

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

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

Dt- 26/09/2013

**Complaint No.71/2013 to 78/2013**

**Grievance in respect of non-refund of electricity duty collected illegally  
alongwith interest and other reliefs.**

Quorum :

Shri T.M.Mantri,	<b>Chairman</b>
Shri P.B.Pawar,	<b>Secretary</b>
Shri A.S.Gade	<b>Member</b>

- 1) M/s Vidarbha Ginning Factory, Akot (Con.No.31880000629) ... Complainant No.71
- 2) M/s Ashapura Mata Enterprises,Akot (Con.No.318739060650) ... Complainant No.72
- 3) M/s Vinayak Agro Industries, Akot (Con.No.318739063910) ... Complainant No.73
- 4) M/s Ijajullakhan Fakrullakhan,Akot (con.No.318730257309) ... Complainant No.74
- 5) M/s Moh. Sadique Abdul Rajik,Akot (con.No.318730652461) ... Complainant No.75
- 6) M/s Afjalkhan Afsarkhan, Akot (Con.No.318730325452) ... Complainant No.76
- 7) M/s J.P.Ginning Factory, Mohala Akot (Con.No.318739063420) ... Complainant No.77
- 8) M/s Rahul Agro Industries, Akot (Con.No.318739060700) ... Complainant No.78

...VS...

The Executive Engineer,MSEDCL Rural Dn. Akola ... Respondent

***Appearances:***

Complainant Representative: Mr. Ashish S. Chandrana

Respondent Representative: Shri J.H.Rathaur, Asstt.Engineer,

1 In this group of complaints there is a common grievance on behalf of the complainants for illegal recovery of electricity duty in contravention to the Government resolutions as well as directives of the MSEDCL itself. The complaints case in brief is that the Government of Maharashtra exercising the power under the statue, has exempted the Industries in Vidarbha region from 1/4/2004 and the period has been extended till 31/3/2014 giving the

reference of the concerned notifications, so also alleged that the licensee has issued circulars giving details thereof in that respect. In spite thereof the electricity duty has been illegally recovered and there is a failure to incorporate the appropriate code in the bills. Allegations have been made that even the Electrical Inspector's Department has expressed displeasure for such acts. However, because of negligence of the concerned officer of the licensee, the complainants have been put to sufferance. It is alleged that the Circle Office, Akola is not levying the electricity duty. Averments have been made that the IGRC has given directions for taking appropriate steps of refund of electricity duty, but to no effect, in spite of passing sufficient time. Hence the complainants are required to approach this forum for redressal of the grievance. The complainants also filed some documents relating to the grievance.

2. Notice, as per the regulations, sent to the N.A. for submitting parawise comments and after receipt of the notice, time has been sought from the side of the N.A. for submitting reply and subsequently it came to be filed, raising practically same and identical reply. In complaint NO.74 and 75 additional pleas have been raised. In substance the complainants have been opposed stating that the issue regarding electricity duty is to be dealt with under the Bombay Electricity Duty Act, 1958 as well as rules of 1962, hence this matter is out of purview of the Forum. Similarly vague objection has been raised that the complaint is not covered under "Grievance" as defined under Regulation-2006.

3. It is stated that in the matter of Shivam Oil Industries, Barshitakli the N.A. has referred the matter to the Electricity Duty Inspector, Amravati and

instead of making compliance, the complainant has elected to file the complaint, which is illegal.

4. Reference of Regulation 6.6 of MERC (CGRF and Electricity OMBDUSMAN) regulation 2000 has been made, stating that there is a provision relating to the limitation for filing the case. So also stated that from February, 2013 the complainants have been exempted from payment of electricity duty (as far as Complainant No. 71 to 73 and 76 to 78), with further averments that the complainant cannot claim the refund of electricity duty prior to than two years.

5. The claim for interest has been opposed stating that the electricity duty recovered has been promptly deposited with the State Government and the issue of refund is taken care of by submitting proposal in that respect to the concerned office. According to the N.A., it is not the authority and empowered to effect the refund, as per the procedure laid down by the State Government. Therefore, also the Government is necessary party. It is stated that the N.A. has refunded the electricity duty to the consumer as per the order passed by the Hon. CGRF, previously and the complainant who has applied for refund, their claims have been processed for refund, after approval of the competent authority. Lastly, pressed for dismissal of the complaint with averment that as the electricity duty has been recovered as per the directions of the Government so the direction be given to make the grievance against the Government instead of N.A. The N.A. has also claimed costs for unnecessarily vexing it in the complaint with other reliefs.

6. As far as the complainant Nos. 74 and 75, the N.A. has also raised the plea that the electricity has been utilized for nonh-industrial purpose hence

the referred GR & circular is not applicable to those 2 complainants and after submission of the relevant documents pressed for, the refund of electricity duty will be initiated. The N.A. has also filed certain documents alongwith the reply.

7. The matter was then posted for arguments. Heard Shri Ashish Chandaraana, the learned representative for the complainants and Shri Rathaur, Assistant Engineer, the learned representative for the N.A.

8. From the record and submissions, it is clear that the Government has exempted the industries in Vidarbha region from the payment of electricity duty w.e.f. 1/4/2004 and this period of exemption has been extended till 31/3/2014. Though, in reply the claim of the complainant has been opposed on various technical pleas, however, during the course of arguments the learned representative of the complainant has not made any submission for dismissal of the complaint on the alleged pleas in the reply. On the contrary, it has been submitted that except complainant No. 74 and 75, the levying of electricity duty has been stopped from February, 2013. As far as the refund of the earlier electricity duty recovered, it has been tried to submit that the steps are required to be taken and are being taken for refund/adjustment of the electricity duty. It is rather surprising that inspite of Govt. resolutions as referred to above of 2004 and 2009, the electricity duty has been levied in the bills illegally. The learned representative for the complainants has pointed out that the consumers under the Akola Circle Office, were exempted from payment of electricity duty in pursuance to the circulars, but in the Division Office like N.A, it has been continued for the reasons best known to the concerned officers. On behalf of the N.A. it has been suggested that suitable orders were being awaited. As is clear from the record apart from the

Government Resolutions referred to above, even the Circulars have been issued by the Head Office of the N.A. licensee in respect of exemption of electricity duty in pursuance to the Govt. Resolution, so there was no any further need to expect the written order as alleged, on behalf of the N.A. There cannot be discrimination amongst the consumers of one type. The consumers of the Circle office were getting the benefit of the Govt. Resolution and the consumers like complainant ,though entitled for such benefit, have been deprived from the benefit. During the course of arguments the learned representative of the complainant has submitted that the levying of interest and costs for such attitude on behalf of the N.A. is contrary to the G.R and Circulars. The learned representative for the N.A. has submitted that the N.A. will give adjustment of the amount of electricity duty recovered from the complainants in the coming bill of September, 2013. Hence no interest be paid and no costs be imposed. This proposal of the N.A. licensee has been duly considered by the learned representative of the complainant stating that if the N.A. makes a submission in writing to that effect, then the complainants can consider not to press for costs and interest. The leaned representative of the N.A. has submitted that within 2/3 days the said communication in writing will be filed. The complainants representative has submitted that if no such communication in writing is filed within 2/3 days, the complainants claim for interest need to be appropriately considered.,

9. As far as the complainant NOs. 74 and 75 are concerned, though, in reply the N.A. has raised plea that they are not entitled for the benefit of these G.Rs and Circulars as the electricity is not used for industrial purpose. However, during the course of arguments nothing has been submitted or brought on record. On the contrary the learned representative of the

complainants has submitted that the Complainant No. 75 of 2013 is a Ginning Factory, so also the complainant No. 74 of 2013 is carrying industrial activities. He has further submitted that they have been provided with connection for industrial purpose and the billing is being done under industrial tariff, since beginning. So also the documents of District Industries Officer in that respect have been submitted with the N.A. at the time of obtaining connection. This has not been disputed or contravened from the side of the N.A. Here it is pertinent to note that the some of the complainants who are carrying on ginning activities have been considered as industrial consumers by the N.A. itself, but without there being anything in support to defend, the pleas in reply as referred above, have been raised.

10. Here it is pertinent to note that, as per the submissions made during the course of arguments on behalf of the N.A., communication in writing dated 25/9/2013 has been filed on record, giving each of the complainant-wise details of the amount of electricity duty, with further averment that the above referred amount of electricity duty shall be adjusted in the bill of September, 2013 and as per the submissions made, the complainants to not to press for interest and costs. Here it is pertinent to note that the respective amount for each of the 8 complainants including the complainant No. 74 and 75, have been mentioned therein. This also clearly demonstrates that the plea raised in the reply in respect of the complainant Nos.74 and 75 about not industrial user is not valid even according to the conduct of the N.A. As already observed above during the course of arguments, submissions have been made on behalf of both the parties and in view of the submission of written communication dated 25/9/2013, this forum is of considered view that the interest of justice will be served in passing order, in terms thereof, hence this unanimous order.

## ORDER

- 1) That complaints NO. 71/2013 to 78/2013 are hereby partly allowed.
- 2) That the N.A. to adjust the amount of electricity duty illegally recovered from each of the complainant as detailed below, in the forthcoming bill of September, 2013 and not to levy such electricity duty in the forthcoming bills, contrary to the Government Resolution.

Sr No.	Comp. No	Name	Consumer No.	Amount to be adjusted in forthcoming bill
1	71/2013	Vidarbha Ginning Factory, Akot	318800000629	128268.00
2	72/2013	Ashapura Mata Enterprises, Akot	318739060650	117703.00
3	73/2013	Vinayak Agro Industries, Akot	318739063910	203474.00
4	74/2013	Ijajulla Khan Faqrullakhan, Akot	318730257309	50587.00
5	75/2013	Mohmed Sadique Abdul Rajik, Akot	318730652461	48184.00
6	76/2013	Afjalkhan Afsarkhan, Akot	318730325452	35825.00
7	77/2013	J.P.Ginning Factory, Mohala Akot	318739063420	124125.00
8	78/2013	Rahul Agro Industries, Akot	318739060700	106824.00

- 3) In the circumstances no order to costs. So also as per the understanding / submissions, the claim for interest is not pressed on behalf of the complainant.
- 4) That the 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