

NOTICE

Subject:- Petition of Orange Suvaan Energy Pvt. Ltd. under Section 86(1) (f) in connection with the disputes and differences arising under the PPA dated 11.04.2016 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.

- **Case No. 185 of 2017**

Orange Suvaan Energy Pvt. Ltd. has filed a Petition on 12.12.2017 Section 86 (1) (f) of the Electricity Act, 2003 in connection with the disputes and differences arising under the PPA dated 11.04.2016 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.

The main prayers of the Petitioner are as under-

- (a) *Declare that the Petitioner has not defaulted on its obligations under the Power Purchase Agreements dated 11.04.2016;*
- (b) *Declare that the Project of the Petitioner was commissioned on 09.05.2016;*
- (c) *Declare the Minutes of Meeting dated 16.06.2017 to be void and illegal to the extent it purports to specify the date of commissioning as 16.06.2017;*
- (d) *Declare the invocation of Performance Bank Guarantees by Respondent No. 1 / SECI as unlawful and bad in law;*
- (e) *Set aside the letter dated 29.09.2017 issued by Respondent No. 1 / SECI invoking the Performance Bank Guarantee and declare it as nullity;*
- (f) *Direct Respondent No. 1 / SECI to return the Performance Bank Guarantees as per Article 3.4 of the PPA;*
- (g) *Restrain Respondent No. 1 / SECI, its agents, successors and assigns and any person claiming by, from, through or under them to invoke the said Performance Bank Guarantees i.e. Bank Guarantees bearing No.s 820-02-0046547, 820-02-0046538, 820-02-0046529, 820-02-0046510 all dated 31.03.2016 issued by DBS Bank and restrain DBS Bank from making any payments to Respondent No. 1 / SECI;*

- (h) *Direct Respondent No. 1 / SECI to conduct its actions in accordance with the Power Purchase Agreement dated 11.04.2016 and release the invoice amounts from 08.06.2017 onwards along with late payment interest in terms of the PPA;*
- (i) *Direct Respondent No. 1 / SECI to make payment Rs. 27,87,99,547/- (Rupees Twenty Seven Crores Eighty Seven Lakhs Ninety Nine Thousand Five Hundred and Fourty Seven only) against the pending dues,*
- (j) *Direct the Respondent No.1/SECI to release the VGF amounts totaling Rs. 23,87,15,000/- to the Petitioner as per Article 2.1 of the VGFSa;*
- (k) *Appoint an Arbitral Tribunal under Section 86(1)(f) to adjudicate upon the disputes raised by the Petitioner; and*
- (l) *Pass such other orders/directions as this Hon'ble Commission deems appropriate in the interests of justice in the circumstances of the case.*

The Petitioner has filed on 12.12.2017 Interim Application for directions under Section 151 of the Code of Civil Procedure, 1908. The Petitioner prays for interim relief as under:

- (a) *Pass an ad interim ex parte order directing Respondent No. 1 to clear the dues till date as per the PPA dated 11.04.2016;*
- (b) *Pass an ad interim ex parte order directing Respondent No.1 to make monthly payments as per the PPA dated 11.04.2016 pending the disposal of the present Petition;*
- (c) *Pass an ad interim ex parte order directing Respondent No.1 to conduct its actions in accordance with the PPA dated 11.04.2016 pending the disposal of the present Petition;*
- (d) *Pass an ad interim ex parte order directing Respondent No.1 to release VGF amounts to the Petitioner as per Article 2.1 of the VGFSa; and*

Pass such further or other orders(s) as this Hon'ble Commission may deem fit in the facts and circumstances of the case.

The Petitioner has filed on 12.12.2017 Interim Application for directions under Section 151 of the Code of Civil Procedure, 1908. The Petitioner prays for interim relief as under:

- (a) *Pass an ex parte ad interim order restraining Respondent No.1 its agents, successors and assigns and any person claiming by, from, through or under them from invoking the Performance Bank Guarantees i.e Bank Guarantees bearing Nos. 820-02-0046547, 820-02-0046538, 820-02-0046529, 820-02-0046510 all dated 31.03.2016 issued by DBS Bank;*

(b) *Pass an ex parte ad interim order restraining DBS Bank from making any payments to SECI on invocation of the Performance Bank Guarantees i.e. Bank Guarantees bearing Nos 820-02-0046547, 820-02-0046538, 820-02-0046529, 820-02-0046510 all dated 31.03.2016 and*

Pass such further or other order(s) as this Hon'ble Commission may deem fit in the facts and circumstances of the case.

2. I am directed to communicate that the hearing in the above matter will be held in the presence of the authorized consumer representatives on **Monday, 08 January, 2018 at 11.00 hrs** in the office of the Commission at 13th floor, Centre No.1, World Trade Centre, Cuffe Parade, Mumbai - 400 005.

3. I am directed to communicate that; the Commission has impleaded Maharashtra Electricity Distribution Company (MSEDCL) and Maharashtra State Load Dispatch Centre (MSLDC) as parties in the matter.

3. The Petitioner is directed to immediately serve a copy of its above mentioned Petition (both in soft and hard Copy) to the Respondents, impleaded parties, MEDA and the authorised consumer representatives before the scheduled date of hearing.

4. The Respondents, impleaded parties, MEDA are directed to submit the say on affidavit in 1+6 copies to the Commission with documents, if any, on the above mentioned Petition immediately, with a copy to the Petitioner and authorized Consumer Representatives.

5. The Parties are directed to file their Petition and submissions in MS -Word file and PDF version as far as possible and to file 1+6 copies of all relevant documents/citations produced during the proceedings.

Sd/-
(R. S. Sonawane)
Dy. Director (Legal)

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Petitioner

Solar Energy Corporation of India Limited
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New Delhi-110017

Respondent No - 1

DBS Bank Limited
The Branch Manager,
Capitol Point, Baba Kharag Singh Marg,
Connaught Place,
New Delhi- 110001

Respondent No - 2

Chief Engineer (Commercial),
Maharashtra State Electricity Distribution Co. Ltd
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impleaded party

The Chief Engineer
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impleaded party

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Cc: Institutional Consumer Representatives:-

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The General Secretary,
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Cont'd → 5

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Cc: **Individual Consumer Representatives:-**

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