

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL**

**Sub : In the of Clarification as to whether the Co-Generation Plant (Waste Heat Recovery) owned by Petitioner satisfies the Clause 4.1 of MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-I) Regulations, 2010 in lieu of APTEL dated 26<sup>th</sup> April, 2010.**

**Petition No. 02/2012**

**ORDER**

**(Date of hearing 14<sup>th</sup> February, 2012)**

**(Date of order 17<sup>th</sup> February, 2012)**

M/s Birla Corporation Ltd. - Petitioner  
Unit: Satna Cement Works,  
PO Birla Vikas, Satna – 485005

Shri Deependra Sharma, DGM (Elect.) and Shri Ajay Porwal, Elect. Consultant appeared on behalf of Petitioner

2. Petitioner has filed this petition seeking clarification as to whether the Petitioner being Co-generation plant is required to fulfill the RPO under the MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-I) Regulations, 2010 in view of findings of the Hon'ble Appellate Tribunal for Electricity judgment dated 26.04.2010. The present petition has been filed under Section 181(2)(zp) read with Section 86(1)(e) of the Electricity Act, 2003.

3. Petitioner has installed two co-generation power projects of 7.5 MW capacity each on their two kilns for 4500 TPD and 5100 TPD in the State of MP. These plants have waste heat recovery system which is designed to utilize the waste heat of Kiln & cooler. Petitioner has submitted the details of the power generated and consumed during the FY 2010-11 by its Cement Manufacturing Plant as under:

<b>Total power consumption MU</b>	<b>RPO Obligation</b>	<b>RPO MU</b>	<b>Waste Heat Cogen. MU</b>	<b>CPP Gen MU</b>	<b>Discom purchase MU</b>
243 including non-solar RE	0.8%	1.38	7.27	172.28	63.45

Relying on the above data, the Petitioner has contended that it has procured more RE power than the RPO target fixed by the Commission. The Petitioner has stated that

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due to the public notice issued vide No. MPERC/D(RE)/2308 dated 03.08.2011 difficulties have arisen in purchase of RE power expressed as percentage of their total annual procurement of electrical energy during financial year from 2010-11. Minimum quantum of electricity to be procured by all the obligated entities from Renewable sources is stipulated in Clause 4.1 of the Regulations. The said Clause is reproduced below:

<b>Financial Year</b>	<b>Solar (%)</b>	<b>Non-Solar (%)</b>	<b>Total (%)</b>
2010-11	-	0.80	0.80
2011-12	0.40	2.10	2.50
2012-13	0.60	3.40	4.00
2013-14	0.80	4.70	5.50
2014-15	1.00	6.00	7.00

4. Petitioner has quoted the judgment of Hon'ble APTEL delivered in M/s Century Rayon V/s Maharashtra Electricity Regulatory Commission. M/s Century Rayon filed an appeal against the MERC's order dated 19.12.2008 wherein it was held that the Appellant, being a co-generating plan is required to purchase renewable energy. The Hon'ble APTEL in this case opined that relevant provisions of the Act and the National Electricity Policy and National Electricity Plan and Tariff Policy cast obligation on the State Commissions to promote co-generation without reference to any type of fuel or the nature of source of energy whether conventional or non-conventional. The APTEL has held that co-generation plants (irrespective of the nature of fuels used by such plants) and renewable energy plants are to be treated at par and clarified that the conclusion in the appeal shall be applicable to all co-generation based captive consumer using any fuel. Petitioner has pointed out that UNFCC has recognized waste heat recovery systems as green power and RERC under Clause 24 of its order dated 07.03.2007 has also classified Waste Heat Power Generation as Renewable energy. The MERC under its Regulation has exempted the fossil fuel based co-generation plants from applicability of RPO target. The GERC's Regulation casts an obligation

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on co-generation power plants to procure electricity from renewable sources. A writ petition has been filed against the said regulation by the Reliance Industries Ltd. before the Hon'ble High Court of Gujarat. The matter is still pending before the High Court.

5. In view of the above submissions, Petitioner sought exemption from the applicability of Clause 4.1 of the Regulation, 2010 to them which specifies the minimum quantum of electricity to be procured by all the obligated entities from Renewable sources.

6. The case was listed for hearing on 14.02.2012.

7. During the hearing, the representative of the Petitioner reiterated the contents of the petition and requested the commission to exempt the Petitioner from the RPO obligation.

8. On hearing the Petitioner and considering the judgment issued by Hon'ble Appellate Tribunal for Electricity, the Commission is of the view that co-generation and renewable sources be considered at par. The Commission also directed the Commission Secretary to review MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-I) Regulations, 2010 and propose appropriate amendments.

9. With the above directions, the Petition No. 02 of 2012 stands disposed of.

Ordered accordingly,

sd/-  
**(C.S.Sharma)**  
**Member**

sd/-  
**(Rakesh Sahni)**  
**Chairman**