

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.186/MP/2021

Subject : Petition under Section 79(1)(c) read with Sections 142 and 146 of the Electricity Act, 2003 regarding non-compliance of the order dated 8.6.2013 in Petition No. 245/MP/2012 passed by the Commission and for consequential directions.

Date of Hearing : **23.2.2024**

Coram : Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : Dakshin Gujarat Vij Company Limited (DGVCL)

Respondents : Arcelor Mittal Nippon Steel India Limited (AMNSIL) and 4 Ors.

Parties Present : Shri M. G. Ramachandran, Sr. Advocate, DGVCL
Ms. Srishti Khindaria, Advocate, DGVCL
Shri B.K. Patel, DGVCL
Dr. Abhishek Manu Singhvi, Sr. Advocate, AMNSIL
Shri Gopal Jain, Sr. Advocate, AMNSIL
Shri Ruby Singh, Advocate, AMNSIL
Shri Vishal Gehrana, Advocate, AMNSIL
Shri Varun Khanna, Advocate, AMNSIL
Shri Amit Bhandari, Advocate, AMNSIL
Ms Ananya Ghosh, Advocate, AMNSIL
Ms Kritika Sachdeva, Advocate, AMNSIL
Shri Aditya P Das, GRID-INDIA
Shri Gajendra Singh, WRLDC
Shri Alok Mishra, WRLDC
Shri Ranjeet Singh Rajput, CTUIL
Ms. Kavya Bhardwaj, CTUIL

Record of Proceedings

During the course of the hearing, the learned senior counsel for Respondent No.1 referred to the affidavit dated 9.1.2024 and submitted that in deference to the directions of this Commission and without prejudice to all rights, contentions and remedies of Respondent No. 1 including the right to claim a refund of any amount paid, Respondent No. 1 has proposed that it will make payment towards the alleged principal liability towards Cross Subsidy Surcharge (CSS) in eight (8) quarterly instalments, in the manner as set out in the said reply at paragraph 6. Learned senior counsel further submitted that the principal outstanding amount towards CSS would be paid within two years (i.e. eight equal quarterly instalments) and since the very basis for CSS demand raised upon Respondent No.1 is still pending consideration before Gujarat Electricity Regulatory Commission (GERC) in the Review Petitions, such amount would be paid back to Respondent No. 1 in case GERC passes any order in favour of Respondent No.1 therein. Learned senior counsel also pointed out that the outstanding principal amount towards CSS as per

the Petitioner (as indicated in its rejoinder dated 13.8.2023) for the period from January, 2020 to 10.7.2023, is Rs. 1294,43,76,200/- ('Principal Demand'), which Respondent No.1 believes to be at Rs. 1293,87,24,600/-. Learned senior counsel submitted that while calculating the Principal Demand, the Petitioner has not placed on record the underlying computation for such computation and has also not factored in the deductions to the tune of Rs. 77,78,38,968/-, which Respondent No. 1 is entitled to on account of its captive consumption. Learned senior counsel Respondent No. 1 has already approached the Chief Electrical Inspector for necessary certification towards captive consumption, as directed by the order passed by GERC on 10.7.2023, which is presently pending, and hence Respondent No. 1 verily believes that it is entitled to an adjustment and deduction of towards its captive consumption. Learned senior counsel also submitted that Respondent No. 1 undertakes to discuss with the Petitioner and reconcile this difference in the amount of Principal Demand, on a good faith basis and accordingly, the principal liability of Respondent No. 1 (even assuming without admitting that such liability exists) would work out to Rs. 1216,08,85,632/- or Rs. 1216.09 crore approximately.

2. Learned senior counsel for the Petitioner, however, opposed the payment plan being presented by Respondent No.1 and mainly submitted that Respondent No. 1 may be directed to pay the 25% of the Principle Demand by 31st March, 2024 and the remaining amount to be paid in instalments of 10% at every month in addition to the payment of current dues. Learned senior counsel further submitted that the total outstanding principal towards CSS dues for the period from January, 2020 to 10.7.2023, is Rs. 1294,43,76,200/- and along with the LPS thereon, which works out to approximately Rs.377 crore, total outstanding amount works out to approximately Rs. 1670 crore. Learned senior counsel submitted that the Respondent No.1 cannot deny its liability towards the LPS on the outstanding principal CSS dues and in its affidavit dated 9.1.2024, nothing has been stated or mentioned by Respondent No.1 regarding the payment of this LPS. Learned senior counsel also added that as per the settled law, any payment to be made by Respondent No.1 has to be adjusted towards the outstanding LPS prior to adjusting against the principal amount. Learned senior counsel also submitted that insofar as deduction against the captive consumption as claimed by Respondent No.1 is concerned, there is no specific order as on date by GERC on this aspect and considering the absence of any formal order regarding the status for the captive consumption, outstanding principal CSS dues have to be considered at Rs. 1294,43,76,200/- as claimed by the Petitioner.

3. In response, the learned senior counsel for Respondent No.1 submitted that no formal response to Respondent No.1's affidavit dated 9.1.2024 has been filed by the Petitioner and the Petitioner may file a formal response incorporating its suggestions/objections to the said payment proposal of Respondent No.1. Learned senior counsel further submitted that insofar as the proposal of the Petitioner for payment of 25% of the Principal Demand by 31st March, 2024 is concerned, liberty may be granted to take necessary instruction(s) in this regard. Learned senior counsel further submitted that in so far as the LPS claim of the Petitioner is concerned, it may not be considered at this stage as various proceedings/reviews petitions contesting its liability towards CSS are still pending and it may be considered only at a later stage after the final outcome the above pending proceedings.

4. Considering the submissions made by the learned senior counsel for the parties, the Commission directed the Petitioner to file its comments to the affidavit of Respondent No.1 dated 9.1.2024 within three days with a copy of the same to the Respondent No.1 who may file its response thereon within three days thereafter.
5. The Petition will be listed for the hearing on **6.3.2024**.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)