation of the interstate trading licence granted to Arunachal Pradesh Power Corp. Pvt. Ltd.

Petitioner : Haryana Power Purchase Centre (HPPC)

Respondent : Arunachal Pradesh Power Corporation Pvt. Ltd. (APPCPL)

Petition No.282/MP/2022

Subject : Petition under Section 79(1)(f) read with Section 19 of the Electricity Act, 2003 read with Regulations 9, 19 and 20 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Trading Licence and other related matters) Regulations, 2020 seeking recovery of penalty for less return of power by the Respondent as per the Banking Agreement dated 29.3.2022 and seeking revocation of the interstate trading licence granted to Kreate Energy (I) Pvt. Ltd. (formerly Mittal Processors Pvt. Ltd.).

Petitioner : Haryana Power Purchase Centre (HPPC)

Respondent : Kreate Energy (I) Private Ltd. (KEIPL)

Date of Hearing : 25.4.2023



Coram : Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Parties Present : Ms. Sonia Madan, Advocate, HPPC
Shri Anand K Ganesan, Advocate, APPCPL
Ms. Ritu Apurva, Advocate, APPCPL
Ms. Archita, Advocate, APPCPL
Shri Adarsh Tripathi, Advocate, KEIPL
Shri Ajitesh Garg, Advocate, KEIPL
Ms. Prerna Priyadarshini, Advocate, SEL

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petitions have been filed, *inter alia*, seeking recovery of penalty for less return of power by the Respondent(s) under the banking agreements and consequently, for revocation of their trading licence granted by this Commission on account of various illegalities committed by them and on account of violating the terms and conditions of their licences and the obligations bestowed under the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Trading Licence and other related matters) Regulations, 2020 ('Trading Licence Regulations'). Learned counsel mainly submitted the following:

- (a) Vide order dated 30.1.2023, the Commission has held the present Petitions maintainable under Section 19 of the Electricity Act, 2003 ('the Act').
- (b) The Respondents herein have failed to supply the requisite power to the Petitioner under the Banking Agreements entered into between the parties.
- (c) Having failed to comply with their reciprocal obligations to return the power, there is clear breach of the Banking Agreements on the part of the Respondents. The Respondents have also failed to pay penalty as per the provisions of the Banking Agreements for less return of power to the Petitioner.
- (d) There is a categorical and clear default on the part of the Respondents in compliance with the provisions of the Banking Agreements, which violates the terms & conditions of Section 19 (1)(a) & (b) of the Act read with Regulations 13 (1) & (2) read with Regulation 9 (23)&(24) and 20 (1)(a) & (b) of the Trading Licence Regulations deserving initiation of appropriate proceedings for revocation of their inter-State trading licences.

2. Learned counsel for the Respondent, SEL in Petition No. 277/MP/2022 submitted that the Respondent has filed an appeal against the Commission's order dated 30.1.2023 before the APTEL, wherein the APTEL has issued the notice and the said appeal is listed for hearing on 11.5.2023. Learned counsel further submitted that while the Respondent is not disputing the factual aspect of non-return of the power under the agreement, the same was due to certain force majeure and unforeseen events. Learned counsel submitted that the matter requires adjudication of certain issues/aspects, which this Commission cannot go into under its Section 19 jurisdiction. Learned counsel also added that the matter involving merely a breach of the agreement does not call for initiation of the proceedings under Section 19 of the Act.

3. In response, learned counsel for the Petitioner pointed out that plea of force majeure/unforeseen circumstances has been raised by the Respondent only belatedly.

4. Learned counsel for the Respondent, APPCPL in Petition No. 278/MP/2022 submitted that the Respondent has also filed Petition No. 265/MP/2022, *inter alia*, seeking actions against the concerned distribution licensee due to default to supply the power to APPCPL. Learned counsel submitted that the said matter is presently reserved for order on 'admission'. Learned counsel submitted that APPCPL is also making attempt to settle the issue(s) mutually.

5. Learned counsel for the Respondent, KEIPL in Petition No.282/MP/2022 sought additional time to file reply to the petition. Learned counsel submitted that the Respondent has filed Petition No. 94/MP/2023 seeking actions against Saranyu Power Trading Pvt. Ltd. & IPCL for their default under the Banking Agreement with KEIPL, the basis of which KEIPL was to return the power to HPPC. Learned counsel urged that the said petition may be taken up with the present Petitions.

6. After hearing the learned counsel for the parties and keeping in view that none of the Respondents have filed any reply on merits, the Commission permitted the Respondents one more opportunity to file their reply, if any, within three weeks with copy to the Petitioner who may file its rejoinder, if any, within three weeks thereafter.

7. The Commission directed the Respondents to file on affidavit within three weeks the details of the contract for return of power as entered into by the Respondents, trading licensees against their banking contract with HPPC.

8. The Petitions along with Petition No. 94/MP/2023 shall be listed for hearing on 21.7.2023.

By order of the Commission

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