

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2003 of 2021.

In the Matter of:

Petition under Section 86 of the Electricity Act, 2003 readwith Power Purchase Agreement dated 26.08.2019 executed between GIPCL and GUVNL seeking approval for compensation due to Change in Law Event being imposition of Safeguard Duty having its direct effect on the project Cost.

Petitioner : Gujarat Industries Power Company Limited

Represented By : Mr. S. Mani

V/s.

Respondent : Gujarat Urja Vikas Nigam Limited

Represented By : Ld. Adv. Ms. Ashabari Thakur alongwith Mr. Amit Chavda

CORAM:

Anil Mukim, Chairman

Mehul M. Gandhi, Member

S. R. Pandey, Member

Date: 22/08/2023.

DAILY ORDER

1. The above matter was heard on 04.07.2023.
2. Mr. S. Mani, appearing on behalf of the Petitioner, submitted that pursuant to hearing on 08.03.2023, the Commission has passed Daily Order dated 09.06.2022 and directed the Petitioner to provide certain documents as stated in para 4.3 of the aforesaid Daily Order for verification of the claim of the Petitioner on account of 'Change in Law' in the present Petition. It is submitted that the Petitioner has already provided all the aforesaid documents alongwith the technical details as sought by the Commission.

- 2.1. It is further submitted that Bid for the project was submitted on 25.04.2019 and at the time there was a clear sunset for SGD on 29.07.2020 and accordingly solar PV module import for the project was planned after 29.07.2020 right from the beginning by the Petitioner GIPCL and there is sufficient time period of 4 months to install and commission the project as per the original SCOD i.e., 25.11.2020. It is submitted that the Petitioner has not factored SGD in the bid price considering its sunset period on 29.07.2021 and also allowed such eventuality as a pass through in its EPC tender as well as in LOI awarded to EPC contractor.
3. Ld. Adv. Ms Ashabari Thakur, appearing on behalf of the Respondent submitted that the Respondent GUVNL has not received any documents/evidence except rejoinder reply from the Petitioner in terms of the directives of the Commission in para 5. 3 of the aforesaid Daily Order 09.06.2022 in the present matter. Hence, the Commission may direct the Petitioner to provide the documents as per directives of the Commission in its Daily Order dated 09.06.2022.
4. In response to the query of the Commission that whether the Petitioner has provided the all required computations or not, Mr. S. Mani appearing for the Petitioner, requested the Commission to grant some time to file the same in the matter. In response to further query of the Commission in respect to the documents to be submitted by the Petitioner which are essential to decide the matter and confirmation of the aforesaid details submitted by it and file pending documents on affidavit regarding submissions of pending documents, if any, as per the list provided by the Commission, it was agreed by both the parties to submit the same, if any, for which three weeks' time has been sought for.
5. We have considered the submissions made by the parties. We note that according to the submissions made by the Petitioner, relevant details are already filed. However, any details that are not filed needs to be filed by the Petitioner alongwith relevant file(s) of the Petitioner for perusal of the Commission.:
- 5.1. We also note the submissions of the Ld. Counsel appearing on behalf of the Respondent that GUVNL has not received any documents/evidence except rejoinder reply from the Petitioner in terms of the directives of the Commission

vide Daily Order dated 09.06.2022 in the present matter and requested the Commission to direct the Petitioner to provide the same as per directives of the Commission. Therefore, we once again direct the Petitioner to provide the aforesaid documents/details to the Respondent GUVNL, within weeks' time from the date of this Order.

5.2. During the hearing, in response to the query of the Commission about the documents to be submitted by the Petitioner which are essential to decide the matter and confirmation of the aforesaid details submitted by it and file pending documents on affidavit regarding submissions of pending documents, if any, as per the below list provided by the Commission, both the parties have agreed to submit the same, for which three weeks' time has been sought for. We, therefore, direct the Petitioner to submit details of documents, if any, as per the list below establishing one to one co-relationship of Safeguard Duty and IGST paid etc., solar modules imported for commissioning in the power plant, in chart as well as tabular formats, within three weeks, with a copy to the Respondent from the date of this Order.

- (a) Copy of relevant supply agreements entered by the Petitioner for supply of solar PV modules.
- (b) Copies of invoices of all solar modules imported by the Petitioner.
- (c) Details of safeguard duty and GST payment challan as well as Bank Statement.
- (d) Details of safeguard duty and taxes paid.
- (e) Details of interest cost alongwith debt.
- (f) Bill of landing for proof of quantity both the master and house bill of landing.
- (g) Packing list.
- (h) Invoice.
- (i) Custom accessed copy of bill of entry.
- (j) Customs out of charge order.
- (k) Marine insurance for sea and island transit.
- (l) Copy of LRs for inland transport from port to projects site and E-way bill.
- (m) Relevant supply agreements entered by the Petitioner for the supply of Solar PV modules.

- (n) Practicing Chartered Accountant certificate substantiating and supporting the claim of the Petitioner for the supply of Solar PV modules.
- (o) Certificate from an Independent Engineer certifying that the modules that have been imported have actually been installed at the project.
- (p) Details of safeguard duty and GST payment challan as well as extracts of bank Statement.
- (q) RFID Details.
- (r) Detailed calculation sheet with Safeguard Duty calculation.
- (s) CEIG approvals and supporting documents.
- (t) Commissioning Certificate stating number of modules installed on which safeguard duty paid along with completion of transmission network, works of the line, bays, transmission etc. at connectivity sub-station.
- (u) Details of interest cost along with details of debt.

The Respondent may submit its response, if any, within two weeks from receipt of details from the Petitioner.

- 6. Next date of hearing will be intimated separately.
- 7. Order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Sd/-
[Anil Mukim]
Chairman

Place: Gandhinagar.
Date: 22/08/2023.