

THURSDAY | 02 MARCH 2023

## Case Update



# NTPC Renewable Energy Limited vs Gujarat Urja Vikas Nigam Limited, Petition No. 279/MP/ 2022 and 284/MP/2022



Central Electricity Regulatory Commission (“CERC”) by way of Order dated 01.03.2023 has confer that NTPC Renewable Energy Limited (“NTPC REL”) being the wholly owned subsidiary of NTPC Limited (Central Generating Company) has a right to approach CERC under Section 79(1)(a) and (f) of the Electricity Act, 2003 (“Act”) for adjudicating of dispute arising from a Power Purchase Agreement (“PPA”) executed with Distribution Licensee.

The Order in question arises from the question of maintainability as raised by Gujarat Urja Vikas Nigam Limited (“GUVNL”) which has challenged the jurisdiction of CERC to adjudicate upon the Petition filed by NTPC REL for extension of Scheduled Commercial Operation Date (“SCOD”) for implementation of a Solar Power Project on account of Force Majeure events.

CERC while duly considering the law as laid down by the Appellate Tribunal for Electricity in Judgment dated 04.09.2012 passed in Appeal No. 94 and 95 of 2012 titled BSES Rajdhani Power Ltd vs Delhi Electricity Regulatory Commission and Ors was pleased to hold that Section 79(1)(a) read with 79(1)(f) of the Act has got a wider scope and would also cover the adjudication of disputes involving implementation, application or interpretation of the provisions of the PPA.

Considering the position that NTPC REL has filed the Petition seeking extension of SCOD for the implementation of Solar Power Projects on account of Force Majeure events, therefore, it was rightly concluded that the dispute in question would require CERC to interpret the terms of the PPA and thus, would fall within the ambit of the term ‘regulate’ in term of Section 79(1) of the Act.

CERC while interpreting the scope of the term ‘regulate’ has further held the settled position of law that parties by way of an agreement cannot oust the jurisdiction of CERC which flows from the provision of the Act and held that NTPC REL being a wholly owned subsidiary of a Central Generating Company will be governed by CERC under Section 79(1)(a) and 79(1)(f) of the Act.

NTPC Renewable Energy Limited was represented by Shri Venkatesh (Managing Partner), Siddharth Joshi (Senior Associate) and Abhishek Nangia (Associate).

Link of the Order is produced [here](#).