

No.N/30/2018

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
No. 16 C-1, Miller Tank Bed Area, Vasanth Nagar, Bengaluru- 560 052.**

Dated: 27.09.2022

Present

Shri P. Ravi Kumar	.. Chairman
Shri H.M. Manjunatha	.. Member
Shri M.D. Ravi	.. Member

OP No.13/2018

BETWEEN:

Sri Frank John Baptist,
S/o China Chouri,
Aged about 57 years,
No.808-3, Susaipalaya,
Andersonpet, B.M. Road,
KGF, Bangarpet Taluk,
Kolar District,
Karnataka-563 113.

... PETITIONER

(Represented by Sri Badari Vishal, Advocate
for M/s Srinivas & Badri Counsels)

AND:

1. Bangalore Electricity Supply Company Limited,
K.R. Circle,
Bengaluru-560 009.

(Represented by its Managing Director)

(Represented by Sri S. Sriranga,
Senior Advocate for M/s JUSTLAW Advocates)

2. Chief Electrical Inspector to Government,
Nirman Bhavan, 2nd Floor
P.B No. 5148, Dr. Rajkumar Road,
Rajajinagar,
Bengaluru-560 010.

... RESPONDENTS

(Represented in person Sri D.H. Basavaraju, CEIG)

ORDERS

1. The petitioner has filed this petition under Section 86(1)(f) r/w Section 86(1)(k) and Section 94 of the Electricity Act, 2003, praying for the following reliefs to:

- a) Declare that the Show Cause Notice dated 13.04.2017 bearing no EEE/AEE(O)/KGF/2017-18/219-323, issued by the respondent No.1, at Annexure-W is illegal, arbitrary, without notice and not binding on the petitioner.
- b) Declare that the Order of the respondent No.1 dated 30.08.2017 bearing Ref No.EEE/AEE (O)/KGF/2017-18/1922-25, Annexure-Y is illegal, arbitrary, without notice and not binding on the petitioner.
- c) Declare that the Supplemental PPA dated 01.09.2017 at Annexure-Z is illegal, arbitrary and not binding on the petitioner.
- d) Declare that the Original PPA dated 26.12.2015 entered into between the petitioner and the respondent No. 1 at Annexure-B is valid and binding between the petitioner and the respondent No.1.
- e) Pass such other as this Hon'ble Commission may deem fit and proper in the interest of justice and equity.

2. The material facts stated in the petition, required for the disposal of the present petition may be stated as follows:

- a) The petitioner and the 1st respondent (BESCOM) have entered into PPA dated 26.12.2015 (Annexure-B), wherein the petitioner had undertaken to install a SRTPV System of 1 MW capacity on the Roof-top of the poultry farm premises situated at Thookal village, Kyasamballi Hobli, Bangarpet taluk, Kolar district, connected with electricity service bearing RR No.A2P-839 of Andersonpet-2 Section in KGF Sub-division of BESCOM and to

supply energy to the distribution system of 1st respondent (BESCOM) @ Rs.9.56 per unit for the net metered energy delivered. The other terms & conditions are specified in the PPA. The PPA was approved by the Commission vide letter dated 16.03.2016 (Annexure-D). By oversight in this approval letter (Annexure-D), the location of the SRTPV System was wrongly stated as “....located at Anderson Pet, K.G.F. Bangarpet taluk, Kolar district” which refers to the residential address of the petitioner instead of the location stated in the PPA of SRTPV System.

- b) The Executive Engineer (Ele.), BESCOM, KGF Division, issued approval for installing 1,000 kWp SRTPV System on the Roof-top of the concerned poultry farm (SRTPV System) vide letter dated 20.04.2016 (Annexure-E). In this approval letter it is made clear that *“this approval is valid for 180 days from the date of this letter and SRTPV System is to be commissioned within this period, failing which the approval will be treated as cancelled.”* The said period of 180 days from 20.04.2016, would expire on 17.10.2016. The petitioner as per letter dated 13.10.2016 submitted to Chief Electrical Inspector to Government (CEIG) drawings pertaining to the electrical installation of SRTPV System for approval. The CEIG has asked the petitioners to furnish certain documents/details described in letter dated 14.10.2016 (Annexure-J) for taking further action. The petitioner resubmitted the drawings with letter dated 14.10.2016. On the same day, the CEIG approved the said drawings after effecting necessary corrections and with certain observations noted in RED INK vide letter dated 14.10.2016 (Annexure-H). This approval further states that the

petitioner can take up the work through a Class-1 Licenced Electrical Contractor as per the approved drawings and on completion of the works, to produce the work completion report of Licenced Electrical Contractor and certain other certificates and test results of electrical equipment, before making a request for inspection of the SRTPV System for obtaining Safety Certificate from CEIG. Further, this letter specifically states that corrigendum letter from KERC describing correct location of the SRTPV System should be submitted at the time of furnishing completion report.

- c) Thereafter, the Executive Engineer (Ele.), BESCOM, KGF Division, as per Official Memorandum (OM) dated 30.11.2016 (Annexure-K) cancelled the PPA dated 26.12.2015 (Annexure-B) with immediate effect on the ground that the time granted for installation of SRTPV System as per work approval letter dated 20.04.2016 (Annexure-E) had expired, but the SRTPV System was not commissioned. This OM was communicated to the petitioner and other higher officials.
- d) The above OM was replied by the petitioner as per reply dated 01.12.2016 (Annexure-L). In essence, the points urged in the reply may be stated as follows:
- (i) That the SRTPV System had already been installed about 50 days back.
 - (ii) The SRTPV System was ready for commissioning by 8th October 2016 and accordingly, the petitioner submitted all the relevant documents to the office of the Executive Engineer (Ele.), BESCOM, KGF Division,

as well as CEIG with a request to conduct the necessary inspection and granting due approvals.

(iii) That the petitioner received from CEIG, the initial observation letter dated 14.10.2016 intimating the defects that need to be rectified and subsequently upon the rectification of defects, on the same day the petitioner received the drawing approval letter from CEIG.

(iv) Since there was a requirement to get a corrigendum issued by KERC describing correct location of the SRTPV System in the PPA approval letter issued earlier, the petitioner had been trying to get the same done at the earliest. The petitioner had already submitted the request for issue of corrigendum to KERC and the same was expected to be received soon.

Therefore, the petitioner requested to withdraw the OM cancelling the PPA.

e) The petitioner filed WP No.65260/2016 before the Hon'ble High Court of Karnataka at Bengaluru, and obtained interim order dated 20.12.2016 (Annexure-M) staying the operation of the OM dated 30.11.2016. The WP No.65260/2016, has been disposed of on 16.03.2017 while disposing of WP No.51001/2016 (GM-RES) clubbed with several similar WPs including WP No.65620/2016, setting aside the cancellation of the PPA and remanding the matter to concerned ESCOMs with a direction to issue Show-Cause notice for intended action of cancellation of PPA etc., and to pass Order on consideration of reply furnished by the PPA holder.

- f) In the meanwhile, it appears that subsequent to the OM dated 30.11.2016 (Annexure-K) the petitioner had made some representation to Corporate office of BESCO, and the Corporate office had called for the remarks of the local Executive Engineer (Ele.) and accordingly, the Executive Engineer (Ele.), BESCO, KGF Division had furnished the status of the SRTPV System in his letter dated 16.01.2017 (Annexure-N). In this status report it is stated that the petitioner had submitted the work completion report (Form-6A) along with other details but without safety/commissioning approval from CEIG, and it was learnt from the petitioner that CEIG had not issued the safety/commission approval as the location of the SRTPV System described in the PPA and described in the letter approving PPA by KERC were not tallying. Therefore, it is stated that the petitioner was unable to obtain and submit the safety/Commission approval before the expiry of six months i.e., 20.10.2016 from the work approval date. It appears ultimately an SPPA dated 28.03.2017 (Annexure-T) was executed between petitioner and the 1st respondent (BESCO) in continuation of the earlier PPA dated 26.12.2015. In this SPPA, the tariff payable for the net metered energy supplied was shown at Rs.5.20 per kWh as was prevailing at that time. However, according to the petitioner, this SPPA was executed under protest, vide his letter dated 28.03.2017 (Annexure-S).
- g) In the meanwhile, the petitioner applied for Electrical Safety approval for his SRTPV System and obtained the same on 22.03.2017 (Annexure-Q). On 30.03.2017, the SRTPV System was successfully synchronised with

the BESCO grid and the certificate of synchronisation dated 30.03.2017 (Annexure-V) was issued.

h) The Executive Engineer (Ele.), C, O&M Division, BESCO, KGF, issued Show-Cause Notice dated 13.04.2017 (Annexure-W) to the petitioner, to submit explanation as to why the Synchronisation Certificate should not be withdrawn and the SRTPV System should not be disconnected. This Show Cause Notice was replied as per reply notice dated 20.04.2017 (Annexure-X). Subsequently, the local EE (Ele.), BESCO, KGF issued OM dated 30.08.2017 (Annexure-Y) allowing the petitioner to execute a SPPA with the condition that the financial liability would start from the date of approval of SPPA by the Commission. The petitioner again executed another SPPA dated 01.09.2017 (Annexure-Z) for reduced tariff of Rs.5.20 per unit. This SPPA was submitted for approval before this Commission, vide letter dated 09.10.2017 (Annexure-AA).

i) For the above reasons, the petitioner has prayed for a declaration that the original PPA dated 26.12.2015 entered between the parties at Annexure-B is valid and binding and to set aside the other SPPAs recording reduced tariff of Rs.5.20 per unit.

3. The 2nd respondent (CEIG) appeared and filed statement of objections, the gist of which may be stated as follows:

a) That the petitioner vide letter dated 13.10.2016 (Annexure-R1) requested for approval of single line drawings pertaining to the SRTPV System enclosing four sets of drawings. This respondent noted certain defects in the drawings and other discrepancies and issued letter dated

14.10.2016 (Annexure-R2) for attending the defects and discrepancies. On the same day vide letter dated 14.10.2016 (Annexure-R3), the petitioner furnished the required documents and explanations sought for. Thereafter, this respondent issued approval of drawings vide letter dated 14.10.2016 (Annexure-R5) pertaining to the electrical installation of SRTPV System.

- b) Thereafter, the petitioner requested for inspection of the SRTPV installation on 05.01.2017 as per Annexure-R6. However, the petitioner had not enclosed the corrigendum from KERC required to be produced as directed earlier. Then the petitioner was orally asked to submit the same. Thereafter, the petitioner has once again requested for inspection vide letter dated 25.01.2017 (Annexure-R7) by enclosing a copy of letter dated 16.01.2017 (Annexure-R8) issued by the Executive Engineer (Ele.), BESCO, KGF Division, addressed to GM (DSM), Corporate Office, BESCO, wherein it was recommended to request the Commission to issue the required corrigendum. This respondent again issued letter dated 08.02.2017 (Annexure-R9) asking the petitioner to furnish the corrigendum letter from KERC.
- c) The petitioner again wrote letter dated 20.02.2017 (Annexure-R10) enclosing a copy of letter dated 16.02.2017 (Annexure-R11) issued by BESCO to KERC. In this letter dated 16.02.2017 (Annexure-R11) BESCO had confirmed the location and address of the SRTPV System as stated in the PPA and further stated that in the KERC approval letter

the residential address of the petitioner was shown as Project location by mistake.

- d) Thereafter, this respondent inspected the SRTPV installation on 28.02.2017 dispensing with the Corrigendum and found certain defects and intimated the same for rectification vide letter dated 02.03.2017 (Annexure-R12) addressed to the petitioner. The petitioner in turn, intimated that the defects were rectified and the observations were fully complied with and requested to issue the safety clearance vide letter dated 03.03.2017 (Annexure-R13).
- e) This respondent sent letter dated 10.03.2017 (Annexure-R14) addressed to the Deputy Electrical Inspector, Kolar, for conducting verification of compliance report submitted by the petitioner. On receipt of the verification of compliance report dated 13.03.2017 (Annexure-R15) from the Deputy Electrical Inspector, Kolar, this respondent issued Electrical Safety approval dated 22.03.2017 (Annexure-R16) for the electrical installation pertaining to the SRTPV System.
- f) From the above facts, this respondent had concluded that the petitioner was at fault and delayed the installation of SRTPV System and thereby the petitioner was not entitled to the reliefs prayed for in the petition.

4. The 1st respondent (BESCOM) appeared through counsel and filed statement of objections, the gist of which may be stated as follows:

- a) This respondent has admitted the execution of the PPA dated 26.12.2015 (Annexure-B) and issuance of the letter dated 20.04.2016 (Annexure-E)

according approval for installation of SRTPV System with the condition that the said System should be commissioned within 180 days as stated therein. It is also not disputed that while intimating the approval of the PPA, this Commission has erroneously mentioned the location of the SRTPV System.

- b) That this respondent has terminated the PPA on 30.11.2016 as the petitioner has failed to commission the SRTPV System within 180 days. The subsequent events like the petitioner filing the Writ Petition etc., are not disputed.
- c) It is not disputed that on receiving the letters dated 22.03.2017 & 28.03.2017 (Annexures-R&S), Supplementary PPA (SPPA) dated 28.03.2017 (Annexure-T) was executed between the parties for altered tariff as per Generic Tariff Order dated 02.05.2016. It is also admitted that on 30.03.2017, the SRTPV System was synchronised with the BESCO's Grid.
- d) This respondent has not disputed the events of issuing show cause notice calling upon the petitioner to explain as to why his PPA should be terminated, in compliance with the direction issued in the concerned WP. Subsequently, the SPPA dated 01.09.2017 (Annexure-Z) was executed with the petitioner for reduced tariff of Rs.5.20 per unit. This SPPA was approved by the Commission vide letter dated 02.11.2017 (Annexure-R1), subject to certain corrections and modifications and directing to submit fresh SPPA after effecting those corrections and modifications. Thereafter, the parties have executed the SPPA dated

22.11.2017 [produced by the 1st respondent (BESCOM) with Memo dated 30.04.2022]. The issuance of OM dated 30.08.2017 (Annexure-Y) is not disputed by this respondent.

- e) That the SRTPV System of the petitioner was not ready for commissioning within the stipulated time frame as claimed by the petitioner. That as per the consumer guidelines relating to the SRTPV System issued by this respondent (Annexure-R2), the petitioner was required to submit Work Completion Report along with the approval of the CEIG and other documents as per guidelines to this respondent at least seven days before the SRTPV System could be synchronised. However, the petitioner has admittedly failed to do so.
- f) That as per the Generic Tariff Order dated 02.05.2016, the petitioner was liable for reduced tariff of Rs.5.20 per unit for the delay in commissioning the SRTPV System beyond the time granted for it. The petitioner was granted 180 days' period from 20.04.2016, the date on which approval for installation of SRTPV System was issued by the EE, (Ele.), BESCOM, KGF Division, vide Annexure-E.
- g) That the petitioner can install the SRTPV System only after approval of the drawings of the electrical installation by the CEIG. The fact that CEIG has approved such drawings only on 14.10.2016 would prove that the petitioner was not ready for commissioning the SRTPV System within the stipulated time.

- h) That the petitioner has failed to furnish the clarification regarding the corrigendum required by CEIG and such failure of the petitioner cannot be attributed to this respondent.
- i) All other averments made by the petitioner, not specifically traversed and contrary to the statement of objections are denied as false and incorrect.
- j) For the above reasons, this respondent requested to dismiss the petition.
5. The petitioner filed the rejoinder to the statement of objections of respondents, reiterating the grounds earlier stated in the petition and denying the correctness of the version made out in the statement of objections.
6. The petitioner and the 1st respondent (BESCOM) have filed their written submissions.
7. From the pleadings and the rival submissions, the following issues arise for our consideration:
- Issue No.1: Whether the petitioner has proved that he could have synchronised/commissioned the SRTPV System within the specified date, but for the insistence by CEIG to produce the Corrigendum letter from KERC?
- Issue No.2: To which reliefs the petitioner is entitled to?
- Issue No.3: What Order?
8. After considering the records and the submissions of the parties, our findings on the above issues are as follows:

9. Issue No.1: Whether the petitioner has proved that he could have synchronised/commissioned the SRTPV System within the specified date, but for the insistence by CEIG to produce the Corrigendum letter from KERC?
- a) The time specified for commissioning of the SRTPV System of the petitioner was 180 days from 20.04.2016, the date on which approval for installing the SRTVP System was issued by EE (Ele.), BESCO, KGF Division, as per Annexure-E. Therefore, the last date for commissioning the SRTPV System would fall on 17.10.2016. This fact is not in dispute.
 - b) The petitioner claims that the installation and construction of SRTPV System was completed by 14.10.2016. He relied upon the Annexure-N dated 16.01.2017 issued by the EE (Ele.), BESCO, KGF Division, which would show that the petitioner had submitted the Work Completion Report (Form-6A) along with other details on 14.10.2016, except the Safety approval to be issued by the CEIG.
 - c) The petitioner had approached the CEIG on 13.10.2016 requesting for approval for single line diagram/drawing of SRTPV System. On the next day itself, the single line diagram was approved. Therefore, there remained only three days for commissioning the SRTPV System. The petitioner could succeed in commissioning the SRTPV System within the specified time, had he been able to obtain the safety approval for SRTPV System from CEIG and to get the synchronisation of the same within that three days.

d) The consumer guidelines produced by the 1st respondent (BESCOM) at Annexure-R2, contains in paras 11 to 17, the different steps to be followed from the time of submission of Work Completion Report up to the synchronisation of SRTPV System. They are as follows:

“11. Submission of work completion report:

The Applicant/System installer of SRTPV system shall submit the following documents along with work completion report as per Format-7 to the approving authority (C, O&M, and AEE/EE of BESCOM):

- a. Approved drawing and approval letter for commissioning the SRTPV system by CEI or DEI, GoK.*
 - b. Specification sheets of all equipment and manufacturer's test reports and test certificate of modules and inverters.*
 - c. Test certificates of bi-directional meter from MT division, BESCOM.*
 - d. Undertaking of MNRE subsidy Sanction letter or self-declaration Certificate for not availing MNRE subsidy (Format-1C).*
 - e. Details of facilitation fee paid.*
 - f. Power Purchase Agreement on Rs.200/- Non judicial stamp paper.*
- 12. After verification of all documents and completion reports submitted by the Applicant, AEE/EE will issue sanction letter for testing and commissioning of SRTPV System.*
- 13. The testing, commissioning and synchronisation of the SRTPV System shall be carried out by the concerned Sub-divisional/Divisional Engineer along with MR staff/Section Officer (To assess the SRTPV Load, the Capacity of Inverter or P.V. Module whichever is Low, shall be considered).*
- 14. During the period synchronisation of the SRTPV System with BESCOM grid, the BESCOM personnel shall inspect, calibrate and seal the bi-directional meter.*

15. *The AEE/Section Officer shall record G.P.S. Co-ordinates of all the SRTPV Installations in the Work Completion report submitted by the applicant and System Installer (Format 7) which will be helpful to map all the serviced installations at a later date.*
 16. *The A.E.E. of C, O&M, after commission, shall take a photograph of the Solar R.T.P.V. power plant, retain one copy along with the service docket and shall mail copy to the GM, DSM, Corporate Office, BESCOM.*
 17. *The concerned AEE/EE C, O&M will issue for synchronisation certificate to the applicant of the SRTPV System after synchronisation and commissioning".*
- e) The statement of objections of 2nd respondent (CEIG) would disclose that on receipt of letter dated 16.02.2017 (Annexure-R11) issued by BESCOM to KERC confirming the location and address of the SRTPV System as stated in the PPA, the CEIG without insisting the Corrigendum letter from KERC, proceeded to inspect the SRTPV System on 28.02.2017 and found certain defects and intimated the same for rectification vide letter dated 02.03.2017 (Annexure-R12) addressed to the petitioner. Further, that the petitioner in turn, on 03.03.2017 (Annexure-R13) intimated the CEIG that the observations and the defects notified were complied with. Thereafter, the CEIG got verified the compliance stated by the petitioner, through Deputy Electrical Inspector, Kolar, and on receipt of the report from the said Deputy Electrical Inspector, Kolar, the electrical safety approval dated 22.03.2017 (Annexure-R16/ Annexure-Q), was issued by the CEIG. Therefore, the time taken for issue of CEIG report was about 20 days from the date of inspection of the

SRTPV System. Even assuming that the CEIG report could have been issued with utmost speed, one can say that at least a week's time was required in the present case to obtain the CEIG safety approval from the date of request made by the petitioner for issue of safety approval.

f) Thereafter, the petitioner was required to submit the work completion report along with CEIG safety approval and other documents and was required to approach the concerned officials for synchronisation of the SRTPV System with the grid. This would take at least 3-4 days' time even if the steps were promptly complied with by the concerned officials. The 1st respondent (BESCOM) in its statement of objections at para 15 has stated that as per the guidelines of the respondent, the petitioner was required to submit the Work Completion Report along with Safety approval of CEIG and other documents at least seven days before the plant could be synchronised.

g) From the above analysis it can be said that the petitioner could not have got the SRTPV System commissioned on or before 17.10.2016, even if the petitioner was not required to produce the Corrigendum from KERC.

h) The veracity of the claim of the petitioner that in the absence of insistence by CEIG to produce the Corrigendum letter from KERC, he would have commissioned the SRTPV System, can be verified from another angle. The CEIG in his drawing approval dated 14.10.2016 (Annexure-H) stated that Corrigendum letter issued from KERC was to be produced at the time of furnishing completion report before the

inspection of the SRTPV System by CEIG. The petitioner was well aware that the last date for commissioning of the SRTPV System was fast approaching. Therefore, as a prudent man he should have immediately approached the KERC for obtaining the Corrigendum. The petitioner has not produced any document to show that he has approached the KERC soon after 14.10.2016 or at any subsequent date. In his reply dated 01.12.2016 (Annexure-L) to the OM dated 30.11.2016 (Annexure-K) cancelling the PPA, the petitioner claimed that he had already submitted the request for issue of Corrigendum and the same was expected to be received soon. As already stated, the petitioner has not produced any such written request made by him to KERC. It was required for the petitioner to establish that though he immediately approached the KERC for obtaining the required Corrigendum letter, for one or the other reason he could not get it on time and thereby he was prevented from approaching the CEIG with a request for final inspection of the SRTPV System, though the installation work was completed. For this purpose, the petitioner should establish that immediately after 14.10.2016 it approached KERC. Therefore, this circumstance irresistibly leads to the inference that the petitioner had not completed the installation work in all respect.

- i) The Commission maintains a separate file in respect of proceedings for approval of each PPA and any subsequent correspondences made in respect of that PPA would be kept in that file. The PPA in question of

the petitioner was approved in file No.31 Vol-344 maintained by the Commission. The verification of this file discloses that the petitioner has filed the application dated 02.12.2016 requesting for issue of Corrigendum. Therefore, it is clear that for the first time the petitioner approached this Commission with the application dated 02.12.2016. There was no impediment for the petitioner to approach KERC requesting to issue the required Corrigendum soon after 14.10.2016. Therefore, the claim of the petitioner that the SRTPV System was ready for commissioning by 14.10.2016 cannot be considered as a true fact. The production of Corrigendum letter, is only taken as a lame excuse by the petitioner to cover up the delay in completing the work of SRTPV System. It can also be seen that the petitioner has executed SPPA dated 22.11.2017 agreeing to reduced tariff of Rs.5.20 per unit.

j) For the above reasons, we hold Issue No.1 in negative.

10. Issue No.2: To which reliefs the petitioner is entitled to?

a) In para 5 of the Generic Tariff Order dated 02.05.2016 (Annexure-F) it is held that in the event of delay in commissioning the SRTPV System the revised reduced tariff of Rs.5.20 per unit would be applicable. The relevant part of para 5 reads as follows:

"5. Applicability of the Order:

The Commission, in supersession of its Order dated 10th October, 2013, decides that the norms and tariff determined in this Order shall be applicable to all new grid connected solar rooftop and small solar photovoltaic power plants, entering into Power Purchase Agreement (PPA) and commissioned on or after 2nd May, 2016 and up to 31st March, 2018.

In respect of plants for which PPAs that have been entered into prior to 1st May, 2016 and are commissioned within the period of time as stipulated by the ESCOMs concerned or the Commission prior to the date of issue of this Order, the tariff as per the Commission's Order dated 10th October, 2013 shall be applicable. Such plants shall be eligible for the revised tariff as per this Order if they are not commissioned within the stipulated time period and there shall be no extension in time period for commissioning them after the effective date of this Order.

.....
.....”

- b) The petitioner contended that the above Generic Tariff Order dated 02.05.2016 is not applicable to his SRPTV System as the PPA had already been executed in pursuance of the Generic Tariff Order dated 10.10.2013, which was valid till 31.03.2018. This contention of the petitioner has no merit. In the Generic Tariff Order dated 02.05.2016, the control period of 5 years stated in the Generic Tariff Order dated 10.10.2013 was curtailed and the Generic Tariff was revised and reduced to Rs.5.20 per unit from Rs.9.56 per unit determined in the earlier Generic Tariff Order dated 10.10.2013. The Generic Tariff Order dated 02.05.2016 has reached finality as it was not challenged by any one. The PPA does not contain any term allowing 5 years' period for completion of the SRTPV System. The period of six months from the date of execution of the PPA for commissioning of the SRTPV System was either fixed by the Commission while approving the PPA or 180 days from the date of issue of approval for installation of SRTPV System by the concerned ESCOM. In the present case, as per Annexure-E dated 20.04.2016, while issuing approval for installation of SRTPV System 180

days was fixed for commissioning of the SRTPV System from the said date of approval.

- c) It is found that the petitioner has failed to commission the SRTPV System within 180 days from 20.04.2016, the date of approval for installation of SRTPV System (Annexure-E). Therefore, the SRTPV System of the petitioner was liable for reduced tariff of Rs.5.20 per unit as held in Generic Tariff Order dated 02.05.2016.
- d) In view of the above discussion and the conclusion reached by us, it is not necessary to consider the validity or otherwise of the impugned Show Cause Notice dated 13.04.2017 (Annexure-W) & OM dated 30.08.2017 (Annexure-Y). However, it is made clear that the petitioner is entitled to tariff of Rs.5.20 per unit for the energy delivered from the date of commissioning of the SRTPV System.
- e) Hence, Issue No.2 is held accordingly.

11. Issue No.3: What Order?

For the above reasons, we pass the following:

ORDER

- a) The SRTPV System of the petitioner is entitled to a tariff of Rs.5.20 per unit for the net energy delivered from the date of commissioning.
- b) The other reliefs claimed by the petitioner are rejected.

sd/-
(P. RAVI KUMAR)
Chairman

sd/-
(H.M. MANJUNATHA)
Member

sd/-
(M.D. RAVI)
Member