

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION**

**BHOPAL**

**Sub: Petition u/s. 86 (1) (b) (e) and (f) of the Electricity Act, 2003 seeking enhancement in tariff on account of Change-in-Law increase in Goods and Services Tax on Capital Items and Related Services w.e.f. 01-11-2021 in relation to its ground mounted Solar Power Plants of 2 MW capacity installed by the Petitioner under Component A of PM KUSUM Scheme at Village Kudaila, Tahsil Bichiya, District Mandla (M.P.).**

**ORDER**

**(Date of Order: 29.05.2026)**

**M/s Ashuvibha Power Pvt. Ltd.,**  
261, Shikshak Nagar,  
District DURG (CG)-491001

- **Petitioner**

**Vs.**

**Managing Director,**  
MP Urja Vikas Nigam Ltd.,  
Link Road No. 2, Shivaji Nagar,  
Bhopal (MP)-462016

**Managing Director,**  
MP Power Management Co. Ltd.,  
Shakti Bhawan, Vidyut Nagar,  
Rampur, Jabalpur, MP-482008

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- **Respondent(s)**

Shri Anubhav Dubey, Advocate and Shri Vivek Krishna Sharma, Advocate appeared on behalf of the Petitioner.

Shri Devashish Mathur, Advocate appeared on behalf of Respondent No. 1.

Shri Manoj Dubey, Advocate and Shri Aditya Khandekar, Advocate appeared on behalf of Respondent No. 2.

The subject petition is filed by M/s Ashuvibha Power Pvt. Ltd., under Section 86(1)(b)(e) and (f) of the Electricity Act, 2003 seeking enhancement in tariff on account of Change-in-Law increase in Goods and Services Tax on Capital Items and Related Services w.e.f. 01-11-2021 in relation to its ground mounted Solar Power Plants of 2 MW capacity installed by the Petitioner under Component A of PM KUSUM Scheme at Village Kudaila, Tahsil Bichiya, District Mandla (M.P.).

2. By affidavit dated 25<sup>th</sup> June' 2025, the petitioner broadly submitted the following in its petition:

i. The Petitioner, being a group of farmers and having formed a Company under the provisions of the Companies Act, 2013, has installed a 2 MW capacity ground-mounted Solar Power Generating Plant, hereinafter referred to as 'the plant', at Village Kudaila, Tahsil Bichiya, District Mandla (M. P.) under the Component A of

PM KUSUM Scheme. Pursuant to the Letter of Award dated 24-08-2021 issued by the Respondent No. 2, a long-term Power Purchase Agreement (PPA) dated 08-11-2021 was executed between the Petitioner and Respondent No. 2 (MPPMCL). The plant achieved its Commercial Operation Date (COD) on 10-05-2024.

- ii. In terms of Article 9 of the PPA, the tariff for the power generated from the plant was fixed at Rs. 3.07 per kWh.
- iii. In between the dates of issuance of the Letter of Award, execution of PPA and installation of the plant, the rates of GST (Goods & Service Tax) for the capital items in relation to installation of the plant increased substantially from 5% to 12%, w.e.f. 01-11-2021 in view of the Notification No. 8/2021-CT dated 30-09-2021 issued by the Ministry of Finance, Government of India.
- iv. This Commission, vide its order dated 16-02-2021 in Petition no. 50 of 2020-M.P. Urja Vikas Nigam Limited V/s MPPMCL and others, had adopted the pre fixed levelized tariff of Rs. 3:07 / kWh for sale of power from decentralized solar power plants having capacity of 500 kW to 2 MW to be set up under Component-A of the PM-KUSUM Scheme. The relevant paragraph of the aforesaid order is extracted as:

*"71. Based on the aforesaid parameters, the Commission has determined the pre fixed levelized tariff of Rs. 3.07/kWh under Component-A of KUSUM Scheme for entire life of the project commissioned till 31st March' 2024. This will act as a ceiling tariff for the competitive bidding in this matter. The duration of PPA shall be 25 years for all projects covered under this scheme."*

*(Emphasis supplied)*

- v. Subsequently, on account of Change-in-Law due to hike in GST rates, the Petitioner had filed Petition no 57/2022 before this Commission. This Commission was pleased to hold the matter to be, undoubtedly, a case of change-in-law (CIL) in light of the notification dated 27-09-2022 issued by MNRE. However, at time, since the plant had not achieved its COD, the detailed computation of impact on GST rate increase along with relevant invoices could not be produced by the Petitioner. For this reason, the quantum of compensation could not be determined in said Petition No. 57/2022. Operative part of the same is extracted as:

*"20. Hence, we see that the position of law with respect to change in law (CIL) event has been made very clear by MNRE and the instant matter is undoubtedly a case of CIL particularly in light of the notification dated 27.09.2022 issued by MNRE. We agree that enhancing the rates of GST on Solar power based devices including Solar PV Cells from 1.10.2021 vide notification dated 30.09.2021 of Government of India, Ministry of Finance, Department of Revenue is an event of change in law. However, imposition of basic custom duty with effect from 01.04.2022 vide notification dated 27.09.2022 of MNRE, Gol is not an event of change in law with respect to the instant petitions."*

21. As regards computation of compensation to be paid due to change in law event and mechanism for recovery of same, we have observed that tariff of the Petitioners has been discovered through competitive bidding process conducted by respondent no. 1 i.e. MPUVNL, for which compensation on account of change in law event needs to be properly computed. The Commission further observed that the Petitioners have not submitted computation based on actual expenditure made on procurement of solar PV cell/solar PV module on account of increase in GST rates substantiated with invoices and that the documents placed before Commission are not adequate to determine the consequential impact on account of change in GST rates and imposition of Basic custom duty. The Commission therefore directs the Petitioners to submit detailed computation of impact on account of GST rate increase along with invoices of procurement of solar PV cells/modules from the date as mentioned in paragraph 20 above to the bidding agency i.e. respondent no. 1 (MPUVNL) who shall verify the same and approach this Commission for approval of quantum of compensation and mechanism for passing on the approved compensation to the Petitioners in their monthly power purchase bills to be sent to respondent no. 2 i.e. MPPMCL.”

- vi. Subsequently, the Respondent No. 1 (MPUVNL) filed Petition No. 29/2023 before this Commission seeking redetermination of the feed-in tariff of Rs. 3.07 per kWh earlier determined by this Commission vide order dated 16-02-2021 passed in Petition no. 50 of 2020. However, for want of compliance on part of MPUVNL, this Commission, vide order dated 09-10-2023, disposed of the same observing as:

“17. The Commission has observed that clear direction was given to MP Urja Vikas Nigam Limited who were respondent in Petition no. 55 to 60 of 2022 to approach the Commission for approval of quantum of compensation on account of change in law and mechanism for passing the approved compensation to the parties in their monthly power purchase bills. The Petitioner has however ignored the above directions and approached the Commission for redetermination of feed-in-tariff on account of various factors including those brought in petition No. 55 to 60 of 2022. The Commission has also observed that the levelized tariff for Component -A under PM KUSUM scheme has been determined by the Commission for a period till 31.03.2024. Therefore, only 6 months remain until the end of control period and revised tariff determination is due with effect from 01.04.2024. In a way, Petitioner is seeking review of Commission's order in Petition no. 50 of 2020 without establishing grounds for such review, if any.

18. Moreover, Commission has noted that Petitioner has failed to submit appropriate documentary evidence in support of escalated cost of solar modules/panels. Respondent MPPMCL vehemently opposed the submissions of Petitioner claiming that the prices of Solar Modules have been dropped to an unprecedented level and the trend is going on. Even the claim of Respondent is based on a report published in PV Magazine.

*Petitioner in his rejoinder tried to counter the claim of Respondent based on another report published in the same PV Magazine and submitted data sourced from some websites. Commission observed that the reports published in magazines/ websites cannot be made a basis of determining capital cost of solar modules and Commission does not rely upon the claims and counter claims of petitioner and respondents based on such reports alone.*

*19. Anyway, since the control period of the feed-in-tariff for PM Kusum-A component is about to expire shortly, Commission directs the Secretary to initiate the process of determining the tariff for next control period based on realistic and current data supported with proper evidence.*

*20. In view of foregoing observations, Commission is not inclined to review the order issued in petition no. 50 of 2020 and no. 55 to 60 of 2022 and determine the feed-in-tariff only for 6 months. Commission directs the Petitioner to submit a comprehensive proposal for determination of feed-in-tariff for the next control period effective from 01.04.2024 as per the provisions of Component -A of PM KUSUM scheme, not later than 45 days from the date of issue of this order so that the tariff may be determined by the Commission up front and beneficiaries under PM KUSUM scheme be aware of the ceiling/feed-in-tariff well in advance of the subsequent control period commencing from 01.04.2024. The petition should be accompanied with proper documentary evidence of each component required for determination of tariff. Meanwhile, Petitioner is free to approach Commission for approval of compensation and mechanism for passing the approved compensation on account of change in law as directed in order dated 30.12.2022 of this Commission passed in petition no. 55 to 60 of 2022."*

- vii. In compliance of the order dated 30-12-2022 passed by this Commission in Petitions No. 55 to 60 of 2022, the Petitioner had submitted the computation based on actual expenditure made on procurement of solar PV cell / solar PV module on account of increase in GST rates substantiated with invoices with the Respondent No. 2 vide its letter dated 06-05-2024.
- viii. The fact is that, till date, the Petitioner's claim for compensation on account of change in law, as directed in order dated 30.12.2022 of this Commission passed in Petition no. 55 to 60 of 2022, remains unresolved.
- ix. As observed by this Commission under para 17 of the order dated 09-10-2023 passed in Petition no. 29/2023, the levelized tariff for Component -A under PM KUSUM scheme has been determined by the Commission for a period till 31.03.2024. The said period is over by now. The tariff for the subsequent tariff that would be determined may be applicable to projects for which bids are invited after and which would be commissioned after 31.03.2024. The said tariff would not be applicable to the Petitioner.

- x. In relation to recovery of costs due to change-in-law, the Ministry of Power has notified "The Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021. The 'Schedule' to Rule 5 (b) of the same provides for the formula for determination of impact in tariff or charges due to change in law as under:

**"THE SCHEDULE**

**[See Rule 5(b)**

**FORMULA FOR DETERMINATION OF IMPACT IN TARIFF OR CHARGES DUE TO CHANGE IN LAW**

*Formula to calculate adjustment in the monthly tariff due to the impact of Change in Law, which is non-recurring in nature-*

*For Generation Project: -*

*Let financial impact of change in law = P;*

*then the modification in the monthly tariff (MT) for compensating the financial impact is given by-*

*where X = estimated monthly electricity generation (in kWh) (1/12) [contracted capacity of the power plant as per the Agreement (in MW) Normative Plant Load Factor (PLF) or Availability factor or Capacity Utilisation Factor (CUF) (in case of RE), as per the Agreement (in %) × 8760 hours × 10];*

*(in case PLF and CUF is not provided, the availability factor mentioned in the agreement may be considered. However, it will be trued up with reference to the actual generation on annual basis.)*

*And; where,--*

*n=No. of months over which the financial impact has to be paid (subject to a maximum of 180 months in case of the non-recurring fixed amount but in case of recurring impact it will be till the impact persists); and*

*M<sub>r</sub>= monthly rate of interest=R/12\*100;*

*where R annual rate of interest on loan component (in %) as considered by the Central Electricity Regulatory Commission in its Order for Tariff determination from Conventional or Renewable Energy Sources (whichever is applicable) for the year in which the project is commissioned. In absence of relevant Orders of the Central Electricity Regulatory Commission for the concerned year, the interest rate shall be average interest rate plus 200 basis points above the average State Bank of India Marginal Cost of Funds based leading rate, of one year tenor, prevalent during the last available six months for such period."*

- xi. The Petitioner, in view of chang-in-law, is entitled to be compensated towards the change-in-law and hereby claims the same.
- xii. During submission of the bid and at the time of execution of the PPA, the petitioner was unaware of the hike in GST rates and had factored the overall cost of the project on the basis of costs-estimates then available. Due to increase in costs due to change-in-law, for reasons aforesaid, the overall cost got increased considerably as the suppliers and EPC contractor has demanded additional cost.
- xiii. The increase in cost due to increase in GST rates have a direct bearing on the Debt-Equity ratio and the equity invested in setting up the project. These components

are integral to the overall cost of the Solar PV Module. The Petitioner is entitled to compensation for the quantum and compensation mechanism as may be determined by this Commission. The said increase is non-recurring in nature.

- xiv. In the event, this Commission may be pleased to determine the compensation and mechanism thereof, the Petitioner claims the consequential relief of Carrying Cost. This Commission may be pleased to appreciate that carrying-cost is the compensation for the time-value of money. Any compensation is incomplete without any compensation towards carrying-cost.
- xv. In view of the Letter of Award, the Petitioner had proceeded further and invested substantially in the project. The PPA, as settled principal of law, is merely a detailed recital of the terms and conditions of the Letter of Award and related documents. On account of change in law conditions, already upheld by this Commission, but in absence of due compensation for the same, the viability of the Petitioner's project is witnessing questions. The Petitioner is in a threat that any time its bankers may withdraw the credit facilities advanced to him in view of the contract with Respondent No. 2. The difficulty needs to be addressed in exercise of powers to remove difficulty as provided under Regulation 18 of the MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2021, Revision-II ('Cogen Regulations in short).
- xvi. The Respondents No. 2, being an Obligated Entity, is procuring solar power from the Petitioner under the provisions of Component A of PM KUSUM Scheme in its endeavor to fulfil its Minimum Purchase Requirement under Regulation 3.1 and 3.3 of the Cogen Regulations.
- xvii. Under Regulation 3.6 of the Cogen Regulations, this Commission has jurisdiction to determine the tariff from time to time. Regulation 3.6 of said Regulations provides as under:

*"3.6 The energy from all the Renewable Sources of Energy including renewable Co-generation units may be procured by the MP Power Management Company Limited (MPPMCL) on behalf of the State owned Distribution Licensees, at the tariff determined by the Commission from time to time in its Tariff Orders or at the tariff adopted by the Commission."*

- xviii. Even otherwise, under Regulations 19.2 to 19.4 of the Cogen Regulations, this Commission has all jurisdiction to entertain this petition, in the interest of justice.

3. With the aforesaid submissions the petitioner prayed the following:

- i. *To adequately compensate the petitioner for change in law (CIL) and provide suitable mechanism by way of incremental tariff for a period of 180 months as per MoP notification dated 22<sup>nd</sup> October, 2021 in this relation;*
- ii. *To compensate for Carrying Cost; and*
- iii. *Any other relief/s, as may be deemed proper in facts and circumstances of the case*

*may be granted in favour of the Petitioner.*

4. At the motion hearing held on 30.07.2025, none appeared for petitioner. Case was adjourned and listed for motion hearing on 10.09.2025 which was subsequently re-fixed on 23.09.2025.
5. At the hearing held on 23.09.2025, no one appeared again on behalf of the petitioner. However, petitioner vide email dated 22.09.2025 had requested for adjournment of case as he was unable to appear due to some personal reasons. Considering his request, case was adjourned, and last opportunity was granted to petitioner to present his case. Case was fixed for hearing on 29.10.2025.
6. At the hearing held on 29.10.2025, the petitioner explained the genesis of the case and prayed to admit the petition. The petition was admitted and the petitioner was directed to serve a copy of petition to Respondents within a week. The respondents were directed to file their replies within two weeks thereafter. The petitioner was allowed to file rejoinder, if any, within a week thereafter. The case was fixed for hearing on 02.12.2025.
7. At the hearing held on 02.12.2025, Respondent No.2 stated that they have not received copy of petition yet. Petitioner admitted that they could not serve the copy of petition to Respondents. Petitioner was directed to make available copy of petition to the Respondents by same day through email as well as in hard copy. Respondents were directed to submit their replies in three weeks with a copy to the Petitioner simultaneously. One week thereafter was granted to Petitioner for rejoinder, if any. The case was fixed for hearing on 13.01.2026.
8. By Affidavit, dt. 12<sup>th</sup> January' 2026, Respondent No. 1 i.e. MP Urja Vikas Nigam Ltd., submitted following in their response:
  - i. The present Petition does not, in its existing form, contain the necessary factual and documentary particulars required for examination of the Petitioner's claim on account of Change-in-Law. No complete information or supporting documents have been provided to Respondent No. 1, nor such documents annexed along with the Petition.
  - ii. The Petition proceeds on general assertions regarding increase in Goods and Services Tax and seeks compensation and carrying cost, without enclosing essential documents such as invoices for procurement of solar modules and related components, details of GST actually paid, dates of supply, proof of payment, and a project-wise computation of the alleged financial impact. In the absence of such particulars, the Petition presently remains inadequate and incomplete.
  - iii. The Change-in-Law mechanism applicable to the present case is governed by Clause 12 of the Power Purchase Agreement. The Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 are not applicable to the Change-in-Law event relied upon by the Petitioner, in view of the Office Memorandum dated 21.02.2022 bearing No. 23/18/2020/R-R issued by the Ministry of Power,

Government of India, which clarifies that the said Rules are prospective in nature and are applicable only to Change-in-Law events arising after the coming into force of the Rules. Since the Goods and Services Tax notification relied upon by the Petitioner was issued prior to the notification of the said Rules, the Petitioner's claim, if any, is required to be examined solely in accordance with Clause 12 of the Power Purchase Agreement and the settled regulatory framework, and only after submission of detailed computation and supporting documents and due verification.

- iv. Respondent No. 1 has not received any letter dated 06.05.2024 from the Petitioner along with computation of Change-in-Law impact, invoices, or any supporting documents, as alleged. As per the official records maintained by Respondent No. 1, no such letter or enclosures were received from the Petitioner at any time.
- v. In terms of Clause 12 of the Power Purchase Agreement, the contractual relationship for determination of Change-in-Law compensation subsists between the Renewable Power Generator (RPG) and the Procurer, namely Madhya Pradesh Power Management Company Limited (MPPMCL)- Respondent No. 2, who are the parties to the Power Purchase Agreement. Accordingly, the computation of any Change-in-Law impact and the proposal for compensation are required to emanate from the said parties to the PPA. Respondent No. 1 aligns with the reply filed by Respondent No. 2 in the present proceedings. MPPMCL, Respondent No. 2, being the Procurer and the counter-party to the PPA, is in a better position to examine, verify, and place before this Commission any admissible claim of Change-in-Law compensation, if at all, in accordance with Clause 12 of the Power Purchase Agreement.

9. At the hearing held on 13.01.2026, Ld. Counsel for Respondent no. 2 sought one weeks' time for submission of reply. One week was granted to Respondent no. 2 for submission of reply with a copy to Petitioner and Respondent No. 1 simultaneously. One week thereafter was granted to Petitioner for rejoinder, if any.

10. By Affidavit dated 09<sup>th</sup> January' 2026, Respondent No. 2 i.e. MP Power Management Co. Ltd., submitted following in their response:

- i. By the instant petition filed u/s 86(1)(b), (e) and (f) of the Electricity Act, 2003, the petitioner is seeking enhancement in tariff on account of change in law increase in Goods and Service Tax on Capital Goods and related services w.e.f 1.10.2021 in relation to its ground mounted Solar Power Plants of 2 MW capacity installed by the petitioner under Component- A of PM KUSUM Scheme at Village- Kudaila, Tehsil- Bichhiya, District- Mandla, connected at 33/11 KV substation- Kudaila at tariff was fixed at Rs. 3.07 per kWh and the petitioner is also praying for compensation towards carrying cost.
- ii. The case of the petitioner is that it had installed a 2 MW capacity ground mounted solar power generating plant under the component A of the PM KUSUM Scheme and a long term PPA was executed on 08.11.2021. The plant is said to have achieved COD and commissioned on 10.5.2024. It is the case of the petitioner that

prior to the PPA i.e. on 08.11.2021, the GST on capital items was increased from 5 to 12% and therefore, the petitioner preferred Petition no. 57/22 before this Commission praying for treating the same to be a change in law event. The Commission vide order dated 30.12.2022 held that though the increase in GST was a change in law event, however, as the petitioner has failed to submit computation based on actual expenditure, the quantum of compensation and mechanism cannot be determined. This Commission accordingly directed the petitioner to submit the details with Respondent no. 1 i.e. MPUVNL who shall verify the same and approach the Commission for approval of quantum. In compliance of the same, the Respondent no.1 i.e. MPUVNL preferred petition no. 29/23 but the Commission observed that the MPUVNL failed to submit a comprehensive proposal with appropriate documentary evidence and therefore, this Commission declined to interfere.

- iii. The entire case as stated in para 5 of the petition is that vide letter dated 06.05.2024 the petitioner has submitted the computation based on actual expenditure. However, a perusal of letter which is addressed to MPUVNL clearly shows that the petitioner has not brought on record the computation and in fact the letter does not contain any calculation or evidence to substantiate the same. In absence of the said evidence, the petitioner is not entitled to any relief.
- iv. As per the directions of this Commission, the petitioner was required to submit the relevant documentary proof with the respondent no.1 i.e. MPUNVL and then the respondent no.1 was required to approach this Commission with a comprehensive proposal for determining the mechanism for determining the quantum of compensation towards change in law event.
- v. In the present case, it is alleged that the GST on capital goods was enhanced w.e.f 01.10.2021 whereas the PPA has been executed on 08.11.2021, which is a subsequent event and the price has been discovered through competitive bidding.
- vi. The Superintending Engineer (O&M), Circle Mandla, MP Poorv Kshetra Vidyut Vitaran Co. Ltd. submitted the documents and test report of the 2 MW plant to the answering respondent on 04.07.2024.
- vii. Based on the aforesaid report, the commissioning certificate was issued to the petitioner on 15.07.2024 wherein it has been recorded that the power plant has been commissioned on 10.05.2024.
- viii. Thus, in view of the fact that the petitioner has failed to bring on record the relevant documentary proof/ evidence to substantiate increase in cost on account of increase in GST and has even failed to bring on record any documents/ invoices to show that additional expenditure was incurred by it, no compensation towards change in law event or towards carrying cost ought to be granted.
- ix. The issue with regard to compensation towards carrying cost (pre COD & post COD) is subject matter of challenge in Civil Appeal No. 8880/2022 Telangana Northern Power Distribution Company Ltd. v. V. Parampujya Solar Energy Pvt. Ltd.

& other connect matters wherein by interim order dated 13.8.2025, the Hon'ble Supreme Court has stayed the order passed by the Central Electricity Regulatory Commission and thus, it is submitted that the issue relating to carrying cost should be subject to further orders of the Hon'ble Supreme Court.

- x. The answering respondent craves liberty to file a detailed reply in the event the petitioner brings on record any documentary proof with respect to the expenditure incurred.
11. At the next hearing held on 23.02.2026, Ld. Counsel for the Petitioner sought some time for submission of rejoinder. One week was granted to the Petitioner for submission of rejoinder. The case was listed for hearing on 10.03.2026
12. At the hearing held on 10.03.2026, it was informed that the Ld. Counsel for the Petitioner was not able to attend the hearing due to some exigencies. Hearing in the matter was adjourned and case was fixed for hearing on 28.04.2026.
13. By Affidavit, dt. 25<sup>th</sup> April' 2026, Petitioner i.e. M/s Ashuvibha Power Pvt. Ltd., submitted following in their rejoinder:
- i. The Respondents have filed their respective replies mainly submitting that the issue of Change -in- Law would be governed by Article 12 of the PPA dated 08/11/2021 and not be the provisions of Electricity (Timely Recovery of Costs due to Change-in-Law) Rules, 2021 as the said Rules do not apply retrospectively in view clarification contained in Notification No. 23/18/2020-R&R dated 21/02/2022 of Ministry of Power, Government of India and that the Petitioner should submit details of invoices for procurement of solar modules and related components, details of GST actually paid, dates of supply, proof of payment and project-wise computation of alleged financial impact.
  - ii. The Petitioner had got the project completed, like others and commercial practice in vogue, on Turn-Key basis from EPC and Service Contractor - M/s Fine Vibes Solar Solutions Private Limited. On completion of the project, the Contractor submitted its composite E-Invoice dated 28/03/2024 generated through the Government's e-Invoicing system to the Petitioner. The invoice clearly reflects the break-up of Solar System Erection for Rs. 3,11,07,205.62 including GST of Rs. 55,99,297.01 at the rate of 18% and towards Solar System Material for Rs. 7,25,83,479.79 including GST of Rs. 87,10,017.57 at the rate of 12%. The Total Capital Cost of the Project, as per the said E-Invoice is Rs. 11,81,18,000/-.
  - iii. The chronology of events in the case is that the LoA was awarded to the Petitioner on 24/08/2021, the Electricity (Timely Recovery of Costs due to Change-in-Law) Rules, 2021 were notified on 22/10/2021, the GST rates, leading to Change-in-Law, whereby GST rates for Solar Panels were increased from 5% to 12% were notified on 01/11/2021, thereafter the PPA dated 08/11/2021 was executed, the e-Invoice was raised on 28/03/2024 and the project construction / installation was completed and achieved its CoD on 10/05/2024.

- iv. For the simple reasons of chronology, as set out in paragraph above, it cannot be said that the Petitioner is, in any way, seeking retrospective application of the provisions of the Electricity (Timely Recovery of Costs due to Change-in-Law) Rules, 2021. Undisputedly, on the basis of Bids, the LoA was issued way back on 24/08/2021 before the increase in the GST rates. The PPA dated 08/11/2021, executed subsequently, was a mere recital on broader terms and conditions of the Bid Documents and LoA. It cannot be said to have been executed in ignorance of or in derogation to the Electricity (Timely Recovery of Costs due to Change-in-Law) Rules, 2021. The provisions of the Electricity (Timely Recovery of Costs due to Change-in-Law) Rules, 2021 would, therefore, apply in present case in support of Petitioner's claim. In present case, since there was a LoA existing earlier to Change-in-Law occurrence, the date of award of LoA should be looked into as against looking to the date of execution of PPA. It is settled law that an agreement is a mere formal recital of earlier agreed broader terms of the bid documents and LoA. Even otherwise, the reasons for delay in execution of PPA, since issuance of LoA, was solely attributable to the Respondents and not at all to the Petitioner. The Respondents, after issuing the LoA ought to have shared the draft of the PPA with the Petitioner and got the PPA executed in time. If the terms and conditions of the bid documents and LoA were different from those contained in the PPA, then only it was open for the Respondents to assert that the Petitioner is seeking retrospective application of the Electricity (Timely Recovery of Costs due to Change-in-Law) Rules, 2021. It is not the case of any of the Respondents that the said terms and conditions of the PPA were at all in difference to the bid documents and LOA. The M. P. Urja Vikas Nigam Ltd. being the nodal agency for implementing the objects of the Component A of the PM KUSUM Scheme and having invited and finalized the bids and issued LoA ought to have taken steps for timely execution of the PPA in coordination with M. P. Power Management Company Limited. The Petitioner, in no way, should be penalized for delay in execution of the PPA. It is not the case of the Respondents that upon being intimated, the Petitioner on its part at all delayed execution of PPA. For the purpose of compensation for CIL, the date of issuance of LoA should be taken into account and not the date of PPA.
- v. The Petitioner had entered into two contracts, one for Module Supply exclusively for procurement of solar panels & equipment (which did not encompass any component of services) and Balance of Plant (BoP) contract, which was a composite contract for supply of goods and also services for establishing the project. Consequently, the Petitioner considers the supply portion @70%, and for the service portion, the GST is computed @30%. The Petitioner seeks compensation accordingly. In support of this contention, the Petitioner relies upon the order dated 14/03/2024 passed by learned Central Electricity Regulatory Commission, New Delhi in Petition No. 65/MP/2023.
- vi. It is submitted that for the purpose of components applicable for Change-in-Law and for the purpose of granting compensation thereof, the Petitioner's case is covered by the aforesaid order dated 14/03/2024 passed by learned CERC in Petition no. 65/MP/2023. The Petitioner seeks compensation accordingly.
14. At the hearing held on 28.04.2026, the Ld. Counsel for Petitioner sought short adjournment of the case for arguments. Respondent No. 1 also sought time for submitting

sur-rejoinder. The Commission observed that the petitioner had already sought several adjournments in this matter. However, at the request of Petitioner, last opportunity was given for arguments. Respondent No. 1 was also allowed to file sur-rejoinder within a week. Case was fixed for hearing on 19.05.2026.

15. By Affidavit, dt. 05<sup>th</sup> May' 2026, Respondent No. 1 i.e. MP Urja Vikas Nigam Ltd., submitted following in their sur-rejoinder:
- i. Respondent No. 1 reiterates and adopts its Reply dated 12.01.2026 in entirety.
  - ii. The Rejoinder does not cure the fundamental defects in the Petition, namely absence of project-wise computation, primary documents, and verifiable evidence of actual financial impact, and is therefore liable to be rejected at the threshold.
  - iii. The contents of Paragraph 1 of the Rejoinder, being introductory and purportedly summarising the submissions of the Respondents, are not admitted save and except to the extent they correctly reflect the record.
  - iv. The contents of Paragraph 2 of the Rejoinder are denied as being misleading, incomplete, and insufficient to sustain the Petitioner's claim. At the outset, it is submitted that this is the first occasion on which the Petitioner has sought to place on record any document purportedly relating to invoices, which itself demonstrates that the Petition was originally filed without the foundational material necessary for adjudication. Without prejudice, the reliance placed on a single composite EPC e-invoice dated 28.03.2024 is wholly misconceived and does not discharge the burden of proof required for a Change-in-Law claim. The Petitioner admits that the project was executed on a turnkey EPC basis, and therefore it is the Petitioner's duty to produce the complete chain of primary documents, including the EPC agreement, purchase orders, vendor-wise invoices, delivery records, and proof of actual tax payment. Critically, no GST statutory records have been furnished such as the EPC contractor's GSTR-1/GSTR-1A filings evidencing outward supplies and tax liability, or the Petitioner's GSTR-2A and GSTR-2B statements evidencing input tax credit availed, which are essential to establish the actual tax incidence and any incremental burden attributable to the alleged Change-in-Law event. A belated and consolidated invoice, without reconciliation to GST returns and without component-wise or time-linked breakup of supplies, is wholly inadequate for regulatory determination. The Petitioner has thus failed to demonstrate the actual financial impact, and the burden of proof squarely continues to lie upon the Petitioner, which remains undischarged. Thus, consequently, the claim is unsubstantiated, unverifiable, and liable to be rejected.
  - v. The contents of Paragraph 3 of the Rejoinder are vehemently denied as being incorrect, misleading, and self-contradictory to the Petitioner's own pleadings. At the outset, it is submitted that the Petitioner has mis-stated the factual position regarding the GST rate change. The GST rate revisions were notified vide Notification dated 30.09.2021 and made effective from 01.10.2021, and any deviation from this position is contrary to record and the Petitioner's own case as set out in the Petition. The Petitioner cannot be permitted to shift or selectively reinterpret material dates at the stage of Rejoinder. Further, while the Petitioner

has sought to rely upon an alleged e-invoice dated 28.03.2024, it is submitted that the said date and document remain unproven and unverified, and no supporting or corroborative material has been placed on record to establish its authenticity, linkage with actual supplies, or relevance to the alleged Change-in-Law impact. The burden squarely lies upon the Petitioner to establish the same through cogent and verifiable evidence, which has not been discharged. In the absence of such proof, the reliance placed on the alleged invoice and the assertions in this paragraph are liable to be rejected.

- vi. The contents of Paragraph 4 of the Rejoinder are emphatically denied as being incorrect, misleading, and intended to misdirect this Commission. At the outset, it is submitted that the Petitioner cannot be permitted to rely upon the chronology set out in Paragraph 3, as the same is not only inconsistent with the record but has been selectively presented to create a false narrative. The Petitioner has also incorrectly sought to rely upon the tender/LoA stage to determine applicability of the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021, whereas it is settled and clarified that the said Rules apply only where the Change-in-Law event occurs after the notification of the Rules, i.e., 22.10.2021, and have no retrospective application, as expressly clarified by the Government of India. This position has also been recognized in regulatory jurisprudence, including in Order dated 11.05.2024 passed by the Central Electricity Regulatory Commission in Petition No. 381/MP/2023. The Petitioner's attempt to anchor its case on the LoA date is therefore wholly misplaced and contrary to the settled legal position.
- vii. Furthermore, the allegation that delay in execution of the PPA is attributable to the Respondents is baseless and denied. It is submitted that the PPA was executed within approximately three months from the date of issuance of the LoA, which demonstrates timely action on the part of the Respondents. On the contrary, it is the Petitioner who has caused substantial delay in project execution. As per the contractual timeline, the Scheduled Commissioning Date (SCOD) was 27.11.2022, whereas the actual Commercial Operation Date (COD) was achieved only on 10.05.2024, reflecting a delay of approximately 17 months, for which the Petitioner alone is responsible. The Petitioner cannot now seek to shift blame for its own delays or rely upon distorted chronology to claim relief. Accordingly, the assertions made in this paragraph are liable to be rejected in limine.
- viii. The contents of Paragraphs 5 and 6 of the Rejoinder are denied as being arbitrary, unsupported, and contrary to the record. It is submitted that this Commission has already held, in the earlier proceedings, that the change in GST rates constitutes a Change-in-Law event; however, the present dispute pertains to quantification and entitlement, which can only be determined on the basis of complete and verifiable documentary evidence. The Petitioner, while claiming compensation on account of Change-in-Law, has failed to furnish the requisite documents till date, including underlying contracts, purchase orders, invoice-wise details, and statutory tax records, and is instead attempting to shift the burden onto the Respondents. The self-serving bifurcation and computation put forth by the Petitioner, without any supporting material, is wholly untenable. It is submitted that any determination of Change-in-Law compensation necessarily requires detailed verification and reconciliation of documents, and cannot be undertaken in a superficial or notional

manner as sought by the Petitioner. In absence of such verified data, the Petitioner's claims remain speculative and incapable of adjudication, and are therefore liable to be rejected.

16. At the last hearing held on 19.05.2026, Parties concluded their arguments. Three days were allowed to the parties to file written submissions. The Case was reserved for order, thereafter.
17. The written submission dt. 22<sup>nd</sup> May' 2026 by the Petitioner i.e. M/s Ashuvibha Power Pvt. Ltd., has brought no new facts and simply reiterated the earlier submission.

**Commission's observations and findings**

18. The Commission has observed the following from the petition and the submissions of the Petitioner and Respondents in this matter:
  - i. The present petition is filed by M/s Ashuvibha Power Pvt. Ltd., under Section 86(1)(b)(e) and (f) of the Electricity Act, 2003 seeking compensation on account of Change-in-Law regarding increase in Goods and Services Tax on Capital Items and Related Services by way of incremental tariff for a period of 180 months as per MoP notification dated 22<sup>nd</sup> Oct 2021 in this regard along with carrying cost in relation to its ground mounted Solar Power Plants of 2 MW capacity installed by the Petitioner under Component A of PM KUSUM Scheme at Village Kudaila, Tahsil Bichiya, District Mandla (M.P.).
  - ii. The Commission has noted that, on account of Change-in-Law due to hike in GST rates, the Petitioner had filed a Petition No. 57/2022 before this Commission. This Commission, while disposing of the aforesaid petition held the matter to be, undoubtedly, a case of change-in-law (CIL) in light of the notification dated 27-09-2022 issued by Ministry of New and Renewable Energy, GoI. The Commission specifically directed the petitioner to submit detailed computation of the impact on account of increase in GST rates on procurement of solar PV cells / solar PV modules as required under Article 12 of the PPA dated 08.11.2021, duly substantiated by invoices, before the Respondent No. 1 i.e. MPUVNL for verification. The relevant portion of the said order in Petitions No. 55 to 60 of 2022 is reproduced below:

*"21. As regards computation of compensation to be paid due to change in law event and mechanism for recovery of same, we have observed that tariff of the Petitioners has been discovered through competitive bidding process conducted by respondent no. 1 i.e. MPUVNL, for which compensation on account of change in law event needs to be properly computed. **The Commission further observed that the Petitioners have not submitted computation based on actual expenditure made on procurement of solar PV cell/solar PV module on account of increase in GST rates substantiated with invoices and that the documents placed before Commission are not adequate to determine the consequential impact on account of change in GST rates and imposition of Basic custom duty. The Commission therefore directs the Petitioners to submit detailed computation of impact on account of GST rate increase along with invoices of procurement of solar PV cells/modules from the date as mentioned in paragraph 20 above to the bidding agency i.e. respondent no. 1 (MPUVNL) who***

***shall verify the same and approach this Commission for approval of quantum of compensation and mechanism for passing on the approved compensation to the Petitioners in their monthly power purchase bills to be sent to respondent no. 2 i.e. MPPMCL.”***

- iii. Subsequently, the Respondent No. 1 (MPUVNL) filed Petition No. 29/2023 before this Commission seeking redetermination of the feed-in tariff of Rs. 3.07 per kWh earlier determined by this Commission vide order dated 16-02-2021 passed in Petition no. 50 of 2020. However, for want of compliance on part of MPUVNL, this Commission, vide order dated 09-10-2023, disposed of the same observing as:

*“17. The Commission has observed that clear direction was given to MP Urja Vikas Nigam Limited who were respondent in Petition no. 55 to 60 of 2022 to approach the Commission for approval of quantum of compensation on account of change in law and mechanism for passing the approved compensation to the parties in their monthly power purchase bills. The Petitioner has however ignored the above directions and approached the Commission for redetermination of feed-in-tariff on account of various factors including those brought in petition No. 55 to 60 of 2022. The Commission has also observed that the levelized tariff for Component -A under PM KUSUM scheme has been determined by the Commission for a period till 31.03.2024. Therefore, only 6 months remain until the end of control period and revised tariff determination is due with effect from 01.04.2024. In a way, Petitioner is seeking review of Commission's order in Petition no. 50 of 2020 without establishing grounds for such review, if any.*

*18. Moreover, Commission has noted that Petitioner has failed to submit appropriate documentary evidence in support of escalated cost of solar modules/panels. Respondent MPPMCL vehemently opposed the submissions of Petitioner claiming that the prices of Solar Modules have been dropped to an unprecedented level and the trend is going on. Even the claim of Respondent is based on a report published in PV Magazine. Petitioner in his rejoinder tried to counter the claim of Respondent based on another report published in the same PV Magazine and submitted data sourced from some websites. Commission observed that the reports published in magazines/ websites cannot be made a basis of determining capital cost of solar modules and Commission does not rely upon the claims and counter claims of petitioner and respondents based on such reports alone.*

*19. Anyway, since the control period of the feed-in-tariff for PM Kusum-A component is about to expire shortly, Commission directs the Secretary to initiate the process of determining the tariff for next control period based on realistic and current data supported with proper evidence.*

*20. In view of foregoing observations, Commission is not inclined to review the order issued in petition no. 50 of 2020 and no. 55 to 60 of 2022 and determine the feed-in-tariff only for 6 months. Commission directs the Petitioner to submit a comprehensive proposal for determination of feed-in-tariff for the next control period effective from 01.04.2024 as per the provisions of Component -A of PM KUSUM scheme, not later than 45 days from the date of issue of this order so that the tariff may be determined by the Commission up front and beneficiaries under PM KUSUM scheme be aware of the ceiling/feed-in-tariff well in advance of the subsequent control period commencing from 01.04.2024. The petition should be accompanied with proper documentary evidence of each component required*

*for determination of tariff. Meanwhile, Petitioner is free to approach Commission for approval of compensation and mechanism for passing the approved compensation on account of change in law as directed in order dated 30.12.2022 of this Commission passed in petition no. 55 to 60 of 2022."*

- iv. It is observed that this Commission had rejected the prayer of Respondent no. 1 to redetermine the pre-fixed levelized tariff of Rs 3.07/ kWh which was applicable till 31.03.2024 vide its order dated 09.10.2023 passed in Petition no. 50 of 2020 and reiterated for compliance of its direction passed vide order dated 30.12.2022 passed in Petition no. 55, 56, 57, 58, 59 and 60 of 2022. The Commission noted that this order dated 30.12.2022 is yet to be complied with by the parties.
- v. The Respondent No. 1 submitted that the Petitioner's Change-in-Law claim, if any, is required to be examined solely in accordance with Article 12 of the Power Purchase Agreement, the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 being inapplicable to the Change-in-Law event relied upon by the Petitioner in view of the Ministry of Power Office Memorandum dated 21.02.2022 which clarifies that the change in law Rules are prospective in nature and cannot be applied retrospectively. Since the CIL Rules came into effect from 01.10.2021 prior to 08.11.2021 i.e. the date on which GST rates was increased, the CIL Rules 2021 are not applicable to the Petitioner and any change in law compensation needs to be settled as per Article 12 of the PPA dated 08.11.2021. Respondent No. 1 further submitted that in order to ascertain the impact on account of change in law, Petitioner ought to have produced the complete chain of primary documents, including the EPC agreement, purchase orders, vendor-wise invoices, delivery records, and proof of actual tax payment such as EPC contractor's GSTR-1/GSTR-1A filings evidencing outward supplies and tax liability, or the Petitioner's GSTR-2A and GSTR-2B statements evidencing input tax credit availed, which are essential to establish the actual tax incidence and any incremental burden attributable to the alleged Change-in-Law event. A belated and consolidated invoice, without reconciliation to GST returns and without component-wise or time-linked breakup of supplies, is inadequate for regulatory determination in this matter. The Petitioner has thus failed to demonstrate the actual financial impact, and the burden of proof squarely continues to lie upon the Petitioner, which remains undischarged. Thus, consequently, the claim is unsubstantiated, unverifiable, and not liable to be admitted as on date.
- vi. The Respondent No. 2 also submitted to reject the petition as the Petitioner has failed to submit detailed computation and documentary evidence to substantiate its claim of payment on account of increased GST in terms of order dated 30.12.2022 passed in Petition No. 57/2022 and order dated 09.10.2023 passed in Petition No. 29/2023.
- vii. The Commission has noted that Ministry of Power, GoI vide its Memo No. 23/18/2020-R&R has clarified the matter regarding applicability of Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 as under: -

*"i. The Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 were notified by Ministry of Power, vide notification dated 22nd October, 2021 in Gazette of India. As per sub-rule (2) of Rule 1, these Rules shall come into force on the date of*

*their publication in the Official Gazette. These Rules have not stated to have been given any retrospective operation.*

- ii. The aforesaid Rules are applicable on the change in law events occurred on or after the date of notification of these Rules in the Official Gazette ie 22 October, 2021. The change in law events occurred prior to the notification of these Rules shall be dealt in accordance with the prevalent dispensation/rule position at the time of occurrence of the event.*
- iii. The proceedings in the petitions, related to change in law matters, pending before the Appropriate Commissions, shall be dealt in accordance with stipulations made in para (ii) above."*

In the instant case, GST rates were increased from 5% to 12% with effect from 01.10.2021 vide Notification No. 8/2021 - Central Tax (Rate) dated 30.09.2021 of the Ministry of Finance, i.e. prior to notification of CIL rules dated 22.10.2021 thus CIL Rules 2021 shall not be applicable for settlement of impact on account of change in law in this matter. Petitioner shall however be entitled for compensation on account of change in law in terms of Article 12 of PPA dated 08.11.2021 executed with MP Power Management Company Limited.

19. The Commission has noted that despite explicit directions issued vide order dated 30.12.2022 passed in Petition No. 57/2022 and order dated 09.10.2023 passed in Petition No. 29/2023, Petitioner has failed to submit requisite computation of GST impact based on actual expenditure incurred on procurement of solar PV cells / modules on account of increase in GST rates, duly supported by invoices and other documentary evidence such as GST tax returns of EPC contractor and Petitioner itself. In absence of such verified and substantiated data, the Respondent No. 1 is unable to determine the actual consequential financial impact claimed by the petitioner and subsequently to approach this Commission for further necessary action in this matter.
20. In light of the foregoing observations and findings, the Commission holds that the present Petition is not maintainable at this stage and is hereby dismissed being devoid of merits. The Petitioner shall be at liberty to approach Respondent No. 1 and submit the required computation along with all the invoices/GST Tax returns as may be required by Respondent No. 1, to substantiate its claim. Thereafter, the Respondent No. 1 shall approach this Commission as directed in order dated 30.12.2022 and dated 09.10.2023 passed in Petition No. 55 to 60 of 2022 and No. 29 of 2023 respectively.

With the aforesaid observations and directions, the subject petition stands disposed of.

**(Gajendra Tiwari)**  
**Member**

**(Gopal Srivastava)**  
**Acting Chairman**