

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

“Vidyut Bhavan” Ratanlal Plot, Akola. Tel No 0724.2434475

ORDER

Dt:- 03.01.2019

Complaint No: - 53/2018 Dated 27/11/2018

In the matter of grievance pertaining to refund of electricity duty with 12% interest.

Quorum

Dr. V. N. Bapat- Chairman

Shri.D.M.Deshpande, Member (CPO)

1. Shri. Anand Enterprises :- Complainant

Birla Road Birla gate

Consumer No. LT-V-B1

310070514752

% shri Ashish S. Chandarana

Agrasen Nagar, satguru villa apartment

Flat no. 302, Sahkar Nagar,

Gorakshan Road, Akola 444004.

....Vrs.....

Executive Engineer ,

:-

Respondent

MSEDCL, O&M Akola Urban

Division.

Appearances

1. Ashish S. Chandarana

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Representative for Complainant

2. A. J. Dinore

-

Additional Executive Engineer,

-

MSEDCL.

1) On being aggrieved by the decision of IGRC Akola issued vide IGRC/Akl/4108 dated 22/10/2018 complainant Shri. Anand Enterprises Akola approached this Forum under clause 6.4 of MERC CGRF Regulation 2006 for resolving the grievance.

2) Complainant's case in brief is that complainant is industrial consumer of N.A M.S.E.D.C.L. having connected load of 16 H.P. since year 1985. According to complainant, the Maharashtra State Government by notification dated 07 July 2004 exempted existing as well as new industrial consumers in vidarbha region from payment of electricity duty upto 31/03/2009. The Said exemption "from electricity duty was" further extended "by GOM" to 31/03/2019 by notifications issued in 2009 and 2014. According to complainant, in "order to implement this government notification, the corporate" office of M.S.E.D.C.L. issued circulars to field staff of M.S.E.D.C.L. including N.A M.S.E.D.C.L. vide circular 393 in the year 2004, 101 in 2009 and circular no. 196 dated 05/07/2014, with copy to Regional Executive Director of MSEDCL. According to complainant, despite copy of notification to Executive Director of MSEDCL in vidarbha region, implementation has not been uniform and N.A. M.S.E.D.C.L. continued illegal recovery towards exempted electricity duty. According to complainant as N.A M.S.E.D.C.L. failed to incorporate proper duty code of "97" in the billing system, the exempted electricity duty continued to be recovered by M.S.E.D.C.L. up till now. Complainant referred letter from Electrical Inspector Amravati addressed to Superintending Engineer M.S.E.D.C.L. Amravati issued vide letter No. 1988 dated 12/11/2012 expressing displeasure for recovery of exempted duty by M.S.E.D.C.L. According to complainant, exemption in electricity duty is being passed on to H.T. consumers of M.S.E.D.C.L. by O&M circle Akola from the year 2004. According to complainant, delegation of power to Executive Director of M.S.E.D.C.L. regarding refund of electricity duty is not applicable where electricity duty is illegally recovered. According to complainant N.A. M.S.E.D.C.L. have stopped recovery of electricity duty from billing month of Oct 2018 after approaching IGRC Akola. According to complainant in identical grievance "Electricity Ombudsman," Nagpur have awarded the interest on refund amount of electricity duty without ceiling of two year, and prays to refund illegally collected electricity duty from 01/04/2004 to 10/10/2018 along with 12% interest per annum on refund amount and cost of Rs. 10,000. Complainant

annexed IGRC Akola order dated 22/10/2018, common order issue by electricity ombudsman dated 07/06/2013 in representation no. 45 to 47 and 55 of 2013 and energy bill for Sept. 2018 and Oct. 2018 along with the complainant.

3) Reply came to be filed belatedly by N.A. M.S.E.D.C.L. on 13/12/2018. According to N.A. M.S.E.D.C.L. exemption in electricity duty has been provided to complainant from the energy bills of Oct. 2018 as per M.S.E.D.C.L. circular no. 196 and as per IGRC Akola order on record, the refund for two years preceding october 2018 will be given only after application by complainant through online system as per M.S.E.D.C.L circular no. 204 dated 08/08/2013. N.A. M.S.E.D.C.L. requested Forum to direct complainant to submit online application for refund and prays to dismiss the claim for interest. N.A. M.S.E.D.C.L. annexed copy of circular no. 204 and energy bill for october 2018.

4) Shri Ashish S. Chandarana learned representative for complainant and Shri A. J. Dinore, Additional Executive Engineer for N.A. M.S.E.D.C.L. were present for the hearing held on 31/12/2018. Shri Ashish S. Chandarana reiterated grievance on record and brought to the notice of Forum, the various notifications issued by Government of Maharashtra exempting industrial consumer of Vidarbha Region from payment of electricity duty and urged that despite exemption by Government, N.A. M.S.E.D.C.L. recovered electricity duty illegally and IGRC in their order committed error in rejecting the claim for interest and admitting refund for two years. Shri Ashish S. Chandarana further urged that complainant is not bound legally to follow the procedure as reproduced in the reply by N.A. M.S.E.D.C.L. as circular no. 204 is applicable only for package scheme of duty exemption. Shri Ashish S. Chandarana referred order dated 07/06/2013 passed by Hon'ble Ombudsman in appeal no. 55 of 2013 and MERC case no. 23 of 2004 for claim of 12% interest on refund amount of difference towards electricity duty from April 2004 to Sep. 2018, and urged Forum to set aside the order passed by IGRC Akola and direct N.A. M.S.E.D.C.L. to refund illegally recovered electricity duty with interest of 12% per annum.

5) Shri A. J. Dinore, Additional Executive Engineer and learned representative for N.A. M.S.E.D.C.L. has not disputed for refund of

electricity duty wrongly recovered however resisted for payment of interest and urged Forum to direct complainant to submit online application for refund and referred circular No. 204 dated 08/08/2013 issued by their corporate office in support of their requirement.

6) Having heard the parties and considering material placed on record Forum is of the view that N.A. M.S.E.D.C.L. have not disputed the refund of electricity duty collected in contravention of Government of Maharashtra notification in 2004, 2009 and 2014 and ratified by corporate office of M.S.E.D.C.L. Forum is of the view that through N.A. M.S.E.D.C.L. have accepted the mistake of recovery of non-applicable electricity duty from complainant's energy bills from April 2014, Forum is of the view that mistake is not genuine or committed in good faith but negligence on the part of billing authorities of M.S.E.D.C.L. and hence complainant is entitled for refund of entire electricity duty collected illegally with interest of 12% as per section 62 (6) of E.A. 2003 and principle adopted by MERC in case no. 23 of 2004 as 12% interest is being charged on arrears in payment of consumers energy bill without time escalation by N.A. M.S.E.D.C.L. Forum is also not convinced by the defence taken by N.A. M.S.E.D.C.L. that complainant should apply for refund as per commercial circular no. 204, as contents of the circular are not applicable for flat exemption in duty against Government notification but are applicable to contain class of industries specifically exempted under special package incentive scheme of Government of Maharashtra. IGRC Akola have erred in allowing refund for two years and not allowing the interest in absence of specific reasoning supporting their verdict. N.A. M.S.E.D.C.L. could not give any logic for disallowing the interest. Forum is of the view that IGRC Akola order dated 22/10/2018 needs to be set aside and N.A. M.S.E.D.C.L. should refund entire electricity duty collected from April 2014 to Sept. 2018 with 12% interest from April 2004 till adjusted in the forthcoming energy bill payable by complainant. Forum is of the view that parties should bear their own cost.

With these observations, Forum proceeds to pass following unanimous order.

ORDER

1. That the Complaint No. 53 of 2018 dated 27/11/2018 is hereby partly allowed.
2. That N.A. M.S.E.D.C.L. is directed to refund illegally recovered electricity duty from April 2004 to Sept. 2018 with 12% interest on refund amount payable from the date of recovery till adjusted in forthcoming bill payable by the complainant.
3. Parties to bear their own cost.
4. That N.A. M.S.E.D.C.L. is directed to submit compliance report to this Forum within one month.

S/d/-
Member (CPO)

S/d/-
Chairman

Contact details of Electricity Ombudsman appointed by
MERC (CGRF&EO) Regulations 2006 under Regulation 10:

THE ELECTRICITY OMBUDSMAN,
Office of Electricity Ombudsman (Nagpur)
Plot No.12, Shrikrupa, Vijaynagar,
Chhaoni,Nagpur-440 013.Phone:- 0712-2596670

No. CGRF/AKZ/Akola/09

Dt: 03.01.2019

To,
The Nodal Officers
Executive Engineer Urban
MSEDCL O&M,
Urban Division, Akola.

The order passed on 03.01.2019 in the Complaint No. 53/2018 is enclosed herewith for further compliance and necessary action.

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

Copy to :- 1) Superintending Engineer MSEDCL, O&M Circle, Akola.
2) Shri. Anand Enterprises, Birla Road Birla gate, % shri Ashish
S. Chandarana Agrasen Nagar, satguru villa apartment Flat
No. 302, Sahkar Nagar, Gorakshan Road, Akola 444004.