

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 138 of 2015**

**Date: 18 February, 2016**

**CORAM:**     **Shri. Azeez M. Khan, Member**  
                  **Shri. Deepak Lad, Member**

In the matter of Petition filed by Rattan India Power Limited under Section 86 (1) (f) of the Electricity Act, 2003 read with Article 4 , 8 and 11 of the Power Purchase Agreement (PPA) dated 22.04.2010 and 05.06.2010 for adjudication of claims of the Petitioner and seeking directions to the Respondent – MSEDCL to open Letter of Credit in terms of the PPA and to make payment of Rs.558 crore outstanding and due to the Petitioner as on 17.10.2015 towards sale and supply of electricity as per the said PPA 's.

Rattan India Power Limited (RIPL)	...Petitioner
V/s	
Maharashtra State Electricity Distribution Company Limited (MSEDCL)	...Respondent

Advocates for the Petitioner:	Adv. Sanjay Sen
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Advocates for the Respondent:	Adv. Deepa Chawan
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**Daily Order**

Advocate of Respondent informed the Commission that MSEDCL is in the process of opening the Letter of Credit (LC) for 450 MW and 750 MW.

Advocate of Petitioner stated that LC is one part. The Commission enquired as to whether there is in fact any dispute between the parties, and then the jurisdiction of the Commission in this Case.

Shri. Sen submitted that, under Article 14.3.1.1 of PPA, 'dispute' includes "*any matter related to Tariff or claims made by any Party which partly or wholly relate to any change in the Tariff...*". Shri. Sen submitted that non-payment of bills is a matter related to Tariff and constitutes a dispute under the PPA over which the Commission would have jurisdiction.

The Commission observed that there is a specific provision in the PPA for dealing with the non-payment of energy bills as per PPA. Shri. Sen also accepted that there is a provision under Article 14.2.1 for Amicable Settlement.

The Commission enquired whether, if RIPL considers the non-payment of bills raised by the Petitioner to constitute a dispute, it has taken recourse to the process of Amicable Settlement as per Article 14.2.1. Shri Sen replied that it has complied in substance, referring to different communications of RIPL with MSEDCL, but not the specific procedure as per Article 14.2.1 of the PPA.

Advocate of Respondent stated that there is a specific provision under Article 11.2 of the PPA, in case of Procurer Event of default. The Petitioner has not served any notice as per Article 14.2.1 of the PPA.

The Commission expressed displeasure with MSEDCL for not filing its Reply in the matter and MSEDCL's approach towards the proceedings.

The Commission observed that RIPL has raised three issues, i.e, Letter of Credit, payment of Energy Bills and Late Payment Surcharge. As MSEDCL has not submitted any Reply in the matter relating to payment of Energy Bills and Late Payment Surcharge, the Commission understands that MSEDCL has nothing to say on these two issues.

Shri. Sen stated that it will file written submissions based on the pleadings held today, and will also place the Judgment of Supreme Court in Essar Gujarat matter.

The Commission directed MSEDCL to submit its written Reply within a week, and RIPL may submit its additional written submission and Rejoinder within two weeks.

**Sd/-**  
**(Deepak Lad)**  
**Member**

**Sd/-**  
**(Azeez M. Khan)**  
**Member**