Petition No. 36 of 2019 (M)

In the Matter of:

"Miscellaneous Petition under section 142 read with section 86(1)(k) of the Electricity Act, 2003 for non-compliance of CSERC (Renewable Purchase Obligation and REC Framework Implementation) Regulations, 2016 for FY 2016-17 and FY 2017-18."

Chhattisgarh State Renewable Energy Development Agency (CREDA) ... **Petitioner**

versus

M/s Alok Ferro Alloys Ltd., Raipur ... **Respondent**

Petition No. 15 of 2020 (M)

In the Matter of:

"Miscellaneous Petition under section 142 read with section 86(1)(k) of the Electricity Act, 2003 for non-compliance of CSERC (Renewable Purchase Obligation and REC Framework Implementation) Regulations, 2016 for year FY 2018-19."

Chhattisgarh State Renewable Energy Development Agency (CREDA) ... **Petitioner**

versus

M/s Alok Ferro Alloys Ltd., Raipur ... **Respondent**

PRESENT : **D S Misra, Chairman**

: **Arun Kumar Sharma, Member**

: **Vinod Deshmukh, Judicial Member**

ORDER

(March 24, 2021)

The petitioner, Chhattisgarh State Renewable Energy Development Agency (CREDA or petitioner hereinafter) is a State Nodal Agency for development and promotion of renewable energy and also a State Agency for monitoring of RPO compliance as per the provisions in CSERC

(Renewable Purchase Obligation and REC Framework Implementation) Regulations, 2016 (CSERC RPO-REC Regulations 2016).

Respondent M/s Alok Ferro Alloys Ltd. (M/s AFAL hereinafter) is consuming power from its captive generating plant (CGP) and is an obligated entity as per provisions in CSERC RPO-REC Regulations 2016.

2. Facts of the case in brief:

CSERC RPO-REC Regulations 2016 specify RPO trajectory (solar as well as non-solar) for obligated entities for five years starting from FY 2016-17. As per the report submitted by the Chief Electrical Inspector Office, respondent has consumed energy from its CGP in the year 2016-17 and 2017-18.

As per the petitioner, the respondent has failed to comply RPO for the year 2016-17 and 2017-18. Hence, this petition has been filed under Section 142 and Section 86(1)(k) of the Act and provisions specified in CSERC RPO-REC Regulations 2016 seeking imposition of penalty.

3. Heard the parties.

3.1 The Respondent’s contentions are as under:

i. Despite all its intentions to comply with the said regulations, they could not do so due to non-viable market condition and huge cash crunch. The shortage of funds did not permit purchase of RECs to meet the RPO obligation of the subsequent years also, as this would have led to further financial difficulties.

ii. Ministry of Power in its Order and its subsequent clarification dated 01.02.2019 and 01.10.2019 has pegged the RPO of the CGP’s commissioned before 01.04.2016 to the RPO levels for the year 2015-16. Respondent’s plant has been commissioned in 2006, by virtue of which the RPO obligation for the respondents for the years under consideration and for further years should be pegged at 6.25% for Non Solar and 1% for Solar, which is RPO specified for the year 2015-16 in RPO-REC Regulations 2013. If the obligation is calculated as per the directions of the MOP at the pegged percentage, the combined generation from cogeneration and solar will be in excess of its RPO obligation and, hence, the respondent will qualify as a non obligated entity.

iii. High temperature waste flue gases from the plant, which was otherwise being released in the atmosphere, is being used for pre-heating boiler feed water for power generation since May 2016. This system of using waste heat is already considered as Cogeneration and as per the RPO-REC Regulations, cogeneration plants are exempted from RPO. Since, power generation from the cogeneration plant is more than RPO for the year under consideration, it should be declared as non-obligated entity for the year as per the regulations.

The petitioner has submitted that this process may be examined by the Commission and, if found in order, exempt the respondent from RPO.

6. Commission's View

Heard the parties. The commission has already examined similar matter in detail, wherein same process was deliberated, and issued a reasoned order dated 23.03.2021 in P No. 40 of 2019 in the matter related to non-compliance of RPO for the year 2016-17 and 2017-18 by M/s Hira Perro Alloys Ltd. Relevant para of the order is reproduced below:(emphasis added)

"In the instant case, there are two basic source of energy in the entire process i.e. electricity in Arc furnaces and fossil fuel (i.e., coal) in AFBC boiler for power generation. Instant case neither qualifies as topping cycle of cogeneration nor bottoming cycle of cogeneration. In this case, a very small portion of waste heat from the electrical arc furnaces is utilized to pre-heat the boiler feed water before de-areator. <u>Therefore, this process does not qualify as cogeneration and hence, no exemption in compliance of RPO as per provisions in RPO-REC Regulations 2016 is allowed</u>.

As regards submission of respondent regarding Ministry of Power order and its subsequent clarifications dated 01.02.2019 and 01.10.2019 related to pegging the RPO of the CGP's commissioned before 01.04.2016 to the RPO level for the year 2015-16, the Commission has already notified amendments in the regulations in this regard."

In light of the aforesaid, we are of the opinion that the said process does not qualify as cogeneration and hence, no exemption in compliance of RPO, as per provisions in RPO-REC Regulations 2016, is allowed. Accordingly, RPO shall be applicable for FY 2016-17, FY 2017-18 and FY

2018-19 in respect of respondent. The respondent is, therefore, directed to fulfil RPO for these years within six months from date of issuance of this order.

The petition is disposed accordingly.

Sd/-	Sd/-	Sd/-
(Vinod Deshmukh)	**(Arun Kumar Sharma)**	**(D S Misra)**
Member-Judicial	**Member**	**Chairman**