

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2099 of 2022.

In the Matter of:

Petition under Section 86 (1) (b) (e) of the Electricity Act, 2003 read with Article 9 of the Power Purchase Agreement dated 19.10.2018 seeking declaration that the imposition of Safeguard Duty on the import of Solar cells and modules imported from China, Thailand and Vietnam vide Notification No. 02/2020 – Customs (SG) dated 29.07.2020 of the Ministry of Finance, Government of India, for the period of 30.07.2020 to 29.07.2021 constitutes a “Change in Law” event and for seeking consequent relief for the said Change in Law event by way of revision of the tariff in accordance with Article 9.2.2 of the PPA dated 19.10.2018

Petitioner : Avaada Sunrise Energy Private Limited
Represented by : Mr. Karan Jaiswal.
V/s.
Respondent : Gujarat Urja Vikas Nigam Limited
Represented By. : Mr. B. B. Patel

CORAM:

**Anil Mukim, Chairman
Mehul M. Gandhi, Member
S.R. Pandey, Member**

Daily Order

Date: 24/07/2023

1. The matter was kept for hearing on 13.07.2023.

2. At the outset, Mr, Karan Jaiswal, appearing on behalf of the Petitioner, submitted that during hearing on 07.12.2022, admitting the Petition, leave was granted to the parties to file further submission, if any, with a copy to other side who is at liberty to file its response, if any. Accordingly, the Respondent has filed reply to the Petition and the Petitioner is filing the rejoinder today on the reply of the Petition, copy of which has already been served to the Respondent.
3. He also submitted that the Petitioner has submitted all the documents establishing one to one correlation between the procurement of modules and the modules set up in the Power Plant of the Petitioner, on records of the present petition.
4. During the hearing the Commission raised a query about the documents to be submitted by the Petitioner which are essential to decide the matter and directed to the Petitioner to confirm with the details submitted by it and file an affidavit regarding submissions of pending documents, if any, as per the list below within three weeks from the date of this order.
 - i. Copy of relevant supply agreements entered by the Petitioner for supply of solar PV modules;
 - ii. Copies of purchase and dispatch invoices of all solar modules imported by the Petitioner;
 - iii. Details of assessed amount of material safeguard duty and IGST payment on it with challan as well as Bank Statement;
 - iv. Details of safeguard duty and IGST paid;
 - v. Details of interest cost with supporting documents such as loan obtained, sources of funding i.e. internal accrual if any, or other sources, if any etc. alongwith necessary documents for debt and equity, if any, and its source;
 - vi. Bill of landing for proof of quantity both the master and house bill of landing;
 - vii. Packing list along with details of solar pv modules;
 - viii. Custom accessed copy of bill of entry;
 - ix. Customs out of charge order;
 - x. Marine insurance for sea and inland transit details and supporting documents;
 - xi. Copy of LRs for inland transport from port to projects site and E-way bill;

- xii. Relevant supply agreements entered by the Petitioner for the supply of Solar PV modules;
- xiii. Practicing Chartered Accountant certificate substantiating and supporting the claim of the Petitioner for the supply of Solar PV modules;
- xiv. Certificate from an Independent Engineer certifying that the modules that have been imported have actually been installed at the project;
- xv. RFID Details;
- xvi. Detailed calculation sheet with Safeguard Duty calculation;
- xvii. CEIG approvals and supporting documents;
- xviii. Commissioning Certificate stating, (a) details of modules installed, on which safeguard duty paid, (b) number of modules, (c) completion of transmission network, (d) works of the line, (e) works of bays, (f) works of transmission etc. at connectivity sub-station;

We also direct the Petitioner to submit details of documents establishing one to one corelationship of safeguard duty and IGST paid etc., solar modules imported for commissioning in the power plant, in chart as well as tabular formats. The Petitioner is also directed to provide copy of the above to the Respondent.

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

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

Sd/-
(S. R. PANDEY)
MEMBER

Sd/-
(MEHUL M. GANDHI)
MEMBER

Sd/-
(ANIL MUKIM)
CHAIRMAN

Place: Gandhinagar

Date: 24/07/2023