

**KERALA STATE ELECTRICITY REGULATORY  
COMMISSION**

**THIRUVANANTHAPURAM**

**Petition No: OP 30 / 2022**

- Present** : **Shri. Preman Dinaraj, Chairman**  
: **Adv. A. J. Wilson, Member (Law)**
- In the matter of** : Petition filed by KSEB Ltd for permissive sanction to intimate M/s. T P Saurya Ltd., the SPG executed the PPA for procurement of 110 MW of Solar power, that separate consent of KSEB Ltd. is not required for transferring the entire stake of M/s.Tata Power Ltd. (Successful bidder) in M/s. T P Saurya Ltd. to Tata Power Renewable Energy Ltd. (TPREL) which is also a wholly owned subsidiary of M/s.Tata power Ltd, without any change in parties executed PPA.
- Petitioner** : Kerala State Electricity Board Limited.  
Vydyuthi Bhavanam,  
Pattom, Thiruvananthapuram-695004
- Respondent** : M/s T.P.Saurya  
Registered Office; C/o the TATA Power Co. Ltd  
Corporate Centre, 34, Sant Tukaram Road  
Carnac Bunder, Mumbai  
Maharashtra 400009
- Date of Hearing** : 03.06.2022

**Order Dated 23.06.2022**

1. Kerala State Electricity Board Limited (hereinafter referred to as KSEB Ltd or the petitioner) has filed the petition for permissive sanction to intimate M/s. T P Saurya Ltd., the SPG executed the PPA for procurement of 110 MW of Solar power, that separate consent of KSEB Ltd. is not required for transferring the entire stake of M/s.Tata Power Ltd. (Successful bidder) in M/s. T P Saurya Ltd. to M/s Tata Power Renewable Energy Ltd. (TPREL) which is also a wholly owned subsidiary of M/s.Tata Power Ltd, without any change in parties executed PPA.

2. KSEB Ltd had on 08.02.2021 filed a petition, before the Commission with the prayers to grant formal approval for the initialled Power Purchase Agreements (PPAs) with M/s NTPC Ltd and M/s. Tata Power Company Limited under Section 86(1)(b) of the Electricity Act, 2003, for the procurement of 90MW of Solar power from M/s. NTPC Ltd. and 110 MW of Solar power from M/s. Tata Power Company Ltd. at the adopted tariff of ₹ 2.97 per unit and to permit the execution of PPA with M/s.T P Saurya Ltd., a wholly owned subsidiary of the successful bidder M/s Tata Power Company Ltd.
3. Commission in OP 11/2021 (Part II ) vide Order dated 23.06.2021 had in para 18
  - Approved the initialed Power Purchase Agreement (PPA) between KSEB Ltd and M/s Tata Power Company Limited for the procurement of 110 MW Solar Power at the rate of Rs.2.97/unit.
  - Granted permission to KSEB Ltd to sign the PPA with M/s TP Saurya Limited, the 100% subsidiary of the successful bidder M/s Tata Power Company Limited. It was also ordered that the agreement dated 23.03.2021 and its amendment dated 09.06.2021 signed between M/s TPCL and its 100% subsidiary TP Saurya Ltd shall form integral part of the PPA to be signed between KSEB Ltd and TP Saurya Ltd.
  - Directed KSEB Ltd to submit a copy of the PPA signed with M/s TP Saurya Ltd to the Commission for information and record.
4. KSEB Ltd in the present petition stated that the Order dated 23.06.2021 of the Commission was put up before the Board (Full Time Directors of KSEB Ltd.) for permitting the petitioner to execute the PPA with successful bidders and the Full Time Directors of KSEB Ltd. observed that the rate discovered through bidding route for the procurement of 200 MW solar power is relatively high in comparison with various offers of SECI, and hence issued direction to reconsider the power procurement process.
5. Considering the financial impact involved in this case, KSEB Ltd. had enquired to M/s. T P Saurya Ltd informally, as to whether there would be any reconsideration of rates and upon this M/s. T P Saurya Ltd (100 % subsidiary of The TATA Power Company Limited) on 27.09.2021 have reduced their offer price to Rs 2.44 per unit in place of Rs 2.97 per unit, whereas M/s NTPC Ltd stood firm on their rate as per bid. Hence the Board decided not to execute the Power Purchase Agreement with

the firms for an adopted the tariff @ Rs.2.97 /unit and to analyse the impact of Basic Customs Duty (BCD) on various offers before KSEB Ltd.

6. KSEB Ltd accordingly filed a petition for adoption of tariff ( Rs.2.44/unit) for the procurement of 110 MW of Solar power from M/s. T P Saurya Ltd. Commission admitted the petition as OP No 03/2022 and issued the Order dated 28.01.2022. The Commission in the Order approved the reduced tariff @Rs 2.44/unit for the procurement of 110MW of Solar Power for 25 years from the Scheduled Commissioning Date from M/s TP Saurya Ltd (100% subsidiary of M/s TATA Power Company Ltd) and ratified the action of KSEB Ltd in executing the agreement with M/s TP Saurya Ltd, strictly in conformity with the approved initialled PPA vide the order dated 23.06.2021 except the change in tariff.
7. M/s T P Saurya Limited vide their letter dated 09.12.2021 has intimated KSEB Ltd that as part of an internal restructuring exercise, M/s. TATA Power Company Ltd intends to transfer its entire stake in M/s. TP Saurya Limited to M/s Tata Power Renewable Energy Limited ( TPREL) which is also a wholly owned subsidiary of Tata Power. They have also intimated that there is no effective change of ownership of the project. The firm also confirmed that TATA Power will continue to hold a minimum of 75 % of the equity shareholding & management control in TPERL post internal restructuring. They assured that the parties of the PPA will remain the same.
8. The firm had requested the approval or consent for restructuring in line with clause 4.1.6 of the PPA and clause 3.1.a of the RFS. The Generator has also furnished an assurance letter on 10.03.2022 in the matter of sanctity of the agreement, Continuance of operation of M/s. T P Saurya Limited as a legal entity throughout the PPA period and holding of shares as per request of KSEB Ltd.
9. KSEB Ltd has stated that they have examined the request of the Generator in line with respect to the provisions of PPA and RFS clauses. As per clause 3.1.(b) of the RFS states that

*'the bidder, if being a single company, shall ensure that its shareholding in the SPV/project company executing the PPA shall not fall below 51% (fifty-one per cent) at any time prior to 1 (one) year from the COD except with the prior approval of KSEBL. As per clause 4.1.6 of PPA, (SPG's Obligations) the SPG undertakes to be responsible, at SPG's own cost and risk, for*

*maintaining its controlling shareholding prevalent at the time of execution of PPA up to a period of one (1) year after Commercial Operation Date.'*

10. M/s. T P Saurya Ltd (TPSL) assured that, M/s. Tata Power Company Limited (TPCL) continues to hold more than 51 % of the share holding in the project company (M/s. TPSL) after restructuring for a period of 1 year from the CoD as specified in RFS .
11. Though, M/s. Tata Power Company Limited (TPCL) was the bidder, Power Purchase agreement (PPA) was executed with M/s. T P Saurya Limited (TPSL), a 100% subsidiary of the TPCL with the approval of the Commission. The said arrangement was approved by the Commission on the strength of a covenant signed between TPCL and TPSL for the due fulfillment of terms and conditions of initialed PPA signed by the bidder.

### **Hearing on the Petition**

12. The hearing on the petition was conducted through Video Conference mode on 03-06-2022. The petitioner, M/s KSEB Ltd was represented by Sri. Rajan M.P, Deputy Chief Engineer, Commercial & Tariff, TRAC briefed on the petition before the Commission.
13. The respondent, M/s T.P.Saurya was represented by Adv.Sajan Poovayya, Senior Counsel submitted that the restructuring, in no matter will dilute the agreements entered between the petitioner and the respondent. It was also stated that the respondent will continue to operate as the legal entity in terms of the power purchase agreement entered with KSEB Ltd. It was further submitted that after the restructuring M/s Tata Power Company Limited (TPCL) will continue to hold and retain 75% shareholding of M/s T.P Saurya indirectly through M/s Tata Power Renewable Energy Ltd. (TPREL) and in turn continue to hold 100% shareholding in M/s. T P Saurya Limited (TPSL) till one year after COD. He also stated that they support the submissions made by the petitioner and apprised on the internal restructuring exercise and assured that the parties of the PPA remains the same.
14. The Commission during the hearing directed the respondent to submit a detailed counter with regard to the process of restructuring. Vide letter dated 04.06.2022, the respondent submitted the required details. In the report it is clearly stated that there is no breach of the tender documents and the entire restructuring is in the terms of the RfS/PPA. The only change would be that TPSL instead of being the direct subsidiary will become the down stream subsidiary of TPCL, albeit control of

upstream parent company i.e TPCL over TPSL will not change. The respondent has also submitted an undertaking to KSEB Ltd on 10.03.2022. The relevant portion is quoted below.

“

1. *The proposed restructuring exercise shall in no manner dilute or reduce the sanctity of our aforementioned Agreements entered between M/s. Tata Power Company Limited and M/s. TP Saurya Limited dated 23/Mar/2021 and 09/Jun/2021 respectively.*
2. *TP Saurya shall continue to operate as the legal entity in contract with KSEB for entire term of the PPA.*
3. *Tata Power Renewable Energy Limited shall continue to hold 100% stake in M/s TP Saurya Limited and TPCL shall hold at least 75% shareholding in Tata Power Renewable post-restructuring until at least for a period of one year from COD.”*

Accordingly the parties of the PPA remain the same and there is no novation of the present power purchase agreement.

### **Order of the Commission**

15.The Commission after duly considering the submission of KSEB Ltd, the comments and written submissions of the respondent, M/s T P Saurya Limited, orders as follows.

1. The Commission acknowledges the prayers of the KSEB Ltd.
2. The Commission has no objection in KSEB Ltd intimating the respondent that no separate consent is required for transferring the entire stake of M/s.Tata Power Ltd. (Successful bidder) in M/s. T P Saurya Ltd. to Tata Power Renewable Energy Ltd. (TPREL) which is also a wholly owned subsidiary of M/s.Tata Power Ltd. as the parties of the PPA remains the same and there is no novation of the present power purchase agreement. The Commission also directs both the parties to adhere to the clauses in the approved Power Purchase Agreement .

Sd/-

**Adv. A. J. Wilson**  
Member (Law)

Sd/-

**Preman Dinaraj**  
Chairman

Approved for Issue

Sd/-

**C.R.Satheesh Chandran**  
Secretary