

**CONSUMER GRIEVANCE REDRESSAL FORUM,
AMRAVATI ZONE, AMRAVATI.**

*" Vidyut Bhavan" Shivaji Nagar, Amravati, Amravati : 444603 Tel No 0721
.2551158*

Dt.21/03/2017

Complaint No. 4 / 2017

In the matter of refund of electricity duty collected illegally from
01/04/2004 to June 2015 with interest and reduction in load from
second billing cycle with SOP Compensation

Quorum

Shri . S. R. Chitale, Member/Secretary
Shri. D. M. Deshpande-Member (CPO)

M/ss Petro Chem. Industries,
MIDC, Plot No. F-20, Near bypass Road,
Amravati Consumer No:- 366479005960

Complainant

.....Vrs.....

Executive Engineer,
MSEDCL, Urban Division, Amravati

Respondent

Appearances :

Complainant Representative:- Shri. Ashish Chandarana

Non Applicant :- Shri S. A. Mali , Executive Engineer,
Urban Division, Amravati

1. Being aggrieved by the fact about non communication from IGRC, Amravati after attending the hearing complainant approached CGRF, Amravati with grievance of illegal recovery for electricity duty by N.A. MSEDCL from 01/04/2004 and reduction in load to 27 HP from second billing cycle with withdrawal of additional security demand by N.A. and SOP compensation Rs.100/- per week for delay in reduction in load. According to complainant State Government of Maharashtra in

exercise of power delegated by Section 5-A of the Mumbai Electricity duty Act 1958 exempted, from payment of electricity duty from 01/04/2004 to 31/03/2009 which further extended up to March 2014 and then up to 31/03/2019, all existing as well as upcoming industrial establishment. According to complainant MSEDCL by issuing commercial Circular No. 393, 101 and 196 signed by Chief Engineer(Commercial) have ratified Government Notification from time to time. Accordingly no charges towards Electricity Duty are recoverable from the energy bills issued by N. A. MSEDCL up to 31/03/2019. According to complainant in spite Government Notification ratified and communicated to field offices by MSEDCL authorities, field officers continue to recover Electricity duty illegally at some places and complainant is one of them. According to complainant MSEDCL failed to incorporate appropriate duty code i.e. 97 from 01/04/2004 resulting in illegal recovery. According to complainant illegal recovery towards Electricity duty continued till June 2015 and from July 2015 no electricity duty is recovered. Complainant referred letter No. 1988 dated 12/11/2012 of Electrical Inspector, Amravati addressed to N.A. Superintending Engineer, MSEDCL, Amravati expressing displeasure towards illegal recovery of Electricity duty from industrial consumers when it is exempted by Government specifically in VIDARBHA region by issuing notification. According to complainant illegal recovery of Electricity duty is effected due to negligence of concerned officer who put wrong coding in the system and further requested to refund with interest and loss of revenue be recovered from guilty officers of MSEDCL. According to complainant MSEDCL, Akola O&M Circle rightly implemented the Government Notification and Commercial Circular of MSEDCL in right spirit and did not recover any charges towards electricity duty from industrial HT consumers of MSEDCL, Complainant referred and filed on record order passed by Hon'ble OMBUDSMAN, Nagpur dated 9th June 2013 in representation No., 45, 46, 47, 48 and 55 in similar matters which supports the present grievance. Documents such as energy bills for June 15, July 15 and IGRC complaint and application for reduction in load dated 29/09/2016 are annexed with complaint.

2. According to complainant N.A. MSEDCL have not effected the application for reduction in load from second billing cycle and issued demand notice for Rs. 11100/- towards payment security deposit and processing fee dated 22/11/2016 received to complainant on 5th Jan. 2017 by hand delivery. Complainant referred Section 11 of Supply Code Regulation 2005 accordingly deposit held with N.A. is sufficient for 67 HP and complainant need not deposit additional security deposit as per supply code provision. Complainant annexed with complaint letter dated 22/11/2016 with payment advice of Rs.11100/- received from N.A. along with relevant copy of supply code regulation 2005.

3. Reply came to be filed by N.A. belatedly on 08/02/2017. According to N.A. refund towards Electricity duty is admitted and proposal to refund Rs. 124975/- for the period Jan 2009 to June 2015 is submitted to competent authority for approval. According to N.A., power of refund of Electricity duty are withdrawn by Government vide G.R. dated 06/04/2015 and delegated to Committee communicated to N.A. by their authorities vide Commercial Circular No. 268 and 204 according to which complainant has to apply and submit eligibility certificate, which according to N.A. not complied by complainant. N.A. MSEDCL further prayed to reject the claim for interest as demanded by complainant on refund of electricity duty. N.A. MSEDCL annexed documents such as reply to IGRC dated 29/10/2016, refund proposal dated 21/10/16 with bill revision report , Govt. letter dated 08/07/16, Commercial Circular No. 204 and 268 , IGRC order dated 17/10/16 and approval on refund by N.A. dated 21/10/16 with approved bill revision. According to N.A. reduction in load order is issued to complainant by post and then by hand delivery but as complainant has not paid demand charges Rs.11100/- reduction in load effect could not be given.

4. Forum heard Shri Ashish Chandarana authorized representative for the complainant and Shri S. A. Mali, Executive Engineer, Urban Division, Amravati for N.A. Forum also have gone through the documents produced by the parties on record.

5. It was urged on behalf of complainant that exemption from Electricity duty granted to industrial consumer in Vidarbha and Marathwada region could not be implemented as matter of course from 01/04/2004. Complainant opposed the plea taken by N.A. in their reply and urged that Commercial Circular No. 204 or 268 dated 8th August 2013 and 27/09/16 has no relation whatsoever with the exemption given to Vidarbha region from time to time from 2004. Even the Government of Maharashtra letter dated 08/07/16 relates to package scheme of incentive 2007 and not to notifications issued earlier in 2004, 2009 and 2014. Complainant's representative brought to the notice of Forum that refund of Electricity duty approved after IGRC order is subsequently withdrawn by N.A. as complainant approached CGRF, urging the attitude of N.A. MSEDCL against the provision of consumer protection. Complainant representative urged to refund the Electricity duty from 2004 with interest and requested Forum to fix responsibility of loss of public revenue on erring staff as per the order of Supreme Court dated 05/01/1993 in LUCKNOW Development Authority Vs. M.K. Gupta reported in 1994 SCC(i) 243. Complainant relied upon Hon'ble Ombudsman order on record issued on 07/06/2013. Complainant's representative during hearing brought on record the provisions of supply code regulation 2005 clause 11 and urged that as sufficient security deposit much more than average of billing cycle is held with N.A. MSEDCL complainant need not pay additional security deposit as per law and according to complainant it should be withdrawn and further urged to compensate complainant with compensation of Rs. 100/- per week towards delay in effecting reduction in load as per SOP Regulation 2014.

6. N.A. during hearing admitted the fact that as per IGRC order Electricity duty refund was credited to the account of complainant and subsequently debited for which bill dated 18/02/2017 is filed on record. N.A. urged that since proposal is prepared for refund and being submitted to Government Committee for

refund, complainant is not entitled for interest. N.A. urged that as complainant did not pay additional security deposit is not entitled for SOP compensation and load reduction.

7. On going through the complaint on record, the reply submitted by N.A. and material brought on record by both the parties, Forum finds substance in the complaint that illegal recovery towards electricity duty is effected by N.A. from 2004 when no duty was chargeable as per Government Notification. Even the plea taken by N.A. about withdrawal of powers by Government with G.R. and Commercial Circular regarding refund of electricity duty does not support the N.A. After verifying the material on record Forum is of opinion that reference letter on record such as Government letter dated 11/02/15, 06/04/15, 08/07/16 and commercial circular issued by MSEDCL pertains to package incentive schemes where legal electricity duty was recoverable and subsequently exempted and not applicable where duty was legally not recoverable as per Government Notification. Forum finds considerable force in submission of complainant and is of the view that electricity duty recovered from complainant be refunded from 2004 till June 2015 with interest. As Bank interest rates have been curtailed considerably over the period of years, awarding 6% interest on the amount of electricity duty to be refunded to the complainant would meet the ends of justice from the date of recovery till the date of adjustment. Forum is also of the view that N.A. should take appropriate action against the erring officials in the light of the observations of Supreme Court in Lucknow Development Authority Vs. M.K. Gupta reported in 1994 SCC(i) for loss of public revenue. After verifying the provisions of supply code regulation 2005 regarding security deposit and confirmation and admission by N.A. during course of argument about availability of sufficient security deposit with N.A. paid by complainant, Forum is of the opinion that the ~~demand of additional security deposit by N.A. is not just and proper according to~~ provisions of supply code regulation 2005 and needs to be set aside and effect in reduction in load be given to complainant from second billing cycle preferably from the bills to be issued in Nov. 2016. With such observations Forum proceeds to pass following unanimous order.

ORDER

1. The Complaint No. 4/2017 is hereby partly allowed. The N.A. MSEDCL is directed to refund the amount of Electricity duty recovered from the complainant with 6% interest from the date of recovery till making adjustment in forthcoming bills for the period 01/04/2004 to June 2015.
2. N.A. MSEDCL is directed to set aside demand note for additional security deposit amounting Rs.11000/- and further directed to give effect of load reduction to 27 HP from the bills to be issued in Nov 2016. All energy bills from Nov 2016 should be revised as per applicable tariff to 27 HP and difference in bill amount be adjusted in forthcoming bills.
3. N.A. MSEDCL is directed to compensate complainant for delay in effecting reduction in load at Rs.100/- per week from Nov. 2016 till making adjustment in forthcoming bills.
4. The Non Applicant MSEDCL shall take appropriate action against the erring officials in the light of the observations of the Supreme Court in Lucknow Development Authority Vs. M.K. Gupta reported in 1994 SCC(i) 243.
5. N.A. is directed to submit compliance report to Forum within a period of one month.

Sd/-
Member/Secretary

Sd/-
Member(CPO)

Contact details of Electricity Ombudsman appointed by MERC (CGRF&EO) Regulations 2006 under Regulation 10:

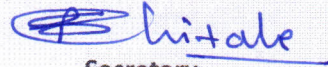
THE ELECTRICITY OMBUDSMAN,
Office of Electricity Ombudsman (Nagpur)
Plot No.12, Shrikrupa, Vijaynagar, Chhaoni,
Nagpur-440 013.
Phone : 0712-2596670

No. CGRF / AZ/ Amravati/ **No 0 8 2 7 /**

Dt. 21/03/2017

TO
The Nodal Officer,
Executive Engineer
MSEDCL, Urban Division,
AMRAVATI

The order passed on 21/03/2017 in the Complaint No. 4/2017, is enclosed herewith for further compliance and necessary action.


Secretary,

Consumer Grievance Redressal Forum,
MSEDCL, Amravati Zone, Amravati

Copy s. w. rs. to:

The Superintending Engineer , MSEDCL, O&M Circle, Amravati

Copy to :-

M/s. Petro Chem. Industries, MIDC, Plot No. F-20, Near bypass Road, Amravati

LT Consumer No:- 366479005960