

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@merc.gov.in
Website: www.mercindia.org.in / www. merc.gov.in**

Case No. 185 of 2017

Dated: 08 January, 2017

CORAM: Shri Anand B. Kulkarni, Chairperson

In the matter of

Petition under Section 86(1)(f) and other applicable provisions of the Electricity Act, 2003 in connection with the disputes and differences arising under the Power Purchase Agreement dated 11.04.2016 entered into between Orange Suvaan Energy Pvt. Ltd. and Solar Energy Corporation of India and with regard to wrongful and arbitrary invocation of the Performance Bank Guarantees, failure to make payments for the invoices raised and failure to release the VGF funds for the Solar PV project of the Petitioner of 2 x 50 MW capacity at Village Mhasale, Tehsil/Taluka Sikri, District Dhule, Maharashtra.

Orange Suvaan Energy Pvt. Ltd (OSEPL) Petitioner
i) Solar Energy Corporation of India Limited (SECI) Respondent No.1
ii)DBS Bank LimitedRespondent No.2
iii)Maharashtra State Electricity Distribution Co. Ltd	: Impleaded Respondent No.3
iv)Maharashtra State Load Dispatch Centre	: Impleaded Respondent No.4
v)Maharashtra Energy Development Agency (MEDA)	: Impleaded Respondent No.5

Representative of the Petitioner:Shri J.J.Bhatt,(Adv.)
Representative of the Respondent No.1:Ms.Dipali Sheth(Adv.)
Representative of the Respondent No.2:Not Present
Representative of the Respondent No.3: Shri S.S.Rajput (Rep.)
Representative of the Respondent No.4: Shri Nikhil Chavan(Rep.)
Representative of the Respondent No.5: Not Present

Daily Order

Heard the Advocates/representatives of the Petitioner and Respondents

1. Submission of OSEPL Representative:

- a) Advocate of OSEPL stated that it is ready to give undertaking that OSEPL will withdraw the Petition from Delhi High Court, if Commission allows the interim relief in the present Petition. He further stated that it has achieved Commercial date of Operation (CoD) on 9 May, 2017 but SECI's contention is that OSEPL achieved the CoD on 16 June, 2017 and therefore levying damages of 8.40 lakhs, invoking the Performance Bank Guarantee (PBG)s. Delhi High Court vide its Order dated 6 October, 2017 restrained DBS Bank from paying the amount under PBGs to SECI.
- b) OSEPL stated that besides the issue of invoking of PBS's there are other issue of payment of dues with respect to energy Bills and payment of amount under Viability Gap Funding (VGF). Therefore OSEPL has filed its present comprehensive Petition seeking relief from the above said issues.
- c) He further stated that as per Appellate Tribunal for Electricity (ATE)'s Judgment in Case of Pune Power Development Private Ltd v/s Karnataka Electricity Regulatory Commission, 2011, the Commission has jurisdiction as the supplier and procurer are within the same State.

2. Submission of SECI Representative:

- a) SECI primarily stated that, the Commission does not have Jurisdiction in present Petition. PPA entered between OSEPL and SECI states jurisdiction of Central Electricity Regulatory Commission (CERC). SECI further stated that the Commission may grant 10 days for filing its replies in this matter since they have received the copy of Petition recently.

3. Submission of MSEDCL Representative

- a) MSEDCL stated that as they have received the copy of Petition one day before the scheduled hearing on 8 January, 2018, therefore, the Commission may grant 10 days for filing its replies in this matter.

The Commission directs SECI and MSEDCL to file their detailed submission including issue of Jurisdiction/merits of the present case within 10 days. Petitioner may submit their rejoinder within one week thereafter if any.

The Secretariat of the Commission will communicate the next date of hearing.

Sd/-
(Anand B. Kulkarni)
Chairperson