BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION GANDHINAGAR

Petition No. 2010 of 2021.

In the Matter of:

Petition under Section 86(1)(f) of the Electricity Act, 2003 read with Article 9 of the Power Purchase Agreement dated 26.08.2019 executed between the Petitioner and the Respondent seeking declaration of Change in Law Event, viz., the imposition of Safeguard Duty by Notification No. 02/2020-Customs (SG) dated 29.07.2020 issued by the Department of Revenue, Ministry of Finance, Government of India and grant of consequential reliefs.

Petitioner	:	Electro Solaire Pvt. Limited
Represented By	:	Ld. Advocates Mr. Aniket Prasoon and Mr. Rishabh Bhardwaj
		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: 10/08/2023.

DAILY ORDER

1. The above matter was heard on 04.07.2023.

2. Ld. Adv. Mr. Aniket Prasoon, appearing on behalf of the Petitioner, submitted that the issue in the present Petition is similar to previous batch of matters wherein arguments are advanced by the Ld. counsel for the Petitioner and accordingly, without reiterating the same, the Petitioner herein, is adopting the same. It is

further submitted that during the last hearing in the present matter, the Petitioner has made the submissions and advanced the arguments and also filed additional affidavit providing the documents for verification of the claim of the Petitioner. It is submitted that the Commission in its Daily Order dated 09.06.2022 directed the Petitioner to provide certain documents as stated in para 5.5 of the aforesaid Daily Order for verification of the claim of the Petitioner on account of 'Change in Law' in the present Petition. In compliance to the said directives, the Petitioner vide its affidavit dated 08.07.2022 has provided all the aforesaid documents alongwith the technical details as sought by the Commission.

2.1. It is further submitted that although all the documents provided by the Petitioner as per the directives of the Commission vide Daily Order dated 09.06.2022, the Petitioner will once again make the cross check with the Respondent and submit the same, if any, to the Commission with a copy to the Respondent. In respect of impact of tariff on account of payment of safeguard duty and carrying cost claimed on such amount, it is submitted that the impact of safeguard duty is Rs. 70.91 Crores and carrying cost claimed at the rate of 14% per annum thereon from the date of payment of the safeguard duty by the Petitioner till the date of release of first invoice by the Respondent as per Article 9 of the PPA.

3. In response to the 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 the Ld. Counsels of both the parties to submit the same, if any, for which three weeks' time has been sought for.

4. Heard the Ld. counsels appearing for both the parties. We note that according to the submissions made by the Petitioner, all the documents provided by the Petitioner as per the directives of the Commission vide Daily Order dated 09.06.2022.

4.1. We also note that 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, if any, on affidavit regarding submissions of pending

documents as per the below list provided by the Commission, Ld. Counsels of 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 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 and the same are installed 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 shall 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/-	**Sd/-**	**Sd/-**
[S. R. Pandey]	**[Mehul M. Gandhi]**	**[Anil Mukim]**
Member	**Member**	**Chairman**

Place: Gandhinagar.
Date: 10/08/2023.