

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Zone, Nagpur**

Case No. CGRF(NZ)/93/2016

Applicant : M/s Sarvadnya Ginning & Pressing
At.Hingni
Tq.Seloo
Dist.Wardha.

Non-applicant : Nodal Officer,
The Superintending Engineer,
O&M Circle,MSEDCL, Wardha.

Applicant's Representative :- Shri Khandekar,

Respondent by:- 1) Shri Sadawarte, EE(Adm), Wardha Circle.

Quorum Present : 1) Shri Shivajirao S.Patil
CHAIRMAN

2) Mrs.V.N.Parihar
Member/Secretary

3) Shri N.V.Bansod,
Member

ORDER PASSED ON 29.09.2016.

1. The applicant filed present grievance application before this Forum on 01.07.2016 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).

2. Applicant's case in brief is that applicant is an industrial consumer of MSEDCL and registered with SSI. In May-2015, it has come to the notice of the applicant that although industrial consumers in Vidharbha area are exempt from the payment of electricity duty. Electricity duty charged to the applicant from the

beginning and it is not correct as per Rules & Regulations. Therefore applicant applied to the IGRC to stop immediately levy of electricity duty. Electricity duty collected so far, with interest at the standard bank rates should be refunded from the date of collection. During the hearing before IGRC applicant was informed that for the refund of electricity duty, consumer has to log in at the website of MSEDCL and fill up certain information and duty can be stopped. During the hearing before IGRC applicant pointed out that applicant had tried to do this a number of times, but found that website was not accessible, very slow due to which the formality could not be completed. Applicant is entitled for refund of electricity duty since the date of connection dated 01-07-2011. Being aggrieved by order passed by IGRC applicant approached to this forum.

3. Non applicant, denied applicant's case by filing reply dated 22.07.2016. It is denied that consumer tried to fill up on line application number of times and website is not accessible. It is submitted that all other eligible industrial consumers applied on line and submitted original duty exemption certificate and getting exemption from the electricity duty and also get the refund. IGRC had rightly observed that consumer has to apply alongwith relevant papers for the refund of electricity duty. It is denied that electricity duty has been charged since the very first bill. It is submitted that exemption from electricity duty is given by the Government to the specific category of consumer and have to follow the due procedure for it. As per circular no.204 the consumer have to make online application and fill online information in Form 'F' through website of MSEDCL www.mahadiscom.in. The consumer has to submit original duty exemption certificate to the concerned Superintending Engineer, O&M Circle. Being well aware of the online procedure the

consumer neglected to submit the online form & original certificate. By submitting online form & original duty exemption certificate all other eligible consumers are getting exemption from the electricity duty and getting the refund. The MSEDCL is ready to refund the electricity duty after the approval of the Committee as per circular no.241. It is denied that applicant is already registered as industrial with the SSI. Grievance application deserves to be dismissed.

4. Forum heard arguments of both the sides and perused record.

5. It is a common sense that before approaching to IGRC or CGRF, initially it is necessary for the consumer to file a plain application to MSEDCL that he is entitled for refund of electricity duty. In this case it is nowhere mentioned in grievance application or anywhere on record that since the date of connection dated 01-07-2011, at any time applicant filed any application in writing to concerned officer of MSEDCL that applicant is exempted from electricity duty and that electricity duty amount should be refunded to him. As per the procedure it is necessary for any consumer, first to claim anything in writing and if his application is not allowed by MSEDCL thereafter only it can be said that applicant has a "grievance" about any order of MSEDCL or due to passing any order by MSEDCL on his application and thereafter only applicant can file grievance to IGRC or CGRF as the case may be.

6. In this case applicant did not file any application to officer of MSEDCL with request to refund amount of electricity duty even on plain paper. Applicant did not produce any copy of application written on plain paper addressed to MSEDCL to refund the amount. Therefore without filing the application to MSEDCL, direct application of consumer to IGRC or CGRF is not tenable at law and deserves to be dismissed. On this only count grievance application deserves to be dismissed.

7. Furthermore date of connection is 01-07-2011. Applicant claimed refund of electricity duty from the date of connection dated 01-07-2011. Grievance application is filed on 01-07-2016. Till filing of grievance application or even till today applicant never filed to MSEDCL to refund of electricity duty. Therefore according to applicant cause of action has arisen on the date of connection on 01-07-2011. **According to Regulation 6.6 of the said Regulation “The Forum shall not admit any grievance unless it is filed within two (2) years from the date on which cause of action has arisen”.** To claim refund from 01-07-2011 it was necessary for the applicant to file application on or before 01-07-2013 but grievance application is filed on 01-07-2016 and therefore it is hopelessly barred by limitation. On this counter also grievance application deserves to be dismissed.

8. Furthermore applicant's claim for refund of electricity duty is from 01-07-2011. However applicant has not given details particular of the refund amount. He had not calculated detail amount and it is not mentioned in the application. Applicant did not produce electricity bill since 01-07-2011 for every month to show in which month, how much electricity duty is charged. Applicant simply produced electricity bill of only one month of April-2015 only. Therefore applicant failed to prove in which month he paid how much electricity duty and what is the total calculated amount. For these reasons also grievance application deserves to be dismissed.

9. Furthermore according to the applicant, applicant is registered with SSI. However registration of the applicant with SSI is not produced on record. On the contrary registration of one **“Pravin Borkute, Infraventures Pvt.Ltd.”** is produced on record whereas name of the applicant is **“M/s Sarvadnya Ginning & Pressing”**.

10. For exemption in electricity duty applicant must establish that applicant is

doing industrial work having particular manufacture or production. Applicant M/s Sarvdnya Ginning & Pressing is not manufacturer or is not doing any production work as a industrial but simply doing the job of ginning the cotton and doing the job of ginning & pressing of the cotton. Therefore there is nothing on record to show that applicant is register as SSI and it is Industry.

11. Even if for the sake of argument, it is presumed that it is Industry, even then exemption from electricity duty is to be given by Government to the specific category of the consumers and they have to follow due procedure for it. As per circular no.204, the consumers have to make online application and fill online information in Form "F" through website of MSEDCL www.mahadiscom.in. The consumer has to **submit original duty exemption certificate** to the concerned Superintending Engineer, O&M Circle. Being well aware that on the online procedure, consumer neglect to submit the online form and original certificate. Record shows that by submitting the online form and original duty exemption certificate all other eligible consumers are getting exemption from the electricity duty and they also got the refund. It is necessary for the applicant to submit **electricity duty exemption certificate from the DIC.**

12. Record shows that during the course of hearing before this forum, applicant applied for adjournment at several times that he is approaching to DIC for grant of exemption certificate and it is expected that applicant will get the certificate. On this ground applicant took many adjournments. During the course of hearing, applicant filed adjournment application dated 24-08-2016 and in this application applicant submitted that, applicant has to receive required certificate from DIC and it is expected by 01-09-2016. Applicant also sought some clarification from electricity

duty sanction of the concerned department which is also expected within week and therefore requested to adjourn the case on 21-03-2016. This adjournment application of applicant dated 24-08-2016 is enough to prove that it is very well known to the applicant that he is required to produce certificate from DIC. During pendency of the matter, applicant can not get exemption certificate from DIC and did not produce it on record. Therefore it is clear that DIC had not granted any exemption certificate to the application and hence applicant is not entitled for refund of electricity duty.

13. IGRC has rightly observed that the consumer has to apply alongwith relevant papers for the refund of electricity duty. Without following due procedure, applicant is not entitled for refund of electricity duty. It is noteworthy that in reply dated 15-07-2016 MSEDCL has specifically made it clear that MSEDCL is ready to refund electricity duty after approval of the committee as per circular no.241. In our opinion order passed by learned IGRC is legal and proper and hence needs no interference.

14. Record shows that Superintending Engineer, O&M Circle, MSEDCL, Wardha had issued letter to Electrical Inspector dated 30-07-2015 about guidance to this point of certificate and Electrical Inspector replied to Superintending Engineer, O&M Circle, Wardha as per letter dated 20-08-2015 i.e. it is necessary for consumer to submit Certificate of Eligibility from DIC. In commercial circular no.204 issued by Chief Engineer (Commercial), MSEDCL, Prakashgad, Mumbai procedure for refund of electricity duty to exempt consumer is specifically given. Therefore applicant has to apply as per procedure given in commercial circular no.204.

15. For these reasons, we hold that as per circular no.204 applicant has to file

online application and fill online information in form "F" through website of MSEDCL and applicant has to submit original duty Exemption certificate to concerned Superintending Engineer O&M Circle. After following due procedure as per relevant circulars, MSEDCL shall pass suitable legal order of refund, if any.

16. Applicant relied on the judgement of CGRF Akola in case no.42/2012 dated 06-02-2013 in the matter of Rajasthan Factory Pvt.Ltd. Telhara Dist.Akola V/s. MSEDCL Rural Division Akola. However applicant in that case was industry and was doing production work and was not merely ginning and pressing Factory like applicant, facts of that case are totally different and distinguishable from the facts of present case and that therefore said judgement is not applicable to this case. Furthermore it is a matter of Akola zone under jurisdiction of Electricity Inspector Amravati. Present matter is within jurisdiction of Nagpur zone within jurisdiction of Electrical Inspector Nagpur. As the facts are different that judgement is not applicable to the present case.

17. Applicant also relied on judgement of Hon'ble Electricity Ombudsman Nagpur in case No.45/13 dated 07-06-2013 against the order of CGRF Akola in case no.42/2012 however the point involved before Hon'ble Electricity Ombudsman was simply whether order of the rate of interest Rs.6% p.a. is justified or not and Hon'ble Electricity Ombudsman hold that it is necessary to grant interest @ Rs.9.5% p.a. Therefore it is not the judgement on the point of the procedure for refund of electricity duty. It is noteworthy that CGRF Akola allowed case no.42/2012 and ordered to refund electricity duty. To challenge this point of refund of Duty proper authority is only Hon'ble High Court to challenge the point of procedure for refund of electricity

duty but MSEDCL did not approach Hon'ble High Court to challenge order of CGRF Akola. As per the judgement of CGRF Akola, so far as refund of electricity duty is concerned, it is not against the applicant and therefore it was not the point challenged before Hon'ble Electricity Ombudsman Nagpur. Therefore judgement of Hon'ble Electricity Ombudsman Nagpur in case no.45/2013 is only on the point of rate of interest amount. Therefore facts of this case are different and distinguishable from the facts of authority hence that authority is not applicable to this case.

18. Before reaching to the final order it is necessary to decide the matter within 2 months from the date of filing of the application. Applicant filed application on 01-07-2016. Therefore it was necessary to dispose of the application on or before 01-09-2016. However it is the applicant who requested for many adjournments to obtain certificate from DIC. His adjournment application dated 24-08-2016 and e-mail of the applicant dated 18-08-2016 are on record. Therefore on the request of the applicant case was adjourned from time to time. On 18-07-2016 argument was partly heard and on the request of the applicant case was adjourned on 18-08-2016. However on 18-08-2016 applicant sent e-mail for the adjournment so also telephonic request of the applicant to adjourn the case. Therefore case was adjourned on 24-08-2016. Again on 24-08-2016 applicant applied to adjourn the case as he expects to receive exemption certificate from DIC by 01-09-2016 and therefore he requested to adjourn the case on 21-09-2016. Even then applicant could not get exemption certificate. Forum heard argument on 21-09-2016. Therefore there was delay in deciding the matter due to adjournment claimed by the applicant.

19. Therefore we proceed to pass the following order.

ORDER

1. Application is partly allowed.
2. It is hereby ordered that applicant shall file application to the MSEDCL as per circular no.204 and applicant shall make online application and fill in online information in Form "F" through website of MSEDCL and applicant shall submit original exemption certificate to concerned Superintending Engineer O&M Circle and to complete all requisite formalities. On completion of requisite formalities by the applicant, MSEDCL shall refund electricity duty to the applicant which is permissible under Law & Regulations and also considering point of limitation for refund of the amount if any.
3. Non-applicant is directed to comply within 30 days from the date of this order.

Sd/-
(N.V.Bansod)
MEMBER

sd/-
(Mrs.V.N.Parihar)
MEMBER/SECRETARY

sd/-
(Shivajirao S. Patil),
CHAIRMAN