

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 73/MP/2020

Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 for (i) approval of 'Change in Law'; and (ii) consequential relief(s) to compensate for the increase in capital cost due to (a) introduction of the Central Goods and Services Tax Act, 2017, the Integrated Goods and Service Tax Act, 2017 and the State Goods and Services Acts enacted by respective States and (b) imposition and introduction of Safe Guard Duty on the import of solar cells (whether or not assembled in modules or panels) by way of Notification No.01/2018- Customs SG dated 30.7.2018 issued by the Department of Revenue, Ministry of Finance, in terms of Article 12 read with Article 16.3.1 of the Power Purchase Agreements dated 6.10.2017 between SB Energy One Private Limited and Solar Energy Corporation of India Limited.

Date of Hearing : 14.3.2023

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

Petitioner : SB Energy One Private Limited (SBEOPL)

Respondents : Solar Energy Corporation of India Ltd. (SECI) and Anr.

Parties Present : Ms. Gayatri Aryan, Advocate, SBEOPL
Ms. Anushree Bardhan, Advocate, SECI
Shri Aneesh Bajaj, Advocate, SECI
Shri Amal Nair, Advocate, RUVNL
Ms. Kritika Khanna, Advocate, RUVNL

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been re-listed pursuant to the order of Appellate Tribunal for Electricity ('APTEL') dated 19.1.2023 in Appeal No. 432 of 2022 filed by the Petitioner against the order dated 13.5.2021 passed by the Commission in the present case wherein the APTEL has remanded the matter back to the Commission for passing an order afresh in view of its judgment dated 15.9.2022 in Appeal No. 256 of 2019 & batch matters ('Parampujya Judgment'). Learned counsel submitted that issues/grievances raised by the Petitioner in the said appeal against the Commission's order dated 13.5.2021 are squarely covered by the judgment of APTEL in Parampujya Judgment. Learned counsel also submitted that similar remand petitions, in terms of Parampujya Judgment, were listed for hearing on 14.2.2023 and similar directions as issued therein may also be issued in the present case. Learned counsel also pointed out that the name of the Petitioner company has now changed to Adani Solar Energy

Jodhpur Three Private Limited (from earlier, SB Energy One Private Limited) and the Petitioner may be permitted to file an appropriate application to the above effect.

2. Learned counsel for the Respondent, SECI submitted that the issues involved in the matter are squarely covered by the APTEL's Parampujya Judgment. Learned counsel, however, pointed out that in terms of the order of the Hon'ble Supreme Court dated 12.12.2022 in Civil Appeal No. 8880 of 2022, the order of the Commission implementing the directions of APTEL in paragraph 109 of the Parampujya Judgment is not to be enforced until the further order(s) of the Hon'ble Supreme Court and that the directions in paragraph 109 of the Parampujya Judgment are not limited to generator's entitlement to carrying cost but also extend to its Change in Law claims post COD of the Project(s) and on O & M expenses.

3. After hearing the learned counsel for the parties, the Commission permitted both the side to file their respective written submissions, if any, within two weeks with copy to the other side. The Commission also permitted the Petitioner to file an appropriate application to bring on record the change in the name of the Petitioner Company within a week.

4. Subject to the above, the Commission reserved the matter for order.

By order of the Commission

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