

CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.
NASHIK ZONE
(Established under the section 42 (5) of the Electricity Act, 2003)

Phone: 6526484

Fax: 0253-2591031

E.Mail: cgrfnsk@rediffmail.com

Office of the

Consumer Grievance Redressal Forum

Kharbanda Park, 1st Floor,

Room N. 115-118

Dwarka, NASHIK 422011

No. / CGRF /Nashik/NUC/N.R.Dn./545/21-2016-17/

Date: 04/10/2016

Refunds arising out of the delayed refund of the Electricity Duty

(BY R.P.A.D.)

Date of Submission of the case : 12/08/2016

Date of Decision : 04/10/2016

To.

M/s. Anil Printers Limited,
(Division-United Tectsa)
Plot No. 411-412, Gonde,
Tq. Igatpuri Dist. Nashik 422403
(Consumer No. 052189020270)

Complainant

1- Nodal Officer ,
Maharashtra State Electricity Distribution Com. Ltd., Urban
Circle office,
Nashik

Distribution Company
(Respondent)

2- Executive Engineer (Rural)
Maharashtra State Electricity Distribution Com. Ltd.
Vidyut Bhawan , Nashik Road.

DECISION

M/s. Anil Printers Ltd. , (hereafter referred as the Complainant). Igatpuri Nashik is the HT Industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Respondent). The Complainant has submitted a representation for refund of the interest on Electricity Duty (ED). arrears from September 2011 till December 2014, refund of the

Case No.21-16-17 / M/s Anil Printers Ltd..

Delay Payment Charges (DPC) from August 2011 till and the credit of the unpaid Prompt Payment Discount and interest on the delayed payment ED refund. . The Complainant filed a grievance regarding this with the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd. But not satisfied with the decision of the Respondent , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.139 of 2016 on 12 /08/2016.

The Forum in its meeting on 16/08/2016, decided to admit this case for hearing on 02/09/2016 at 11.30 pm in the office of the forum . A notice dated 18/08/2016 to that effect was sent to the appellant and the concerned officers of the Distribution Company. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Urban Circle Office Nashik for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Shri C.C, Humane, Nodal Officer, Shri. D.R. Mandlik , Sr. Manager represented the Distribution Company during the hearing. Shri Ashoka Agarwal, Shri. M.S. Khot , appeared on behalf of the consumer.

Consumers Representation in brief :

1. The Complainant named Anil Printers is a limited company registered under the companies At. 1986. The company has three units located at:
 1. Plot No. B-30, MIDC Ambad, Nashik.
 2. Plot No. B-63 NICE Area, Satpur Nashik.
 3. Gut No. 411-412 Gonde Dumala, Tq. Igatpuri, Nashik.
2. The complainant had been issued an Eligibility Certificate No. 98 dated 04/06/2011 under the PSI 2007 scheme of Government of Maharashtra, wherein it had been provided a relief from Electricity /duty (ED) for the period of 01/06/2009 to 31/05/2024. To claim the said exemption, the complainant had submitted an application to the Electrical Engineer, Nashik, dated 01/08/2011 along with all the required documents.
3. After the several correspondences with various MSEDCL officers, the complainant started getting the Electricity Duty exemption on the Electricity bill from the month of October 2011. However, no cognizance was taken for the refund of duty charged from June 2009 (the eligibility certificate being applicable from 01/06/2009) to September 2011, which amounts to Rs. 22,59,633.11/-
4. The complainant made various requests and submission through written and verbal communication, to claim the aforesaid refund, but without any results. As the Complainant

was left with no option but to take Legal recourse. The complainant issued a legal notice dated 18/04/2012 through his Advocate..... in the hope that its grievance would be heard. In response to the legal notice, the complainant was issued a letter by the Superintending Officer, Nashik stating that the Electricity Duty is a subject matter of revenue of Central Government and the proposal by complainant is being forwarded to the Chief Engineer (Electrical). It was further mentioned that the duty exempted from 01/10/2011, shall be recovered from the future bills of the complainant. The E.D. exemption granted to the complainant was recalled through a letter dated 30/07/2012 and the complainant was charged the Electricity Duty again on its bills from the month of July 2012. Was also claimed in the said bill as arrears.

5. Subsequently, a writ petition in Bombay High Court was filed by the complainant to seek relief against payment of ED and to claim the refund due to them. The complainant was granted an Ad-interim relief and it started paying its Electricity bills after deducting the amount of ED.
6. However, in December 2013, it was conveyed to the complainant that the power to grant ED exemption and refund has now been vested with the Superintending Engineer and as such, the complainant can made an application to establish its claim and reach on out -of-Court settlement.
7. The complainant made the required application which was submitted to the office of Superintending Engineer, O&M Circle, Nashik on 04/01/2014, along with all the required documents, The complainant was asked to submit the Eligibility Certificate which was duly complied.
8. In March 2014, there arose a question that the certificate is in the name of United Tectsa which is a division of Anil Printers Limited, The complainant tried its best of explain that united Tectsa is a name given to the smart card manufacturing facility of Anil Printers Ltd. And that united tectsa has no separate legal entity other than Anil Printers Limited.
9. Ignoring the plea of the complainant, the SE wrote a letter to DOI, Mumbai dated 04/03/2014 asking for a clarification for the name of entity to which the Eligibility Certificate was issued. However, no response has been received from DOI till date.
10. Meanwhile, the support of the claim of the complainant, it has submitted its IEM in the name of Anil Printers Limited Division-United Tectsa, issued by DOI as well as the IT Registration Certificate in the name of Anil Printers Limited- Business Division United Tectsa Limited issued to the complainant by DIC Nashik. It is worth noting that both these certificates have been issued to the complainant by the same department from whom the

Superintending Engineer is seeking clarification. However, after submission of the said documents, there is no requirement of any clarification.

11. The complainant has been paying all its monthly bills regularly even though, the company is going through a great financial stress. Thus, aggrieved by the situation and after struggling to get its rights over the last two years, the company has filed the present suit.
12. Summing up:
 - ✓ The complainant has paid Electricity Duty from 01/06/2009 to August 2011 and July 2012, amounting to Rs. 23,44,830/-. The said amount of Rs. 23,44,830/- has been adjusted against the monthly bill dues of the complainant.
 - ✓ The Complainant was charged an interest on E.D. arrears from September 2011 till December 2014 amounting to Rs. 6,31,263/-. Both interest and the E.D. was not paid by the compliant as per directions of the High Court but the said amount was adjusted from the credit of the complainant which amounted to Rs, 23,44,830/- in December 2014. Since this interest amount was not payable, the same ought to be refunded.
 - ✓ Additionally, though there was a credit of Rs. 23,44,830/- on account of E.D. paid but the Complainant was subject to delay payment charges from August 2011 till date which amounts to Rs. 3,46,892/-. The said amount ought to be refunded to the complainant.
 - ✓ The complainant was also entitled to prompt payment discount as it has a credit of Rs. 23,44,830/-. The prompt payment amount to Rs. 2,336,878/-. The said amount ought to be refunded to the complainant as it was not paid to it.
 - ✓ As the complainant has a credit of Rs. 23,44,830/-. It is entitled to received interest on the said credit amount. The interest @ 12% works out to be Rs. 12,54,617/-. The said amount ought to be refunded to the complainant as it remained unpaid.
13. Thus, the summary of amount refundable to the complainant is as follows:

Particulars	Amount (Rs.)
Interest charged	6,31,263/-
Delay payment charges	3,46,892/-
Prompt payment discount	2,36,878/-
Interest on duty paid.	12,54,617/-
Total :-	24,69,650/-

The Electricity connection at the Gonde unit owned by Anil Printers Limited has been disconnected on 15/10/2015 without following the procedure prescribed in Section 56(1) of the Electricity Act.2003.

14. In these circumstances, when the amount as mentioned in para No. 12 was due, the power at the address mentioned below was disconnected on 15/10/2015 without following the procedure prescribed in Section 56(1) of the Electricity Act. 2003 and letters informing the said disconnection without any notice was sent on 16/10/2015 and 29/10/2015 respectively to the Superintending Engineer.

Demands of the Consumer:

1. That a relief of Rs. 24,69,650/- be granted to the complainant by the defendant as demanded herein.
2. That the power be reconnected immediately, and the intervening period of illegal disconnection to be declared as of no power supply.
3. That such orders be passed as the Hon'ble Consumer Forum may deem fit in the circumstances of the case.

For which act of kindness, the complainant shall, as is duty bound , ever pray.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 24/08/2016 from the Nodal Officer, MSEDCL, Urban Circle Office Nashik and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

With reference to the above subject request of M/s. Anil Printers Ltd . For refund of excess payment with interest cannot be consider because proposal for refund of electricity duty was pending due to incomplete documents from consumer side and after submission of necessary documents (original IT (SW/HW/SU) registration certificate) on Dtd 30/12/2014, the electricity duty exempted and refunded to consumer account in the month of December 2014 immediately. Hence no delay from our side to refund electricity duty.

As per Indian Electricity Act. "Any complaint with regards to the accuracy of bill shall be made in writing and the amount of such bills shall paid under protest within said period of 15 days. The amount of bill paid under protest will be regarded as advance to the credit of the consumer's account until such time as the bills in dispute have been fully settled". But consumer had neglected to any regular bills, hence request for refund of DPC & interest cannot be considered.

Action by IGRC :

1. Internal Grievance Redressal Cell Urban Circle Nashik conducted hearing on 29/06/2016 for the complaint submitted on 25/01/2016
2. After hearing both the parties IGRC gave decision as per letter dated 29/07/16 as under:
 ^Rkdkjnkj xkgd ; kuk egjk"V" 'kkl ukP; k fu; ekuq kj R; kP; k fcyke/; s
 ED Exempted dsys vl u R; kuh oGr i s u HkjY; keGs R; kuk R; kP; k fcyke/; s
 R; k R; k efgU; kps 0; kt o fMi hl h pktl dā uhp; k fu; ekuq kj yko.; kr
 vkys vkgr o r l s i = dā 5583 fn- 23@09@2015 uq kj xkgdki dGfo.; kr
 vkys vkgs R; keGs xkgdkpk vt l nrrj tek dj.; kr ; r vkgs*-

Observations by the Forum:

1. The complainant is an industrial unit which has been issued the Eligibility Certificate entitling it for various incentives under Govt of Maharashtra Package Scheme of Incentives -2007 (notified under GoM G.R. No. PSI -1707/ (CR- 50)/IND-8 Dated 30/03/2007) including the Electricity Duty Exemption available for Eligible new units in C, D, and D+ areas and No-Industry District(s) for a period of 15 years. The grievance has arisen out of delay in getting the Electricity Duty Exemption and its refund for the payment done in initial period. In view of this delay , the complainant has been charged interest , DPC and interest on duty and lost prompt payment discount . Hence the complainant has asked for refund of these amounts along with interest on refunding the ED paid.
2. As mentioned in the said G.R. dated 30/03/2007 , necessary notification under the provision of the Electricity Duty Act 1958 was issued separately by Energy Department on 15/10/2008. . As per letter no. ELD-2008/pr.kr.276 /Urja-1 dated 17/11/2008 , based on this notification , a detailed procedure for availing the exemption was laid down . According to this letter Competent Authority in the Directorate of Industries was empowered to issue Eligibility Certificate (EC) . The copy of the EC was to be endorsed to the Chief Engineer (Electrical) ,Mumbai . After receipt of this EC , the CE (Electrical) ,Mumbai has to make note as per rule 16 and 17 of the Bombay Electricity Duty Rules,1962 and inform the concerned Electrical Inspector (EI) about the duty exemption along with copy of the EC .The Distribution Company has to then start exempting the electricity duty.
 - ✓ In the extant case , the Additional Director of the Industries, Mumbai has issued the EC under no. B-11613 dated 04/06/2011 in the name of M/s United Tecsta (Division of Anil Printers Ltd.) entitling it for Electricity Duty Exemption for 15 years commencing from date of commercial production i.e. 01/06/2009 .

- ✓ The copy of EC is endorsed to the MSEDCL, Mumbai/Nashik , CE (Electrical) ,PWD, Mumbai and the Electrical Inspector ,Nashik.
 - ✓ The complainant has then submitted a letter dated 20/07/2011 to the Executive Engineer MSEDCL ,Nashik (acknowledged by him on 21/07/2011) along with the copy of the EC with a request to confirm the Electricity Duty Exemption. The complainant has also submitted a letter dated 29/07/2011 to the Electrical Inspector ,Nashik (acknowledged by him on 30/07/2011) along with the copy of the EC with a request to confirm the Electricity Duty Exemption.
 - ✓ The complainant has again submitted a letter dated 01/08/2011 to the EI ,Nashik (acknowledged on 02/08/2011) along with the relevant documents requesting to confirm the Electricity Duty Exemption.
 - ✓ The MSEDCL started issuing bill without charging Electricity Duty from the month of October 2011 .
 - ✓
3. The complainant was charged ED from June 2009 to September 2011 .The complainant claimed the refund of Electricity Duty paid to the MSEDCL for the period 01/06/2009 to 30/09/2011 . The CE (Commercial) MSEDCL ,Mumbai under letter dated 26/09/2011 informed the complainant to approach Superintending Engineer, Rural Circle ,MSEDCL ,Nashik . The complainant submitted a letter dated 23/10/2011 to the Superintending Engineer, Rural Circle ,MSEDCL Nashik claiming the refund of duty. The complainant then approached the Electrical Inspector (EI) , Nashik (by letter dated 05/01/2012) for refund order along with the letter dated 09/11/2011 by the Superintending Engineer, Rural Circle ,MSEDCL certifying payment of Electricity Duty of Rs. 2258708.71 paid during 01/06/2009 to 30/09/2009 and other documents ,. In view of some more queries , the complainant again submitted additional information to the EI by a letter dated 28/02/12
4. The EI , Nashik issued a letter dated 07/03/2012 to the complainant raising the following issues:
- ✓ The CE (Electrical) PWD Mumbai has not yet approved the ED exemption.
 - ✓ The application for ED exemption is not made .
 - ✓ The MSEDCL has started recovery of ED without orders from the CE (Electrical) PWD Mumbai.
 - ✓ The complainant and the MSEDCL not submitted the required papers in time.
 - ✓ It is not true that the complainant has not applied for the ED .In fact the complainant had approached the Electrical Inspector , Nashik by a letter dated 29/07/2011 (acknowledged by him on 30/07/2011) along with the copy of the EC and subsequently furnished additional information from time to time . The EC dated 04/06/2011 issued by the Directorate of Industries was also endorsed to the Chief Engineer (Electrical) ,Mumbai and EI, Nashik.

- ✓ As per letter no. ELD-2008/pr.kr.276 /Urja-1 dated 17/11/2008 , from the IE & L department Govt. of Maharashtra the Chief Engineer (Electrical) ,Mumbai, after receipt of this EC , is supposed to inform the concerned Electrical Inspector about the duty exemption along with copy of the EC.
5. Upto July 2013 after grant of the exemption of electricity duty by the approving authority, the concurrence of the Chief Engineer (Electrical) PWD was required for exempting the Electricity duty and thereafter the separate proposal for duty refund was required to be referred to the Chief Engineer (Electrical) for approval. The Chief Engineer (Electrical) was given with power to approve the refund proposal upto Rs.50,000/- and proposals above Rs. 50,000/- were sent to the Government .
 6. The EI ,Nashik had submitted a proposal to the CE (Electrical) ,PWD Mumbai under letter no. 903 dated 03/04/2012 recommending the ED refund of Rs. 22,58,708.71 . There is nothing on record to show whether this refund was approved by the CE (PWD) .
 7. The complainant pursued the MSEDCL for refund with many follow up letters . But as the refund was not effected , a Writ Petition was filed against the MSEDCL in the Hon'ble Mumbai High Court which was registered on 06/09/2012 under no. 8655/2012. In this petition , the complainant prayed to the court to direct the MSEDCL to refund the amount of Rs. 22,59,633.11 paid by him during 01/06/2009 to 30/09/2011.
 8. Later the procedure was simplified as per GoM letter No. EID-2013/79/Urja-1 dt. 05.07.2013. The Government delegated the power of sanctioning the refund of Electricity Duty to eligible consumers to the concerned utilities vide their letter dt. 05.07.2013 referred above and no proposals for Electricity Exemption or Electricity Duty refund was required to be referred to the Chief Engineer (Electrical) or GoM. In view of this the MSEDCL issued a Commercial Circular No.204 dated 08/08/2013 prescribing the procedure for Electricity Duty exemption/refund. The guide lines are as under:
 - ✓ The concerned consumer will have to make Online application and fill Online information in Form /IF" through our website www.mahadiscom.in
 - ✓ On receipt of online application system will generate auto mail to Consumer to submit the original Duty Exemption Certificate with copy to concerned SEO & M Circle
 - ✓ On receipt of mail the consumer will have to produce following documents to the concerned Superintending Engineer of Circle office:
 - ✓ Details in Form /IF" Copy of Form /IF" enclosed
 - ✓ Original Electricity Duty Exemption Certificate issued by competent authority.
 - ✓ Month wise statement of Electricity Duty paid during the exempted period for claiming Electricity Duty Refund.
 - ✓ Copies of Energy Bill paid during the Exemption Period.

The complainant submitted an application on 04/01/2014 to which the Superintending Engineer, Nashik Rural Circle replied by a letter no. 07551 dated 05/02/2014 asking for original EC and other documents as per Commercial Circular No.204 dated 08/08/2013. There were more queries later as stated by the complainant, which were duly complied.

9. It is seen that the proceedings in the High Court went on till January 2015. The counsel of the Distribution Company submitted an office note dated 27/01/2015 to the High Court. The counsel of the complainant accepted the contents of the note and agreed that nothing survives in the petition. Hence the Hon'ble Bombay High Court issued following order dated 24/02/2015 while disposing off the petition :

"Office note dated 27th January, 2015 signed by the Assistant Accountant (HTB), Nashik Rural Circle of the Maharashtra State Electricity Distribution Company Limited which is tendered by the learned counsel appearing for the first and the second Respondents is taken on record and marked 'X' for identification. We accept the statements made in the said office note. The learned counsel appearing for the Petitioner states that if the statements made in the office note are correct, nothing will survive in the Petition. Accordingly, we accept the statements made in the office note and dispose of the Petition."

10. The said office note dated 27/01/2015 prepared by the Assistant Accountant (HTB) and approved by the Superintending Engineer, Nashik Rural Circle is as under:

Sub: Refund of Electricity Duty i/r of M/s Anil Printer Pvt. Ltd. Igatpuri, Cons. No. 052189020270.

Ref: 1) Consumer Ltr. dtd. 02/01/2014.

2) DI/PSI-2007/EC-98/2011/B-11613 Dt. 04/06/2011. 3) Online approval dtd. 30.12.2014.

With reference to the above subject, M/s Anil Printer Pvt. Ltd. is our HT Consumer located at Igatpuri, Cons. No. 052189020270 has granted Electricity Duty Exempted/refunded through online B-80 on 30/12/2014 for the period 1/06/2009 to 31/12/2013 amounting Rs. 42,29,784.54 and credited in electricity bill for the month of Dec 14, but the remaining electricity duty charged for the period Jan 2014 to Dec. 2014 is to be refunded to consumer due to online B-80 generated for the period 1/06/2013. to 31/12/2013 only.

Hence submitted for necessary approval if approved the amount of Rs. 3,22,730 will credited to the consumer by way of B-80 in the next bill-

Submitted for necessary approval please.

This note also contains detailed calculations of the refund. As per the note, Rs. 42,29,784.54 was credited to consumer in the month of Dec. 2014 through ED refund B-80 Generated by LT for the period of June 2009 to Dec. 2013. But actual period of exemption is from June 2009 to May 2025 hence

remaining periods ED amount of Rs. 22730.00 should be refunded to consumer i.e. from Jan 2014 to Dec. 2014.

11. As per the office note of the Distribution Company submitted to the Hon'ble High Court it is revealed that the complainant was charged ED for June-2009 to September -2011 . ED was not charged for the period October-2011 to June-2012 But again ED was charged for July 2012 to June 2014 . Later no ED was charged for July 2014 to Sep 2014 and again charged from October 14 to December 2014. The ED was charged for some intermittent periods because of the objection taken by the EI as narrated by the consumer.

12. The details of the calculations in the office note are given below:

Bill for the Month	Total Amount of ED Charged	Dr. Adj.	Cr. Adj.	Net ED Refundable
Jun-09	175980.21	0.00	0.00	175980.21
Jul-09	48185.62	0.00	-208499.66	-160314.04
Aug-09	40568.34	0.00	0.00	40568.34
Sep-09	34523.51	0.00	0.00	34523.51
Oct-09	52589.96	4091.43	0.00	56681.39
Nov-09	46030.49	0.00	0.00	46030.49
Dec-09	51440.97	0.00	0.00	51440.97
Jan-10	70230.33	0.00	0.00	70230.33
Feb-10	67084.06	0.00	0.00	67084.06
Mar-10	84064.78	20641.24	0.00	104706.02
Apr-10	100634.95	0.00	0.00	100634.95
May-10	85474.58	0.00	0.00	85474.58
Jun-10	108548.86	0.00	0.00	108548.86
Jul-10	121551.11	0.00	0.00	121551.11
Aug-10	131181.61	0.00	0.00	131181.61
Sep-10	106134.11	0.00	0.00	106134.11
Oct-10	63827.65	111.60	0.00	63939.25
Nov-10	100430.36	0.00	0.00	100430.36
Dec-10	96132.19	0.00	0.00	96132.19
Jan-11	83783.99	0.00	0.00	83783.99
Feb-11	100419.26	0.00	0.00	100419.26
Mar-11	93945.24	0.00	0.00	93945.24

Apr-11	99675.83	0.00	0.00	99675.83
May-11	96935.14	0.00	0.00	96935.14
Jun-11	92180.01	0.00	0.00	92180.01
Jul-11	106924.16	0.00	0.00	106924.16
Aug-11	86536.95	0.00	0.00	86536.95
Sep-11	89674.65	0.00	0.00	89674.65
Oct-11	0.00	0.00	0.00	0.00
Nov-11	0.00	0.00	0.00	0.00
Dec-11	0.00	0.00	0.00	0.00
Jan-12	0.00	0.00	0.00	0.00
Feb-12	0.00	0.00	0.00	0.00
Mar-12	0.00	0.00	0.00	0.00
Apr-12	0.00	0.00	0.00	0.00
Jun-12	0.00	0.00	0.00	0.00
Jul-12	86121.68	0.00	0.00	86121.68
Aug-12	100857.38	752289.70	0.00	853147.08
Sep-12	128619.48	0.00	0.00	128619.48
Oct-12	106505.24	0.00	0.00	106505.24
Nov-12	63107.61	0.00	0.00	63107.61
Dec-12	57730.47	0.00	0.00	57730.47
Jan-13	51208.67	0.00	0.00	51208.67
Feb-13	53980.76	0.00	0.00	53980.76
Mar-13	70840.41	0.00	0.00	70840.41
Apr-13	59636.72	0.00	0.00	59636.72
May-13	49321.86	0.00	0.00	49321.86
Jun-13	49042.60	0.00	0.00	49042.60
Jul-13	49056.06	0.00	0.00	49056.06
Aug-13	53765.83	0.00	0.00	53765.83
Sep-13	53740.6	0.00	0.00	53740.6
Oct-13	10441.42	0.00	0.00	80441.42
Nov-13	50519.48	0.00	0.00	50519.48
Dec-13	61965.04	0.00	-4229784.54	-4167819.5
Jan-14	52735.93	0.00	0.00	52735.93

Feb-14	52379.13	0.00	0.00	52379.13
Mar-14	53939.455	0.00	0.00	53939.45
Apr-14	46680.97	0.00	0.00	46680.97
May-14	41049.42	0.00	0.00	41049.42
Jun-14	31026.79	0.00	0.00	31026.79
Jul-14	0.00	0.00	0.00	0.00
Aug-14	0.00	0.00	0.00	0.00
Sep-14	0.00	0.00	0.00	0.00
Oct-14	14336.88	0.00	0.00	14336.88
Nov-14	15092.96	0.00	0.00	15092.96
Dec-14	15488.49	0.00	0.00	15488.49
Total	3983880.23	777133.97	-4438284.20	322730.00

The note further states as under:

Elect. Duty refundable Rs. 3,22,730.00

Note: Rs_4229784,54 was credited to consumer in the m/o Dec. 2014 through ED refund B-80 generated by IT for the period of June 2009 to Dec. 13. But the period of exemption is from June 2009 to May 2025 hence 3,22,730.00 should be refunded to consumer i.e. from Jan 2014 to Dec 2014. submitted for approval please.

- ✓ The matter is finally settled as per High Court order dated 24/02/2015 . Hence there is no issue about the refund of the ED.
- ✓ But the complainant has later approached the IGRC and the Forum as an afterthought asking for refunds of interest & charges as a result of delay in refund of the ED.
- ✓ The issue is however interlinked with the refund of the ED. The complainant should have raised these demands in the High Court case before reaching the settlement. But the calculations for ED refund have been unconditionally agreed by the complainant before the High Court . Now as the case on the subject of the refund of ED is finally settled in the Hon'ble High Court , this Forum can not deal with this issue in view of the regulation 6.7 (d) of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 which reads as under:

“ 6.7 The Forum shall not entertain a Grievance:

- a)
- b)
- c)

d) *where a representation by the consumer, in respect of the same Grievance, is pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority.....*”

13. It has been reported by the complainant that the connection was disconnected on 15/10/2015 without following the procedure prescribed in section 56 (1) of the Electricity Act. 2003 . The section 56. (1) reads as :

Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Provided that the supply of electricity shall not be cut off if such person deposits , under protest, -

a) *an amount equal to the sum claimed from him, or*

b) *the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months,*

whichever is less, pending disposal of any dispute between him and the licensee.

- ✓ As per the record submitted by the Distribution Company the disconnection notice dated 19/09/2015 was sent to the company by post .But the same was returned with the remark that the “company is closed”. An email dated 21/09/2015 was also sent on the e-mail ID provided by the complainant . The disconnection was then done on 15/10/2015 . This has been already clarified to the complainant by letter dated 19/10/2015 Superintending Engineer ,Nashik Rural in response to his letter dated 29/10/2015.
- ✓ As per CPL , it is revealed that the net bill payable for September 2015 was Rs. 1,63,731.68 with the due date as 18/09/2015. .But the complainant has not paid any amount of this bill at that time or thereafter. This bill was also not disputed by the complainant .
- ✓ The complainant in his representation has stated that “Both interest and the E.D. was not paid by the complainant as per directions of the High Court” . But no such orders/directions from the Hon'ble High Court have been produced by the complainant to the Forum .

After considering the representation submitted by the consumer, comments and arguments by the Distribution Licensee, all other records available, the grievance is disposed off with the observations as

elaborated in the preceding paragraphs and the following order is passed by the Forum for implementation:

ORDER

1. As the case on the subject of the refund of ED is finally settled in the Hon'ble Bombay High Court,, this Forum can not deal with the issues related to this refund raised by the complainant in view of the regulation 6.7 (d) of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.
2. If aggrieved by the non-redressal of his Grievance by the Forum, the complainant may make a representation to the Electricity Ombudsman, 606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051 within sixty (60) days from the date of this order under regulation 17.2 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

(Rajan S. Kulkarni)
Member

(Hari V. Dhavare)
Member-Secretary
& Executive Engineer

(Suresh P.Wagh)
Chairman

Consumer Grievance Redressal Forum Nashik Zone

Copy for information and necessary action to:

- 1 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. , Vidyut Bhavan, Nashik Road 422101 (For Ex.Engr.(Admn)
- 2 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. , Vidyut Bhavan, Nashik Road 422101 (For P.R.O)
- 3 Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. ,Urban Circle Office , Nashik .