BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR

Petition No. 1337 of 2013.

In the Matter of:

Adjudication of disputes under Power Purchase Agreement dated 30.4.2010 and Supplementary Power Purchase Agreements dated 27.10.2010 and 10.5.2011 between Solar Semiconductor Power Company (India) Private Limited (now Shivalakha Solar Energy Private Limited) and Gujarat Urja Vikas Nigam Limited under Section 86 (1) (f) of the Electricity Act, 2003.

Petitioner	:	Shivalakha Solar Energy Private Limited (Formerly known as Solar Semiconductor Power Company (India) Private Limited)
Represented By	:	Nobody was present.
		V/s.
Respondent	:	Gujarat Urja Vikas Nigam Limited
Represented by	:	Ld. Adv. Ms. Harsa V. Rao with Mr. Kalpesh Brahmbhat

CORAM:

Pankaj Joshi, Chairman
Hiren Shah, Member

Date: 31/07/2026.

ORDER

1. This Petition has been filed under Section 86 (1) (f) of the Electricity Act, 2003 by the Petitioner Shivalakha Solar Energy Private Limited (Formerly known as Solar Semiconductor Power Company (India) Private Limited), seeking *interalia* seeking following prayers:

    a) This Hon'ble Commission be pleased to hold and declare that the Respondent is bound to make payment for electricity supplied by the Petitioner to it on the basis of the tariff applicable to

megawatt scale solar photovoltaic projects not availing of accelerated under Order dated 27.01.2012 @ Rs. 11.25/kWh, and

b) *This Hon'ble Commission be pleased to quash and set aside the decision of the Respondent taken in letters dated 4.9.2012, 1.10.2012 and 4.7.2013 for denying the tariff applicable to megawatt scale solar photovoltaic projects not availing of accelerated depreciation, under Tariff Order dated 27.1.2012 and direct the Respondent to forthwith make payment of a sum of Rs. 41,065,524/- to the Petitioner being the differential amount due to the Petitioner as per Annexure – J, and*

c) *Pending hearing and final disposal of this Petition, this Hon'ble Commission be pleased to direct the Respondent to make payment of future invoices (June 2013 onwards) at Rs. 11.25 per kWh, by way of ad interim and/or interim relief and*

d) *Ex parte ad interim and/or interim relief in terms of prayer 18 (C) be granted, and*

e) *For cost,*

f) *Such other and further orders as may be fit and expedient in the facts of the present case be passed.*

2. We note that the present Petition has been filed by the Petitioner under Section 86 of the Electricity Act, 2003. The record of the present Petition reveals that the matter was listed by the Commission from time to time, however, there is repeated non-prosecution or adjournment sought by the Petitioner on one or other grounds. We also note that pursuant to the hearing held 07.05.2016, the Commission passed Daily Order dated 19.05.2016 wherein it is categorically recorded the submission of the Petitioner and the

Respondent that the Order dated 08.08.2013 passed by the Commission in Petition No. 1270 of 2013 was challenged by the Respondent before the Hon'ble APTEL by filing Appeal No. 252 of 2013 and that the Hon'ble APTEL upheld the Order of the Commission. The said Order of the Hon'ble APTEL was challenged by GUVNL before the Hon'ble Supreme Court by filing Civil Appeal No. 1220 of 2015 and the Hon'ble Supreme Court passed an Order dated 02.02.2016 in the aforesaid Civil Appeal and set aside the Order dated 08.08.2013 of the Commission as well as Order dated 24.11.2014 of the Hon'ble APTEL. In the said Daily Order, it was also recorded the submissions of the Petitioner's Advocate that a Review Petition has been filed against the judgement dated 02.02.2016 in Civil Appeal No. 1220 of 2015 in the EMCO matter before the Hon'ble Supreme Court of India, which is pending for decision. The Commission also noted that both the parties requested the Commission to adjourn the matter till the final decision in the said Review Petition filed against Order dated 02.02.2016 in Civil No. 1220 of 2015. Accordingly, the Commission had granted the adjournment and directed the parties to intimate about the status of the Review Petition as and when it is decided by the Hon'ble Supreme Court of India and also submit a copy of the order/judgement in the aforesaid review.

3. We also note that during the subsequent hearing on 25.11.2016, the counsel appearing for the Petitioner reiterated its submissions and contended that since the outcome of the Review Petition in the matter of M/s EMCO Limited against the judgment dated 02.02.2016 of the Hon'ble Supreme Court of India in Civil Appeal No. 1220 of 2015 would be relevant in the present Petition and since the said review Petition is pending before the Hon'ble Supreme Court, the Commission may adjourn the matter and that the Petitioner will intimate the Commission the status of the said Review Petition as and

when it is decided by the Hon'ble Supreme Court. Accordingly, after considering the submission of the Petitioner, the matter was adjourned and it was directed to both the parties to intimate the outcome of the said review Petition as and when decided by the Hon'ble Supreme Court of India along with a copy of Order/Judgment.

4. Thereafter, the matter was listed for hearing on 30.06.2026. During the hearing on 30.06.2026, the Petitioner was not present and the Commission passed the Daily Order dated 01.07.2026 wherein while recording the non-appearance of the Petitioner, has also recorded the request of the Respondent GUVNL that last opportunity of the hearing be provided to the Petitioner to clear its stand in pursuant to the Hon'ble Supreme Court's Judgement dated 02.02.2016 in the present matter. Considering the same, the Commission granted last opportunity of hearing to the Petitioner prior to deciding the matter and accordingly, adjourned the matter on account of non-appearance of the Petitioner with a direction to the Petitioner to remain present during the next date of hearing and also made clear that if the Petitioner does not remain present during the next date of hearing, the Commission will decide the matter based on the records of the present Petition and no further adjournment would be granted in the present matter.

5. We note that thereafter the matter was once again listed for hearing on 14.07.2026, wherein also nobody was present on behalf of the Petitioner although the hearing notice was issued to them. We also note that the Petitioner neither remained present during proceedings on 14.07.2026 nor made any written communication about their inability to remain present, despite being served the hearing notice to them. We also note that during earlier hearings in the present matter, the Petitioner has chosen not to remain present before the Commission and that the counsel appearing for the Respondent

GUVNL submitted that the present case of the Petitioner is squarely covered by EMCO' judgement of the Hon'ble Supreme Court and accordingly, requested that the Commission may dismiss the present Petition on the ground of non-prosecution by the Petitioner and the Petition being infructuous in light of EMCO' judgement of the Hon'ble Supreme Court.

6. We note that the Commission passed Order dated 08.08.2013 in Petition No. 1270 of 2012 filed by M/s EMCO Limited, which was also upheld by the Hon'ble APTEL vide its Judgement dated 20.11.2014 in Appeal No. 252 of 2013 filed by GUVNL. The said Judgement dated 20.11.2014 of the Hon'ble APTEL was challenged by the Respondent GUVNL before the Hon'ble Supreme Court by filing Civil Appeal No. 1220 of 2015. The Hon'ble Supreme Court vide its judgement dated 02.02.2016 had set aside the Commission's Order dated 08.08.2013 in Petition No. 1270 of 2012 and the Hon'ble APTEL' Judgement dated 20.11.2014 in Appeal No. 252 of 2013. It is also to be noted that the Review Petition (Civil) No. 271 of 2017 was also filed before the Hon'ble Supreme Court against the Judgement dated 02.02.2016 in Civil Appeal No. 1220 of 2015 in the EMCO matter. As per the record of the Hon'ble Supreme Court, it transpires that the said Review Petition was also rejected by the Hon'ble Supreme Court vide Order dated 15.02.2017. We agree with the submissions of the Respondent and accordingly, are of the considered view that the present matter is squarely covered by the EMCO's Judgement of the Hon'ble Supreme Court and by virtue of the Hon'ble Supreme Court' judgement in the EMCO matter, the present Petition becomes infructuous.

7. With consideration of these aspects that the present Petition became infructuous by virtue of the judgement dated 02.02.2016 and Order dated 15.02.2017 in Review Petition (Civil) No. 271 of 2017 of the Hon'ble Supreme Court in EMCO's case and also on the grounds of

persistent non-prosecution by the Petitioner even after providing ample opportunities to the Petitioner by the Commission, the present Petition along with IAs, if any, is deserved to be dismissed and accordingly, stand dismissed and disposed of.

8. Order accordingly.

Sd/-	**Sd/-**
[Hiren Shah]	**[Pankaj Joshi]**
Member	**Chairman**

Place: Gandhinagar.

Date: 31/07/2026.