

# Tata Power Solar Systems Limited vs Union Of India & Ors on 25 January, 2023

**Author: Vibhu Bakhru**

**Bench: Vibhu Bakhru**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 15783/2022

TATA POWER SOLAR SYSTEMS LIMITED

..... Petitioner

Through: Mr. Abhishek Manu  
Singhvi (through V.C), Sr.  
Adv., Mr. Sandeep Sethi,  
Sr. Adv. with Mr.  
Venkatesh, Mr. Jatin  
Ghuliani, Mr. Mohit, Adv.

versus

UNION OF INDIA & ORS.

..... Respondent

Through:

Mr. Asheesh Jain, CGSC  
with Mr. Gaurav Kumar,  
Adv. & Mr. Vedansh  
Anand, Govt. Pleader for  
R-1.  
Mr. Harpreet Singh, Sr.  
Standing Counsel with M  
Samiksha God  
Standing Counsel for R-  
& 3 with Mr. Arunesh  
Sharma, Adv.  
Ms. Sonu Bhatnagar, Sr.  
Standing Counsel with M  
Anushree Narain, Standi  
Counsel, Mr. V  
Mehrotra and Ms. Nishth  
Mittal, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% 25.01.2023

1. The petitioner has filed the present application, inter-alia, praying as under:

"(a) Pass an order directing Respondent No.3 to permit the Applicant to clear the Solar PV Modules Signing Date:31.01.2023 11:30:00 as and when the same are delivered at the Pipavav Port by paying the concessional rate of custom duty for the 60 MW Mehsanka Project at Village Mehsanka, District Bhavnagar, Gujarat being set up by the Applicant and;

(b) Pass such other order(s)/direction(s) as deemed fit and proper in the facts and circumstances of the case."

2. Learned Senior Counsel appearing for the petitioner submit that in a similar matter - W.P.(C) 17116/2022 captioned as M/s. Renew Hans Urja Private Limited vs. Central Board of Indirect Taxes and Customs & Ors. - this Court has passed an interim order dated 15.12.2022 directing that no precipitate action be taken against the petitioner at the stage of import, but the same would not create any equity in favour of the petitioner. It is prayed that a similar order be passed in this case as well, which would entitle the petitioner to clear goods for a Solar Power Project at a concessional duty of 5%.

3. The question whether the petitioner's case is identical to the case of M/s. Renew Hans Urja Private Limited is seriously contested.

4. Mr. Singh, learned counsel appearing for the respondent No. 1 & 3 submits that, in that case the project was a registered project, while in the instant case, the registration of the project has been denied.

5. He also submits that registration of the project may not be of much relevance in the final disposal of the case but in any event, the grounds on which the interim order was granted in W.P.(C) 17116/2022 is not available to the petitioner in this case.

6. This court is of the view, that it would not be apposite to grant any order of directing clearance of goods on a concessional rate of duty which is seriously contested by the department. However, it is clarified that, in the event, the petitioner prevails in the present writ petition, the respondent would be obliged to refund the additional customs duty forthwith.

7. The application is dismissed with the aforesaid observations.

W.P.(C) 15783/2022 & CM APPL. 49098/2022, 2466/2023.

8. The learned counsel for the petitioner seek further time to file a rejoinder.

9. Let the rejoinder, if any, be filed within a period of two weeks from today.

10. List for hearing on 14.03.2023.

VIBHU BAKHRU, J AMIT MAHAJAN, J JANUARY 25, 2023 "SK"