

MATTER UPDATE

HSA Advocates Secures CERC Order Enforcing Safeguard Duty Change-in-Law Compensation for 250 MW Solar Project

HSA Advocates successfully represented Solairepro Urja Private Limited (SUPL) before the Central Electricity Regulatory Commission (CERC) in Petition No. 517/MP/2024, securing enforcement of Change in Law compensation in relation to its 250 MW solar power project at Kadapa, Andhra Pradesh.

SUPL is a special purpose vehicle developing a 250 MW grid-connected solar photovoltaic project under a Power Purchase Agreement (PPA) executed with NTPC Limited, India's largest state-owned integrated energy conglomerate primarily engaged in the generation of electricity through coal, gas, hydro, and renewable sources, which supplies power to the distribution licensees in Andhra Pradesh. The dispute arose from the non-implementation of the Commission's earlier order dated January 1, 2024, whereby the imposition of Safeguard Duty (SGD) on the import of solar modules had been recognized as a Change in Law event under the PPA and compensation had been directed to be paid. Despite these clear directions, NTPC and the Andhra Pradesh DISCOMs withheld payment for several months, raising objections based on an alleged AC/DC (Alternating Current/Direct Current) capacity mismatch and disputing the entitlement and quantum of compensation.

By its detailed order dated January 27, 2026, the Commission rejected the objections raised by NTPC and the Andhra Pradesh DISCOMs. The CERC recognized that DC overloading, i.e., installation of a higher DC capacity relative to AC capacity, is an accepted and prevalent industry practice in solar photovoltaic projects, particularly in the absence of any express contractual restriction under the PPA or the bidding guidelines. The Commission held that once SGD had been recognized as a Change in Law event and compensation had been granted by a prior order, the same could not be frustrated at the implementation stage by introducing new technical grounds.

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The Commission observed that withholding Change in Law compensation on the basis of AC/DC mismatch was legally untenable and inconsistent with the regulatory and contractual framework governing the project. It further directed the parties to undertake reconciliation of the compensation claim within 30 days and directed NTPC to release the entire reconciled amount of compensation to SUPL within 45 days, along with the applicable Late Payment Surcharge as per the PPA. Importantly, the Commission clarified that NTPC's obligation to pay the generator cannot be made contingent upon, nor deferred due to, inter-se reimbursement arrangements or pending payments from the DISCOMs.

This order reinforces the sanctity and enforceability of Change in Law protections under renewable energy PPAs and strengthens regulatory discipline in the power sector. For renewable energy developers operating under tight margins and long-term tariff structures, timely implementation of such reliefs is critical to financial stability and project viability.

HSA's team was involved at every stage of the proceedings, including advising, strategizing, drafting pleadings, and representing SUPL before CERC. The HSA team was led by **Molshree Bhatnagar** (Partner), and supported by **Tushar Srivastava** (Associate Partner), **Shaida Dass** (Senior Associate) and **Kamya Sharma** (Associate).