



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

4thFloor, Singareni Bhavan, Red Hills, Hyderabad 500004

WEDNESDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR

:Present:

Justice C.V. Nagarjuna Reddy, Chairman
Sri Thakur Rama Singh, Member
Sri P.V.R. Reddy, Member

O.P.No.83 of 2023

Between:

M/s Eaama Estates Private Limited,

Having its Registered Office at: 50-121-14/1, B.S. Layout,
Seethammadhara, Visakhapatnam,
Andhra Pradesh - 530 013.

Unit At:

Tentuvalasa Village, Badangi Mandal,
Vizianagaram District, Andhra Pradesh
Represented by its Managing Director,
Sri. E. Janakiramayya S/o. E. Ramanna

.... Petitioner

AND

- 1. Eastern Power Distribution Company of Andhra Pradesh Ltd.,**
(APEPDCL),#P&T Colony, Seethammadhara, Visakhapatnam,
Andhra Pradesh - 530 013.
Rep. by its Chairman & Managing Director.

- 2. Andhra Pradesh Power Coordination Committee (APPCC),**
Vidyut Soudha, Gunadala, Eluru Road,
Vijayawada, Andhra Pradesh-520004
Represented by its General Manager (PP&S)

... Respondent

The Original Petition came up for final hearing before this Commission on 07-02-2024 in the presence of Sri Deepak Chowdary, learned Counsel for the Petitioner; and Sri P.Shiva Rao, learned Standing Counsel for the respondents, that after hearing the learned counsel for both the parties and after carefully considering the material available on record, this Commission made the following :

ORDER

This OP is filed for multiple reliefs which read as under:

- i. Direct the 1st Respondent to pay the Petitioner the outstanding amount of Rs. 45,98,561/- towards monthly invoices due for the months of August and September 2023 within 15 days of the receipt of the order of this Hon'ble Commission; and,
- ii. Direct the 1st Respondent to pay the Petitioner the outstanding amount of Rs. 1,97,90,529/- towards balance amounts due for the invoices raised from March, 2016 to July, 2023; and,
- iii. Direct the 1st Respondent to pay the Petitioner an amount of Rs.3,01,05,523/- towards LPS for the unpaid monthly invoices from October, 2018 till August, 2023, in terms of Article 5.2 of the PPA's, within 15 days of the receipt of the order of this Hon'ble Commission;
- iv. Direct the Respondents to refrain from illegally withholding any payments to the petitioner on account of excess DC Capacity or any other un-authorised deductions which are contrary to the terms of the PPA; and,
- v. Award costs of the present proceedings in favour of the Petitioner; and/or,
- vi. Pass such other order or orders as this Hon'ble Commission deems fit and proper in the interest of justice.

In the counter, filed on behalf of the Respondents, it is conceded that following order dated 01-02-2023, in OP No. 112 of 2021 and batch, the Respondents have agreed to release recovered / withheld amounts on the purported ground that the Petitioner connected excess DC capacity. It is also stated in the Counter that, as a step in this direction the Respondents have started paying the withheld amounts in 12 monthly installments and that they

have paid one such installment amount of Rs. 17 lakhs to the Petitioner on 22-01-2024. As regards payment of LPS, it is averred that since it gives rise to a separate cause of action, it has nothing to do with the main issue relating to withholding of money on account of alleged excess DC capacity.

The main dispute in this OP pertains to withholding certain amounts admittedly payable to the Petitioner on the ground that the capacity of DC panels exceeds AC capacity at inter-connection point. As rightly stated in the counter, this Commission has earlier disapproved the said action of the Respondents vide its order dated 01-02-2023 in OP No. 112 of 2021 and batch. It was inter-alia held in the said order that no limit is placed on the DC panel capacity as on the date of commercial operation and that so long as AC capacity is not exceeded at the inter-connection point, the solar power generator would not be violating the PPA terms. Evidently in realisation of this, the Respondents have now conceded that they will release the entire withheld amount and that they have already paid the first installment.

As regards LPS, Sri Deepak Chowdary submitted that the claim of about Rs. 3,01,05,523/- not only represents the withheld amount on the purported ground of excess capacity of DC panels, but also towards the delayed payment of bills from October, 2018 onwards. In our opinion, while the Petitioner is justified in claiming LPS on the withheld amounts on account of alleged excess DC capacity panels, in this OP, it cannot claim LPS on the delayed payments for some other reasons as that could amount to misjoinder

of causes of action. To this extent, we decline to adjudicate the claim of the Petitioner raised in this OP. However, the Petitioner is left with the liberty to raise a separate dispute in this regard.

With regard to the LPS on the delayed payment attributable to alleged excess DC capacity, as such withholding is held to be impermissible, the Respondents are liable to compensate the Petitioner for the delayed payments. Accordingly, we feel it appropriate that the Respondents shall pay simple interest at the rate of 12% per annum on the delayed payments of the monies withheld on account of alleged excess DC panels. Since the Respondents have started paying the amounts in installements, they shall calculate interest on the reduced balance during the installment periods. The Respondents shall quantify the principal amount as well as the interest amount within four weeks and communicate the same to the Petitioner. They shall also continue to pay the amounts in the balance installments and also pay LPS amount so calculated.

The OP is accordingly allowed in-part.

Order pronounced on this the Seventh day of February, 2024.

**Sd/-
P.V.R.Reddy
Member**

**Sd/-
Justice C.V. Nagarjuna Reddy
Chairman**

**Sd/-
Thakur Rama Singh
Member**