

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

*“ Vidyut Bhavan ”
Ratanlal Plots,
Akola : 444001
Tel No.2434476*

Dt.05/05/2014

Complaint NO. 71 / 2014

In the matter of grievance pertaining to illegal recovery of electricity duty and
non-refunding of Security deposti etc.

Quorum :

Shri T.M.Mantri, Chairman

Shri P.B.Pawar, Secretary

Shri A.S.Gade, Member

M/S Uday Cotton Fibres Pvt Ltd., Yavatmal. Con.No.370019002022
Complainant

...VRS....

The Executive Engineer, MSEDCL, Yavatmal.
Respondent

Appearances :

Complainant Representative: Shri Ashish Subhash Chandrana

Respondent Representative : Shri R.V. Bommi, Assist Law Officer and
S.S. Joshi Mngr.(F & A)

1. The complainant has approached this Forum for redressal of grievance in respect of illegal recovery of electricity duty and non-refunding of Security Deposit

though the connection is permanently dis-connected. It is alleged that though the complainant has approached the IGRC and efforts were made by the Chairman, IGRC and concerned Law Officer, however, the Officers of the N.A. Licensee are not ready to attend the grievance, resulting in filing the proceeding before the CGRF. In spite not fully satisfied with the directives of the Order of IGRC, however, as the same is not complied with, the Complainant is required to approach here and also seeking relief of interest, apart from other reliefs.

2. Reference has been made to Notifications dated 7th July, 2004 and 26th December 2009, wherein the State Govt. has exempted payment of Electricity duty with effect from 1.4.2004 till 31.3.2014. In spite of issuing the Commercial circular by the Licensee, no efforts have been taken from the side of the concerned Office of the N.A. The complainant is consumer since 8.11.1952 and N.A. has failed to meet applicable provisions, in spite of showing displeasure by the Electrical Inspection Department. Because of negligence of the concerned Officers, the Complainant is suffered intentionally. The Circle Office, Akola, has given exemption of electricity duty and reference has been made to the information provided by the Circle Office, Akola under RTI. It is also alleged that now the State Govt. has delegated powers to refund electricity duty to the Licensee. In view of the attempt made by the Chairman, IGRC and Law Officer in respect of settling the issue mutually, the complainant has given oral consent for waiving off interest, if the claim is settled in the coming billing cycle. IGRC has passed order on 20.1.14 and till date no compliance has been made resulting in filing of the present proceeding.

3. Further, reference has been made to file application for permanent dis-connection on 17.12.2013 , which was before the order of IGRC and even before the date of hearing, requesting of refund of Security Deposit with interest. The N.A. has asked for original deposit receipt which is not at all mandatory and no such condition is prescribed under the Supply Code. Even then the Complainant has complied with the requirement. The complainant is entitled for refund of electricity duty recovered illegally alongwith the interest at the rate of 15%, so also refund of Security Deposit with interest with cost of Rs.5000/- and other reliefs as prayed for in the complaint. Alongwith the complaint, documents came to be filed.

4. After receipt of notice by the N.A., reply came to be filed from the side of N.A. stating that after submission of application for permanent dis-connection, matter has been initiated after necessary compliance and on receipt of funds from the Corporate Office, cheque will be issued. The consumer is permanently dis-connected on 16/02/14 and feeding to I.T. Department was done on 1.3.14. After submitting the original money receipt by the consumer, the procedure for refund of security deposit has been complied with as the complainant has applied on 28.2.2014, The N.A. has stated that it is unable to refund electricity duty in cash or cheque and even IGRC has passed directive to credit the same in the bills. Reference has been made to the Commercial Circular No.204 and further stated, whereby the amount cannot be refunded in cash.

5. It is stated that the Complainant consumer has applied for a fresh L.T. connection and the N.A. is ready to credit the amount of Electricity duty to be

refunded on L.T. connection. There is no purposeful delay, but it is a procedural delay. As per the Commercial Circular, the N.A. is not allowed to give refund of electricity duty in cash.

6. Lastly, it is stated that there is no intentional delay or harassment to the consumer, the duty will be refunded by way of credit in the bill of his choice, as the complainant has applied for a fresh LT connection or it can be adjusted in other live connections . Alongwith the reply, copies of the certain documents came to be filed.

7. On behalf of the complainant, rejoinder came to be filed with some documents. Herd Shri Ashish Chandarana, Learned Representative of the complainant and Shri S.S.Joshi and Mr. Bommi, Asstt. Law Officer of the N.A. As is clear from the record, the amount of security deposit of Rs.2,46,000/- has been refunded after filing of the present proceeding by the complainant, though the Cheque is of 1.4.2014 for Rs.2,46,000/- but the Complainant has categorically mentioned about the receipt of the same on 21.4.2014, though the cheque is dated 11.4.14. The Learned Representative of the complainant has submitted that the complainant has agreed for waiver of interest of certain term that has not been complied with. The complainant is entitled for interest at the rate of 15%. The Learned Representative for N.A. has rightly submitted that the cheque has been received by the representative of the complainant, without any protest, so admittedly Rs.2,46,000/- has been refunded towards Security Deposit. As far as the claim of the complainant for interest is concerned, the Learned Representative for N.A. has fairly submitted that the same will be paid as the rate of interest after

31.3.14 is to be finalized and after the rate is finalized for interest, amount of interest will be refunded to the complainant. According to the Learned Representative for the N.A. sincere attempts have been made within the jurisdiction of local authority, hence no interest to be awarded. It is pertinent to note that the Order is dated 17.1.2014 and the complainant had approached to the authorities in time, but to no effect. In view of the Statement made by the Learned Representative of N.A. about the refund of Security Deposit and making payment of interest as per the rate prescribed after 31.3.2014, this Forum finds that it is a reasonable approach as is clear from the Letter dt 22.04.14 that the original money receipt of Security Deposit was submitted so the claim for interest as claimed on security deposit, cannot be accepted. N.A. to pay the interest amount on S,D, for the period 01.04.13 to 21.04.14 as submitted, immediately, after finalisation of rate of interest.

8. Next controversy is pertaining to illegal recovery of electricity duty. Admittedly the Government has exempted from payment of Electricity duty from 1.4.2004 to 31.3.2014, inspite thereof, the duty has been illegally recovered and though the IGRC has given direction, the same has not been complied with, inspite of passing the period of about 3 months. The submissions made on behalf of N.A. about making of adjustment in others bills, does not appear to be just and proper. Admittedly, the complainant has applied for permanent dis-connection on 16.12.2013 and on 17.1.2014, it has been permanently dis-connected. The Complainant was asking for the refund of illegally recovery made, however, as per the submissions made on behalf of the N.A., proposal for refund of electricity duty has been sent by referring to the letter dated 22.4.2014. Suffice to say that in reply

nothing has been stated in that respect though it was filed on 11.4.2014. On the contrary, during the course of submissions, it has been tried to submit on behalf of the N.A. that as per the Commercial Circular No.204, refund of Electricity duty can be made by way adjustment of arrears and refund in cash is not permissible. It is admitted position that the complainant, which is a Company incorporated under the Companies Act, has already applied for permanent dis-connection on 17.12.2013 and it has been permanently disconnected on 17.1.2014, so there is no question of making adjustment. The attempt made from the side of the N.A. in submitting that the same amount will be adjusted in anybody's bill , cannot be accepted. The payment was made by the complainant – Company and suggestion of N.A. for making adjustment of the amount , even in the bill of any individual name cannot be accepted as the complainant has objection therefor.

9. According to the complainant, the amount of electricity duty to be received from the N.A. is about Rs.4.00 lakhs, even in the letter of N.A. the amount has been shown as Rs.3,62,000/- and odd. The reliance on the Circular No.204, is of no assistance to the N.A., it has been submitted on behalf of the complainant that the G.R. referred to in the said Commercial Circular are pertaining to exemptions under different incentive Scheme, whereas the Complainant's claim is that exemption given by the Government as per the GR referred to above. The N.A. could not point out any provision for making refund of Electricity duty recovered illegally. It is pertinent to note that inspite of granting exemption by the State Government, Electricity duty has been illegally levied in the bill and it was very well known to the N.A. about such exemption by the Govt. inspite thereof it has been continued for about 5 years. Since 1st July 2009, exemption has been implemented by not levying the Electricity Duty in the bills, so apparently, there

was grave mistake on the part concerned officer/staff of N.A. which has been continued for sufficient long time. In some cases, the Electricity duty has not been levied from the very first bill on commencement of the Industry. The complainant has filed the copy of bill of such consumer on record. Moreover, it is pertinent to note that there is further delay on the part of the N.A., that the IGRC has passed order on 20.1.2014, nothing has been done from the side of N.A. till writing of letter dated 22.4.2014 to The Chief Engineer, Zonal Office, Akola, forwarding copies to the Chief Engineer (Commercial), Mumbai. In fact, there was no need of giving direction by the IGRC also and the amount of Electricity duty could have been refunded to the complainant when it was under working. In spite of submission of the application for permanent dis-connection on 16.12.2013 by the complainant, nothing has been done from the side of the N.A. Admittedly, the complainant has made payment of the Electricity bills and nothing is to be recovered from it.

10. The submission of the Ld. Representative of the complainant about refunding of amount as RLC refund to the P.D. consumers by cheques by N.A. has not been disputed from the side of N.A. Consequently, the complainant is entitled for refund of electricity duty, which has been illegally recovered from it till 30.6.2009.

11. As far as the complainant's claim for interest at the rate of 15% for the amount illegally recovered towards Electricity Duty, the same appears to be excessive. It is pertinent to note that the complainant, itself has admitted about the giving of oral consent, if the claim is settled in coming billing cycle.

Accordingly, IGRC has passed order, but even that has not been followed by the N.A. Consequently, the complainant is entitled for appropriate relief as amount has been illegally recovered towards Electricity dues prior to 30.6.2009. It is more than 5 years period has been passed. Considering the submissions made, this Forum is of the view that the Complainant is entitled for the interest atleast from 20.1.2014, at the rate of RBI on the amount of illegally recovered electricity duty, till making of payment. Needless to say that liability of interest is on Licensee is because of negligence and lethargy on the part of the Officer/staff of the concerned Office of the N.A. The same is to be recovered from them as laid down by Hon.Appex Court in M.K.Gupta and Lukhnow Development Authority.

12. The Complainant has also claimed for cost of Rs.5000/- Had the concerned Officer / Staff has taken due care and prompt action, this litigation could have been avoided, at least after order of IGRC. The complainant is therefore, entitled for reasonable amount towards costs and it is also liability of the concerned officer/staff as referred to above, with such observations, this Forum proceeds to pass the following unanimous order:

ORDER

1. That the Complaint No.71/2014 is hereby partly allowed, N.A. is directed to refund the amount of Electricity Duty recovered illegally from the complainant till 30.06.2009, alongwith the interest at the rate of RBI(9% per annum) from the date of passing of the order Dt 20.1.2014 by IGRC, Yavatmal, within a period of one month.

2. The claim of the complainant for refund of Security Deposit, having been resolved, no directions are necessary.
3. The N.A. is also liable to pay cost of Rs. Rs.1000/- to the complainant.
4. The N.A. Licensee to take steps against the erring Officer/ staff for incurring liability of interest and costs awarded in the present proceeding and the same be recovered from erring officer/staff, apart from taking action under the Service Regulation, as laid down by the Hon.ble Supreme Court in Lukhnow Development Authority versus M.K.Gupta reported in 1994 SCC (1) Page 243.
5. That the compliance report be submitted within the period of one month from the date of this order.

Sd/-
(A.S.Gade)
Member

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman

No.CGRF / AMZ/

Dt. /05/2014

To
The Nodal Officer / Executive Engineer,
MSEDCL,
Yavatmal Dn.
Dist: Yavatmal
For information & necessary action.

Secretary,
Consumer Grievance Redressal Forum,
MSEDCL, Amravati Zone, Akola.

Copy To:

M/S Uday Cotton Fibres Pvt. Ltd. Cotton Market, behind BSNL Office, Dhamangaon Road, Yavatmal.

Copy s.w.r.to:-

The Superintending Engineer, O & M, MSEDCL Circle Office, Yavatmal.