

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

Case No. CGRF(NUZ)/052/2009

- Applicant : M/s. ISPAT Industries Limited
At. MIDC, Kalmeshwar,
Dist. NAGPUR.
- Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
Division No. II, NUZ,
Nagpur.
- Quorum Present : 1) Smt. Meera Khadakkar,
Chairman,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.
- 2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.
- 3) Shri S.F. Lanjewar
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 17.11.2009)

The present grievance application has been filed on 30.09.2009 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance

Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is that the Government has exempted the Industries in Vidarbha from the payment of electricity duty. However consumer was charged with electricity duty for the month of April, May & June 2009. The consumer has submitted that, since the duty was charged without any authority, the non-applicant should have refunded the said amount along-with interest.

The consumer has stated that he had applied for refund of the said amount of electricity duty vide his letter dated 21.09.2009 to the Superintending Engineer NRC further requested for adjusting the said amount in the future bills. However, his request was not considered.

The consumer had approached Internal Grievance Redressal Cell on 20.07.2009 and subsequently in September, 2009, however no reply to this letters is received by the consumer. The consumer therefore prayed to this Forum for seeking relief of refund of amount of Rs. 43,81,371/- with due interest from the date such amount till its refund and cost of proceedings. The consumer has filed several documents on record.

The non-applicant has submitted the reply on 15.10.2009. The non-applicant has admitted that the consumer had paid the bills under protest, the non-applicant has denied that the electricity duty is charged in violation of the Government notification, the non-applicant has asked for the approval for refund of the said duty. The non-applicant has not

received any guidelines in this regard. However, MSEDCL has issued a departmental circular no. 101 dated 09.06.2009 that the refund of electricity duty. The decision for refund of electricity duty will be taken after receiving the approval from the Government. The non-applicant is directed to refund electricity duty only with the approval of the concerned Electrical Inspector. The non-applicant has received said letter on 29.09.2009. The electricity duty collected by the MSEDCL is not retained, but the same was remitted to the State Govt. Hence, there is no question of giving interest on refund amount. The MSEDCL is not at all liable to pay interest.

The non-applicant has submitted that the procedure for the approval of Electric Inspector is going on. The non-applicant has never denied the payment the consumer has not given sufficient time to the non-applicant for giving the reply, since the procedure for approval was going on the grievance was not settled by the Internal Grievance Redressal Cell. The non-applicant has submitted that the amount of electricity duty will be refunded to the consumer after the approval is received from the Electric Inspector. The question of giving interest on the said amount does not arise.

The non-applicant has prayed for rejection of the applicant's grievance application.

After hearing both the parties as well as considering the reply and the documents on record. It is clear that the non-applicant has not denied or disputed the consumer contention about the claim of refund on the electricity duty.

The consumer Ispat Industries Ltd is a consumer of non-applicant company having consumer no. 430019002670 (Supply at HT at its Factory at MIDC Kalmeshwar, Nagpur). The government of Maharashtra vide notification no. ELD.2009/C.R.-6/NRG.1 dated 26.05.2009 has exempted the industries from payment of electricity duty for 01.04.2009. It is also admitted fact that the electricity energy bill for the month of April, May & June 2009 have been issued to the consumer and he has been charge total amount of Rs. 43,81,371/-. In view of the notification dated 26.05.2009 which is on record, the said amount should have been refunded. It is clear from the various notification, circular and letters that the electricity duty for the month of June 2009 has been wrongly charged. The consumer has rightly pointed out that since the notification for exemption the electricity duty was issued much earlier. There was no reason for the non-applicant to charge the duty. The consumer has referred to legal provision as well as to notification. However, in view of the non-applicant's admission about the consumer entitlement for refund of electricity duty the same need not be referred in this order.

We are satisfied that the consumer is entitled to claim of electricity duty.

The non-applicant has fairly admitted that the consumer is entitled to claim refund. However, the procedure of the approval of the Electrical Inspector is going on the amount will be refunded after the said approval is granted.

It is submitted by the consumer that the non-applicant cannot charge the electricity duty after the

notification dated 26.05.2009, since the duty is without any authority, the consumer is entitle for its refund without any approval by any authority.

The consumer has relied upon, in case of the order of MERC dated 18.10.2005 of M/s. Lloyds Steel Industries Limited. The consumer has further submitted that the non-applicant cannot refuse payment on the basis of notification dated 26.05.2009 the same will not prevail upon substantive provision of law. The consumer has clearly demonstrate has legal as well as constitutional right by which, he claimed refund of the amount of electricity duty. After going through the rulings relied upon by the consumer. We are satisfied that the duty is charged without authority of low. It is clear that circular of the Industries Energy & Labour Department dated 27.08.2009, the non-applicant's circular dated 09.06.2009 and 16.09.2009 are in contravention of the observations in the rulings. The said notifications cannot supercede the fundamental principle of Law as enumerated in precedents relied by the consumer. The consumer entitlement is based on the legal decision as stated in the ruling relied upon by the consumer. We are satisfied that this circular itself is clear about the refund of electricity duty. The non-applicant cannot delay the refund for the reason stated by the non-applicant. In our opinion after accepting the legal right of the consumer, there is no need for the approval of the Electrical Inspector, therefore the non-applicant is liable to the refund the electricity duty recovered from the consumer vide

electricity energy bills for the month of April, May & June 2009 immediately.

It is submitted by the learned representative by the consumer that he is entitled to claim interest over the amount to be refund to him. The respondent has opposed the consumer's claims for interest over the said amount. In view of the observation that the consumer is wrongly charge the electricity duty of Rs.43,81,370/-, he is entitled to get refund of the said duty, after issue once of notification dated 26.05.2009. The amount is huge amount, which should have been refunded immediately after issuance of the notification in the month of May 2009 without waiting of the approval of the Electrical Inspector. Considering the circumstances we are of the opinion that the consumer is entitled to claim the interest over the said amount at RBI rate till the amount is refund to the consumer.

Learned Member-Secretary Shri S.F. Lanjewar has express his descending opinion in this case. He has observed that Ministry of energy has given its approval for refund of electricity duty for said period to the consumer who had asked for the refund only with the approval of the concerned Electric Inspector. Since the procedure for getting the approval from the Electric Inspector is going on, the non-applicant is justified in not refunding the amount. The consumer should wait till the approval of the Electric Inspector is received.

Meera Khadakkar, Chairman & Smt. Gauri Chandrayan, Member of this Forum have collectively

discussed & decided the issue as discussed in the earlier portion of the order.

In majority view of the Forum, the grievance application is thus allowed after considering the material on record and submission of both the parties.

The non-applicant is directed to refund the amount of Rs.43,81,371/- along-with interest at R.B.I. rate. The refund of amount by adjusting the said amount in future energy bills.

The non-applicant shall carry out this order & report compliance to this Forum on or before 15.12.2009.

Sd/-	Sd/-	Sd/-
(S.F.Lanjewar)	(Smt.Gauri Chandrayan)	(Smt. Khadakkar)
Member-Secretary	MEMBER	CHAIRMAN

CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's
NAGPUR URBAN ZONE, NAGPUR.