

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 232/MP/2021**

**Coram:**

**Shri Jishnu Barua, Chairperson**

**Shri I. S. Jha, Member**

**Shri Arun Goyal, Member**

**Shri P.K. Singh, Member**

**Date of Order: 18<sup>th</sup> September, 2023**

**In the matter of**

Petition under Section 79(1)(f) read with Section 142 of the Electricity Act, 2003 in terms of the Orders passed by this Commission vide Order dated 09.10.2018 passed in Petition No. 232/MP/2017, Petition No. 233/MP/2017 & Petition No. 13/MP/2018, Order dated 12.04.2019 passed in Petition No.209/MP/2018, Order dated 27.03.2020 passed in Petition No. 395/MP/2018 and Order dated 05.02.2019 passed in Petition No. 187/MP/2018 , seeking recovery of the amount to the tune of Rs. 52 Crores approx from Distribution Companies of Telangana, paid by the Petitioner as an Intermediary Procurer to the various Solar Power Developers towards the Claim on account of the 'Change in Law' allowed by this Commission.

**And**

**In the matter of**

**NTPC Limited,**

NTPC Bhawan, 7 Institutional Area, Core -7,

SCOPE Complex, Lodhi Road,

New Delhi – 110003

**...Petitioner**

**Versus**

**1. Northern Power Distribution Company of Telangana Limited,**

H. No. 2-5-31/2, Corporate Office,

Vidyut Bhavan, Nakkalgutta, Hanamkonda,

Warangal, Telangana-506001.

**2. Southern Power Distribution Company of Telangana Limited,**

6-1-50, Corporate Office, Mint Compound, Hyderabad,

Telangana-500063.

**3. Transmission Corporation of Telangana Limited,**

Vidyut Soudha, Khairatabad,

Hyderabad, Telangana-500082.

**4. ACME Mahbubnagar Solar Energy Private Limited,**

Plot No. 152, Sector 44,

Gurugram, Haryana-122002.

**5. ACME Yamunanagar Solar Power Private Limited,**

Plot No. 152, Sector – 44,  
Gurugram, Haryana-122002

**6. Azure Power Thirty-Seven Private Limited,**

No. 8, Local Shopping Complex,  
Madangir, Pushp Vihar,  
New Delhi – 110 062.

**7. Parampujya Solar Energy Private Limited,**

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

**8. ReNew Wind Energy (TN2) Private Limited,**

138, Ansal Chamber-II,  
Bikaji Cama Place, New Delhi-110066

**..Respondents**

**ORDER**

The Petitioner, NTPC Limited, has filed the present Petition under Section 79(1)(f) read with Section 142 of the Electricity Act, 2003, in terms of the Commission's order dated 9.10.2018 passed in Petition Nos. 232/MP/2017, 233/MP/2017, and 13/MP/2018, an order dated 12.4.2019 passed in Petition No.209/MP/2018, order dated 27.3.2020 passed in Petition No. 395/MP/2018, and an order dated 5.2.2019 passed in Petition No. 187/MP/2018, seeking recovery of the outstanding dues. The Petitioner has made the following prayers:

*“(a) Direct Northern Power Distribution Company of Telangana Limited to pay an arbitrarily withheld amount of Rs. 15,37,30,841/- to the Petitioner in terms of the GST Orders passed by this Commission together with LPS, in terms of the Article 6.3.3 of the PSAs dated 18.06.2016.*

*(b) Direct Southern Power Distribution Company of Telangana Limited to pay an arbitrarily withheld amount of Rs. 36,82,95,318/- to the Petitioner in terms of the GST Orders passed by this Commission together with LPS, in terms of the Article 6.3.3 of the PSAs dated 18.06.2016.*

*(c) Initiate action against Telangana-DISCOMs in terms of Section 142 of the Act for deliberate and wilful contravention of the directions passed by this Commission vide its GST Orders as detailed in Para 2 of the present Petition.”*

2. The case was heard on 16.8.2023. During the course of the hearing, the learned counsels for the Petitioner and the Respondents had raised the following contentions before us. The relevant portion of the ROP is extracted below:

*“1...Learned counsel submitted that out of the total cumulative claim of Rs. 52.20 crore, Telangana Discoms have made a part payment of Rs. 24.8 crore and, vide a letter dated 27.6.2023, indicated that the balance payment towards the GST amount would be released under the scheme of the LPSC Rules, 2022. Learned counsel, however, pointed out that, Telangana Discoms have, as such, not provided any justification/breakup for the amount of Rs. 61.02 crore as indicated in the said letter. Learned counsel added that vide Record of Proceedings or the hearing dated 28.6.2023, the Commission had specifically directed the Telangana Discoms to file on an affidavit the details of payment made and outstanding dues to the Petitioner towards GST compensation under GST Orders of the Commission within three weeks. However, Telangana Discoms have not filed any such affidavit furnishing the information called for.*

*2. Learned counsel appearing on behalf of Telangana Discoms, citing a lack of instructions on merits, sought a week’s time to take necessary instructions and to file an affidavit indicating the details of payment under the GST Orders.*

3. After hearing the learned counsels for the parties, the Commission, vide its Record of Proceedings for the hearing dated 16.8.2023, expressed strong displeasure over the conduct of the Respondents, Telangana Discoms, in completely disregarding the direction in filing their affidavit indicating the details of payment under GST Orders. However, keeping in view the request of learned counsel for Telangana Discoms, the Commission permitted one last opportunity for the Respondents to comply with the directions issued under the Record of Proceedings for the hearing dated 28.6.2023 within two weeks.

4. The Respondents, Telangana Discoms, vide its affidavit dated 26.8.2023, has submitted as under:

(a) In accordance with the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 (in short, 'the LPS Rules, 2022'), which allows for payment of the total outstanding dues in equated monthly instalments, the GST payment dues, along with other dues of NTPC, are being disbursed in instalments, being funded by REC and PFC.

(b) The Financial Advisor and Chief Controller of Accounts, TSPCC, has addressed a letter dated 22.6.2023 to the Petitioner providing all the details regarding the payments made up to 5.6.2023 and the balance outstanding amount. It was further informed to the Petitioner that the REC and PFC would be releasing the amounts to the NTPC under the LPS Rules, 2022.

(c) Further, payments have been made by the TSDISCOMS to the Petitioner on 5.7.2023, and the detailed statement showing the payment made to the Petitioner to the tune of Rs. 27,12,21,813/- and the balance amount to be disbursed by REC/PFC has been placed on the record.”

5. The Petitioner, vide its affidavit dated 14.9.2023, has submitted that on 5.7.2023, the Telangana Discoms had paid Rs. 27,12,21,813/- to the Petitioner and REC and PFC would be releasing the balance amount to the Petitioner under the provisions of the LPS Rules. Accordingly, the Petitioner has sought permission to withdraw the present Petition.

6. The Petition is being decided by circulation. In view of the submissions of the Petitioner, vide its affidavit dated 14.9.2023, the Petitioner is permitted to withdraw the present Petition.

7. Accordingly, Petition No. 232/MP/2021 is disposed of as withdrawn.

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

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

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

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