

No. Y/02/2016

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
No.16, C-1, Millers Tank Bed Area, Vasanth Nagar, Bengaluru-560 052.**

Dated: 22.06.2021

Present

Shri Shambhu Dayal Meena : Chairman
Shri H.M. Manjunatha : Member
Shri M.D. Ravi : Member

No. Y/02/2016

BETWEEN:

Nil

...PETITIONER

AND:

Vijayaa Steels Ltd,
Survey No. 84/1, Kallanayakanalli Anchepalya,
Kunigal Taluk,
Tumkur District.

...RESPONDENT

(Respondent represented by Sri Sridhar Prabhu,
Advocate for Navayana Law Offices).

Subject: Regarding Non-compliance of RPO for FY-18 by the Respondent.

1. On the basis of the information furnished in its letter dated 01.09.2018 by the State Load Dispatch Centre, who is the Nodal Agency for monitoring and reporting of RPO, this Commission noted that the Respondent-Vijaya Steels Limited has not complied with RPO target for FY-18 to an extent of 2336.92 MWh of non-solar and 1071.09 MWh of solar power as mandated in the KERC (Procurement of Energy from Renewable Sources) Regulations 2011. Therefore, this Commission issued showcause notice

dated 10.04.2019 to the Respondent to show cause as to why action under Section 142 of the Electricity Act 2003, should not be initiated against the Respondent for failure to comply with the aforesaid regulations. The Respondent had not replied the said show cause notice, inspite of service of the said notice. Thereafter this Commission issued show cause notices dated 16.08.2019, 17.09.2019, 31.01.2020 and a final notice dated 06.08.2020 calling upon the Respondent to submit its reply in the matter on or before 13.08.2020.

2. The Respondent appeared through Learned Counsel on 13.08.2020 and prayed for time to submit its explanation. The Learned Counsel appearing for Respondent filed affidavit dated 10.11.2020.
3. One of the Directors namely Bina Tulsyan of Respondent-Company has filed an affidavit as follows:

- "1. That I am the Director of the Respondent in this matter and therefore competent to depose to this affidavit.*
- 2. That due to economic and other difficulties, the Respondent had stopped business operations on 30th April, 2019. Till date the Respondent has been unable to resume operation and in view of the above, the Respondent is unable to complete the required RPO targets. The non-completion is not intention but due to circumstances beyond the control of the Respondent."*

4. Subsequently on 10.12.2020 as per memo the Learned Counsel for Respondent filed copies of certain letters addressed to concerned AEE, BESCOM requesting for transfer of installation bearing RR No. KEHT 1 standing in the name of Respondent in favour of M/s. Vikat Alloys Private Limited and the orders of the Ombudsman dated 28.06.2019 directing the

concerned AEE to effect transfer of installation from the name of Respondent to M/s. Vikat Alloys Private Limited said to be the purchaser. Subsequently the Learned Counsel for the Respondent filed on 19.01.2021 before this commission, a copy of the registered sale deed dated 10.03.2017 shown to have been executed by M/s. Vijaya Steels Limited (Respondent) in favour of M/s. Vikat Alloys Private Limited.

5. We have heard the Learned Counsel for the Respondent. He submitted that earlier the Respondent was running the industry in the premises in question by taking electricity connection through the meter bearing RR No. KEHT 1 from O & M Sub Division, BESCO, Kunigal-572 130 and the said premises was sold to M/s. Vikat Alloys Private Limited under sale deed dated 10.03.2017 and thereafter the said purchaser was running the industry by consuming the electricity through said RR No. KEHT 1. He pointed out that the notice issued for non-compliance of RPO relates to FY-18 i.e., for the period from 01.04.2017 to 31.03.2018. Therefore, he submitted that for FY-18, the Respondent had not consumed any energy, therefore there was no question of fastening any liability on the Respondent for non-compliance of RPO for FY-18. He further submitted suitable action may be taken against the purchaser M/s. Vikat Alloys Private Limited.
6. However, the Learned Counsel for the Respondent has not referred to the contents of the affidavit in which one of the Directors has sworn to the effect that due to economic and other reasons, the Respondent had stopped business operations from 30.04.2019 and till date the Respondent

could not resume the operation and that for this reason the Respondent was unable to fulfil the required quantum of RPO target and the non-fulfilling of the RPO was not intentional but due to circumstances beyond the control of the Respondent.

7. From the above facts it is clear that the oral submission of the Learned counsel of the Respondent is contrary to the averments made in the affidavit. Therefore, from the above facts the Commission is of the considered opinion that issue of notice to the purchaser of the premises in the question is necessary to find out the true facts. If really the purchaser of the Respondent's premises consumed the power, the liability would be on the purchaser to comply with RPO for FY-18. It cannot be ruled out that the said purchaser might have complied with the RPO for FY-18 by purchasing RECs. In the event of denial by the purchaser of the genuineness of the sale transaction of the premises in question and its liability to comply RPO, the Respondent can be held liable for it as clause 7 in recitals of the sale deed. Therefore, the present proceedings against the Respondent may be closed subject to the condition that it should appear in the proceedings to be instituted against the purchaser M/s. Vikat Alloys Private Limited. Hence the following order: -

ORDER

- a. The present proceedings is closed against the Respondent for the time being.
- b. Issue show cause notice to the purchaser M/s. Vikat Alloys Private Limited calling upon to submit its reply as to whether it had complied with RPO for FY-18.
- c. In the event the purchaser M/s. Vikat Alloys Private Limited denies its liability to fulfil RPO the Respondent would be required to face further action in the matter.

Sd/-

(SHAMBHU DAYAL MEENA)
Chairman

Sd/-

(H.M. MANJUNATHA)
Member

Sd/-

(M.D. RAVI)
Member