

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN, PLOT NO-4,
CHUNUKOLI, SHAILASHREE VIHAR,
BHUBANESWAR - 751 021**

Present : **Shri S. P. Nanda, Chairperson**
 Shri S. P. Swain, Member
 Shri A. K. Das, Member

Case No.11 of 2012

M/s. Emami Paper Mills Limited

.....Petitioner

Vrs.

GRIDCO & Another

.....Respondents

In the matter of: **An application under Regulation 10 for relaxation of the provisions of Clause 7 of the OERC (Renewable and Co-generation Purchase Obligation and its Compliance) Regulations, 2010.**

ORDER

Date: 30.07.2016

The present petition has been filed by M/s. Emami Papers Mills Limited, situated at Balgopalpur in Balasore district of Odisha, on 17.03.2012 under Regulation 10 of OERC (Renewable and Co-generation Purchase Obligation and its Compliance) Regulations, 2010 for relaxation of the provisions of Clause-7 of the said Regulations. The petitioner has prayed for exemption from purchase of power from Co-generation and renewable sources and issuance of Co-generation Certificate to the petitioner as it is using the electricity from its Co-generation power plant.

2. The Commission in its order dated 13.02.2012 passed in Case No. 111 of 2011 vide Paras- 23 & 24 have observed as follows:-

“ 23. Regulations 3 of RCPO Regulations, clearly specifies the minimum Purchase Obligation from (i) Renewable Energy Sources (Solar and Non-solar) and (ii) Co-generation Sources separately. Thus, the RCPO Regulation has been framed as per the legislative mandate under Section 86 (1) (e) of the Act, by promoting both the above sources simultaneously, unlike in case of Maharastra, where fastening of liability on Renewable was promoted in preference to that Co-generation, as indicated in Para 45(IV) of the Hon’ble ATE Order in Appeal No57 of 2009.

24. Further, in order to remove difficulties likely to be faced by Obligated Entities, the Commission has clarified that the Obligation in respect of Co-generation can be met from both solar and non-solar sources in order to achieve the total purchase requirement of the financial year but the solar & non-solar Purchase Obligations has to be met mandatorily by the Obligated Entities. The Commission further wants to make it

abundantly clear that consuming electricity only from Co-generation sources shall not relieve any obligated entity from its responsibility of meeting Renewable obligations of solar and non-solar renewable energy certificates(RECs)."

3. While the present application of the petitioner was under scrutiny, a notice dated 23.03.2012 in Appeal No. 54/2012 and I.A. No. 111 of 2012 was received from Hon'ble ATE in which the aforesaid Commission's order dated 13.02.2012 passed in Case No. 111 of 2011 has been challenged by the petitioner in respect of the same matter filed before the Commission. Therefore, the petitioner, vide Commission's letter dated 19.04.2012, was intimated that the application could not be entertained for hearing at that stage unless the Hon'ble ATE dispose of the Appeal No. 54 of 2012.
4. Thereafter, the Hon'ble ATE vide its judgment dated 30.01.2013 passed in Appeal No. 54 of 2012 have set aside the impugned order dated 13.02.2011 of the Commission passed in Case No. 111 of 2011 and directed the Commission to pass consequential order in terms of the conclusion arrived at by the Hon'ble ATE.
5. The Commission have challenged the aforesaid judgment dated 30.01.2013 of the Hon'ble ATE before the Hon'ble Supreme Court of India vide Appeal No. 5466 of 2013, which is still pending before the Apex Court.
6. However, the Commission, vide OERC letter dated 30.05.2016 had asked the parties herein to file the present status of the matter within fifteen days from the date of issue of the letter indicating that if no submission is made by the parties within the stipulated time, the Commission will dispose of the case on the basis of the materials available in the records. In response to the above letter of the Commission, the petitioner vide its letter dated 20.06.2016 has requested for 15 days more time to submit the present status of the matter. But no submission has been made by any of the parties till date. Therefore, the Commission would like to dispose of this long pending case with the direction that the outcome of the judgment of the Hon'ble Supreme Court in Appeal No5466 of 2013 will be applicable in the present case.
7. Accordingly, the case is disposed of.

Sd/-
(A. K. Das)
Member

Sd/-
(S. P. Swain)
Member

Sd/-
(S. P. Nanda)
Chairperson