



नई दिल्ली
NEW DELHI

याचिका संख्या./ Petition No. 164/MP/2018
165/MP/2018
206/MP/2018
207/MP/2018
209/MP/2018
210/MP/2018
212/MP/2018
226/MP/2018
352/MP/2018
355/MP/2018
358/MP/2018
359/MP/2018
388/MP/2018
395/MP/2018
4/MP/2019
43/MP/2019

कोरम/ Coram:

श्री आई. एस. झा, सदस्य/ Shri I. S. Jha, Member
श्री अरुण गोयल, सदस्य/ Shri Arun Goyal, Member
श्री पी. के. सिंह, सदस्य / Shri P. K. Singh, Member

आदेश दिनांक/ Date of Order: 30th of May, 2023

IN THE MATTER OF:

Petition under Section 79 the Electricity Act, 2003 read with Article 12 of the Power Purchase Agreements executed between the Petitioners and the Respondents, for seeking approval of Change in Law events due to enactment of the GST Laws.

AND IN THE MATTER OF:

1) **Petition No. 164/MP/2018**
Parampujya Solar Energy Private Limited (PSEPL),
5B, Sambhav House, Judges,

Bungalow Road, Bodakdev,
Ahmedabad - 380015, Gujarat

...Petitioner

VERSUS

- 1. National Thermal Power Corporation Limited (NTPC),**
Core-7, SCOPE Complex,1, Institutional Area,
Lodi Road. New Delhi-110003
- 2. The Ministry of New and Renewable Energy (MNRE),**
Block-14, CGO Complex,
Lodhi Road, New Delhi-110 003
- 3. Mangalore Electricity Supply Company Limited (MESCOM),**
MESCOM Bhavan, Kavoor Cross Road, Bejai,
Mangaluru, Karnataka 575004
- 4. Bangalore Electricity Supply Company Limited (BESCOM),**
6, 2nd Floor, 2nd B Cross Rd, Koramangala 1A Block,
Koramangala, Bengaluru, Karnataka 560034
- 5. Chamundeshwari Electricity Supply Company Limited (CESC),**
Sri Harsha Rd, Lashkar Mohalla, Mandi Mohalla, Mysuru,
Karnataka 570001
- 6. Gulbarga Electricity Supply Company Limited (GESCOM),**
Station Road, Kalaburagi,
Karnataka 585102
- 7. Hubli Electricity Supply Company Limited (HESCOM),**
PB Road, Durgad Bail, Navanagar, Hubballi,
Karnataka 580025

...Respondents

AND IN THE MATTER OF:

2) Petition No. 165/MP/2018

Parampujya Solar Energy Private Limited (PSEPL)

5B, Sambhav House, Judges,
Bungalow Road, Bodakdev,
Ahmedabad - 380015, Gujarat

VERSUS

- 1. Solar Energy Corporation of India Limited (SECI),**
1st Floor, A-Wing, 0-3, District Centre, Saket,
New Delhi- 110017
- 2. The Ministry of New and Renewable Energy (MNRE),**
Block-14, CGO Complex, Lodhi Road,
New Delhi-110 003
- 3. M/s Chattisgarh State Power Distribution Company Limited,**
Near Water Tank, Mowa Road,
Dubey Colony, Mowa, Raipur,
Chattisgarh 492001

...Respondents

AND IN THE MATTER OF:

3) Petition No. 206/MP/2018

Parampujya Solar Energy Private Limited (PSEPL),
5B, Sambhav House, Judges,
Bungalow Road, Bodakdev,
Ahmedabad - 380015, Gujarat

VERSUS

- 1. National Thermal Power Corporation Limited (NTPC),**
Core-7, SCOPE Complex,
1, Institutional Area,
Lodi Road. New Delhi-110 003
- 2. The Ministry of New and Renewable Energy (MNRE),**
Block-14, CGO Complex,
Lodhi Road, New Delhi-110 003
- 3. Mangalore Electricity Supply Company Limited (MESCOM),**
MESCOM Bhavan,
Kavoor Cross Road, Bejai,
Mangaluru, Karnataka 575004
- 4. Bangalore Electricity Supply Company Limited (BESCOM),**
6, 2nd Floor, 2nd B Cross Rd,
Koramangala 1A Block, Koramangala, Bengaluru,

Karnataka 560034

5. **Chamundeshwari Electricity Supply Co. Limited (CESC),**
Sri Harsha Rd, Lashkar Mohalla,
Mandi Mohalla, Mysuru,
Karnataka 570001
6. **Gulbarga Electricity Supply Company Limited (GESCOM),**
Station Road, Kalaburagi,
Karnataka 585102
7. **Hubli Electricity Supply Company Limited (HESCOM),**
PB Road, Durgad Bail,
Navanagar, Hubballi,
Karnataka 580025

...Respondents

AND IN THE MATTER OF:

4) Petition No. 209/MP/2018

Parampujya Solar Energy Private Limited (PSEPL),
5B, Sambhav House, Judges, Bungalow Road,
Bodakdev, Ahmedabad - 380015, Gujarat

...Petitioner

VERSUS

1. **National Thermal Power Corporation Limited (NTPC),**
Core-7, SCOPE Complex, 7,
Institutional Area, Lodi Road,
New Delhi - 110003
2. **The Ministry of New and Renewable Energy (MNRE),**
Block-14, CGO Complex,
Lodhi Road, New Delhi-110 003
3. **Telangana Northern Power Distribution Company Limited,**
Hyderabad - Warangal - Bhopalpatnam Hwy,
Near Wadepally Lake, NGOs Colony,
Wadepally, Hanamkonda, Telangana 506001
4. **Telangana Southern Power Distribution Company Limited,**
Engine Bowli, Jangammet, Lalaknuma,

AND IN THE MATTER OF:

5) Petition No. 226/MP/2018

Parampujya Solar Energy Pvt. Limited (PSEPL),
5B, Sambhav House, Judges,
Bungalow Road, Bodakdev,
Ahmedabad - 380015, Gujarat

...Petitioner

VERSUS

- 1. National Thermal Power Corporation Limited (NTPC),**
Core-7, SCOPE Complex,
1, Institutional Area,
Lodi Road. New Delhi-110003
- 2. The Ministry of New and Renewable Energy (MNRE),**
Block-14, CGO Complex,
Lodhi Road, New Delhi-110 003
- 3. Mangalore Electricity Supply Company Limited (MESCOM),**
MESCOM Bhavan,
Kavoor Cross Road, Bejai,
Mangaluru, Karnataka 575004
- 4. Bangalore Electricity Supply Company Limited (BESCOM),**
6, 2nd Floor, 2nd B Cross Rd,
Koramangala 1A Block,
Koramangala, Bengaluru,
Karnataka 560034
- 5. Chamundeshwari Electricity Supply Corp. Limited (CESC),**
Sri Harsha Rd, Lashkar Mohalla,
Mandi Mohalla, Mysuru,
Karnataka 570001
- 6. Gulbarga Electricity Supply Company Limited (GESCOM),**
Station Road, Kalaburagi,
Karnataka 585102
- 7. Hubli Electricity Supply Company Limited (HESCOM),**
PB Road, Durgad Bail,

Navanagar, Hubballi,
Karnataka 580025

...Respondents

AND IN THE MATTER OF:

6) Petition No. 212/MP/2018

Parampujya Solar Energy Pvt. Limited (PSEPL),
5B, Sambhav House, Judges,
Bungalow Road, Bodakdev,
Ahmedabad - 380015, Gujarat

...Petitioner

VERSUS

- 1. Solar Energy Corporation of India Limited (SECI),**
1st Floor, A-Wing, 0-3,
District Centre, Saket,
New Delhi- 110017
- 2. The Ministry of New and Renewable Energy (MNRE),**
Block-14, CGO Complex,
Lodhi Road,
New Delhi-110 003
- 3. Maharashtra State Electricity Distribution Company Limited,**
Hudco, Ekanth Nagar, Nil,
Cidco, Aurangabad,
Maharashtra 431003

...Respondents

AND IN THE MATTER OF:

7) Petition No. 207/MP/2018

Wardha Solar (Maharashtra) Private Limited (WSMPL),
Adani House, Nr Mithakhali Six Roads
Navrangpura, Ahmedabad 380 009
Gujarat, India

...Petitioner

VERSUS

- 1. Solar Energy Corporation of India Limited (SECI),**
1st Floor, A-Wing, 0-3,

District Centre, Saket,
New Delhi-110017

2. **The Ministry of New and Renewable Energy (MNRE),**
Block-14, CGO Complex,
Lodhi Road, New Delhi-110003
3. **Bangalore Electricity Supply Company Limited (BESCOM),**
6, 2nd Floor, 2nd B Cross Rd,
Koramangala 1A Block, Koramangala, Bengaluru,
Karnataka 560034
4. **Chamundeshwari Electricity Supply Corp. Limited (CESC),**
Sri Harsha Rd, Lashkar Mohalla,
Mandi Mohalla, Mysuru, Karnataka 570001
5. **Hubli Electricity Supply Company Limited (HESCOM),**
PB Road, Durgad Bail,
Navanagar, Hubballi, Karnataka 580025

...Respondents

AND IN THE MATTER OF:

8) Petition No. 210/MP/2018

Wardha Solar (Maharashtra) Private Limited (WSMPL)

Adani House, Nr Mithakhali Six Roads Navrangpura,
Ahmedabad Gujarat 380 009

...Petitioner

VERSUS

1. **Solar Energy Corporation of India Limited (SECI),**
1st Floor, A-Wing, 0-3,
District Centre, Saket, New Delhi- 110017
2. **The Ministry of New and Renewable Energy (MNRE),**
Block-14, CGO Complex, Lodhi Road,
New Delhi-110 003
3. **Bangalore Electricity Supply Company Limited (BESCOM),**
6, 2nd Floor, 2nd B Cross Rd,
Koramangala 1A Block, Koramangala, Bengaluru,
Karnataka 560034
4. **Chamundeshwari Electricity Supply Corp. Limited (CESC),**

Sri Harsha Rd, Lashkar Mohalla, Mandi Mohalla, Mysuru,
Karnataka 570001

- 5. Hubli Electricity Supply Company Limited (HESCOM),**
PB Road, Durgad Bail.
Navanagar, Hubballi, Karnataka 580025

...Respondents

AND IN THE MATTER OF:

9) Petition No. 4/MP/2019

Parampuja Solar Energy Pvt. Limited (PSEPL),
7B, Sambhav House, Judges
Bungalow Road, Bodakdev,
Ahmedabad - 380015, Gujarat

...Petitioner

VERSUS

- 1. National Thermal Power Corporation Limited (NTPC),**
Represented by its Chairman
Core-7, SCOPE Complex, 7
Institutional Area, Lodi Road,
New Delhi – 110 003
- 2. The Ministry of New and Renewable Energy (MNRE),**
Represented by its Secretary,
Block-14, CGO Complex,
Lodhi Road, New Delhi-110 003
- 3. Mangalore Electricity Supply Company Limited (MESCOM),**
Represented by its Chairman,
MESCOM Bhavan, Kavoor Cross Road,
Bejai, Mangaluru, Karnataka 575 004
- 4. Bangalore Electricity Supply Company Limited (BESCOM),**
Represented by its Chairman,
6, 2nd Floor, 2nd B Cross Rd, Koramangala 1A Block,
Koramangala, Bengaluru, Karnataka 560 034
- 5. Chamundeshwari Electricity Supply Corp. Limited (CESC),**
Represented by its Chairman
Sri Harsha Rd, Lashkar Mohalla, Mandi Mohalla,
Mysuru, Karnataka 570 001

6. Gulbarga Electricity Supply Company Limited (GESCOM)

Represented by its Chairman,
Station Road, Kalaburagi,
Karnataka 585 102

7. Hubli Electricity Supply Company Limited (HESCOM),

Represented by its Chairman,
PB Road, Durgad Bail,
Navanagar, Hubballi,
Karnataka 580 025

...Respondents

AND IN THE MATTER OF:

10) Petition No. 352/MP/2018

11) Petition No. 355/MP/2018

12) Petition No. 358/MP/2018

13) Petition No. 359/MP/2018

Wardha Solar (Maharashtra) Private Limited (WSMPL),

Represented by its Authorized Signatory
Adani House, Nr Mithakhali Six Roads
Navrangpura, Ahmedabad 380 009
Gujarat, India

...Petitioner

VERSUS

1. Solar Energy Corporation of India Limited (SECI),

Represented by its Directors
1st Floor, A-Wing, 0-3, District Centre, Saket,
New Delhi- 110017

2. The Ministry of New and Renewable Energy (MNRE),

Represented by its Secretary
Block-14, CGO Complex,
Lodhi Road, New Delhi-110 003

3. Mangalore Electricity Supply Company Limited (MESCOM),

Represented by its Chairman
MESCOM Bhavan, Kavoor Cross Road,
Bejai, Mangaluru, Karnataka 575004

4. Bangalore Electricity Supply Company Limited (BESCOM),

Represented by its Chairman

6, 2nd Floor, 2nd B Cross Rd, Koramangala 1A Block
Koramangala, Bengaluru, Karnataka 560 034

5. **Chamundeshwari Electricity Supply Corp. Limited (CESC),**
Represented by its Chairman
Sri Harsha Rd, Lashkar Mohalla,
Mandi Mohalla,
Mysuru, Karnataka 570001
6. **Gulbarga Electricity Supply Company Limited (GESCOM),**
Represented by its Chairman
Station Road, Kalaburagi,
Karnataka 585 102
7. **Hubli Electricity Supply Company Limited (HESCOM),**
Represented by its Chairman
PB Road, Durgad Bait
Navanagar, Hubballi,
Karnataka 580 025

...Respondents

AND IN THE MATTER OF:

14) Petition No. 388/MP/2018

Wardha Solar (Maharashtra) Private Limited (WSMPL),
Adani House, Nr Mithakhali Six Roads Navrangpura,
Ahmedabad 380 009 Gujarat, India

...Petitioner

VERSUS

1. **Solar Energy Corporation of India Limited (SECI),**
1st Floor, A-Wing
D-3, District Centre
Saket, New Delhi, 110017
2. **The Ministry of New and Renewable Energy (MNRE),**
Block-14, CGO Complex,
Lodhi Road, New Delhi-110 003
3. **Mangalore Electricity Supply Company Limited (MESCOM),**
MESCOM Bhavan, Kavoor Cross Road,
Bejai, Mangaluru, Karnataka 575004

- 4. Bangalore Electricity Supply Company Limited (BESCOM)**
6, 2nd Floor, 2nd B Cross Rd,
Koramangala 1A Block Koramangala,
Bengaluru, Karnataka 560 034
- 5. Chamundeshwari Electricity Supply Corp. Limited (CESC),**
Sri Harsha Rd, Lashkar Mohalla,
Mandi Mohalla,
Mysuru, Karnataka 570001
- 6. Gulbarga Electricity Supply Company Limited (GESCOM),**
Station Road, Kalaburagi,
Karnataka 585 102
- 7. Hubli Electricity Supply Company Limited (HESCOM),**
PB Road, Durgad Bait Navanagar,
Hubballi, Karnataka 580 025
- 8. Northern Power Distribution Company of Telangana Limited,**
H. No. 2-5-31/2, Corporate Office, Vidyut Bhavan,
Nakkalgutta, Hanamkonda,
Warangal, Telangana. 506001
- 9. Southern Power Distribution Company of Telangana Limited,**
Corporate office: # 6-1-50, Mint Compound,
Hyderabad, Telangana. 500063

...Respondents

AND IN THE MATTER OF:

15) Petition No. 395/MP/2018

Parampujya Solar Energy Pvt. Limited (PSEPL),
7B, Sambhav House,
Judges Bungalow Road,
Bodakdev, Ahmedabad - 380015, Gujarat

...Petitioner

VERSUS

- 1. National Thermal Power Corporation Limited (NTPC),**
Core-7, SCOPE Complex, 7,
Institutional Area, Lodi Road,

New Delhi – 110003

2. **The Ministry of New and Renewable Energy (MNRE),**
Block-14, CGO Complex,
Lodhi Road, New Delhi-110 003
3. **Mangalore Electricity Supply Company Limited (MESCOM),**
MESCOM Bhavan,
Kavoor Cross Road, Bejai,
Mangaluru, Karnataka 575004
4. **Bangalore Electricity Supply Company Limited (BESCOM),**
6, 2nd Floor, 2nd B Cross Rd, Koramangala 1A Block,
Koramangala, Bengaluru, Karnataka 560034
5. **Chamundeshwari Electricity Supply Corp. Limited (CESC),**
Sri Harsha Rd, Lashkar Mohalla, Mandi Mohalla,
Mysuru, Karnataka 570001
6. **Gulbarga Electricity Supply Company Limited (GESCOM),**
Station Road, Kalaburagi, Karnataka 585102
7. **Hubli Electricity Supply Company Limited (HESCOM),**
PB Road, Durgad Bail,
Navanagar, Hubballi,
Karnataka 580025

...Respondents

AND IN THE MATTER OF:

16) Petition No.: 43/MP/2019

Prayatna Developers Private Limited (PDPL),
Represented by its Authorised Signatory 7B,
Sambhav House, Judges
Bungalow Road, Bodakdev,
Ahmedabad - 380015, Gujarat

...Petitioner

VERSUS

1. **National Thermal Power Corporation Limited (NTPC),**
Core-7, SCOPE Complex, 7,
Institutional Area, Lodi Road,
New Delhi – 110003

2. **Jaipur Vidyut Vitran Nigam Limited,**
Vidyut Bhawan, Jyoti Nagar,
Jaipur-302005
3. **Ajmer Vidyut Vitran Nigam Limited,**
Vidyut Bhawan, Panchsheel Nagar,
Makarwall Road, Ajmer-305004
4. **Jodhpur Vidyut Vitran Nigam Limited,**
New Power House, Industrial Area,
Jodhpur-342003, Rajasthan
5. **The Ministry of New and Renewable Energy,**
Represented by its Secretary,
Block-14, CGO Complex,
Lodhi Road, New Delhi-110003

...Respondents

Parties Present: Ms. Poonam Verma, Advocate, PSEPL
Ms. Sakshi Kapoor, Advocate, PSEPL
Shri Adarsh Tripathi, Advocate, NTPC
Shri Apoorv Kurup, Advocate, CSPDCL
Ms. Nidhi Mittal, Advocate, CSPDCL
Ms. Srishti Khindaria, Advocate, SECI
Ms. Surbhi Kapoor, Advocate, SECI
Ms. Anushree Bardhan, Advocate, SECI
Shri Anand K Ganeshan, Advocate, Karnataka Discoms
Ms. Swapna Sweshani, Advocate, Karnataka Discoms
Ms. Ritu Apurva, Advocate, Karnataka Discoms

आदेश/ ORDER

The Petitioners, M/s Parampujya Solar Energy Pvt. Limited (PSEPL) (wholly owned subsidiary of M/s Adani Green Energy Limited), M/s Wardha Solar (Maharashtra) Private Limited (WSMPL) (a wholly owned subsidiary of PSEPL) and M/s Prayatna Developers Private Limited (PDPL) are generating companies engaged in the business of setting up solar power plants and generation of electricity.

2. The Respondent, M/s Solar Energy Corporation of India Limited (SECI), is a Central Public Sector Undertaking and has been designated by the Government of India as the nodal agency for implementation of Ministry of New and Renewable Energy (MNRE) Scheme for

developing grid connected solar power capacity including Phase-II, Batch-III, Tranche-VI of the Jawaharlal Nehru National Solar Mission (JNNSM) of Government of India (GOI). NTPC Limited (NTPC) is a Public Sector Undertaking and is engaged in the business of generation of electricity and allied activities. NTPC is responsible for implementation of 'State Specific Bundling Scheme' of the National Solar Mission (NSM) scheme of MNRE for setting up solar power plants. The rest of Respondents are the distribution companies (Discoms) in respective States of Karnataka and Telangana.

3. The Petitioners in the captioned petitions have sought Change in Law compensation on account of promulgation of GST Laws, Carrying Costs, GST on Operation and Maintenance (O&M) services, GST on expenditure incurred after Commercial Operation Date (CoD) of the Projects. The Commission after carefully perusing the submissions of the parties, passed detailed orders in the captioned petitions during the period 2019-2020.
4. The Commission disposed of the petitions as under:
 - a) batch Petitions 206/MP/2018, 207/MP/2018, 209/MP/2018, 210/MP/2018, 212/MP/2018, 226/MP/2018 vide common order dated 12.04.2019;
 - b) batch Petition No. 164/MP/2018, 165/MP/2018 vide common order dated 18.04.2019;
 - c) batch Petition No. 352/MP/2018, 355/MP/2018, 358/MP/2018, 359/MP/2018, 4/MP/2019 vide common order dated 30.12.2019;
 - d) Petition No. 43/MP/2019 vide order dated 21.01.2020;
 - e) batch Petition No. 388/MP/2018, 395/MP/2018 vide common order dated 27.03.2020.
5. While the Commission allowed the claims of the Petitioner for compensation on account of promulgation of GST as change in law, it disallowed the claims for additional tax burden on O & M expenses, carrying cost and interest on working capital. Relevant excerpts of the orders are as follows:

“Our decisions in this Order are summed up as under:

 - a. Issue No. 1: The introduction of “GST laws” w.e.f. 01.07.2017 is covered under “Change in Law” in terms of Article 12 of the respective PPAs.*
 - b. Issue No. 2: The claim of the Petitioner on account of additional tax burden on “O&M” expenses (if any), is not maintainable.*
 - c. Issue No. 3: The claim regarding separate “Carrying Cost” and “interest on working capital” in the instant petitions is not allowed.”*

6. Aggrieved by the orders passed by the Commission, the contracting parties preferred an appeal before Appellate Tribunal for Electricity (APTEL).
7. APTEL, vide judgement dated 15.09.2022 in A. No. 256 of 2019 & Batch in case title *Parampujya Solar Energy Pvt. Limited & Ors. vs. CERC & Ors.*, remanded the Batch Petitions to the commission with following directions (in paragraph 109):

“.....
109. *The other captioned appeals – Appeal no. 256 of 2019 (Parampujya Solar Energy Pvt. Limited & Anr. v. CERC & Ors.), Appeal no. 299 of 2019 (Parampujya Solar Energy Pvt. Limited v. CERC & Ors.), Appeal no. 427 of 2019 (Mahoba Solar (UP) Private Limited v. CERC & Ors.), Appeal no. 23 of 2022 (Prayatna Developers Pvt. Limited v. CERC & Ors.) Appeal no. 131 of 2022 (Wardha Solar (Maharashtra) Private Limited & Anr. v. CERC & Ors.) and Appeal no. 275 of 2022 (Parampujya Solar Energy Pvt. Limited & Anr. v. CERC & Ors.) - deserve to be allowed. We order accordingly directing the Central Electricity Regulatory Commission to take up the claim cases of the Solar Power Project Developers herein for further proceedings and for passing necessary orders consequent to the findings recorded by us in the preceding parts of this judgment, allowing Change in Law (CIL) compensation (on account of GST laws and Safeguard Duty on Imports, as the case may be) from the date(s) of enforcement of the new taxes for the entire period of its impact, including the period post Commercial Operation Date of the projects in question, as indeed towards Operation & Maintenance (O&M) expenses, along with carrying cost subject, however, to necessary prudence check.”*

8. **Hearing dated 14.02.2023:** The case was called for hearing on 14.02.2023. As per Record of Proceedings it was held as under:

At the outset, learned counsel for the Respondent, NTPC submitted that these matters have been re-listed pursuant to the judgment of the Appellate Tribunal for Electricity dated 15.9.2022 in Appeal No.256 of 2019 & Ors. and that the Respondent may be permitted to file an additional affidavit, inter-alia, indicating the status of payments made to the generators and the payments received by NTPC from the distribution licensees. Learned counsel further submitted that the Commission also fix a time bound mechanism for distribution licensees to make payments to the intermediaries such as the Respondents for all such payments as have been made by the intermediaries to the generators. Learned counsel for the Respondent, CSPDCL also made similar request. Learned counsel pointed out that CSPDCL has also challenged the aforesaid judgment of APTEL before the Hon'ble Supreme Court on the aspect of jurisdiction of this Commission in Petition No.165/MP/2018. However, there is no stay on the judgment of the APTEL on the above aspect.

2. The learned counsel for the Petitioners also sought liberty to file their rejoinder, if required.

3. After hearing the learned counsel for the parties, the Commission permitted the Respondents in these matters to file their respective additional affidavit, if any, within two weeks with copy to the Petitioners, who may file its response thereon, if any,

within two weeks thereafter.

Submissions of NTPC:

9. Pursuant to the directions of this Commission vide Record of Proceedings dated 14.02.2023, NTPC submitted the status of payment made by them to the SPD and the payment made by Discoms to NTPC. The payments were made in the following manner:

Petition	164/MP/2018	209/MP/2018	226/MP/2018	395/MP/2018	206/MP/2018	43/MP/2019
Petitioner	PSEPL					PDPL
Capacity	50 MW	50 MW	100 MW	50 MW	50 MW	20(2X10) MW
Concerned Discom	Karnataka	Telangana	Karnataka	Telangana	Karnataka	Rajasthan
Amount paid to SPD by NTPC (Rs. Cr.)	9.98	2.35	4.63	19.36	18.33	2.81 for EPC Contacts prior to the COD
Amount paid to NTPC by discom (Rs.Cr.)	9.98	2.26 from Sept, 2022 on an annuity basis	4.63	2.26 Cr. from Sept, 2022 on an annuity basis	18.33	2.81

Submissions of SECI:

10. Briefly, SECI vide its reply dated 28.02.2023 submitted that the Hon'ble Supreme Court vide order dated 12.12.2022 in Civil Appeal No. 8880 of 2022 and 23.01.2023 in Civil Appeal being Diary No. 135 of 2023 has held that CERC shall comply with the directions issued in para 109 of the *Parampujya judgement* dated 15.09.2022 and the final order of CERC shall not be enforced pending further orders. Further, APTEL vide order dated 19.01.2023 in the matter of *Adani Solar Energy Jodhpur Three Private Limited v Central Electricity Regulatory Commission* had also inter-alia directed that “in terms of the Order of the Supreme Court, the order to be passed by the CERC shall not be enforced till the aforesaid Order is either varied or the appeal itself is disposed of by the Supreme Court.” SECI has submitted that the Commission may consider the aforesaid decisions in order to maintain parity before passing any decision on the aspects covered in above judgments.

Submissions of the Petitioner:

11. The Petitioners have submitted that the decision of the Hon'ble Supreme Court in Civil Appeal No. 8880 of 2022 establishes that this Commission can take up claims of solar power developers for further proceedings in terms of the *Parampujya Judgment*. There is no stay on

the *Parampujya Judgment*. The Petitioner further submitted that as the aforesaid petition is listed for further hearing before the Hon'ble Supreme Court on 18.07.2023, the Commission may take this into consideration and accordingly the final computation may be carried out.

Analysis and decision:

12. We have heard the learned counsels for the Petitioner and Respondents and have carefully perused the records and considered the submissions of the parties.
13. In this regard, it is pertinent to mention here that the Commission has already passed well-reasoned Orders in similar matters in petitions (as mentioned below) wherein similar reliefs were sought by the parties with respect to compensation qua O&M/additional expenses, Carrying Cost etc. The Commission has allowed the claims for O&M/additional expenses and Carrying Cost etc. in similar petitions viz. *188/MP/2018 & Batch vide Order dated 25.11.2022; 293/MP/2018 & Batch vide Order dated 30.11.2022; 179/MP/2020 & Addendum Order 09.01.2023 & 24.01.2023; 722/MP/2020 & 723/MP/2020 vide Order dated 20.01.2023; 268/MP/2021 vide Order dated 05.04.2023; 216/MP/2022 vide Order dated 05.04.2023; 219/MP/2022 vide Order dated 21.04.2023; 174/MP/2022 vide Order dated 17.05.2023*. In the above Orders, the Commission has, *inter-alia*, held that the Petitioners shall be entitled for compensation towards additional expenditure on account of Change in Law event in terms of Article 12.2 of the PPA along with carrying cost on account of Change in Law event upto the date of reimbursement by the Respondents. However, the directions related to compensation for the period post COD shall not be enforced and shall be subject to further orders of the Hon'ble Supreme Court in Civil Appeal No. 8880/2022 in *Telangana Northern Power Distribution Company Limited & Anr. V. Parampujya Solar Energy Pvt. Limited & Ors*, and connected matters.
14. We note that in the instant petitions, the PPAs were executed between the parties during July 2016 - September 2016 and the SCoD's were between 20.07.2017 - 28.09.2017, whereas the GST Laws were applicable from 01.07.2017. As such Petitioner's projects were impacted by GST Notification dated 01.07.2017. Therefore, the Petitioners are entitled for relief under the GST Laws as per the terms of Article 12 of the PPA.
15. APTEL, vide judgement dated 15.09.2022 in A. No. 256 of 2019 & Batch in case title *Parampujya Solar Energy Pvt. Limited & Ors. vs. CERC & Ors.*, remanded the Batch Petitions to the commission with following directions (in paragraph 109):

“

109. *The other captioned appeals – Appeal no. 256 of 2019 (Parampujya Solar Energy Pvt. Limited & Anr. v. CERC & Ors.), Appeal no. 299 of 2019 (Parampujya Solar Energy Pvt. Limited v. CERC & Ors.), Appeal no. 427 of 2019 (Mahoba Solar (UP) Private Limited v. CERC & Ors.), Appeal no. 23 of 2022 (Prayatna Developers Pvt. Limited v. CERC & Ors.) Appeal no. 131 of 2022 (Wardha Solar (Maharashtra) Private Limited & Anr. v. CERC & Ors.) and Appeal no. 275 of 2022 (Parampujya Solar Energy Pvt. Limited & Anr. v. CERC & Ors.) - deserve to be allowed. **We order accordingly directing the Central Electricity Regulatory Commission to take up the claim cases of the Solar Power Project Developers herein for further proceedings and for passing necessary orders consequent to the findings recorded by us in the preceding parts of this judgment, allowing Change in Law (CIL) compensation (on account of GST laws and Safeguard Duty on Imports, as the case may be) from the date(s) of enforcement of the new taxes for the entire period of its impact, including the period post Commercial Operation Date of the projects in question, as indeed towards Operation & Maintenance (O&M) expenses, along with carrying cost subject, however, to necessary prudence check.**”*

16. In view of above, this Commission holds that the Petitioners shall be entitled for the compensation (pre COD & post COD) towards additional expenditure on account of Change in Law event in terms of Article 12 of the PPAs upto the date of reimbursement by the Respondents. The Petitioners, in the instant petitions shall be eligible for carrying cost starting from the date when the actual payments were made to the Authorities till the date of issuance of this Order, at the actual rate of interest paid by the Petitioners for arranging funds (supported by Auditor’s Certificate) or the rate of interest on working capital as per applicable RE Tariff Regulations prevailing at that time or the late payment surcharge rate as per the PPA, whichever is the lowest. Once a supplementary bill is raised by the Petitioners in terms of this order, the provision of Late Payment Surcharge in the PPA would kick in if the payment is not made by the Respondents within the due date.
17. Accordingly, the Commission hereby directs the contracting parties to carry out reconciliation of additional expenditure along with carrying cost by exhibiting clear and one to one correlation with the projects and the invoices raised supported with auditor certificate. The Commission further directs that the responding Discoms is liable to pay SECI/NTPC all the above reconciled claims that SECI/NTPC has to pay to the Petitioners. However, payment to the Petitioners by SECI/NTPC is not conditional upon the payment to be made by the responding Discoms to SECI/NTPC.
18. The Hon’ble Supreme Court in its Order dated 12.12.2022, in Civil Appeal no. 8880/2022 in the case of “*Telangana Northern Power Distribution Co. Limited & Anr. Vs. Parampujya*

Solar Energy Pvt. Limited & Ors.” (and in similar Orders dated 03.01.2023 and 23.01.2023) has held as under:

“Pending further orders, the Central Electricity Regulatory Commission (CERC) shall comply with the directions issued in paragraph 109 of the impugned order dated 15 September 2022 of the Appellate Tribunal for Electricity. However, the final order of the CERC shall not be enforced pending further orders.”

19. Therefore, the directions issued in this Order so far as they relate to compensation for the period post Commercial Operation Date shall not be enforced and shall be subject to further orders of the Hon’ble Supreme Court in Civil Appeal No. 8880/2022 in *Telangana Northern Power Distribution Company Limited & Anr. V. Parampujya Solar Energy Pvt. Limited & Ors.*, and connected matters.

20. The Petition No. 164/MP/2018 & Batch is disposed of in terms of the above.

Sd/-
पी. के. सिंह
(सदस्य)

Sd/-
अरुण गोयल
(सदस्य)

Sd/-
आई. एस. झा
(सदस्य)