

CERC EXERCISES ITS DISCRETIONARY POWER TO RELAX THE PROCEDURE OUTLINED IN GNA REGULATIONS TO TAKE ON RECORD THE BANK GUARANTEES SUBMITTED WITH DELAY



In a rare move, Central Electricity Regulatory Commission (“CERC”), by its Order dated 21.01.2024, enacted under its discretionary power, entails the relaxation of stringent procedures outlined in Regulation 8.2 (c) of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the Inter-State Transmission System) Regulations, 2022 (“GNA Regulations”).

Tata Power Renewable Energy Limited (“TPREL”) had presented a Petition before the CERC, seeking relief from the rigid timelines stipulated in Regulation 8.2 (c) of the GNA Regulations. The relief was specifically aimed to condone a four-day delay in the submission of Bank Guarantees (“BGs”) necessary for the grant of connectivity to the Inter-State Transmission System (“ISTS”) for its Mudhol Wind Plant and Karur Wind Plant.

Taking gauge of the sensitivity of the issue involved, CERC in exercise of its discretionary power relaxed the timeline set out in Regulation 8.2 (c) of the GNA Regulations and allowed Central Transmission Utility of India Limited (“CTUIL”) to take on record the BGs submitted by TPREL with a delay of four (4) days. Evidently, the Order underscores the CERC’s commitment of balancing regulatory compliance with the practical challenges faced by TPREL.

In fact, taking note of the adversity that may be faced by the similarly placed generators who might be facing similar difficulties, the CERC relaxed the timeline outlined in Regulation 8.2 (c) and 8.3 (e) of the GNA Regulations and allowed CTUIL to take on record the BGs submitted by such generators with a delay up to 10 days beyond the period specified in the GNA Regulations as a onetime measure for cases with a due date up to 20.1.2024.

Such immediate adjudication of the issue by CERC provided TPREL with a four-day extension for submitting the BGs, demonstrating a flexible approach in compliance of the timelines. This flexibility acknowledges unforeseen challenges faced by TPREL and advances the settled legal position that rules of procedure are the handmaidens of justice and not the mistress of Justice.

While the decision is not considered a precedent for the future cases, it sets a temporary example of flexibility for the generators facing similar difficulties. The extension of 10 days beyond the specified period for BG submission under the GNA Regulations serves as a one-time measure to address potential challenges faced by other generators up to 20.01.2024.

With regulatory hurdles addressed, TPREL can continue its operations and contribute to the growth of the renewable energy sector. This aligns with the broader goals of sustainable energy development. The CERC’s Order not only benefits TPREL by providing a relief in compliance but also paves way for addressing similar challenges faced by other generators, fostering a more adaptable regulatory environment.

The interest of TPREL was represented by Mr. Shri Venkatesh, Managing Partner and Mr. Shreshth Sharma, Partner assisted by a team comprising of Mr. Ashutosh K. Srivastava, Counsel and Mr. Shivam Kumar, Associate.

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