



नई दिल्ली  
NEW DELHI

याचिका संख्या. /Petition No.: 129/MP/2018

कोरम/Coram:

श्री पी. के. पुजारी, अध्यक्ष/Shri P. K. Pujari, Chairperson  
डॉ. एम. के. अय्यर, सदस्य/ Dr. M.K. Iyer, Member

आदेश दिनांक /Date of Order: 11<sup>th</sup> of February, 2019

**IN THE MATTER OF:**

Petition under sections 66, 79 and other applicable provisions of The Electricity Act, 2003 read with The Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010.

**AND**

**IN THE MATTER:**

M/s Shalimar Visuals Private Limited  
39, Juhu Beach  
Mumbai - 400049  
Maharashtra

**...Petitioner**

VERSUS

National Load Despatch Centre  
Power System Operation Corporation Limited  
B-9, Qutab Institutional Area, Katwaria Sarai,  
New Delhi – 110016

Maharashtra Energy Development Agency  
2<sup>nd</sup> Floor, Mhada Commercial Complex,  
Yerwada, Pune – 411006

...Respondents

**Parties Present:** Shri Anand K.Ganesan, Advocate, SVPL  
Ms. Neha Garg, Advocate, SVPL  
Shri Ankure Singh, Advocate NLDC

**आदेश/ ORDER**

1. The Petitioner, M/s Shalimar Visuals Private Limited owns and operates a 1 MW of wind generation capacity in the State of Maharashtra.
2. The Respondent No. 1 is National Load Despatch Centre (hereinafter also referred as “NLDC”) is designated as Central Agency as per notification dated 29.01.2010 under Regulation 3(1) of the Central Electricity Regulatory Commission (Terms And Conditions For Recognition and Issuance of Renewable Energy Certificate For Renewable Energy Generation) Regulations, 2010 (hereinafter called the “REC Regulations”).
3. The Respondent No.2, Maharashtra Energy Development Agency (hereinafter referred to as “MEDA”) is the distribution company of the state of Maharashtra.
4. The Petitioner has made the following prayers:

(a) Admit the petition;

- (b) Hold that the Petitioner is entitled to revalidation of accreditation of the Petitioner's projects with effect from 08.07.2016 and revalidation of registration with effect from 20.07.2016 under the REC Regulations and the procedures laid down thereunder;
- (c) Condone the procedural delay if any of the Petitioner in the process for reaccreditation and re-validation;
- (d) Direct the Respondent to take necessary action for revalidation of accreditation of the Petitioner's projects with effect from 08.07.2016 and revalidation of registration with effect from 20.07.2016 under the REC Regulations and the procedures laid down thereunder;
- (e) Direct the Respondents to issue RECs corresponding to the generation of electricity by the Petitioner for the period from July- 2016 onwards;
- (f) Pass such other further order(s) as the Commission may deem just in the facts and circumstances of the present case.

**Interim Prayer:**

- (a) Not construe the Petitioner's request made in the email dated 23.03.2018 to MEDA, to come in the way of its claim for appropriate directions for the past period.
- (b) Pass such further order(s) as the Commission may deem fit & proper.

**Brief facts of the case:**

- 5. On 30.03.2002, the Wind Energy Generator (hereinafter referred to as "WEG") of 1 MW was commissioned.
- 6. On 08.07.2011, the Petitioner got its WEG accredited through Respondent No.2 as an eligible Entity under the provisions of the REC Regulations for issuance of REC.
- 7. On 20.07.2011, the Petitioner got its WEG registered with Respondent No.1. and in terms of the registration under the REC mechanism and has been receiving the REC for the electricity generated from the WEG.

8. On 15.06.2016, i.e. about a month before the expiry of its REC accreditation and registration, the Petitioner applied for the re-validation of the same but was rendered incapable of doing the same since the application window of the website crashed.
9. On 15.06.2016, the Petitioner immediately informed Respondent No.2 and sent all the requisite documents with respect to re-validation of accreditation.
10. On 09.09.2016, the Petitioner sent an email to the Respondent No. 1 informing them of the technical error and that the re-accreditation link had expired and requested for the reactivation of the said link, so that the Petitioner could apply for re-accreditation and re-registration.
11. The Petitioner also requested MEDA to re-open the application window, so that the Petitioner could complete the application so as to avoid the expiry of the REC accreditation. However, there was no response by MEDA to the requests of the Petitioner.
12. On 20.03.2017 & 29.03.2017, the Petitioner submitted an application for re-validation of REC accreditation along with all the requisite documents, to MEDA and requested for the issue of re-accreditation certificate.
13. On 20.05.2017, the Respondent No. 2 conducted Joint Inspection and it was confirmed that the Petitioner had submitted all requisite documents and information for the purpose of reaccreditation.
14. On 14.06.2017, the WEG was re-accredited for RECs which is valid until 13.06.2022.
15. On 24.08.2017, the Petitioner requested the Respondent No.1 to consider its application for re-registration which had previously been denied.
16. The Respondent No.1 did not consider the request of the Petitioner. Hence the Petition.

### **Submissions of the Petitioner**

17. The Petitioner has submitted that amongst other businesses, it owns and operates a 1 MW of wind generation capacity in the State of Maharashtra which was commissioned for operation

on 30.03.2002. The WEG was accredited and registered as an Eligible Entity under the provisions of the REC Regulations for issuance of RECs. The accreditation was granted by the Respondent No. 2 vide certificate dated 08.07.2011 which was valid until 07.07.2016. The WEG was granted registration vide certificate dated 20.07.2011 and was valid until 19.07.2016. The Petitioner has been receiving the RECs for the electricity generated from the WEG.

18. The Petitioner has submitted that on 15.06.2016 (which is about a month before the expiry of its REC accreditation and registration), it applied for the re-validation but the application window of the website crashed. It immediately informed Respondent No.2 of this difficulty, and sent all the requisite documents with respect to the compliances that were carried out for re-validation of accreditation by the Petitioner, vide letter dated 15.06.2016. It requested Respondent No.2 to re-open the application window, so that it could complete the application so as to avoid the expiry of the REC accreditation. However, Respondent No. 2 did not respond to the request of the Petitioner.
19. The Petitioner has submitted that thereafter, on 09.09.2016, it sent an email to the Respondent No. 1 informing them of the above-mentioned technical error and that the re-accreditation link had expired. It requested for the reactivation of the said link, so that it could apply for re-accreditation and re-registration.
20. The Petitioner has submitted that when there was no response by Respondents it submitted an application for re-validation of REC accreditation along with all the requisite documents, to Respondent No.2 and requested for the issue of re-accreditation certificate. Respondent no.2 conducted Joint Inspection and confirmed that the Petitioner had submitted all requisite documents and information for the purpose of reaccreditation. Accordingly, the Respondent No.2 issued REC re-accreditation on 14.06.2017, which is valid until 13.06.2022.
21. The Petitioner has submitted that on 24.08.2017, it sent an email to Respondent No.1 and informed about the delay caused in the accreditation application due to the technical error that had occurred while the Petitioner was applying for re-validation. It also informed the Respondents that it had previously requested Respondent No. 1 to reopen the application window for re-validation, and once the same was opened, re-accreditation was granted to the

Petitioner by Respondent No.2. However, the Respondent No. 1 did not consider the application of the Petitioner as there has been no communication to it from the Respondent No.1.

22. The Petitioner has submitted that the whole process of communications, and waiting for a response led to the loss of a considerable amount of time by the Petitioner. On 14.03.2018, it received a communication from Respondent No.2 which said that its project was previously re-accredited by Respondent No.2, and that another application for the same could not be considered. The Respondent No.2 suggested the Petitioner to cancel its old re-accreditation and place a fresh application for the same. It informed MEDA that it was in the process of filing the Petition before the Commission, and requested Respondent No.2 to not to take any coercive steps in the meanwhile.
23. The Petitioner submitted that since the high wind season starts from the month of April, it sent another email dated 23.03.2018 to Respondent No. 2 requesting Respondent No.2 to cancel its re-accreditation, without prejudice to its rights and contentions in the present Petition regarding the accreditation and REC entitlement for past period. It further informed Respondent No.2 that it was filing a fresh application for accreditation after which it would approach Respondent No. 1 for fresh registration of the same. The above approach is only to safeguard the Petitioner's interests for the future without prejudice to its rights and contentions.
24. The Petitioner has submitted that despite adhering to all compliances, its requests have been rejected by Respondent No. 1 without any reasons or justification. The delay caused in this regard is because of a technical error which cannot possibly be attributed to it. The non-revalidation of the accreditation prior to its expiry was because of a technical glitch which was not under its control. It took all further reasonable steps as it could take in the matter.
25. The Petitioner submitted that the revalidation of the accreditation and registration process is only a procedural requirement and procedural compliances are to be undertaken for such revalidation. There are no other substantial conditions to be fulfilled. In the circumstances, it is stated that the non-revalidation prior to expiry of the accreditation ought not to prejudice the Petitioner with regard to the substantive rights and that too for the life of the projects.

26. The Petitioner submitted that the Commission as well as the Appellate Tribunal in various decisions have reiterated that the primary objective of the Electricity Act, 2003 is promoting and facilitating renewable energy generation in the country. This is the substantive goal to be achieved. The formalities of accreditation and registration cannot distract from the substantive provisions of the REC Regulations which is that those renewable energy generators who do forego the beneficial incentives and sell its power as brown power, should get compensated for the green component of the power by way of RECs. The Petitioner has placed its reliance on the Order dated 02/03/2017 by the Commission in case titled *M/s Nu Power Renewables Private Limited & Anr v. National Load Despatch Centre & Anr*; Order dated 09.11.2017 in Petition No. 141/MP/2017 in case titled *M/s Rai Bahadur Seth Shree ram Narasingdas Pvt. Ltd. vs. National Load Despatch Centre (NLDC) & Ors.* and the judgment dated 28/11/2014 in Appeal No. 156 of 2013 and 248 of 2013 by the Hon'ble Appellate Tribunal in *M/s Simran Wind Power Private Ltd. & Ors. v Central Electricity Regulatory Commission & Anr.*
27. The Petitioner has submitted that it is incorrect on the part of NLDC to read an absolute prohibition into the procedures laid down under the REC Regulations that there can be no re-validation of the accreditation after the expiry. Reading such an absolute prohibition would not only be contrary to the provisions of the Procedure laid down, but also contrary to the very objective sought to be achieved.
28. The Petitioner has submitted that it would be extremely unjust and unfair to deny the benefits of RECs to the power project for the life of the power project for the only reason that the revalidation of the accreditation was delayed. To impose this condition would be contrary to the basic scheme, objective and rational of the Electricity Act, 2003 and the REC Regulations framed and notified thereunder.
29. The Petitioner has submitted that procedural law and procedural aspects are meant to be subservient to the substantive law and cannot take away the rights of the parties under the substantive law. The Petitioner has placed its reliance on the decision of the Hon'ble Supreme Court in the case of *Saiyad Mohammad baker El-Edross v Abdulhabib Hasan Arab (1998) 4 SCC 343.*

30. The Petitioner has submitted that the power to revalidate the accreditation is granted to the MEDA. The power is being granted without any express prohibition that it cannot be exercised after the expiry of the accreditation. The refusal to grant re-validation of the accreditation upon expiry of the accreditation and as a consequence the expiry of the registration of the Petitioner under the REC mechanism is erroneous.
31. The Petitioner has submitted that the dispute which has arisen needs to be decided by the Commission in exercise of its powers under Section 79 (1) (f) of the Electricity Act, 2003 read with Regulations 14 & 15 of the REC Regulations, which read as under:-

***“14. Power to give directions:***

*The Commission may from time to time issue such directions and orders as considered appropriate for the implementation of these regulations and for the development of market in power for Renewable Energy Sources.*

***15. Power to Relax:***

*The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected may relax any of the provisions of these regulations on its own motion or on an application made before it by an interested person.”*

32. The Petitioner has submitted that it has paid the requisite court fees for filing the present petition and the present petition is within the jurisdiction of the Commission under Section 66, Section 79 read with the provisions of the REC Regulations.

**Submissions of the Respondent**

33. The Respondent has submitted that the present petition is devoid of merit as the Petitioner itself has failed to take necessary actions within the stipulated time for re-validation of accreditation and re-validation of registration of the subject project. The non-issuance of RECs for the period from July 2016 onwards is also due to the default of the Petitioner itself. The Petitioner has failed to revalidate its accreditation/ registration before the expiration of the same, and thus defaulted in complying with a mandatory requirement under the REC



Regulations and procedures as amended/ revised/ modified by this Commission from time to time.

34. The Respondent has submitted that the present petition involves adjudication upon a short issue i.e. whether the Petitioner is entitled to revalidation of accreditation and registration of its project after the same has expired and thereafter whether REC can be issued to it for the defaulting period.
35. The Respondent has submitted that in exercise of powers conferred under sub-section (1) of Section 178 and Section 66 read with clause (y) of sub-section 2 of Section 178 of the Electricity Act, 2003 the Commission, brought into force the REC Regulations. Subsequently, the Commission issued a notification dated 29.01.2010, and designated the Respondent as the 'Central Agency' under Regulation 3(1) of the REC Regulations.
36. The Respondent has submitted that it is obligated under Regulation 3(3) of the REC Regulations, to issue detailed procedures with regards to registration, accreditation and issuance of REC certificates, to eligible entities which in turn is approved by the Commission before coming into force.
37. The Respondent has submitted that neither the REC Regulations nor the aforesaid procedure vests any discretionary power on the answering Respondent to relax, extend or condone the delay insofar as the compliance with any of the provisions contained *therein* are concerned. On the other hand, the language of the REC Regulations and the REC Issuance Procedure makes it abundantly clear that the provisions contained *therein* are mandatory in nature and entail strict compliance on the part of an eligible entity as well as the 'Central Agency' i.e. Respondent.
38. The Respondent has submitted that Para 4.1(i) of the *Model Guidelines For Accreditation of a Renewable Energy Generation Project or Distribution Licensee, as the case may be Under REC Mechanism*, stipulates that:

*“The Generating Company or Distribution Licensee, as the case may be, shall apply through REC web application for revalidation or extension of validity of existing accreditation at least three months in advance prior to expiry of existing Accreditation.”*

39. The Respondent has submitted that an eligible entity is obligated to apply for revalidation of existing accreditation at least three months in advance prior to expiry of existing accreditation. Even the Petitioner has admitted in its Petition that it applied for the revalidation of its accreditation and registration of its project only about a month before the expiry of the same. Therefore, the Petitioner has already admitted that it is in default of its obligations under the Regulations. The argument of the Petitioner that it was rendered incapable of doing the same since the application window of the website crashed, apart from being inconsequential, is also without merit. The Petitioner has not supported its claim with any evidence which may point towards the validity of such a technical glitch. The Petitioner is therefore put to strict proof thereof. The link for re-validation for accreditation/ registration of a project automatically expires after the due date to re-validate the same has expired. Also, the argument of the Petitioner of there being a “technical glitch” is denied since numerous other projects applied for accreditation or re-validation of its project during the same period as the Petitioner herein. This clearly indicates that the website was functioning without any glitches during the relevant period. The Respondent has submitted a list containing details of accreditation and re-validation of accreditation during the period from 01.06.2016 to 31.07.2016.
40. The Respondent has submitted that Para 4.1(f) of the *‘Procedure for Registration of a Renewable Energy Generator or Distribution Licensee, as the case may be by Central Agency’ stipulates* as follows :

*“The generating company or Distribution Licensee, as the case may be, shall apply for revalidation or extension of validity of existing Registration at least three months in advance prior to expiry of existing Registration.*

*In case, RE generator has submitted online application for revalidation of Accreditation to State Agency before expiry of the Accreditation Certificate, and during the process of approval by State Agency, Registration Certificate is expired, in such cases, Central Agency will accept the application for revalidation of Registration. Subsequent to re-validation of Registration, the concerned RE Generator will continue to receive RECs without considering any gap in the process of re-validation of Accreditation/Registration*

*Further, Central Agency will reject the application of those RE generators who have not initiated the process of Accreditation/Registration before expiry of the*

*Accreditation Certificate.”*

41. The Respondent has submitted that in view of the above the Respondent is bound to reject the application of those RE generators (as the Petitioner in the present case) who have not initiated the process of accreditation / registration before the expiry of their accreditation certificate.

42. The Respondent has submitted that relevant provisions of *Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency* are extracted below:-

3. **STEP-WISE DESCRIPTION OF THE PROCEDURE**

3.1. *Step-1: An application for issuance of Renewable Energy Certificate shall be made by the Eligible Entity to the Central Agency. The eligible entity shall apply for Issuance of REC on the Web Based Application as per the details given in the Energy Injection Report (EIR issued by the SLDC / Recommendation of SERC for issuance of RECs) and shall also submit the same information in physical form with the Central Agency. The online application shall be acceptable by the Central Agency only if complete in all respect. The physical application for issuance of certificate shall include (i) Energy Injection Report (EIR) for RE projects /Recommendation of SERC for issuance of RECs for distribution licensee, and shall be made in the specified format (FORMAT-3.1: “Application for Issuance of Renewable Energy Certificates to the Eligible Entities”/FORMAT-3.1.1 for distribution licensee) (ii) Print out of online application duly signed and stamped by Authorized Signatory (iii) Commissioning Certificate for RE Generator, only for issuance for the first month after registration. The application shall be accompanied with the details of payment of the applicable fee & charges towards issuance of certificates as determined by CERC from time to time. While making application for issuance of RECs, the Applicant (Eligible Entity) shall quote the unique Registration Number assigned to it by Central Agency at the time of registration.*

...  
3.2. *Step - 2: After receipt of physical application for issuance of renewable energy certificates from the Eligible Entity, the Central Agency shall undertake a preliminary scrutiny within 6 working days to ensure that the Application Form is complete in all respect along with necessary documents and applicable fees and charges. As part of preliminary scrutiny, the Central Agency shall satisfy that the following conditions are fulfilled by the RE generators or distribution licensee, as the case may be: a) The application is made in the format specified by the Central Agency from time to time. b) The status of Accreditation of the Eligible Entity with the State Agency has not expired. The status of Registration of the Eligible Entity with the Central Agency has not expired. c) The duly certified EIR/ Recommendation of SERC for issuance of RECs is attached for the same period for which application is made towards issuance of Renewable Energy Certificate by the Eligible*

*Entity. d) The application is accompanied with fees & charges.  
... ”*

43. The Respondent has submitted that Regulation 7(2) of the *Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010* stipulates as under: -

*“7. Denomination and Issuance of Certificates  
(2) The Certificates shall be issued to the eligible entity after the Central Agency duly satisfies itself that all the conditions for issuance of Certificates, as may be stipulated in the detailed procedure, are complied with by the eligible entity.”*

44. The Respondent has submitted that the aforesaid Regulation read with the procedures stipulate a scheme whereby the eligible entity is obligated to follow the steps in the procedures therein and only once the Central Agency is satisfied that the eligible entity has duly complied with the conditions, can it issue the certificates. In the present case, the Petitioner has itself admitted the fact that it did not undertake revalidation of its project within the time period specified in the procedures. Therefore, the Respondent is within its powers to refuse its request at a later stage and hence not liable to issue RECs for the defaulting period. The Respondent has placed its reliance on the judgement of the full bench of the Hon'ble Supreme Court in *Ramchandra Keshav Adke v. Govind Joti Chavare*, (1975) 1 SCC 559 which acknowledges the age old fundamental principle of law i.e., when a statute provides for a thing to be done in a particular manner it must be done in that way or not at all.

45. The Respondent has submitted that as the Petitioner did not undertake to revalidate its accreditation/registration within the mandated period, the Respondent having no discretionary power or authority under the REC Regulations or the detailed procedures cannot process their applications at a later stage. The Petitioner has categorically admitted that there was a delay on its part in revalidating its project. Therefore, the Petitioner ought not be allowed to take advantage of its own wrong and hence the petition should be dismissed.

#### **Submissions of the Petitioner by the way of Rejoinder**

46. The Petitioner has reiterated the facts stated in the Petition. Therefore the same are not being reproduced here for the sake of brevity. Additionally, the Petitioner has submitted that

Respondent has wrongly alleged that the Petitioner has admitted that it is in default of the REC Regulations. It is important to note that the REC Regulations do not stipulate the time period of 3 months for applying for re-validation of accreditation and registration. The Model Guidelines do not specify that in the event the application for revalidation is not made at least 3 months prior to expiry, the party will not be eligible to get the re-accreditation or re-validation. The Respondent processes several cases even if the 3 months timeline is not adhered to.

47. The Petitioner has submitted that NLDC has relied on the provision of the Model Guidelines regarding the application of RE Generators who have not initiated the process of accreditation/ registration before expiry. However, the same cannot be made applicable to the Petitioner since the Petitioner had initiated the process of application prior to the expiry date. Various communications sent by the Petitioner to MEDA and NLDC are proof of the fact that the Petitioner had initiated the process of application prior to the expiry date. Neither NLDC nor MEDA have responded to the various communications sent by the Petitioner.
48. The Petitioner has submitted that the REC Regulations do not provide for any mandatory procedure to be followed. It is the duty of courts of justice to try to get at the real intention of the legislature by carefully attending to the whole scope. The substantive provisions of the REC Regulations cannot be defeated by procedural delays and must be interpreted with the general object to be secured. Such intention is to be ascertained upon a review of the language, subject-matter and importance of the provision in relation to the general object intended to be secured, the mischief, if any, to be prevented and the remedy to be promoted by the Act. The Petitioner has placed its reliance on the judgment of the Hon'ble Supreme Court in the case of *Ramchandra Keshav Adke v Govind Joti Chavare* (1975) 1 SCC 559.

**Analysis and Decision:**

49. We have heard the learned counsels for the Petitioners and the Respondents and have carefully perused the records.
50. The brief facts of the case are that the Petitioner owns and operates a 1 MW of wind generation capacity in the State of Maharashtra which was commissioned for operation on

30.03.2002. The WEG was accredited and registered as an Eligible Entity under the provisions of the REC Regulations for issuance of REC. The accreditation was granted by the Respondent No. 2 vide certificate dated 08.07.2011 which was valid until 07.07.2016. The WEG was granted registration vide certificate dated 20.07.2011 and was valid until 19.07.2016. The Petitioner has been receiving the REC for the electricity generated from the WEG. On 15.06.2016 (which is about a month before the expiry of its REC accreditation and registration), it applied for re-validation. However, as per the Petitioner the application window of the website crashed. It immediately informed Respondent No.2 (MEDA) of this difficulty, and sent all the requisite documents with respect to the compliances that were carried out for re-validation of accreditation. The Petitioner requested Respondent No. 2 to re-open the application window, so that it could complete the application so as to avoid the expiry of the REC accreditation. However, Respondent No. 2 did not respond to the request of the Petitioner. Thereafter, on 09.09.2016, it sent an email to the Respondent No. 1 (NLDC) informing them of the above-mentioned technical error and that the re-accreditation link had expired. When there was no response by Respondents, the Petitioner submitted an application for re-validation of REC accreditation along with all the requisite documents, to Respondent No.2 and requested for the issue of re-accreditation certificate. Respondent No. 2 conducted Joint Inspection and confirmed that the Petitioner had submitted all requisite documents and information for the purpose of reaccreditation. The Respondent No. 2 issued REC re-accreditation on 14.06.2017, which is valid until 13.06.2022. On 24.08.2017 the Petitioner sent an email to Respondent No.1 apprising them about facts of the case. However, the Respondent No. 1 did not consider the application of the Petitioner. On 14.03.2018, the Petitioner received a communication from Respondent No. 2 which stated that its project was previously re-accredited by Respondent No. 2, and that another application for the same could not be considered. The Respondent No. 2 suggested to the Petitioner that it may get its old re-accreditation cancelled and place a fresh application for the same. Since the high wind season starts from the month of April, the Petitioner sent another email dated 23.03.2018 to Respondent No. 2 with the request to cancel its re-accreditation, without prejudice to its rights and contentions. The Petitioner further informed MEDA that it was filing a fresh application for accreditation after which it would approach NLDC for fresh registration of the same. The Petitioner has submitted that despite adhering to all compliances, its requests have been rejected by Respondent No. 1 without any reason or justification. The delay caused in

this regard was because of a technical error which cannot possibly be attributed to it. The non-revalidation of the accreditation prior to its expiry was because of a technical glitch which was not under its control.

51. Per contra, the Respondent No. 1 (NLDC) has submitted that the present petition is devoid of merit as the Petitioner itself has failed to take necessary actions within the stipulated time for re-validation of accreditation and re-validation of registration of the subject project. The non-issuance of RECs for the period from July 2016 onwards is also due to the default of the Petitioner itself. The Petitioner has failed to revalidate its accreditation/ registration before the expiration of the same, and thus defaulted in complying with a mandatory requirement under the REC Regulations and procedures as amended/ revised/ modified by the Commission from time to time.
52. From the submissions of the parties, the following issues arise before this Commission:
53. *Issue No 1: Whether the procedural delay in the revalidation by the Petitioner should be condoned and Whether the Petitioner is entitled to revalidation of accreditation of the project w.e.f. 08.07.2016 and revalidation of registration of its project w.e.f. 20.07.2016 after the validation period has expired? and*
54. *Issue No. 2: Whether Respondents be directed to issue the RECs to the Petitioner from July 2016 onwards?*
55. No other issues were pressed or claimed.
56. We discuss the issues one by one:
57. *Issue No 1: Whether the procedural delay in the revalidation by the Petitioner should be condoned and Whether the Petitioner is entitled to revalidation of accreditation of the project w.e.f. 08.07.2016 and revalidation of registration of its project w.e.f. 20.07.2016 after the validation period has expired?*

58. The Petitioner has submitted that it owns and operates a 1 MW wind generation capacity which stands accredited and registered as an Eligible Entity under the provisions of the REC Regulations. The accreditation was valid until 07.07.2016 and the registration was valid until 19.07.2016. About a month before the expiry of its REC accreditation and registration, it applied for the re-validation. However, the application window of the website crashed. The Petitioner immediately informed Respondent No.2 (MEDA) and sent all the requisite documents with respect to the compliances for revalidation for accreditation and registration with the request that they should be given the benefit of RECs from July 2016 onwards. Per Contra, the Respondent No. 1 has submitted that the Petitioner itself has failed to take necessary action within the stipulated time for re-validation of accreditation and re-validation of registration of the subject project and hence the Petition may be rejected.

59. The Commission observes that Para 4.1(i) of the *Model Guidelines For Accreditation of a Renewable Energy Generation Project or Distribution Licensee*, as the case may be under REC Mechanism, stipulates that :

*“The Generating Company or Distribution Licensee, as the case may be, shall apply through REC web application for revalidation or extension of validity of existing accreditation at least three months in advance prior to expiry of existing Accreditation.”*

60. Para 4.1(f) of the *‘Procedure for Registration of a Renewable Energy Generator or Distribution Licensee, as the case may be by Central Agency’* reads as follows :

*“The generating company or Distribution Licensee, as the case may be, shall apply for revalidation or extension of validity of existing Registration at least three months in advance prior to expiry of existing Registration.*

*In case, RE generator has submitted online application for revalidation of Accreditation to State Agency before expiry of the Accreditation Certificate, and during the process of approval by State Agency, Registration Certificate is expired, in such cases, Central Agency will accept the application for revalidation of Registration. Subsequent to re-validation of Registration, the concerned RE Generator will continue to receive RECs without considering any gap in the process of re-validation of Accreditation/Registration*

*Further, Central Agency will reject the application of those RE generators who have not initiated the process of Accreditation/Registration before expiry of the Accreditation Certificate.”*



61. Relevant Provisions of *Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency* are extracted below: -

### **3. STEP-WISE DESCRIPTION OF THE PROCEDURE**

**3.1. Step-1:** *An application for issuance of Renewable Energy Certificate shall be made by the Eligible Entity to the Central Agency. The eligible entity shall apply for Issuance of REC on the Web Based Application as per the details given in the Energy Injection Report (EIR issued by the SLDC / Recommendation of SERC for issuance of RECs) and shall also submit the same information in physical form with the Central Agency. The online application shall be acceptable by the Central Agency only if complete in all respect. The physical application for issuance of certificate shall include (i) Energy Injection Report (EIR) for RE projects /Recommendation of SERC for issuance of RECs for distribution licensee, and shall be made in the specified format (FORMAT-3.1: “Application for Issuance of Renewable Energy Certificates to the Eligible Entities”/FORMAT-3.1.1 for distribution licensee) (ii) Print out of online application duly signed and stamped by Authorized Signatory (iii) Commissioning Certificate for RE Generator, only for issuance for the first month after registration. The application shall be accompanied with the details of payment of the applicable fee & charges towards issuance of certificates as determined by CERC from time to time. While making application for issuance of RECs, the Applicant (Eligible Entity) shall quote the unique Registration Number assigned to it by Central Agency at the time of registration.*

...

**3.2. Step - 2:** *After receipt of physical application for issuance of renewable energy certificates from the Eligible Entity, the Central Agency shall undertake a preliminary scrutiny within 6 working days to ensure that the Application Form is complete in all respect along with necessary documents and applicable fees and charges. As part of preliminary scrutiny, the Central Agency shall satisfy that the following conditions are fulfilled by the RE generators or distribution licensee, as the case may be: a) The application is made in the format specified by the Central Agency from time to time. b) The status of Accreditation of the Eligible Entity with the State Agency has not expired. The status of Registration of the Eligible Entity with the Central Agency has not expired. c) The duly certified EIR/ Recommendation of SERC for issuance of RECs is attached for the same period for which application is made towards issuance of Renewable Energy Certificate by the Eligible Entity. d) The application is accompanied with fees & charges.*

...”

62. Regulation 7(2) of the *Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010* provides as follows:

**“7. Denomination and Issuance of Certificates**

...  
(2) *The Certificates shall be issued to the eligible entity after the Central Agency duly satisfies itself that all the conditions for issuance of Certificates, as may be stipulated in the detailed procedure, are complied with by the eligible entity.”*

63. Clause 2.1 of the ‘Detailed Procedure’ provides as under:

*This procedure shall be applicable to RE projects, who have received “Certificate of Registration” from the Central Agency, and shall be eligible to avail Renewable Energy Certificates from the date of commercial operation or from the 00:00 hrs of next day of Registration date of such plant by the Central Agency whichever is later.*

From the above, the Commission observes that the eligible entity shall apply through REC web application for revalidation or extension of validity of existing accreditation at least three months in advance and prior to expiry of existing Accreditation. In case RE generator has submitted online application before expiry of the Accreditation Certificate and during the process of approval by State Agency, Registration Certificate gets expired, in such cases, Central Agency will accept the application for revalidation of Registration. Subsequent to revalidation of Registration, the concerned RE Generator will continue to receive RECs without considering any gap in the process of re-validation of Accreditation/Registration. Further, the Central Agency will reject the application of those RE generators who have not initiated the process of Accreditation/Registration before expiry of the Accreditation Certificate. The Central Agency shall duly satisfy itself that all the conditions for issuance of Certificates as stipulated in the detailed procedure are complied with by the eligible entity and then the certificate shall be issued to the eligible entity. The entity shall be eligible to avail Renewable Energy Certificates from the date of commercial operation or from the 00:00 hrs. of next day of Registration date of such plant by the Central Agency whichever is later.

64. The Commission observes that in the instant case, the Petitioner commissioned 1MW WTG on 30.03.2002 and under REC mechanism ‘Certificate of Accreditation’ bearing No.

MHONSSVWIN001A080711 was granted by the Respondent No. 2 on 08.07.2011 which was valid until 07.07.2016. The WEG was granted registration vide certificate dated 20.07.2011 and was valid until 19.07.2016. The Petitioner was receiving RECs for the electricity generated from the WEG. On 15.06.2016 (which is about a month before the expiry of its REC accreditation and registration) the Petitioner applied for the re-validation. However, the application window of the website is said to have crashed. The Petitioner immediately informed Respondent No.2 (Maharashtra Energy Development Agency-MEDA) of this difficulty, and sent all the requisite documents with respect to the compliances that were carried out for re-validation of accreditation. Respondent No.2 conducted Joint Inspection and it was confirmed that the Petitioner had submitted all requisite documents and information for the purpose of reaccreditation. Accordingly, the Respondent No.2 re-validated the Certificate of Accreditation No. MHONSSVWIN001A080711 on 14.06.2017 and extended the validity until 13.06.2022.

65. The Commission observes that the Petitioner applied through REC web application for revalidation or extension of validity of existing accreditation about one month in advance and prior to expiry of existing Accreditation. However, the application window of the website is said to have crashed. The Petitioner immediately informed Respondent No.2 about the difficulty to get the revalidation of accreditation due to computer glitch. Respondent No.2 not only confirmed the facts but also re-validated the Certificate of Accreditation No. MHONSSVWIN001A080711 on 14.06.2017, which is now valid until 13.06.2022. The Commission observes that it is an admitted fact that the Petitioner had not initiated the process of revalidation of reaccreditation of the project under REC mechanism three months in advance, as stipulated under Para 4.1(i) of the *Model Guidelines For Accreditation of a Renewable Energy Generation Project or Distribution Licensee*. However, the State agency i.e. Respondent No. 2 has already ratified the action of the Petitioner and issued re-validated Accreditation Certificate on 14.06.2017, which is now valid until 13.06.2022. Hence, in the circumstances explained above, the Commission feels necessary to condone the procedural delay by the Petitioner in applying for revalidation for accreditation. The Commission observes that as per the principle laid down for grant of RECs, if the Petitioner is engaged in generation of electricity from renewable energy sources then it shall be eligible for dealing in RECs if it sells the electricity generated to the distribution licensee of the area in which the

eligible entity is located, at the pooled cost of power purchase of such distribution licensee as determined by the Appropriate Commission. Further, the main objective of REC Regulations is to promote the generation of renewable energy and as there was generation of renewable energy for the period mentioned above, therefore, RECs need to be issued from July, 2016. Accordingly, we direct Respondents to process the case of the petitioner for grant of RECs w.e.f. 20.07.2016 onwards till the period the Petitioner received the accreditation/registration revalidated under REC mechanism as per REC Regulations. We also take note of the lack of diligent adherence to procedures by the petitioner and administer caution to the petitioner to be careful in future and comply with the provisions of the REC Regulations in letter and spirit. This Order should not become a precedent to be quoted in future in case of non-compliance of the provisions of the REC Regulations. It is pertinent to mention here that the view taken above is in consonance with the decision of the Commission given in Petition No. 308/MP/2015 in case of *M/s Nu Power Renewables Private Limited*, Petition No. 105/MP/2016 in case of *M/s Oudh Sugar Mills Ltd.* and in Petition No. 141/MP/2017 in case of *M/s Rai Bahadur Seth Shreeram Narsingdas Pvt. Ltd.*

***Issue No. 2: Whether Respondents be directed to issue the RECs to the Petitioner from July 2016 onwards?***

66. In the light of discussion held in Issue No. 1 above, the Commission holds that M/s Shalimar Visuals Private Limited (the Petitioner) is entitled to RECs from 20.07.2016 onwards as per terms and conditions of The Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 and the Respondents are directed accordingly.
67. Accordingly, the Petition No. 129/MP/2018 is disposed of.

**Sd/-  
डॉ एम के अय्यर  
सदस्य**

**Sd/-  
श्री पी के पुजारी  
अध्यक्ष**