

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

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

Dt- 30/08/2013

Complaint No.68/2013

**Grievance in respect of refund of Electricity Duty illegally recovered apart
from interest, costs and other reliefs**

Quorum :

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

M/s Dayal Cotspin Pvt. Ltd. (Con.No. 370019004630) ... Complainant
A/P Wanjari Tq. Wani, District Yavatmal

...VS...

The Superintending Engineer, O&M Circle, Yavatmal ... Respondent

Appearances:

Complainant's Representative: Shri D.M.Deshpande,

Respondant's Representative : None Present

1 The complainant is a H.T. industries consumer of the N.A. licensee and in view of notification issued by the State Government, exempted from the payment of electricity duty being in Vidarbha Region for the period from 1/4/2004 to 31/3/2014. Reference has been made to the incentive package scheme of the State Government also, in that respect apart from the earlier exemption granted. It is alleged that though the complainant is pursuing the matter of exemption of electricity duty from the year 2008 by making various communications to various authorities, but to no effect. So also personal visits were made against the illegal recovery of electricity duty, inspite of exemption,

but to no effect, resulting in sufferance by the complainant on account of negligence on the part of the concerned officials of the N.A.

2 The complainant has given the synopsis of the events took place on various dates including the Government notification, issuing of circular by the department of N.A. It is alleged that the power was released to the complainant industry on 18/12/2006, however inspite of exemption, the electricity duty has been recovered illegally. The complainant has referred to the correspondence made time and again, as referred to in the synopsis, so also the letters given by other authorities such as The General Manager, District Industries Centre, Electricity Duty Inspector specifically mentioning not to recover the electricity duty from the complainant, letter of Chief Electrical Inspector for refunding the electricity duty dated 16/5/2012, correspondence made by the complainant thereafter, time and again with the authorities of N.A. Inspite complainant's requests and directions by other authorities concerned, the N.A. continued of levying the electricity duty. Only in the bill of November, 2012 which was received on 7/12/2012 the electricity duty was not levied.

3 According to the complainant, it is the case clearly showing misuse of powers and harassment to the consumer in the monopoly trade of electricity. Hence, it is necessary to give directions for initiating investigation and fix the responsibility on the erring officers. Inspite of directions of the Electricity Inspector for not recovering the electricity duty, it has been continued till October, 2012 and though the proposal for refund of electricity duty was accepted by the authority concerned, it has been overlooked. The N.A. has illegally recovered the electricity duty to the tune of Rs.14,71,447.08 which needs to be refunded alongwith interest @ 12%. The complainant has also

claimed costs of Rs. 10,000/- for undue hardship caused by making reference to the order of the Electricity OMBUDSMAN, Nagpur and sought reliefs prayed for. Alongwith the complaint the complainant had filed a bunch of documents referred to in the synopsis as well as in the complaint.

4 In spite of issuing of notice for submitting reply to the complaint, the reply could not be filed from the side of N.A. and adjournments were sought for filing reply, by letters dated 12/8/13 and 22/8/2013. The matter was then posted for arguments in absence of reply. At that time the reply dated 26/8/2013 was sent through Peon of the concerned office contending that the complainant's claim in the present complaint is for refund of electricity duty paid by it till December, 2012 with further averment that reserving legal rights with regard to the points raised by the complainant and view of commercial circular dated 8/8/2013 the respondent is going to refund the electricity duty of Rs. 14,71,437 by way of credit, in the forthcoming bills. So also, it is, stated that the audited copy of the electricity duty paid by the complainant and Circular dated 8/8/2013 are filed. It is pertinent to note that, on none of the dates fixed in the matter, nobody attended on behalf of the N.A. and the reply was sent through Peon, when the matter was already fixed for hearing.

5 Heard the learned representative of the complainant Shri D.M. Deshpande. As already observed above, none has attended for hearing on behalf of the N.A. This forum thinks it proper that the concerned officials of the N.A. licensee to take serious note of this fact as to how negligently the concerned office/officers are dealing with the matter. In spite granting of opportunity, did not file the reply in time and on the date of hearing, the reply was sent through Peon. The entire record clearly shows the negligent and

callous attitude on the part of the concerned officers/staff not only towards the consumer but also to the authorities established under the regulation.

6 As already observed above, the reply is too short containing that the N.A is going to refund the electricity duty of Rs. 14,71,437.37 by crediting it in the coming bills of the complainant. The specific averment made by the complainant in the complaint with synopsis, the same have not been denied from the side of the N.A. There are documents filed on record from the side of the complainant i.e. continuous persuasions with the concerned authorities of the N.A. for refunding the amount of electricity duty illegally recovered. So also directions given by the Electricity Inspector for not charging the electricity duty to the complainant by letter dated 27/5/2008. It has been continued to levy the electricity duty in the bills. When the State Government has granted exemption and when the concerned authorities have also given directions in writing to the N.A. for not levying the electricity duty, it has been totally overlooked. This clearly supports the submission made on behalf of the complainant that taking undue advantage of the monopoly in electricity supply the concerned officers of the N.A. licensee are clearly harassing the consumer/complainant. It is therefore required to be noted that the various correspondence made by the complainant demanding refund of electricity duty illegally recovered and for not levying in future bills, none of them has been replied appropriately. Not only to Government Resolutions but even the directions issued under the Departmental Circulars have been overlooked. It is thus clear that the electricity duty has been illegally recovered for sufficient long time i.e. for more than 5 years, inspite of protests and objections raised by the complainant. It is apparently clear realising that there is nothing to face save and there is no justifiable ground to justify such illegal action, none of the

concerned officer has attended the hearing so also not deputed any authorized person. The reply appears to be signed by the Superintending Engineer of the Circle Office, Yavatmal. Reference of commercial circular of 2004 and dated 8/8/2013 is also not of much relevance because there is reference of Government letters, which are relating to the incentive package scheme. Here it is pertinent to note that the State Government has exempted the industries in the Vidarbha and Marathwada region by issuing Government notifications. In any case, the record clearly shows that such compliance asked for from the complainant was not complied with and the Electricity Duty Inspector who has given directions to the N.A., even the same has not been complied with. The complainant's claim for refund of Rs. Fourteen lakhs seventy-one thousand and odd is totally justified, as the amount has been illegally levied in the bills and illegally recovered from it, contrary to Government resolutions.

7 The complainant has also claimed interest @ 12% per annum alongwith cost of Rs. 10,000/- for undue hardship caused to it. The complainant has relied upon the order of the Hon'ble Electricity OMBUDSMAN, Nagpur in the representation NO. 55/2013. Though the complainant has claimed 12% interest but nothing has been pointed out in support thereof. However, the Hon'ble Electricity OMBUDSMAN has awarded interest @ 9.5% per annum from the date of recovery till making adjustment in the future bills. That because of illegal recovery, the complainant is deprived of user of that amount. In view thereof, it will be just and proper to award interest @ 9.5% per annum from the date of recovery till adjustment of the amount in future bills. In the like manner, this forum finds substance in awarding reasonable costs to the complainant as it has been required to approach the N.A. and

various authorities time and again against this illegal recovery of electricity duty. Submissions made on behalf of the complainant that apart from making correspondence time and again, even personal visits were also made have not been denied from the side of the N.A. It is thus clear that the complainant had incurred substantial costs in pursuing its just claim. Consequently this forum is of the considered view to award the costs of Rs. 5000/-.

8 On behalf of the complainant it has been vehemently submitted that because of negligent and callous attitude on the part of the concerned officers of the office of N.A. licensee it has been put to losses and harassment so this loss be recovered from the concerned officers/employees, by making reference to the judgment of Hon. Apex Court in the matter of Lucknow Development Authority Vs. M.S.Gupta (1994 SEC (1) 247 page). There is justification in such submission. Because of callous and negligent attitude of the erring officers/staff, monitory liability is imposed upon the N.A. licensee, in the form of awarding interest and costs. Because of such acts of erring officers/staff the N.A. licensee's name is defamed. It is the liability of the concerned erring officers/staff of the N.A. licensee. The N.A. licensee to take steps for recovery of the same from them, apart from taking actions as per the Service Regulations, so as to avoid disreputation of the N.A. licensee. The Hon. Electricity OMBUDSMAN, Nagpur in the above referred order has also upheld such submission made in that respect from the side of the appellant therein. With such observations this forum proceeds to pass the following unanimous order;

ORDER

- 1 The complaint NO. 68/2013 is hereby partly allowed. The N.A. is directed to refund the amount of Rs. 14,71,437.37 alongwith interest @ 9.5% per annum from the date of recovery till making adjustment in the forthcoming bills of the complainant in view of illegal recovery of electricity duty from the complainant.
- 2 The N.A. is also liable to pay costs of Rs. 5000/- of the present proceedings to the complainant.
- 3 That the N.A. licensee is directed to recover the amount of monetary liability arising against it by way of interest and costs, from the erring officers/staff in view of observations of the Hon.Apex Court in the matter of Lucknow Development Authority Vs. M.S.Gupta (1994 SEC (1) 247 page) apart from taking suitable disciplinary action as per the service regulations.
- 4 That the Compliance report to be submitted within a month.

Sd/-
(A.S.Gade)
Member

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman