



## SOLAR POWER DEVELOPERS ASSOCIATION

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**SPDA/DG/2021/267**

**February 15, 2021**

Sub: Request for Government's consultation and directions for expediting & resolving claims by Solar Power Developers (SPD) seeking reimbursement of the additional cost incurred in the solar power projects due to 'Change in Law' event – Imposition of safeguard duty by the Ministry of Finance, Government of India.

Hon'ble Shri R K Singh ji ,

Greetings from Solar Power Developers Association.

At the outset, SPDA expresses its gratitude for taking out valuable time in meeting the President of SPDA last week and discussing various sector issues, including the delays in approval of reimbursement of additional expenses on account of Safeguard Duty claimed by solar power developers under the 'Change in Law.'

As informed during the meeting, the Hon'ble KERC vide its order dated 31.12.2020 while declaring the imposition of Safeguard duty as 'Change in Law event', directed the DISCOMs to reimburse Safeguard Duty amount only up to the date of SCoD. Furthermore, the KERC rejected the claim of the reimbursement for additional DC capacity installed by solar power developers to meet committed CUF/quantum of energy as permitted under PPA and only allowed reimbursement of the claim to the extent of minimum contracted energy. Such developments are in contravention to the Central Government's effort to support growth and development of Solar sector.

In this regard, it is pertinent to mention here that MNRE vide its order dated 05.09.2019 had clarified and explicitly stated that the design and layout of the Solar PV power plant project is the developer's responsibility and can install additional DC capacity as per their design to meet the committed CUF. *The Regulators, if deemed proper, may put a cap of 50% additional DC i.e., AC to DC ratio be limited to 1: 1.5.* Hence, we strongly believe and are of the opinion that the above order by the KERC is not reasonable or justified in law or otherwise.

It is a legitimate expectation of the solar power developer that the Electricity Regulators of States and Central, as well as the DISCOMs, must allow pass-through of SGD amount corresponding to additional DC capacity under 'Change in Law' provisions.

The following is suggested to reduce financial hardship to the SPDs and to further promote the Government's ongoing effort of 'Ease of Doing Business.'

Firstly, for procedural purposes, we request that the documents related to Safeguard Duty + IGST amount paid to the Customs Authorities (through duty payment challan copies) should be considered as the proof of payment to streamline the reimbursement process. Secondly, the DISCOMs should be entrusted to provide certification w.r.t modules imported by the solar power developer are installed in the stated solar power

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Former

- Deputy National Security Advisor, Govt. of India • Defence Secretary, Govt. of India • Secretary Defence Production, Govt. of India
- Secretary Ministry of Health, Govt. of India • Director General, Sports Authority of India

project. Further, the developer should be allowed to decide w.r.t installation of the additional DC capacity either before or after the date of commissioning.

Accordingly, the above two documents i.e., Proof of payment of Safeguard Duty to the Customs Authorities and the DISCOMs certification of the installation of the modules imported at the project site, should be sufficient for the cross-verification and payment of the safeguard duty claims, this would make the reimbursement claims of safeguards duty efficient.

Further, it is not unknown that the Electricity Regulators i.e. state and central take substantial time in deciding the reimbursement claim, accordingly for the sake of expeditious approval, the Regulators should be approached for declaration of the event as 'Change in law' and it should only adjudicate on the same. As regards, the quantification of the claims the above referred documents should be adequate for the concerned DISCOMs to examine and verify the amount payable to the solar power developer. This will help solar power developers in faster resolution of the matter as well as preventing pile-up of cases before Regulators.

Moreover, MNRE should advise the Hon'ble Regulators to approve such cases in a time-bound manner and allow the entire DC capacity installed irrespective of scheduled Date of Commissioning/ actual commissioning since the beneficiaries are the state and their customers. Any further delay in reimbursement of SGD is impacting the cash flow of companies.

In view of above stated, we propose and request you to kindly schedule a VC meeting under your Chairmanship, where some Solar Power Developers and the concerned State Regulators and I, Shekhar Dutt, Director General of SPDA, are present to discuss and deliberate on this long pending issue to get the matter resolved at the earliest. Thanking you.

With warm regards

Yours Sincerely,



(Shekhar Dutt)

To,

**Shri R K Singh**  
**Hon'ble Minister of State (I/C)**  
**for Power & New and Renewable Energy**  
**Government of India**  
**New Delhi**