



**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**

4<sup>th</sup>Floor, Singareni Bhavan, Red Hills, Hyderabad 500004

WEDNESDAY, THE TWENTY-FIFTH DAY OF NOVEMBER  
TWO THOUSAND AND TWENTY

:Present:

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

**O.P.No.44 of 2020**

M/s. Penna Cement Industries Ltd.

... **Petitioner**

**A N D**

Andhra Pradesh State Load Despatch Centre (APSLDC) ... **Respondent**

This Original Petition has come up for hearing finally on 25-11-2020 in the presence of Sri Challa Gunaranjan, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondent. After carefully considering the material available on record and after hearing the arguments of the learned counsel for both parties, the Commission passed the following:

**ORDER**

This Original Petition is filed for exempting the petitioner company from the Renewable Power Purchase Obligation (RPPO) and for a direction that the energy consumed from its Waste Heat Recovery System (WHRS) plant through cogeneration process shall be considered for setting off the petitioner's RPPO requirement qua its consumption from other conventional sources, under Regulation 1 of 2017. The respondent has filed a counter.

During the hearing, Sri P. Shiva Rao, learned Standing Counsel for the respondent fairly conceded that the issues in the O.P. are squarely covered by the orders of the Appellate Tribunal for Electricity as well as this Commission including the one which is recently passed on 07-09-2020 in O.P.No.11 of 2020, wherein it was *inter alia* held as under:

*“14. The position that emerges from the caselaw discussed above is that, Section 86(1)(e) of the Act is interpreted to the effect that irrespective of whether cogeneration sources are renewable sources or otherwise, under the statutory scheme, cogeneration sources shall be treated on par with renewable energy generation sources, that under the Act RPO cannot be fastened on energy generated through cogeneration sources merely because renewable sources are not utilized in cogeneration process and that irrespective of the fuel used (in Century Rayon, the APTEL has taken an extreme example of fossil fuel being used as a co-generation source), the co-generation captive plants are entitled to be exempted from compliance of RPPO.*

*15. One last question that remains to be dealt with, though it is not specifically argued by Mr. Siva Rao, but raised in the counter is, to what extent the Petitioner is entitled to the relief. In the counter the Respondent has drawn a distinction between exemption of energy produced by the captive plant from RPPO and claiming such energy for RPPO obligation to be required to be met from conventional energy ....*

.. the order in *EMAMI Paper Mills Ltd. v. OERC & Ors* (Judgment dated 30.01.2013 in Appeal No. 54 of 2012) as extracted by APTEL in JSW case and also in this order supra throws a clear light on this aspect. In para 40(ii), it clearly laid down that the definition of obligated entity did not cover a case where a person is a consumer and is consuming power from a cogeneration plant. The APTEL also set aside the State Commissions' order holding that the obligation in respect of co-generation can be met from solar and non solar sources but the solar and non-solar purchase obligation has to be met mandatorily by the obligated entities and consuming electricity only from co-generation sources shall not relieve any obligated entity. The APTEL clearly spelt out that when such relaxation has been made, the same relaxation must have been allowed in respect of consumers making electricity consumption from captive generation plant in excess of total RPPO obligations and that failure to do so would amount to violation under Section 86(1)(e) of the Act, which provides both cogeneration as well as generation of electricity from renewable source of energy must be encouraged as per the finding of the APTEL in appeal no. 57 of 2009.

16. While the above discussed judgment in the Emami case is a complete answer to the question under discussion, this Commission also independently feels that confining the exemption only to captive units defies logic and reason. Once cogeneration is treated on par with renewable energy and on that basis the captive plant is exempted from being an obligated entity, mulcting a consumer of that power with RPPO

*treating the same as conventional energy is wholly irrational and the same would defeat the legislative intent of treating energy from cogeneration on par with renewable energy. In light of preponderance of judicial opinion reflected in the weighty judgments of APTEL as followed by this Commission atleast in two cases, and the reasons assigned by us herein above, we hold that the power generated by the WHRS's plant and consumed by the Petitioner is eligible to set off against its RPO requirements towards the energy consumed from conventional sources”.*

In view of the above, this O.P. is allowed in terms of the order dated 07-09-2020 in O.P.No.11 of 2020.

**Thakur Rama Singh**  
Member

**Justice C.V. Nagarjuna Reddy**  
Chairman

**P. Rajagopal Reddy**  
Member

