

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

“Vidyut Bhavan”,
Ratanlal Plots,
Akola: 444 001
Tel.No.2434476

Dt- 28/11/2013

Complaint No.90/2013

In the matter of grievance of illegal recovery of Electricity Duty and refund
thereof with interest

Quorum :

Shri T.M.Mantri,	Chairman
Shri A.S.Gade,	Member
Shri P.B.Pawar,	Secretary

Shivam Ginning Industries, Barshitakli. (Con.No.d310159063360)

..... Complainant

...VS...

The Executive Engineer, MSEDCL, Rural Dn. Akola.

... Respondent

Appearances:

Complainant Representative: Mr.Ashish Subhash Chandarana

Respondent Representative: J.H.Rathor, A.E.(R)Dn. Akola, MSEDCL Akola

1. In the matter of grievance about illegal recovery of Electricity duty and refund thereof with interest and other reliefs. The complainants grievance against N.A. is for alleged illegal recovery of electricity duty by referring to Maharashtra State Govt. Notification of 2004 and 2009 where-under the industrial establishment in Vidarbha region have been exempted from payment of electricity duty from 01/04/2004 and subsequently the period has

been extended till 31/03/2014. According to the complainant it was for N.A. to comply the said G.R. as well as Circular No.393 issued by licensee of said office in 2004 and Circular No.101 in June, 2009.

2. It is alleged that inspite intimation by Electricity Duty Inspector and other concerned officials the N.A. has failed to incorporate duty code i.e. "07". Even reference has been made to correspondence made by Electrical Inspection department in that respect. Only because of negligence in performance of duty by concerned officer the complainant is required to suffer. Further it is alleged that as far as consumers of Circle Office, Akola are concerned the exemption has been given effect and no electricity duty has been levied. The complainant approached to IGRC on 06/09/2013 and inspite passing order on 23/09/13 nothing has been done. The complainant therefore approaches this forum seeking reliefs including that of interest @ 9.5% as the same has been granted in similar type of grievance by Hon.ble Electricity Ombudsman, so also claimed cost, hence complaint. Bunch of documents have been filed alongwith the complaint.

3. As per regulations notice was issued to the other side for reply to the complaint. On receipt of notice the reply was filed but belatedly. In fact the claim of the complainant has been practically admitted and it ha been stated that for the relevant period the amount of electricity duty has been collected amounting to Rs. 1,55,541.47 and the same is being adjusted in the forthcoming bill. As far as claim of the complainant for interest is concerned, it is stated that in similar type of complaint 71/2013 to 78/2013 has been passed by CGRF and the same has been complied with, hence on that line

order may be passed. Lastly prays that as amount is being adjusted the complaint needs to be rejected.

4. Heard Mr. A.C.Chandarana the learned representative for the complainant and Mr. J.H.Rathor, A.E. the learned representative for the N.A.licensee. It is pertinent to note that except reply wherein practical claim has been accepted, no documents has been filed on behalf of the N.A. So it is admitted position that the Electricity duty has been exempted from 2004 and such exemption is extended as per G.R. till 31/3/2014. The documents filed by the complainant clearly support its grievance such as exemption granted by Govt. Circulars, letters issued by not only Electricity Duty Inspector but also by H.O. of the N.A. licensee. The fact that the Circle Office has been implementing on the said G.R. and not levying electricity duty by applying electricity duty code 97 can be of one such bill of M/s Ganesh Cotspin, is filed on record. In the like manner the other documents filed by complainant also clearly shows that the various number of consumers have not been electricity duty in their bills.

5 In fact as per G.R. no electricity duty ought to have been levied in the bills but even after making of grievance by the complainant nothing was done and the complainant was required to approach IGRC on 96/09/2013. On 23.09.13 IGRC has passed order directing the N.A. licensee to implement those G.Rs. and circulars issued by the offices, however, nothing was done and the complainant had to approach the Forum for Redressal of grievance. By reply of N.A. which is filed on 28/10/13 it has been averred that amount of Rs.1,55,541.47 is being adjusted in the forthcoming bill however, during the course of arguments that till date it was not adjusted. The complainant has

referred to judgment of Hon.ble Electricity Ombudsman in the representation No.50/2013, matter of similar nature and awarded interest @9.5% so also cost of Rs. 2000/- , the complainants representative has prayed for similar relief and it has been pointed out that the complainant has now become HT consumer and the concerned authority is Circle Office.

6 According to the learned representative of N.A. this Forum has passed order in Con. No. 71 to 78/2013 for similar line the order may be passed and interest, cost may not be awarded. As already observed above in reply the N.A. has admitted about liability of payment of Rs. 1,55,541.47 and though alleged that it is being adjusted but the same has not been done. Admittedly the complainant is no HT consumer and this recovery was when it was LT consumer. While considering the submission of N.A. for not levying interest and cost, it will have to be seen whether the action was just, proper and in time. When admittedly the Circle Office was not levying electricity duty, as is clear from documents on record, it was expected that the N.A. ought to have adopted same strategy. Even no heed was paid to the complainants grievance and ultimately it has to approach IGRC. If one peruses the order of IGRC it also supports the complainants case. As far as order in 71 to 78/2013 as referred on behalf of non applicant it is clear in those matters the complaint have given proposal for not insisting interest if the amount is refunded within particular period. Here it is not similar case, the complainant is insisting for interest and cost when the Govt. has granted exemption the levying of interest is an illegal action on the part of the concerned office of the N,.A.licensee. Here it means the concerned officer/staff. When the HO of the N.A. licensee has issued circulars and when the Circle Office of N.A. licensee was not levying electricity

duty the concerned office ought to have taken appropriate steps. Continuing of illegal recovery of electricity duty debars the N.A. to seek relief on sympathetic ground. Here it is pertinent to note that even IGRC vide its order given direction to take steps as per G.R. that has not been done and now for first time in reply the N.A. is attempting to rectify the mistakes committed. This cannot be said to be bonafied action. It has been already observed above that the order in 71 to 78/2013 was passed considering the giving up of the claim of interest by the complainant. Here in the present case the complainant is insisting and even order of Hon.ble Elec. Ombudsman is produced on record to substantiate the claim. Had the concerned office of the N.A. licensee acted diligently immediately after raising of grievance by the complainant, then certainly this could have been considered but here in the present case at the fed end that of in reply vaguely exemption is being claimed for not levying interest. Considering the available material on record this Forum is unable to accept the request made on behalf of N.A. in respect of interest and cost. The amount has been illegally recovered thereby complainants has been deprived from utilizing that amount even Electricity Ombudsman has awarded interest.

7 In view of the above observations the complainant has made out the case for getting reliefs provided in terms of availing order. As already observed above, the complainant is no HT consumer so it is for the N.A. to see that the amount is refunded by taking appropriate steps. As the concerned officer/staff erred in acting diligently which resulted in awarding of release of interest and cost as laid down by the Honble Supreme Court I Lucknow Development Authority versus M.K.Gupta, it is their personal liability. The

N.A.to take appropriate steps that respect. With such observations the forum proceeds to pass following unanimous order.

ORDER

- 1 The complaint No.90/2013 filed by the complainant is hereby partly allowed. The N.A. is directed to see that the amount of Rs.1,55,541.47 as mentioned in reply towards recovered electricity duty is adjusted/refunded to the complainant in the forthcoming bill by taking appropriate steps as now the complainant is H.T.consumer
- 2 The N.A.also liable to pay interest @9.00% per annum from the date of recovery till adjust/payment of the said amount so also liable to pay cost of Rs.1000/-. The N.A.licensee to take appropriate action against the erring officer/staff of the concerned office of the N.A.licensee as per ruling of the Hon.ble Supreme Court in Lucknow Development authority versus M.K.Gupta reported in 1994 S.C.C.(i) page 243 as well as ordered by Hon.ble Electricity Ombudsman.
- 3 Compliance report to be submitted within one month from this order.

(A.S.Gade)
Member

(P.B.Pawar)
Secretary

(T.M.Mantri)
Chairman