

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 178/MP/2023

Coram:

Shri Jishnu Barua, Chairperson

Shri I. S. Jha, Member

Shri Arun Goyal, Member

Shri P.K.Singh, Member

Date of Order: 14th September, 2023

In the matter of

Petition under Sections 142 and 146 read with Section 66 of the Electricity Act, 2003, seeking appropriate directions against the willful and deliberate non-compliance of Central Electricity Regulatory Commission (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022 by the Respondent.

And

In the matter of

Echanda Urja Private Limited,

618-Maker Chambers V,

Nariman Point, Mumbai- 400021

...Petitioner

Versus

National Load Despatch Centre,

B-9 (1st Floor), Qutab Institutional Area,

Katwaria Sarai, New Delhi -110016

..Respondent

Parties petition

Shri Venkatesh, Advocate for the Petitioner

ORDER

The Petitioner, Echanda Urja Private Limited, has filed the present Petition, *inter alia*, seeking direction to the Respondent, National Load Despatch Centre (NLDC), to allow the Petitioner to sell its unsold Renewable Energy Certificates (RECs) issued for the generation of power up to November 2022 which is in accordance with Regulation 19(2)(b) of the Central Electricity Regulatory Commission (Terms and Conditions for

Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022

(‘REC Regulations, 2022’). The Petitioner has made the following prayers:

“(a) Direct NLDC to allow EUPL to sell its 78,901 unsold RECs issued for generation of power up to November 2022 which is in accordance with Regulation 19(2)(b) of the REC Regulations 2022 and the Order dated 11.05.2023 passed by Hon’ble High Court of Delhi in WP (C) No. 825 of 2023; and

(b) Initiate appropriate proceedings against NLDC in terms of Section 142 and 146 read with Section 66 of the Act, for non-compliance of the Regulations of this Hon’ble Commission; and

(c) Pass any such further order(s) as this Hon’ble Commission may deem fit and appropriate in light of the facts and circumstances of the present case.”

2. The matter was heard on 30.5.2023. During the course of the hearing, the learned counsel for the Petitioner had raised the following contentions before us. The relevant portion of the ROP is extracted below:

“(a) The Petitioner has set-up and is operating a 100.5 MW Wind Power Project (‘the Project’) in the State of Tamil Nadu. The Petitioner’s 61.19% (i.e. 61.5 MW) of the capacity is registered as a Captive Generating Plant (CGP) under the REC mechanism in terms of the REC Regulations, 2010, which permitted the issuance of RECs to CGP based on renewable energy sources for the entire energy generated, albeit subject to fulfilment of certain conditions. The Petitioner’s Project duly fulfilled the such conditions, and RECs were being issued to the Petitioner which the Petitioner had been selling, from time to time, on various Power Exchange platforms.

(b) On 28.5.2022, the Commission issued the REC Regulations, 2022, which came into force w.e.f 5.12.2022. Although, under REC Regulations, 2022, the RECs issued to CGP to the extent of self-consumption are not eligible for sale, Regulation 19(2)(b) therein clearly provides that RECs issued under REC Regulations, 2010 and not redeemed prior to the date of coming into the effect of REC Regulations, 2022 shall remain valid until they are redeemed and shall be eligible for exchange as per REC Regulations, 2022.

(c) REC Regulations, 2022 have, however, been challenged before the Hon’ble High Court of Delhi in WP (C) No. 15477 of 2022. Vide order dated 20.12.2022, the Hon’ble High Court has suspended the trading in RECs issued prior to 31.10.2022. The Petitioner has also filed WP (C) No. 825 of 2023 against the said Regulations, which came to be tagged along with WP(C) No.15477 of 2022.

(d) During the operation of the stay order, the renewable generators, including the Petitioner were not able to sell their unsold RECs causing severe financial constraints for the Petitioner. In view of the same, the Petitioner approached the Hon'ble High Court of Delhi for the vacation of the stay order. Vide order dated 11.5.2023, the Hon'ble High Court vacated the stay on trading of RECs issued prior to 31.10.2022 and allowed the sale of the same.

(e) Pursuant to the above, the Petitioner approached the NLDC. In response, NLDC informed the Petitioner that as per the REC Regulations, 2022, the Petitioner cannot sell its unsold RECs on the Power Exchange or otherwise.

(f) Interpretation of Regulation 19(2)(b) read with Regulation 4(3) of the REC Regulations, 2022, to the effect that the RECs issued under the REC Regulations, 2010 can only be eligible for exchange as per the REC Regulations, 2022 and since these Regulations restrict the sale of RECs issued to CPG to the extent of self-consumption, the Petitioner cannot sell its unsold RECs may not be correct. Regulation 19(2)(b) of the REC Regulations, 2022 clearly provides that RECs issued under the REC Regulations, 2010 and not redeemed prior to the date of coming into the REC Regulations, 2022 would remain valid.

(g) In the instant Petition, the Petitioner has indicated the severe financial constraints being faced by it, and if the Petitioner is not allowed to sell its inventory of RECs, it will further suffer a significant shortfall in revenues and cash flows and, in turn, will not be able to service the debt taken for its Project and its account will be classified as NPA in the books of its lenders.

3. The representative of the Respondent had submitted that, as per the proviso to Regulation 4(3) of the REC Regulations, 2022, RECs issued to CGP to the extent of self-consumption are not eligible for sale. He further submitted that Regulation 19(2)(b) of the REC Regulations, 2022, provides that RECs issued under the REC Regulations, 2010 and not redeemed prior to the date of coming into force under these regulations shall remain valid until they are redeemed and shall be eligible for exchange as per the REC Regulations, 2022 only. In the Statement of Reasons for the said Regulations also, the Commission, at paragraph 16.3, has clarified that all RECs irrespective, of their date of issuance would be traded as per the REC Regulations, 2022.

4. Considering the submissions of the learned counsel for the Petitioner and the representative of the Respondent, NLDC, and in view of the next trading session of RECs on 31.5.2023, the Commission directed the NLDC to allow the Petitioner to sell/trade its unsold Renewable Energy Certificates (RECs) issued prior to the date of effect of the REC Regulations, 2022 i.e. 5.12.2022 after due verification, subject to the outcome of the decision in the Petition."

3. The matter was mentioned by the learned counsel for the Petitioner during the course of the hearing on 7.9.2023, and it was submitted that, in terms of the direction

of the Commission dated 30.5.2023, the Respondent has considered the prayer of the Petitioner and has allowed the Petitioner to sell its unsold RECs issued up to November 2022, which were then sold by the Petitioner. Therefore, the present Petition has become infructuous. Accordingly, learned counsel sought permission to withdraw the present Petition.

4. Considering the submissions of the learned counsel for the Petitioner, the Commission observed that since no prayer remains, the Petitioner is permitted to withdraw the present Petition.

5. Accordingly, Petition No. 178/MP/2023 is disposed of as withdrawn.

**Sd/-
(P.K.Singh)
Member**

**sd/-
(Arun Goyal)
Member**

**sd/-
(I.S. Jha)
Member**

**sd/-
(Jishnu Barua)
Chairperson**