

SKV Law Offices Achieves Major CERC Victory in Change in Law Compensation Matter for NTPC Solar Project



On 15.01.2026, the Central Electricity Regulatory Commission (**CERC**) granted substantial relief to NTPC Limited in a pivotal Change in Law dispute involving a 90-megawatt solar photovoltaic project. SKV Law Offices provided strategic counsel in this high-stakes regulatory adjudication concerning the interplay of power purchase agreements, renewable energy tariff regulations, and India's evolving tax policy framework.

The petition challenged Kerala State Electricity Board Limited's resistance to recognising Change in Law events triggering compensation obligations in respect of Basic Customs Duty and Goods and Service Tax. The core legal issue centred on whether the Power Purchase Agreement could contractually limit the Central Electricity Regulatory Commission's jurisdiction despite the latter's statutory authority under the Electricity Act 2003 over Central Government-owned generating companies operating across multiple states.

CERC delivered three critical determinations. First, it held that contractual jurisdiction clauses cannot oust the statutory jurisdiction vested in CERC under Section 79(1)(a) read with 79(1)(f) of the Electricity Act 2003, establishing that disputes involving Central Government-owned generating companies engaged in interstate composite schemes for the generation and sale of electricity fall squarely within CERC's regulatory domain. Second, the Commission declared that the Notification issued towards the imposition of Basic Customs Duty in 2022, the consequent increase in social welfare surcharge, and the increase in Integrated Goods and Services Tax, along with the 2021 GST Notification increasing the rate from 5 per cent to 12 per cent effective 1 October 2021, constitute valid Change in Law events entitling NTPC to compensation. On the compensation quantum and mechanism, the Commission established that a discount rate of 10.65 per cent coupled with an annuity payment period of 15 years represents the appropriate methodology, grounded in normative cost of debt principles applicable to renewable energy tariff regulations. Payment liability commences from the 60th day following the order or upon claim submission by NTPC, whichever occurs later. Critically, the CERC has held that NTPC qualifies for carrying costs calculated at the actual interest rate paid for arranging funds (supported

by auditor certification), the applicable rate of interest on working capital as per prevailing renewable energy tariff regulations, or the late payment surcharge rate stipulated in the PPA, whichever is lowest, extending from dates of actual payments to authorities through the order issuance date.

This decision reaffirms that the lawful jurisdiction of a forum cannot be ousted merely in the face of a contractual term. The decision is also noteworthy in recognising the entitlements of the generators arising in case of change in law events, which is essential to balance the economic impact on the project economics and uphold the long-settled principle of restitution.

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

NTPC was represented before the CERC by Shri Venkatesh (Founding Partner), Vineet Kumar (Senior Associate) & Surbhi Kapoor (Senior Associate) of the SKV Law Offices team.