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-LAW IN ACTION



Legal Updates

Karnataka HC holds that a person who is named Arbitrator in a notice under Section 21 of the Arbitration and Conciliation Act, 1996 cannot enter reference and pass orders without the consent of the other party or an Order under Section 11 of the Arbitration and Conciliation Act.

The Karnataka High Court (**Karnataka HC**) in *Smt. Manjula & Anr. vs. Shriram Transport Finance Co. Ltd. & Ors.* -in WP/10493/2020 vide Oder dated 27.05.2025 has observed that a person who is named Arbitrator in a notice under Section 21 of the Arbitration and Conciliation Act, 1996 (said Act) cannot enter reference and pass orders without the consent of the other party or an Order under Section 11 of the said Act.

The Respondent in the present matter issued a demand notice and also named an Arbitrator, incase payment was not honoured within 7 days. The Arbitrator thereafter entered reference and passed an Order dated 12.07.2019 on an application filed by the Respondent under Section 17 of the said Act and allowed the said to seize and take possession of the hypothecated vehicles with the help of jurisdictional police and retain the vehicles in custody. The said order was challenged in the present petition whereby the Karnataka High Court observed that the demand notice was not replied to by the Petitioner and thus there was no consent expressed by the Petitioner to the appointment of the Arbitrator, in which case the proper recourse was to approach court under Section 11.

Delhi HC observes that inconsequential errors in the award cannot be a ground to challenge judicious and reasoned award

The Delhi High Court vide its order dated 09.06.2025 in the case of *Hindustan Hydraulics Pvt. Ltd. Vs. Union of India*, O.M.P (Comm) 6/2017 has observed that inconsequential errors in the award cannot be a ground to challenge judicious and reasoned award.

The Union of India (“**Respondent**”), through Central Organization for Modernization of Workshops (“**COFMOW**”) in the present case issued a tender for procuring a “Double Column Guillotine Shearing Machine with Hydraulic Main Drive”. The Hindustan Hydraulics Pvt. Ltd.

(“**Petitioner**”) offered to sell the machine to the Respondent which was duly accepted by the Respondent, subject to terms and conditions mentioned in the acceptance letter. The machine was delivered after 3 years of the acceptance of the tender, instead of 10 months, which became a point of contention between the parties. Respondent also felt aggrieved by the quality of the machine and services rendered by the Petitioner and sought refund of the part sale consideration of Rs.1,14,63,340/- paid by it to the Petitioner along with interest. The Arbitrator passed the final award in favour of the Respondent rejecting the claims of the Petitioner. The said award was challenged by the Petitioner under Section 34 of the Arbitration and Conciliation Act, 1996, primarily on the ground that the Tribunal did not deal with the evidence on record and also drew incorrect conclusions dehors the evidence.

The court examined the arbitral award and noted that the challenge mounted by the Petitioner was based on the allegation of re-writing of the contract by the Tribunal and ignoring of material evidence to reach incorrect factual findings. In this regard the court observed that that the arbitral tribunal may have committed errors in recording some of the findings at few places, however, the dismissal of the claim was definitely on account of the Petitioner’s own admission of the fact that flat guiding system was a deviation from the specified design in paragraph 3.2.3.6. It further observed that the arbitral tribunal strictly construed the contract provisions regarding technical design specifications, and upheld the rejection, which was solely based on non-adherence of the tender specifications. Arbitral Tribunal’s approach cannot be said to be non-judicious or that the arbitral tribunal travelled beyond the terms of the contract. It was not necessary that the tribunal returned a finding on each deviation item to conclude if the contract was breached. Petitioner’s own admission in relation to one of the deviation items was found to be sufficient evidence by the arbitral tribunal. It was lastly observed that a party cannot take advantage of apparent inconsequential errors and fumbles to challenge the award. Inconsequential errors in the award cannot be a ground to challenge otherwise judicious and reasoned award.

MNRE issues revised guidelines for installation of prototype wind turbine models

The Ministry of New and Renewable Energy (“**MNRE**”) on 12.06.2025 issued the revised guidelines for installation of prototype wind turbines. These revised guidelines have been issued in suppression to the previous guidelines with a view to promote testing and certification process of wind turbine in the country. The revised guidelines shall be applicable to all wind turbine manufacturers in India who intend to install prototype models and synchronize them with the grid. The entire process will be overseen and implemented by the National Institute of Wind Energy (“**NIWE**”), Chennai.

Salient features:

- Manufacturers are required to submit the requisite information and documentation to NIWE as per the format to be prescribed by NIWE. Two certification schemes are recognized under the guidelines: IECRE OD 501 and IS/IEC 61400-22:2010. Prototype certificate for the prototype wind turbine model, for specific location of installation, must be submitted to NIWE. If location details are missing from the certificate, a separate letter from the certification body is required.
- Each prototype certificate will be valid for up to three years. However, manufacturers can apply for an extension if they meet the conditions under clause 6.3 of IECRE OD 501. In such cases, manufacturers must also submit a list of changes made to the wind turbine model and obtain a revised recommendation letter from NIWE. The model name must remain the same, although variants or configuration changes can be included.
- All prototype wind turbines have to be commissioned within 18 months from the date of NIWE’s recommendation letter and the entire type testing and certification process must be completed within three years. Under circumstances where a revised prototype certificate is submitted, the process must be completed within four years from the original recommendation date.

- For each prototype wind turbine mode, maximum 3 wind turbines will be allowed for grid synchronization/commissioning. The type certificate for prototype wind turbine model shall be obtained from an Internationally Accredited Type Certification Body. Failure to comply with maintenance requirements may lead to disconnection from the grid.
- Pertinently, these prototype turbines cannot be sold until the model is included in the Revised List of Models and Manufacturers (**RLMM**).
- All parts and components used for prototype turbines must be new and unused. Use of second hand components / machines is strictly prohibited. However, changes or modifications if required has to follow the process laid down in the revised guidelines.
- The components / items imported for manufacturing of the prototype wind turbines will be eligible for custom and excise duty exemptions as per notifications issued by customs and excise department from time to time.
- Manufacturers are required to submit an affidavit and indemnity bond to both NIWE and the respective State agency, for complying with the terms of these revised guidelines. If any of the conditions are violated, the prototype turbine may be forcibly disconnected and removed at the manufacturer's cost.

A copy of the revised MNRE guidelines can be accessed through this [link](#).

MoP partially amends various orders pertaining to the waiver of Inter-State Transmission Charges on transmission of the electricity generated from Renewable Energy Sources, Energy Storage Systems and Green Hydrogen / Green Ammonia to make provisions with respect to Hydro PSP and Battery Energy Storage System (BESS) Projects

The Ministry of Power (**MoP**) vide Order dated 10.06.2025 has made partial amendments to the Order No. 23/12/2016 R&R dated 23.11.2021, 30.11.2021, 01.12.2022, 06.12.2022 and Order No. 12/07/2023- RCM dated 29.05.2023 & 09.06.2023 regarding waiver of Inter-State Transmission Charges on transmission of the electricity generated from Renewable Energy (**RE**) Sources, Energy Storage Systems and Green Hydrogen / Green Ammonia to make provisions with respect to Hydro PSP and Battery Energy Storage System (BESS) Projects. These are as follows:

- ISTS charges waiver for Hydro PSP Projects for which construction work has been awarded on or before 30.06.2028 shall be 100%.
- ISTS charges waiver for co-located Battery Energy Storage System (BESS) Projects commission on or before 30.06.2028 shall be 100%, if the power from such BESS Projects is consumed outside of the state, where such BESS Project is commissioned. A BESS Project shall be considered as co-located, if the BESS and RE Projects are connected at the same ISTS sub-station.
- There will not be any ISTS charges waiver for Hydro PSP Projects, for which the construction work awarded after 30.06.2028 and for co-located BESS commissioned after 30.06.2028.
- For BESS projects which are not co-located, the ISTS charges waiver shall be as per the extant orders issued by the MoP and CERC Regulations.

A copy of this Order can be accessed through this [link](#).

Ministry of Power has proposed draft amendments in Rule 18 (i.e. Energy Storage System) of Electricity Rules, 2005

MoP in exercise of powers conferred by Section 176 of the Electricity Act, 2003 (**EA, 2003**), vide its Notification dated 11.06.2025 has made the Electricity (Amendment) Rules, 2025 (**Amendment Rules**). Vide the Amendment Rules, the following amendments have been proposed:

Proposed amendment to Sub-Rule 2 of Rule 18: Under the Electricity Rules, 2005, the utilisation of Energy Storage System was as a network asset or in complimentary with generation, transmission and distribution while under the Amendment Rules, the utilisation of Energy Storage System is as a part of generation, transmission and distribution.

Proposed amendment to Sub-Rule 4 of Rule 18: Through the Amendment Rules, Consumers have been added to the list of entities who can develop, own, lease or operate an Energy Storage System.

Proposed amendment to Sub-Rule 5 of Rule 18: Through the Amendment Rules, Consumers have been added to the list of entities to whom the developer or owner of the Energy Storage System would have an option to sell or lease or rent out the storage space in whole or in part.

The stakeholders are requested to provide comments, if any, by 10.07.2025 which can be mailed to rr1-mop@gov.in.

A copy of the Amendment Rules can be accessed through this [link](#).

Pursuant to the representation made by the Transmission developers seeking inclusion of Insurance Surety Bond (**ISB**) and Payment on Order Instruments (**POI**) as alternative security instruments for participating in the bids of transmission projects being developed through Tariff Based Competitive Bidding (**TBCB**) mode under section 63 of the Electricity Act, 2003 (**EA, 2003**), the Ministry of Power (**MoP**) has brought about the following modifications to the Standard Request for Proposal (**RfP**) and Transmission Service Agreement (**TSA**) for development and operation of Inter-State Transmission Services through TBCB:

Changes in Standard RfP:

- i. The term “**Bid Bond**” under the definition clause has been modified and Insurance Surety Bond and Payment on Order Instrument has been included therein.
- ii. Definition of a new term “**Payment on Order Instrument**” has been added under the definition clause which is limited to Letter of Undertaking from Indian Renewable Energy Development Agency Limited (**IREDA**) or Power Finance Corporation Limited (**PFC**) or REC Limited (**REC**) which shall have the same effect as that of a Bank Guarantee issued by any public sector bank.
- iii. Para 14 of Annexure-1 – Covering Letter now includes Insurance Surety Bond and Payment on Order Instrument.
- iv. The modified Clause 2.12.1 provides for format of the Contract Performance Guarantee issued by any of the banks listed under Annexure 17, or any of the insurance companies authorized by Insurance Regulatory and Development Authority of India or PFC/REC/IREDA Payment on Order Instrument under Annexure 15, 15 A and 15 B respectively.
- v. The modified Annexure 14 A provides the format of Insurance Surety Bond for Bid Security.
- vi. The newly added Annexure 14B provides the format of Payment on Order Instrument for Bid Security.
- vii. The newly added Annexure 15A provides for the format of Insurance Security Bond for Contract Performance Guarantee.
- viii. The newly added Annexure 15B provides for the format of Payment on Order Instrument for Contract Performance Guarantee.

Changes in Standard TSA:

- i. The definition clause of the term “**Contract Performance Guarantee**” now includes Insurance Surety Bond and Payment on Order Instrument.
- ii. Definition of a new term “**Payment on Order Instrument**” has been added under the definition clause which is limited to Letter of Undertaking from Indian Renewable Energy Development Agency Limited (**IREDA**) or Power Finance Corporation Limited (**PFC**) or REC Limited (**REC**) which shall have the same effect as that of a Bank Guarantee issued by any public sector bank.

MoP modifies Standard Request for Proposal and Transmission Service Agreement for procurement of Inter-State Transmission Services through Tariff Based Competitive Bidding

- iii. The newly added Schedule 8A provides for the format of Insurance Security Bond for Contract Performance Guarantee.
- iv. The newly added Schedule 8B provides for the format of Payment on Order Instrument for Contract Performance Guarantee.

A copy of the modifications as issued by the Ministry of Power can be accessed through this [link](#).

RERC issues draft procedure for grant of connectivity to Intra-State Transmission System

Rajasthan Electricity Regulatory Commission (“**RERC**”) vide Petition No. 2337/2025 and in accordance with Regulation 17 of Rajasthan Electricity Regulatory Commission (Rajasthan Electricity Grid Code) Regulations, 2024 has issued draft procedure for grant of connectivity to intra-state transmission system (“**Draft procedure**”) and has invited comments from the stakeholders. The procedure will be applicable to the applications made for Grant of Connectivity to the Intra State transmission system of the STU / Transmission licensee for 33 kV voltage level and above.

Salient features:

- It will be applicable to users connected to State Transmission System (“**STS**”) or seeking to establish new or modified arrangement of connection to STS, that includes state owned/Central Sector Generating Companies, Independent Power Producers (“**IPPs**”), Captive Generating Plants, Energy Storage Systems, Waste-to-Energy Power Projects, Wind-Solar Hybrid Power Projects etc.
- After coming into force of the procedure, all users including generating company, IPP, captive generating plant, Energy Storage Systems, Waste-to-Energy Power Projects, Wind-Solar Hybrid Power Projects, Green Hydrogen Projects, transmission licensee, distribution licensee (other than Rajasthan DISCOMs), RE Generator, RE park developer, open access customer or bulk consumer who desires to seek connectivity with the State Transmission System shall be required to apply for connectivity.
- Applications for Connectivity under the procedure shall be processed in three stages: Stage-I – Issuance of intimation for grant of Connectivity, Stage-II- Issuance of final permission for interconnection and Stage-III- Execution of Connection Agreement.
- After scrutiny of the application and verification of all the requisite documents, applicant shall be requested to deposit grid connectivity charges and/or Bank Guarantee as per provisions of State policy/ Regulations. In case where augmentation of the STU/Transmission Licensee’s sub-station is required for connectivity, the applicant shall also bear the cost for such augmentation. The applicant shall be required to deposit non-refundable grid connectivity charges of Rs. 2.5 lakh/MW or actual bay cost whichever is higher or as finalized by RERC from time to time.

The last date for submission of comments on the draft procedure is **14.07.2025**. The procedure can be accessed from the following [link](#).

APERC issues a public notice to invite comments/suggestions to the amendments proposed in the matter of the Draft fourth amendment to the Andhra Pradesh Electricity Regulatory Commission (Licensees’ duty for supply of Electricity on Request and Recovery of Expenses for

The Andhra Pradesh Electricity Regulatory Commission (“**APERC**”), vide its public notice dated 30.05.2025, has proposed to make Fourth Amendments to the APERC (Licensees’ duty for supply of Electricity on Request and Recovery of Expenses for Providing Electric Line or Electrical Plant) Regulation, 2013 (Regulation No. 4 of 2013) (“**Draft Fourth Amendment**”).

The Draft Fourth Amendment seeks to simplify the process for getting additional electricity connections up to 150 kW. Consumers can now choose either Low Tension (LT) or High Tension (HT) supply even if their load exceeds 100 HP or 75 kW, if their premises are within 1 km of an existing power network. Fixed charges will apply for such connections in the financial year 2025–26, but certain cases like agricultural services, layout electrification, underground cabling, or premises located more than 1 km away, are exempt. Application fees and security deposits will still be required as per current rules. From 2026–27 onward, power

**Providing Electric Line or
Electrical Plant)
Regulation, 2013**

companies would be required to submit revised charge proposals each year, or the 2025–26 charges will continue by default.

The Draft Fourth Amendment also states that development charges listed in Annexure-I will not apply to consumers who fall under the new 150 kW supply category. It also requires that all non-agricultural LT consumers with loads over 20 kW must be given their own dedicated transformers, which can't be shared with others, to help improve service reliability and better manage electricity loads. Additionally, the Commission now has the power to sort out any issues that come up while putting these rules into action, give further instructions, or make more changes if needed.

The APERC public notice can be accessed from the following [link](#).

**APTEL allows Change in
Law claim related to
Safeguard Duty and IGST
on higher declared CUF
rather than normative
CUF**

In judgment dated 30.05.2025, in the case of *Adyah Solar Energy Pvt. Ltd. v. KERC & Ors.*, Appeal Nos. 289/2022, 290–291/2022, 46–48/2023, the APTEL made important observations with respect to Change in Law (“CIL”) claims pursuant to safeguard duty and IGST on additional modules installed and payment of carrying cost.

APTEL observed that the appellant was compelled to install additional solar modules in order to achieve a declared capacity utilization factor (“CUF”) of 27.76%, significantly higher than the normative CUF of 19%. The imposition of a safeguard duty under Notification No. 01/2018 imposed a direct financial burden on these additional modules. Relying on the judgment passed in Appeal 163 of 2020 titled *Nisarga Renewable Energy Pvt. Ltd. v. MERC and Anr.*, APTEL held that the express language of the PPA does not restrict Change in Law relief solely to the originally contracted capacity. The sole trigger is the occurrence of a change in applicable taxes and duties post-bid submission. The additional modules, installed to achieve the higher declared CUF, are intrinsically part of the project's economic structure. Since the additional modules were installed before COD, the claim for Safeguard Duty and IGST reimbursement was allowed.

On the issue of carrying cost, it was held that carrying cost represents the compensation for the time value of money incurred by the Appellant due to the delay in reimbursement of additional expenses resulting from a Change in Law event. The underlying principle is that the affected party should be restored to the financial position it would have occupied had the adverse change not occurred. Based on the Parampujya judgment, it was held that the denial of carrying cost was contrary to both the principle of restitution and the underlying policy of the Change in Law mechanism.

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