

SKV Law Offices Achieves Favourable CERC Ruling for Tata Subsidiary TP Saurya on BCD and GST Change in Law Claims



SKV Law Offices has successfully represented M/s. TP Saurya Limited (**TPSL**) (subsidiary of Tata Power Company Limited) before the Central Electricity Regulatory Commission (**CERC**) in a landmark order dated 31.12.2025, securing a decisive victory in Petition Nos. 240/MP/2023 and 302/MP/2023. The CERC declared two critical change-in-law events: the imposition of 40% Basic Customs Duty (**BCD**) on solar modules (notified 09.03.2021, effective 01.04.2022) and enhanced Goods and Services Tax (**GST**) at 12% on renewable energy devices (notified 30.09.2021), affecting TPSL's 110 MW Solar PV Power Project in Noorsar, Rajasthan, tied up with Kerala State Electricity Board Limited (**KSEBL**) under a PPA.

Background

TPSL emerged as the successful bidder in KSEBL's competitive bidding process initiated in September 2020 and was issued a Letter of Award at a tariff of Rs. 2.97 per kWh. In September 2021, TPSL voluntarily reduced the tariff to Rs. 2.44 per kWh to match competing SECI offers, expressly reserving all change-in-law protections and pass-through rights. Both the BCD notification and GST notification were issued after the original bid submission date of 16.10.2020, resulting in additional costs of Rs. 130.77 crores (BCD) and Rs. 27.29 crores (GST).

Core Dispute

KSEBL contested maintainability, arguing that the PPA vests change-in-law jurisdiction exclusively in the Kerala State Electricity Regulatory Commission (**KSERC**). CERC rejected this on jurisdictional grounds, holding that Section 79(1)(b) and (f) of the Electricity Act, 2003, empower it to adjudicate disputes involving interstate composite schemes for the generation and sale of electricity. Reiterating its earlier ruling dated 20.02.2025 in Petition No. 240/MP/2023, the Commission confirmed that present disputes arising from interstate composite power schemes and with the law already settled, the CERC declined to reopen the issue and proceeded to adjudicate Petition No. 302/MP/2023 on merits.

On substantive merits, KSEBL contended that the operative "last date of bid submission" was 27.09.2021 (the revised tariff date), not 16.10.2020 (the original bid closing date). Under KSEBL's interpretation, both notifications preceded the supposed cut-off and thus could not qualify as change-in-law events. KSEBL further argued that TPSL had 13 months to procure modules before BCD came into force, and its commercial decision to defer procurement amounted to voluntary assumption of risk. Additionally, KSEBL's claim that the reduction of tariff was a one-time

commercial accommodation offered by the developer to match a competing SECI bid and was expressly made without disturbing any other bid conditions, including Change in Law protections.

CERC's Decision

The CERC accepted TPSL's contentions and held that the "last date of bid submission" for change-in-law purposes is the date specified in the original bidding documents, 16.10.2020, not any subsequently negotiated tariff revision. The revised tariff of Rs. 2.44 per kWh was a commercial accommodation that did not alter the change-in-law threshold. Both notifications were issued after this date and thus qualified as change-in-law events.

On KSEBL's commercial decision argument, the CERC rejected the contention that TPSL could have procured modules before 01.04.2022. Project development realities—PPA execution (08.12.2021), KSERC tariff approval (28.01.2022), and supply contract execution with Tata Power Solar Systems Limited (March 2022) made earlier procurement unreasonable. The CERC

found that TPSL bore no responsibility for KSEBL's delayed PPA execution and could not be penalised for regulatory timelines.

The CERC approved TPSL's certified claim totalling Rs. 158.07 crores. Critically, the Commission prescribed an annuity-based monthly payment structure spread over 15 years at a 9.12% discount rate, rather than a lump-sum settlement.

The judgment clarifies that generators retain change-in-law protections even when making commercial concessions through tariff reductions. It confirms that delays in PPA execution and regulatory approvals do not deprive generators of contractual safeguards.

Click [here](#) to read the judgment.

TP Saurya Limited was represented before the CERC by Shri Venkatesh (Founding Partner), Suhael Buttan (Partner), Vineet Kumar (Senior Associate) & Nikunj Bhatnagar (Associate) of the SKV Law Offices team.