



Poonam Verma Sengupta

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Practice Areas

Corporate

Disputes

Sectors

Energy – Power & Hydrocarbon

Aviation

Transport & Logistics

About

Poonam has been actively involved in the disputes and corporate practice of the firm with primary focus in the Energy and Transportation Sector. For over a decade with the firm, Poonam has specialized in Power and Aviation Sectors.

Poonam has a lead role in the Aviation practice of the firm. She has been instrumental in spearheading the Civil Aviation practice. She has been consistently advising and representing Federation of Indian Airlines, International Air Transport Association amongst individual airlines on legislative, policy and regulatory issues. She represents the clients before various fora (Airports Economic Regulatory Authority of India, the Director General of Civil Aviation, the Appellate Tribunal, the High Courts and Supreme Court) on issues relating to interpretation of agreements executed pursuant to PPP tendering processes, determination of aeronautical tariff, single till and other charges being levied by the Airport Regulator on Airlines.

Poonam is a litigator who covers the whole spectrum of advisory, risk analysis and arguing matters before specialized Commissions, Tribunals, various High Courts and the Supreme Court of India.

She has submitted her views from time to time on the Model Concession Agreements issued by the Ministry of Civil Aviation for introducing PPP for six airports, on National Civil Aviation Policy, Civil Aviation Authority Bill etc. Poonam has been consulted on urgent issues by International Air Transport

Association and Federation of Indian Airlines, Association of Power Producers on several occasions for legal opinions.

She has been regularly representing the country's big corporate houses, government institutions and industry associations on several landmark and sectoral issues arising in the two sectors, for instance, issues arising out of Power Purchase Agreements, Concession Agreements, Transmission Service Agreements, Operations, Maintenance and Development Agreement and State Support Agreement based on Model Private Public Partnership (PPP) Agreements issued by the concerned Ministries of the Government of India.

Poonam is a regular participant and speaker in nationwide conferences conducted from time to time by Centre for Aviation, Federation of Indian Chambers of Commerce and Industry, the Confederation of Indian Industry on energy and aviation sector related issues.

She has been practicing law since 2004. Before joining JSA, she worked with Chambers of Mr. Amarjit Singh Chandhiok, Senior Advocate and ex-President of the Delhi High Court Bar Association for two years.

Experience

Some of the key assignments in these areas handled and being handled by Poonam amongst others, cover the following: -

Energy

- Represented **Adani Power Limited**, a power generating company having installed capacity of 4,620 MW in a landmark case starting from the lowest forum (CERC) to the highest forum (Supreme Court). For the first time, the Supreme Court adjudicated upon the regulatory intervention and the principles governing contract readjustments in competitively bid out long term Power Purchase Agreements. The underlying issue was treatment of adverse, unforeseen and uncontrollable events which destroyed the economic substratum of long term Power Purchase Agreements which are inherently incomplete in nature. This provides clarity on long outstanding issue of import of coal and sustainability of power plants.
- Represented **Tata Power Company Limited** on regular basis in matters relating to generation and distribution businesses, more particularly on the issue of parallel licensing in distribution business in Mumbai.
- Represented **Sesa Goa Limited** in a matter, first of its kind where the status of one of the units of a power plant is converted and granted status of Captive Power Unit while other units remain part of Independent Power Plant.
- Represented **Sterlite Energy Limited** in the matters relating to transmission license, transmission tariff and impact of Change in Law and Force Majeure events under Transmission Service Agreements executed on the basis of model PPP agreements. She was also involved in extensive legal due diligence exercises conducted on the target companies for identifying key issues relevant to their acquisition.

- Represented and advised **Visual Percept and Adani Power Limited** on their Solar Power Projects in Gujarat and Tamil Nadu set up under the National Solar Mission initiated by the Government of India.
- Represented **Electricity Department, Government of Goa** on aspects of inter-state transmission intervention and its impact on tariff. Advised on risk analysis and the mitigation strategy and rendered legal opinions on regulatory issues pertaining to tariff fixation, licensing, reforms and restructuring to electricity distribution companies.
- Represented **EMCO Limited** on a regular basis on disputes arising out of contracts for supply of transformers at Sub-stations and invocation of Bank Guarantees at several courts.
- Represented **Patran Transmission Company Limited** on several issues of implementation of Transmission Service Agreement.
- Represented **OPG Power Limited** on the issues arising out of implementation of Bulk Power Transmission Agreement relating to open access and force majeure.
- Represented **OPG Power Limited** in challenging the regulations relating to open access applicable in the State of Gujarat and advised them on the captive power plant.
- Advised **Gati Infrastructure Pvt. Ltd.** on issues relating to hydro power project.
- Successfully represented **Prayatna Developers Pvt. Ltd.** (Solar Power Developer i.e. a wholly owned subsidiary of Adani Green Energy Ltd.) for change in law claims owing to introduction of GST under the PPAs for projects developed under the National Solar Mission.
- Represented **Adani Power Limited** in the Appeals before the Appellate Tribunal for Electricity, with respect to Solar PV Power Plants in Tamil Nadu for extension of control period and enforcement of the must run status.
- Advised a client (name not disclosed for confidential purposes) in relation to imposition of Safeguard Duty by the Directorate General of Trade Remedies, on import of solar panels.
- Represented **Wind Power Developers (Torando Solarfarms Limited and Gale Solarfarms Limited)**, erstwhile subsidiaries of Suzlon Power Ltd. in proceedings against invocation of Bank Guarantee in relation to dispute for extension of scheduled commercial operation date.
- Successfully represented wind power developer of **Adani Green Energy Ltd.** in Petition pertaining to grant of connectivity by Power Grid Corporation of India Ltd wherein the subsidiaries of Adani Green were allowed to utilize connectivity approval granted to its holding company.

Aviation

- **LOT Polish Airlines**
 - Assisted LOT Polish Airlines in regulatory and legal approvals etc. required for commencing operation in India. LOT Polish Airlines started operation from New Delhi, India to Warsaw, Poland on 12th September 2019.

- **Federation of Indian Airlines (FIA)**

- Argued before the Airports Economic Regulatory Authority Appellate Tribunal in a matter first of its kind in the country which laid the principles for determination of aeronautical tariff of PPP airports, the adoption of several processes, shared till versus single till and allocation of capital cost amongst other issues.
- Argued before the Bombay High Court challenging the actions of MIAL for levying increased charges on the food and beverage items which are procured by the airlines and to be sold on-board the flights. The Bombay High Court allowed the case in FIA's favour. Currently, an appeal filed by MIAL is pending before the Supreme Court. There is no stay operating on the judgement of the Bombay High Court.
- Represented FIA in a case before the Delhi High Court filed against the DGCA Circular which prescribed a ceiling limit on excess baggage charges (for baggage between 15-20 kilogram). The High Court allowed FIA's claims in toto and set aside the Circular. The judgment has attained finality.
- Represented FIA in a case before the Delhi High Court against the Airport Authority of India and the Delhi International Airport Pvt. Ltd challenging the communication issued to the In-Flight Kitchen operators at the Delhi Airport, seeking to charge a fee at the rate of 16% on "Cost Price" for food and beverage items procured directly by airlines and uplifted by the In-Flight Kitchens to the aircraft. DIAL eventually withdrew the communications.
- Argued before the Supreme Court and Ministry of Civil Aviation on issues relating to the levy of Transaction Fee by the airlines on air ticket.
- Advised on Ministry of Civil Aviation's proposal of appointment of Ombudsman for resolution of disputes.
- Represented FIA before the Airport Regulator in public consultation process undertaken for formulating guidelines and normative rules on determination of tariff.

- **Hahn Air Lines**

- Assisted in regulatory compliances to launch its product in India.
- Appeared in a Court in Ahmedabad to defend its actions in implementing the International Air Transport Association (IATA) Resolutions and the Agency Agreement with the travel agents in India.

- **International Air Transport Association**

- Represented before the Airports Economic Regulatory Authority Appellate Tribunal) on the issues relating to Fuel Throughput Charges imposed on airlines by the airport operator.
- Advised on the Model Concession Agreement issued by the Ministry of Civil Aviation for introducing PPP for six airports.

- **An international airline:** Advising the airlines on compliance and regulatory issues for setting up business in India.

- **IndiGo:** Advised on the issue of royalty on food and beverage items payable to Mumbai International Airport Ltd.

- **Menzies Aviation Limited:** Defended before Airports Economic Regulatory Authority Appellate Tribunal on the issues of tariff determination at the Bangalore International Airport arising out of the concession agreement with Bangalore International Airport Limited.

Memberships

Member of Academic Review Council of Indian School of Public Policy

Member of Advisory Board of University of Petroleum & Energy Studies, Dehradun

Asia Pacific Jurist Association

Delhi High Court Bar Association

Bar Council of Delhi

Saket Bar Association

Delhi Bar Association

Publications

Authored an article titled 'Why air travel is set to become costlier from August 31' published in ET Travel World (August 2022).

Quoted in an article titled 'Why is everyone gung-ho about aviation industry' published in The Week (July 2022).

Authored an article titled "Green Hydrogen Policy - An ambitious effort to achieve net zero carbon emission target" published in India CSR (April 2022).

Authored an article titled "Sustainability, Waste Management and Clean Power Generation in India" published in The CSR Journal (April 2022).

Quoted in Travel Trends Today in an article "Mixed Reaction From The Industry To Budget 2022-23" (February 2022).

Quoted in The Economic Times in an article "Aviation sector disappointed with no support in the Budget" (February 2022).

Quoted in The Hindu, Tech Live, Urban Press, Crime Today, Press reader & Dani Post in an article "Will changes in AERA Act help smaller airports?" (August 2021).

An article titled "Amended Electricity (Rights of Consumers) Rules, 2021: Relief to Prosumers" published in The Times of India (August 2021).

Quoted in Mint, Hindustan Times, United News of India, Big Newz, MSN, Daily Hunt, The Hindu Times, India Talks & Evening News in an article "The Airports Economic Regulatory Authority of India (Amendment) Bill, 2021 passed in Parliament" (August 2021).

An article titled "Foes may have to become allies to survive post Covid-19" published in The Hindu Business Line (February 2021).

Awards

Recognized as 'India Super 50 Lawyers 2021' by Asian Legal Business

'Asia 40 under 40' award in October 2021 from Asian Legal Business

"The Young Legal Eagles" of the Indian Legal Ecosystem organized by BW Legalworld 40under40 India Awards, 2020.

'India's Rising Stars' award in September 2020 from Asian Legal Business.

'India's Rising Stars' award in September 2019 from Asian Legal Business.

Education

B.A.LL.B, Army Institute of Law, Mohali (1999-2004)

Diploma in Intellectual Property Rights from WIPO Worldwide Academy, 2004.

Languages Spoken

English

Hindi

Bengali
