

## **Record of Proceedings Dated 26-04-2023**

### **OP No. 17 of 2023 & IA No. 1 of 2023**

#### **OP No. 17 of 2023**

#### **M/s ACME Solar Holdings Pvt., Ltd. & 5 Others Vs. APSPDCL & Three Others.**

(Petition under 86(1)(f) Section of the Electricity Act, 2003 for recovery of the amounts wrongfully withheld by Southern Power Distribution Company of Andhra Pradesh Limited from the petitioner along with Late Payment Surcharge)

#### **IA No. 1 of 2023**

(This application is filed seeking stay of the operation of letter dated 4-4-2023 issued by the APSPDCL to the petitioner and to injunct the APSPDCL from taking any coercive action against the petitioner till final adjudication of Appeal No.282 of 2023 by the APTEL or the present OP by this Commission, whichever is earlier.

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#### **OP No. 17 of 2023:**

Sri Avinash Desai, learned Senior Counsel for the Petitioners, and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

Sri P.Shiva Rao, takes notice for the respondents and seeks four weeks' time for filing counter. Time is, accordingly, granted.

Call on 14-6-2023.

#### **IA No. 1 of 2023 in OP No. 17 of 2023:**

This application is filed by the petitioner in OP No.17 of 2023 seeking stay of operation of the letter dated 04-4-2023 issued by APSPDCL to the petitioner, till final adjudication and disposal of Appeal No.282 of 2023 by the Honourable APTEL. The applicant also sought for injunction against the APSPDCL from taking any coercive action against the petitioner, pending disposal of Appeal No.282 of 2023 by the APTEL.

Sri P.Shiva Rao, learned Standing Counsel for the respondents, seeks time for filing counters.

Sri Avinash Desai, learned Senior Counsel for the applicant, submitted that if interim orders are not granted, the application may become infructuous. The learned Senior Counsel has drawn our attention to the interim order dated 03-3-2023 of the Honourable APTEL in I.A.No.423 of 2023 in Appeal No.282 of 2023 filed against the order dated 01-2-2023 in O.P. No.112 of 2021 and batch passed by this Commission. The learned Senior Counsel submitted that while by the said order, the order in the aforementioned batch cases passed by this Commission has been stayed, the respondents by the impugned Notice dated 04-4-2023 relied upon the said order

directing disconnection of the alleged excess Solar Panels in the Petitioner's Solar Power Plant.

Sri P.Shiva Rao, learned Standing Counsel for the respondents, while opposing the said submissions, stated that though the impugned Notice dated 04-4-2023 relied based on the orders in OP No.112 of 2021 and batch, the fact remains that even as far back as the year 2020 itself notice was given calling upon the petitioner to explain why additional amounts paid on the subsequently added DC Panels shall not be recovered.

During the hearing, Sri Avinash Desai, learned Senior Counsel for the respondents, has fairly not disputed the fact that certain DC Panels were added after commissioning of the Project, but within a month thereafter. Clause 2.5 of Article 2 of the PPA prohibits the petitioner from adding extra solar modules or equipment more than the installed capacity existing at the time of commissioning. The phrase "Installed Capacity" is defined as "the sum total of name plate capacity of all the Units of the Project". With the fair admission on behalf of the petitioner that certain DC Panels were added after commissioning of the project, albeit within 30 days thereafter, we, prima facie, find that the petitioner has violated the PPA terms.

Therefore, we are not inclined to grant any ad interim order at this stage, unless the respondents file their counters and both the parties are heard. Hence, while we are not inclined to grant ad interim order at this stage, four weeks' time for filing counters is granted to the respondents. Any action that may be taken in the interim shall be subject to further orders.

Call on 14-6-2023.

Sd/-  
MEMBER/TRS

Sd/-  
CHAIRMAN

**OP No. 3 of 2023**

**M/s Vish Wind Infrastructure LLP Vs. APSPDCL & two others**

(Petition under Section 86(1)(e) and (f) of the Electricity Act, 2003 read with Article 2.2, 5 and 9 of the PPA seeking a direction against Respondents for issuance of No Objection Certificate in order to enable the Petitioner to sell the Power through Open Access.

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**OP No.13 of 2023**

**M/s Vaayu (India) Power Corporation Pvt. Ltd. Vs. APSPDCL APTRANSCO and APPCC**

(Petition under Section 86(1)(e) and (f) of the Electricity Act, 2003 read with Article 2.2, 5 and 9 of the PPA seeking directions against Respondents for issuance of No Objection Certificate in order to enable the Petitioner to sell the Power through Open Access).

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Sri Shri Venkatesh, learned Counsel for the Petitioners, and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

Counters are filed.

At the hearing, Sri Shri Venkatesh, learned counsel for the petitioners, submitted that his clients are not seeking any declaration that the PPAs have been terminated, but the limited prayer in these OPs., is for a direction to the respondents to grant NOC for Open Access to the petitioners. He, however, fairly submitted that his clients have applied for Open Access after filing the OPs., and that he will advise his clients to seek appropriate amendments in the OPs., and requests time for this purpose. Time is, accordingly, granted.

Call on 14-6-2023.

Sd/-  
MEMBER/TRS

Sd/-  
CHAIRMAN

**OP No.10 of 2023**

**Military Engineer Services (MES), Visakhapatnam Vs. APTRANSCO, APEPDCL**

(Petition filed under Section 2, 14 & 42 of the Electricity Act, 2003 for recognizing Military Engineer Services (MES) as a Deemed Distribution Licensee in the state of Andhra Pradesh as Military Engineer Services (MES) at Ship Building Centre, Visakhapatnam (HT Connection No VSP427) is a department under the Ministry of Defence engaged in distribution of electric supply)

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Sri C.Sunil Chowdary, IDSE, AEE E/M, AGE E/M-I of Garrison Engineer(I), NYC, Visakhapatnam, authorised representative of Petitioner, and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

Sri P.Shiva Rao, learned Standing Counsel for the respondents, requests four more weeks' time for filing counter. Time is, accordingly, granted finally.

Call on 14-6-2023.

Sd/-  
MEMBER/TRS

Sd/-  
CHAIRMAN

**OP No.14 of 2023 - APEPDCL Vs. NIL**

**OP No.15 of 2023 - APSPDCL Vs. NIL**

**OP No.16 of 2023 - APCPDCL Vs. NIL**

(Petitions filed u/s 86(1)(b) of Electricity Act, 2003 for *computation of pooled cost of power purchase* for the Financial year 2021-22, applicable of F.Y 2022-23)

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Sri P.Shiva Rao, learned Standing Counsel for the Petitioners, is present at the hearing. No objections have been received.

Orders reserved.

Sd/-  
MEMBER/TRS

Sd/-  
CHAIRMAN

**OP No. 63 of 2021**

**Shri Girija Alloy & Power (I) Pvt Ltd Vs. APEPDCL**

(Petition filed u/s 86 (1) (f) of the Electricity Act, 2003 seeking startup power tariff to be in conformity with Clause 17 of Regulation 3 of 2017).

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Sri M. Abhinay Reddy, learned Counsel for the Petitioner, and Sri P.Shiva Rao, learned Standing Counsel for the respondent, are present at the hearing.

OP dismissed (vide separate order).

Sd/-  
MEMBER/TRS

Sd/-  
CHAIRMAN

**OP No. 86 of 2021 & IA No. 1 of 2021**

**M/s. Sarda Metals & Alloys Ltd., Vs. APEPDCL**

Petition u/s 86 (1) (f) of the Electricity Act, 2003 to direct the Respondents to pay over-injection charges for the period of 03-02-2013 to 28-02-2021.

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Sri M. Abhinay Reddy, counsel representing Sri P.Vikram, learned counsel for the Petitioner, and Sri P.Shiva Rao, learned Standing Counsel for the respondent, are present at the hearing.

OP dismissed (vide separate order).

Sd/-  
MEMBER/TRS

Sd/-  
CHAIRMAN

**OP No. 59 of 2021**

**APEPDCL & Two Others Vs. GVK Industries Ltd & three others**

(Petition filed u/s 86 (1) (f) of the Electricity Act, 2003 r/w Clause 55 of APERC (Conduct of Business) Regulations 1999 in the matter of Buy-out of GVK Stage-I project by APDISCOMs - Execution of registered sale deed transferring the entire land together with assets of GVK Phase-I in favour of APDISCOMs- not executed by M/s GVK - Dispute between M/s. GVK and licensees - adjudication under Section 86 (1) (f) of the Electricity Act, 2003).

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Sri P.Shiva Rao, learned Standing Counsel for the Petitioners, Sri Sachin Sharma, counsel representing Sri Y.Suryanarayana, learned counsel for the Official Liquidator; and Sri Subramanya Kumar, counsel representing Mrs. Rubaina Khatoon, learned counsel for Respondents 1 to 4 are present at the hearing.

Sri P.Shiva Rao, learned counsel for the petitioner-DISCOMs submitted that on the permission granted by the NCLT, the petitioners are approaching the Liquidator for execution and registration of the sale deed.

Sri Sachin Sharma, Counsel representing Sri Y.Suryanarayana, learned counsel for the Liquidator, submitted that if the balance amounts are paid, the Liquidator will not have any objection for executing the sale deed.

During the hearing, it has come out that the balance amounts due are towards VAT, Taxes, Duties and certain other heads. Since the petitioners are Government Companies, it would be in the fitness of things if they approach the State Government for exemption of such taxes and duties.

In the light of the above facts, four weeks' time is granted to the petitioner for filing a Claim petition before the Liquidator. Within four weeks thereafter, the Liquidator shall consider and take appropriate action.

Call on 28-6-2023.

Sd/-  
MEMBER/TRS

Sd/-  
CHAIRMAN

**OP No. 53 of 2019**  
**APPDCL Vs. APSPDCL & APEPDCL**

(Petition filed u/s 62 of the Electricity Act, 2003 for determination of Tariff for the control period 2019-2024 for the electricity supplied by APEPDCL from Sri Damodaram Sanjeevaiah Thermal Power Station to the Distribution Licensees in Andhra Pradesh)

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Sri P.V.Nishanth, counsel representing Sri K.Gopal Choudary, learned counsel for the Petitioner, and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

The learned counsel for both the parties submitted that negotiations between both the parties are at an advanced stage and that settlement is likely to be reached shortly. They have, accordingly, requested for an adjournment.

Call on 28-6-2023, by which time the parties shall report the result of the negotiations.

Sd/-  
MEMBER/TRS

Sd/-  
CHAIRMAN

**OP No. 21 of 2020 & IA No.1 of 2022**

**M/s. Tata Power Renewable Energy Limited Vs. APSPDCL, APSLDC and APTRANSCO.**

(Petition filed under Section 86(1)(e) read with Section 86 (1)(f) of the Electricity Act, 2003 seeking directions to the respondent for treating the loss of a generation of Rs. 68.39 Crores as computed till May 2020 on account of curtailment of power as a deemed generation by the Petitioner/TPREL and to direct Respondent No.1 to make payment for the said Deemed Generation Charges).

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Sri Shri Venkatesh, learned Counsel for the Petitioner, and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

Further submissions have been made by Sri Shri Venkatesh, learned counsel for the petitioner. He has completed his submissions.

Sri P.Shiva Rao, learned Standing Counsel for the respondents, requested for an adjournment for making his submissions.

Call on 28-6-2023.

Sd/-  
MEMBER/TRS

Sd/-  
CHAIRMAN

**Revision Petition No. 1 of 2022**

**Sri. Mahaveer Kumar & three others Vs. District Collector, Guntur & four others**

(Revision Petition under Rule 13(2) of the Andhra Pradesh Works of Licence Rules, 2007 to direct the respondents to pay the compensation under Land Acquisition, Rehabilitation and Resettlement Act, 2013.

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Sri Muthyala Praveen, counsel representing Sri M. Muralikrishna learned Counsel for the Petitioners and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

Sri Muthyala Praveen, counsel representing Sri M. Muralikrishna learned Counsel for the Petitioners, submitted that the arguing counsel is not well and requested for an adjournment.

Call on 28-6-2023.

Sd/-  
MEMBER/TRS

Sd/-  
CHAIRMAN