

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

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

Dt- 12/07/2013

Complaint No.41,43 and 56/2013

**In the matter of grievance about levying and recovery of Electric Duty
illegally with other reliefs**

Quorum :

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

- | | | |
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| 1) Shivshakti Stone Crusher, Borgaon
(Con.no.310089063680) | ... | Complainant in 41/13 |
| 2) Chandika Stone Cusher, Borgaon
(Con.no.310089062510) | ... | Complainant in 43/13 |
| 3) Bhagwati Grit Udhyog, Borgaon.
(Con.no.310089062520) | ... | Complainant in 56/13 |

...VS...

- | | | |
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| 1) The Executive Engineer, Rural Dn.Akola | ... | Respondent |
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Appearances:

Complainant representative:- None Present

Respondent representative:- Shri Pradip Andhare, Assistant Engineer,
Rural Sub-Dn. Akola

1) The complainants in both the complaints have same and identical grievance so also reliefs claimed. In the like manner the defense of the N.A. is identical. Even the arguments of N.A. are same and identical and as per the submissions made, the matters have been heard together and are being decided by this common order. In nutshell the grievance of the complainants

is in respect of illegal recovery of the electric duty, though it has been exempted by the State Government by referring to the notification dated 7th July,2004 and 26th May,2009. The period covered therein for exemption is from 1st April,2004 to 31st March,2014. It is alleged that, in fact, the N.A. licensee is required to make compliance of these notifications so also the circulars issued by the MSEDCL itself. It is alleged that, even there is no uniformity through out the region in recovery of electric duty. The N.A has failed to incorporate appropriate Duty Code i.e. 97. It is further alleged that the Electric Duty Deptt. has expressed displeasure in that respect. Because of negligence of the concerned officer in performance of duty, for which the complainants is required to suffer. It is further alleged that the consumers of the Circle Office of the licensee have got the benefit of this exemption by making the reference to the information provided by the circle office under the Right of Information Act. Though the complainant approached the IGRC on 30/3/2013 and the said authority has passed order on 3/5/2013, the complainant approached this Forum seeking the relief prayed for. Alongwith the complaint copies of documents came to be filed.

2) As per the regulations notice was issued to the N.A. for its reply which came to be filed stating that the N.A. is a Government Company with further averments that the issues regarding electric duty are to be dealt with under the provisions of Bombay Electricity Duty Act, 1958 with Rules there under, hence it is out of purview of this Forum. Similarly, it is stated that the present case is not falling under "Grievance" under Regulation 2006. Reference has been made to the correspondence made with the Electric Duty Inspector office in the matter of Shivam Oil Industries, Barshitakli. The reference of Regulation 6.6 is only made without making any further averments.

3) It is stated that, as per the order of IGRC, the N.A. has complied with it and from February, 2013 the complainants are exempted from payment of electric duty. With regard to the claim of refund, it is stated that it has been referred to the Electric Duty Inspector, Amravati who is authorized and empowered by the State Government to effect such refund.

4) As far as the claim for interest, it is stated that the amount recovered from the complainants as electric duty has been deposited with the State Government, hence the N.A. is not liable for its refund. Moreover, the issue of refund is taken care by submitting the proposal to the said office, therefore also no refund be awarded. Lastly, it is stated that the complaint is liable to be dismissed by awarding cost of Rs. 5000/- to the N.A. for unnecessarily vexing it in this complaint. Copies of some documents came to be filed with the reply. The matter was then posted for arguments.

5) None Present on behalf of the complainant. Even Complainants did not remain present on any date. The learned representative of the similar other complaints stated that he is not appearing in these 3 cases. Heard Shri Pradip Andhare, Assistant Engineer, learned representative for the N.A. As referred to above, the controversy involved is of short nature, in respect of refund of electric duty. Here it is pertinent to note that, as per the reply of the N.A. as well as submissions made during the course of arguments by its learned representative the electric duty is not being levied from Feb., 2013, as, it is exempted. In view thereof, now only question remains to be decided in respect of claim of refund of electric duty collected from the complainants till February 2013.

6) Admittedly, by notification of 7th July,2004 and 26th May,2009 the State Government has accorded exemption from payment of electric duty for the industries in Vidarbha Region. The copies of notifications are on record and not disputed. It is pertinent to note that, even the departmental circulars of N.A. licensee, in that respect, have been issued. It is admitted position that, inspite there of the electricity duty has been levied in the bills and recovered from the complainants. It has been tried to submit on behalf of the N.A. licensee that the order of IGRC has been complied with. Suffice to say that the said submission is not fully correct. When the electricity duty was exempted for industries by the State Government vide notifications referred to above, the action of levying the electric duty in the bills and recovery there of is in contravention there to. There is no satisfactory justification put forth from the side of the N.A. The learned representative of the N.A. has submitted that the proposal has been sent to the Electricity Duty Inspector for refund and it is the appropriate and competent authority. However, nothing has been brought on record to show that the authority is competent, as tried to be submitted. So it is clear that, the said submission of N.A. has no base at all specially when the Government has exempted the electric duty. Levying of the electric duty in the electric bills, inspite of such notification is apparently a mistake or act of negligence and it has been continued for sufficient long time. It is in contravention to such notification as well as departmental circulars of the licensee. Nothing has been pointed out as to what are the provisions under Electric Duty Act, 1958 or Regulations there under in support of defense of the N.A. In view there of, it is crystal clear that the electric duty has been illegally recovered, hence the question of making reference to anybody else does not

arise at all. It is the responsibility and liability of the concerned officer of the N.A. licensee.

7) As far as the objection raised in reply by making reference of definition “Grievance” and with regard to the Clause 6.6 of the Regulation 2006, nothing has been submitted on behalf of the N.A. If one considers the definition of grievance under the Regulation as well as Clause 6.6 of the Regulation, 2006, it is clear that there is no substance in the objections of the N.A. On the contrary, in the matter of M/s HPCL Vrs. MSEDCL, this objection has been duly considered i.e. the cause of action has been clearly explained by the Hon’ble High Court therein. So this objection of N.A. has no merits. In view of illegal recovery of electric duty, the same has to be refunded and in fact the IGRC order also means the same.

8) With regard to the claim of interest and costs as made on behalf of the complainant, it is pertinent to note that neither complainants nor anybody has attended the proceedings on their behalf on any date. The complainant could not justify the said claim. Hence the said request can not be accepted. In view of these observations the forum proceeds to pass the following unanimous order.

ORDER

1. Complaint NO. 41/2013, 43/2013 and 56/2013 are hereby partly allowed. The N.A. licensee is directed to refund the electric duty collected from each of the complainants till Feb.,2013 till adjustment of the entire amount, in the forthcoming coming electric bills payable by each of the complainants.

2. In the circumstances the parties to bear their own costs.
3. Compliance report to be submitted within a period of one month.

Sd/-
(A.S.Gade)
Member

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman