



action against the guilty officers of N.A. MSEDCL for the loss of revenue as per guidelines laid down by Apex Court in the matter of M.K.Gupta Vs Lucknow Development Authority.

2. According to the complainant, He is H.T. Industrial Consumer of N.A. MSEDCL from 08.01.2014. According to complainant, He approached IGRC Akola with grievance of refund of Electricity duty collected unlawfully, refund of security deposit with interest and refund of cost of H.T. metering cubicle alongwith labour and transportation charges with interest. According to complainant all four grievances before IGRC Akola were not disputed by N.A. MSEDCL and IGRC vide their order dated 10<sup>th</sup> Jan-2017 decided in favour of complainant except the grievance for interest. Similarly the claim for interest on Electricity duty has also been rejected by IGRC Akola. According to complainant in the similar matter of M/S. Shivam Ginning, Vs MSEDCL decided by CGRF Akola, N.A. MSEDCL had gone in Appeal before Hon'ble Bombay High Court, challenging the payment of interest and withdrawn the appeal before Bombay high court and agreed and paid the interest on passing strong strictures by Hon'ble Bombay High Court. According to complainant N.A. MSEDCL have not paid interest on security deposit for the period 01.04.2013 to 08.01.2014 though the claim has been upheld by IGRC Akola.

3. Reply came to be filed by N.A. MSEDCL on 17.03.2017. According to N.A. the cost of cubicle Rs. 127828.00 is already refunded in the energy bills for Feb-2017 billed in March-2017 and opposed the payment of interest on cost of cubicle. N.A. annexed the copy of bill for Feb-2017 with reply.

4. Heard Shri Ashish Chandarana representative of complainant and Shri D.S.Umbarkar E.E. for N.A. During hearing representative for complainant

brought to the notice of forum that N.A. MSEDCL have complied the order of IGRC Akola, in respect of refund of Electricity duty but did not give any statement without which correctness of refund could not be ascertained. Representative referred order passed by Hon'ble Ombudsmen Nagpur in representation No. 45/2013, 46/2013, 47/2013,48/2013 and 55/2013 on 7<sup>th</sup> June-2013 and filed on record and stressed for payment of interest at 9.5% on refund of Electricity duty as ordered by Hon'ble Ombudsmen. Representative of complainant further brought to the notice of forum that an amount of Rs. 127828.00 is incurred by complainant towards cost of cubicle and hence entitled for interest on that amount.

5. Shri D.S. Umbarkar E.E. for N.A. admitted the claim for refund of E.D., cost of cubicle and confirmed that cost of cubicle and E.D. is already refunded to complainant. N.A. have admitted the fact that they agreed Hon'ble Ombudsmen order filed on record and not disputed the payment of interest. N.A. representative agreed for payment of interest of 9.5% as per ombudsmen order on record, as against 18% claimed by the complainant. N.A. representative has further agreed to provide statement of E.D. to complainant within seven days.

6. Heard learned representative of N.A Shri D.S.Umbarkar Ex.Engr.& learned representative of complainant Shri Ashish Chandarana. On going through the complaint on record, consideration of reply filed on record and taking into consideration deliberations by complainant's representative as well as N.A. representative, forum finds considerable facts in the submission of complainant that they are entitled for interest on refund amount of electricity duty. Forum thinks it proper that awarding 9.5% interest on the amount of electricity duty refunded to the complainant would meet ends of justice. Interest is payable from the date of recovery till the date of adjustment. Forum is satisfied that N.A. MSEDCL have used excess amount of Rs.127828.00 towards cost of cubicle incurred by the complainant

and hence under provisions of section 62(6) of Electricity Act-2003 , the excess amount shall be recoverable by the person who has paid such price or charge alongwith interest equivalent to bank rate without prejudice to any other liability incurred by the licensee. Complainant restricted their claim for interest at 9.5% and did not press for payment of interest at the bank rate and hence awarding 9.5% interest, on cost of cubicle would meet the ends of justice. Forum is of the view that interest of on refund of security deposit is payable to the complainant as per MERC tariff order hence complainant is entitle for interest for the period 01.04.2013 to 08.01.2014, which is not disputed by N.A. in their reply. With these observations forum proceeds to pass following unanimous order.

### **ORDER**

1. The complaint No.11/2017 is hereby partly allowed.
2. The order of IGRC is modified to the extent that the N.A. MSEDCL is directed to refund amount of electricity duty recovered from the complainant with interest at 9.5% P.A. from the date of recovery till making adjustments in the future bills.
3. The N.A. MSEDCL is directed to pay interest at 9.5% P.A. on refund amount of cost of cubicle Rs.127828.00 till making adjustment in the bills.
4. The N.A. MSEDCL is directed to pay interest as per MERC tariff order on refund of security deposit.
5. Parties to bear their own cost.
6. The N.A. MSEDCL shall take appropriate action against erring officials in the light of the observations of the The Supreme Court of India in the matter

of M.K.Gupta Vrs Lucknow Development Authority, reported in 1994(i) SCC page 243.

7. The N.A. MSEDCL to submit compliance report to forum within period of one month from this order.

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 /AKZ/ AKL/ 76

Dt. :- 26 .04 .2017

**TO,**

The Nodal Officer,  
Superintending Engineer O&M Circle, MSEDCL, Akola.

The order passed on 26/04/2017 in the Complaint No. 11/2017, is enclosed herewith for further compliance and necessary action.

**Secretary,**  
Consumer Grievance Redressal Forum,  
MSEDCL, Akola Zone, Akola

**Copy fwc to:-**

1. The Chief Engineer Akola Zone, Akola.
2. M/s IQRA Ginning Factory, Sindkhed Road, Barshitakli, Distt. Akola.