

**ODISHA ELECTRICITY REGULATORY COMMISSION
BUDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNOKOLI, SAILASHREE VIHAR
BHUBANESWAR - 751021**

**Present: Shri U. N. Behera, Chairperson
 Shri S. K. Parhi, Member
 Shri G. Mohapatra, Member**

Case No. 33/2021

M/s. Tata Steel Long Products Ltd.	Petitioner
Vrs.		
OREDA	Respondents

In the matter of: **Application under Regulations 12.6 and 12.7 of OERC (Procurement of Energy from Renewable Sources and its Compliance) Regulations, 2015.**

For Petitioner: Shri P P Mohanty, Advocate on behalf of M/s Tata Steel Long Products Limited.

For Respondent: Ms. Sujata Das, Verifier, OREDA.

ORDER

Date of Hearing: 10.08.2021

Date of Order: 07.10.2021

The Petitioner- M/s Tata Steel Long Products Limited (formerly Tata Sponge Iron Limited) has set up two captive generating plants of $1 \times 18.5 + 1 \times 7.5 = 26$ MW capacity within its industry premises at Bileipada, Joda in the district of Keonjhar, Odisha. In that industry through a metallurgical processes fossil fuel (coal) is used along with iron ore and dolomite in a kiln to produce sponge iron (direct reduced iron). The exhaust gas is utilized for production of steam through waste heat recovery boilers. There are three numbers of flue gas (from Sponge Iron Plant) based Waste Heat Recovery Boiler (WHRB) installed in the Plant for generation of steam. The steam so generated from WHRB –I & WHRB-III are passed through 18.5 MW Steam Turbine Generator and the steam generated from WHRB-II is passed through 7.5 MW Steam Turbine Generator to generate power.

2. The Petitioner has set up three DRI/ Sponge Iron Kiln of $2 \times 418 + 1 \times 552 = 1388$ TPD capacity within its plant premises at Bileipada, Joda. Coal and Iron Ore are the prime raw

material for manufacturing of Sponge Iron and Dolomite is used as a desulphurizer. The temperature inside the Kiln is maintained at about 1100-1200 deg centigrade for reduction of iron oxide to Metallic Iron. The exhaust gas so produced inside the Kiln is drifted through Induced Draft Fan and is passed through the Boiler for generation of steam for further use in the Turbine-Generator set, to generate power. In absence of any boiler, the excess heat would have been lost in the environment. So this process not only improves the efficiency in operation but also support environment.

3. The Petitioner has submitted that this working methodology qualifies the power generating system as cogeneration in terms of Section 2(12) of the Electricity Act, 2003 and as recognized by APTEL in various judicial decisions as explained hereinafter. The petitioner has further submitted that it is an Obligated Entity as per the provisions of 2015 Regulations and complies with RPO requirement through its own captive generation plants. The electrical energy produced through the above mentioned Captive Cogeneration Plants are sufficient to meet the entire RPO liabilities of the petitioner.
4. The petitioner has submitted that one of the functions of the State Commission under Section 86 of the Electricity Act is as follows:

“86 (1) (e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee.”

APTEL in its Order dated 26.04.2010 in Appeal No. 57 of 2009 in Century Rayon Vrs. Maharashtra Electricity Regulatory Commission in para 45 has concluded as follows:

- “(i) The plain reading of Section 86(1)(e) does not show that the expression ‘co-generation’ means co-generation from the renewable sources alone. The meaning of term, ‘Co-generation’ has to be understood as defined in definition section 2(12) of the Act.*
- (ii) As per Section 86(1)(e), there are two categories of ‘generators namely (1) co-generation (2) Generators of electricity through renewable sources of energy. It is clear from this Section that both these categories must be promoted by the State Commission by directing the distribution licensees to purchase electricity from both categories.*
- (iii) The fastening of the obligation on the co-generator to procure electricity from renewable energy procures would defeat the object of Section 86(1)(e).*
- (iv) The clear meaning of the words contained in Section 86(1)(e) is that both are different, and both are required to be promoted and as such the fastening of liability on one in preference to the other is totally contrary to the legislative intent.*

- (v) *Under the scheme of the Act, both renewable source of energy and co-generation power plant, are equally entitled to be promoted by State Commission through the suitable methods and suitable directions, in view of the fact that cogeneration plants, who provide many number of benefits to environment as well as to the public at large, are to be entitled to be treated at par with the other renewable energy sources.*
- (vi) *The intention of the legislature is to clearly promote cogeneration in this industry generally irrespective of the nature of the fuel used for such co-generation and not co-generation or generation from renewable energy sources alone.”*

5. The petitioner submitted that APTEL while considering the co-generation and generation from renewable sources on equal footing, has observed the process of a typical cogeneration gas-based power plant in para 29 of the above said judgment :

“29.....In a typical co-generation power plant which is liquid fuel or gas-based, heat is cogenerated as a by-product or industrial waste and is harnessed for further power generation and for industrial use. For example, in a gas-based co-generation power plant, heat recovery steam generators are installed which recover heat from the exhaust of gas turbines and the same heat is used for industrial purpose and running steam turbines, which are in turn used for further power generation.”

APTEL in para 46 of the said judgment has further concluded as given below:

“46. In view of the above conclusions, we are of the considered opinion that the findings rendered by the Commission suffers from infirmity. Therefore, the same is liable to be set aside. Accordingly, the same is set aside. Appeal is allowed in terms of the above conclusions as well as the findings referred to in aforesaid paras 16, 17, 22 and 44. While concluding, we must make it clear that the appeal being generic in nature, our conclusions in this appeal will be equally applicable to all co-generation based captive consumers who may be using any fuel. We ordered accordingly. No cost.”

APTEL in the recent judgement passed in Case no. 322 of 2016 in the matter of Ultratech Cement Ltd. Vs KERC held that:

“In view of the facts and circumstances, as stated supra, we hold that, the Applicants herein, being co-generation plants, are not under a legal obligation to purchase power from renewable sources of energy in order to meet their Renewable Purchase Obligation in the interest of justice and equity.”

Similar view has been taken in another case of Rajasthan Renewable Energy Corporation Ltd. Vs M/s. Shree Cements Ltd. The relevant portion of the final order dated 16.04.2019 in the said Appeal No.146 of 2017 is reproduced hereunder, which states as follows:

“By a judgment dt. 2nd January, 2019 passed in Appeal No. 278 of 2015 and batch, the coordinate bench of this Tribunal has opined that the consumers meeting electricity consumption from captive co-generation plant in excess of the total specified RPO from waste heat technology does not have any obligation to procure electricity from other renewable source of electricity separately from solar or non-solar. This Tribunal in the

above appeals by referring to various judgments of the Tribunal and the Apex Court finally opined as stated above. Therefore, by virtue of this judgment an entity which is to be promoted in terms of Section 86(1)(e) of the Act cannot be fastened with renewable purchase obligation under the said provision as long as the consumption is in excess of renewable purchase obligation. Therefore, there can be no additional purchase obligation placed on such entities.”

6. The Petitioner has further submitted that in Case No. 66 of 2019, the Commission invoked its provisions of power to relax under Regulation 12.7 of the OERC RPO Regulations, 2015 to carry out the objective of the Act and also to give effect to the judgments passed by APTEL in the said Order. Accordingly, the Commission provided exemption and relaxation from applicability of RPO and its compliance to M/s. Tata Steel Limited, Kalinga Nagar.
7. The Petitioner has also submitted that RPO requirement of the company along with the energy produced through cogeneration system is appended below, which clearly shows that the Petitioner has produced cogenerated electricity far in excess of the RPO requirement.

Year	RPO Requirement		RPO Requirement (MWh)			Cogenerated Energy Produced MWh
	% Solar	% Non Solar	Solar	Non Solar	Total	
2015-2016 (After 10 th Sep, 15)	0.5	2.5	101	505		162819
2016-2017	1.5	3.0	544	1088	1632	185472
2017-2018	3.0	4.5	1149	1724	2873	199239
2018-19	0.5	2.5	196	981	1177	199776

8. The petitioner has prayed to the Commission to (a) recognize aforesaid Captive Power Plants at Tata Steel Long Products Ltd. at Bileipada, Joda as Cogeneration Power Plants; (b) pass Order and directions to relax and exempt Tata Steel Long Products Ltd, Bileipada, Joda, from applicability of RPO and compliance thereof; and (c) pass necessary Orders and directions to refund the amount of value of the RECs already purchased by this applicant in compliance with the RPO of Tata Steel Long Products Ltd., Bileipada, Joda, applicable for consumption of captive generation during the preceding years from 2015-16 till date.

9. The Respondent, OREDA has submitted that the quantum of obligation of the Petitioner as per the OERC (Procurement of Energy from renewable Sources and its Compliance) Regulations, 2015 and the amendment dated 31.12.2020 could not be calculated as the compliance reports are not available with OREDA. The petitioner as such has no Renewable Energy Power Plant for their own use. As per the record of www.recregistryindia.nic.in, the petitioner has purchased 4637 nos. of RECs from the power exchanges in the second control period. However, during the period from 10.09.2015 to 31.03.2019 the petitioner has reported to have consumed 199776 MWh of power from their own co-generation unit. OREDA has requested the Commission to instruct the petitioner to submit the detailed compliance data w.r.t. RPO Regulations, 2015. OREDA has further stated that if the WHRB based power plants of the petitioner are recognized as co-generation power plants and the power generated from such plant is considered as renewable power, the Commission may consider relaxing the provision of applicability of RPO and its compliance.
10. The petitioner in response to OREDA's reply has stated that the gas based CPP at M/s. Tata Steel Limited, Kalinga Nagar, in the state of Odisha also operates on the similar principle and in similar circumstances and facts.
11. Heard the parties. The Commission observed that under Section 86(1)(e) of the Electricity Act, 2003, the Commission is mandated to promote co-generation and generation of electricity from renewable sources of energy. Therefore, the Commission is of the view that there should not be any Renewable Purchase Obligation on the quantum of consumption of electricity from co-generation sources. However, as per various orders of the APTEL, the Commission has passed the following Order dated 08.12.2020 in case no. 66/2019, in the matter of exemption and relaxation from applicability of RPO and compliance thereof to M/s. Tata Steel Ltd. which generates such captive co-generation power from waste heat recovery process:
- “16. *Heard the parties at length. The Commission observed that as per the OERC (Procurement of Energy from Renewable Sources and its Compliance) Regulations, 2015, the petitioner company is an obligated entity since it consumes electricity from its CGPs having capacity of 1 MW and above and also procures power through open access for its use. In the present application the petitioner has submitted that its CGPs are having co-generation facility and cited various*

judgements of Hon'ble APTEL in respect of relaxation of RPO in case of Co-generation power plants.

- 17. Therefore, considering the various judgements of the Hon'ble APTEL as submitted by the petitioner and its prayer, this Commission is inclined to relax the provision for industry of the Petitioner having co-generation CGP under Regulation 12.6 and 12.7 of the OERC RPO Regulations, 2015, towards its obligation for meeting renewable purchase obligation treating the Petitioner as a co-generation plant. The petitioner shall be exempted from Renewable purchase Obligation when its consumption from cogeneration CGP is more than its Renewable Purchase Obligation for the respective time period. This is because the petitioner also avails its power from sources other than Cogeneration CGP. OREDA shall monitor its Cogeneration Consumption and Renewable purchase obligation accordingly. The relaxation shall be applicable from FY 2019-20 onwards since the transaction of REC has already been settled for past periods. We are relaxing the provisions of the Regulation on the basis of the judgement of Hon'ble APTEL and the said judgements have not dealt with any refund of REC and a settled thing cannot be unsettled now. The petitioner shall provide necessary data/information on its consumption and generation and also power availed through open access, to OREDA as and when required by it for verification with regard to RPO compliance."*
12. The Commission observed that in the instant case the petitioner M/s Tata Steel Long Products Ltd., Bileipada, Joda has two CGPs of $1 \times 18.5 + 1 \times 7.5 = 26$ MW capacity having co-generation facilities. Therefore, the directions of the Commission in the aforesaid Case No. 66/2019 dated 08.12.2020 shall be applicable to M/s. Tata Steel Long Products Ltd. in the present case for relaxation of the provisions under Regulations 12.6 and 12.7 of the OERC RPO Regulations, 2015 towards meeting RPO treating the Petitioner's WHRB based captive power plants as co-generation plants. Hence, the petitioner shall be exempted from Renewable Purchase Obligation when its consumption from its co-generation sources is more than its Renewable Purchase Obligation for the respective time period. The state agency OREDA shall compute the RPO of the petitioner based on its total consumption and compare the same with the consumption from its co-generation sources from FY 2015-16 till FY 2020-21. The petitioner is directed to

provide the data/ information as required by OREDA for computation of RPO. OREDA may also collect the required data/ information from the office of EIC and SLDC for verifying the compliance data provided by the Petitioner. The EIC and SLDC are directed to provide the required data for the purpose as and when sought by OREDA. However, the Commission is not considering the request for refund of the amount of value of the RECs already purchased by the Petitioner as directed in Case no. 66/2019 dated 08.12.2020.

13. The case is accordingly disposed of.

Sd/-
(G. Mohapatra)
Member

Sd/-
(S. K. Parhi)
Member

Sd/-
(U. N. Behera)
Chairperson