

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

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

ORDER

Dt:- 04.09.2019

Complaint No :- 37 of 2019 Dated 17.07.2019

In the matter of grievance pertaining to refund of electricity duty with interest and cost.

Quorum

Dr.V.N.Bapat- Chairman

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

1. Shri. Piyush Suryakant Bhayani :- Complainant
84 At. TAKLI DHARAO
Tq. Shegaon Dist. Buldana.
Consumer no. LT VBII 298550001712
C/o Bhavesh H. Somaiya, A 2-405,
Rami Heritage Society Opposite Old
RTO Office Murtizapur Road Akola 444004.

.....Vrs.....

Executive Engineer, :- Respondent
MSEDCL, O. & M.
Khamgaon Division.

Appearances

1. Shri. Bhavesh H. Somaiya - Representative for Complainant
2. Shri B. U. Jayebhaye - Executive Engineer, MSEDCL.

1) On being aggrieved by the decision of IGRC Buldana issued vide SE/BLD/2880 dated 11/07/2019 the complainant Shri. Piyush S. Bhayani from Takli approached this Forum under regulation 6.4 of MERC CGRF and OMBUDSMAN Regulation 2006 for resolving the grievance.

2) Complainant's case in brief is that complainant is industrial consumer of NA MSEDCL from 07/02/2015. According to complainant NA MSEDCL recovered through energy bill from date of connection the electricity duty illegally though the Maharashtra Government in exercise of powers conferred by section 5-A of the Mumbai electricity duty Act 1958, exempted industrial establishment in vidarbha region from payment of electricity duty by notification dated 09/07/2004 from 01/04/2004 and further extended from time to time upto 31 March 2019. According to complainant said notification are compiled by NA MSEDCL by issuing directions vide commercial circulars no. 393 of 2004, 101 of 2009 and 169 of 2014 to field staff about non-recovery of ED through bills. According to complainant though the said directives are issued by corporate office of MSEDCL signed by Chief Engineer (Commercial) the field staff of MSEDCL recovered the electricity duty illegally. According to complainant only because of negligence on the part of employees of MSEDCL in feeding proper duty code of '97' in the system complainant had to suffer. According to complainant MSEDCL Circle Office of Akola have implemented exemption in duty in true spirit as per notification and no consumer suffered from payment of illegal recovery of electricity duty. According to complainant State Government now delegated powers to MSEDCL to refund the electricity duty irrespective of whether duty was recovered illegally or exempted under PSI scheme and MSEDCL do not require any permission from Electrical Inspector of Government. Complainant referred order passed by Electricity OMBUDSMAN Nagpur in the similar matter dated 07/06/2013 in support of his claim for refund with interest. Complainant prays to refund illegally recovered electricity duty from date of connection with 12% interest and cost of Rs. 5000/-. Complainant Annexed IGRC order dated 11/07/2019, Government notification dated 06/06/2014, CE (commercial) MSEDCL circular 196 dated 05/07/2014 energy bill for Feb 2019, extract of tariff order 19/2012 for interest and Electricity OMBUDSMAN order dated 07/06/2013 in Representation no. 45 to 48, alongwith the complaint.

3) Reply came to be filed by NA MSEDCL on 31/07/2019 by Email and hard copy on 07/08/2019. According to NA MSEDCL complainant Shri. Piyush S. Bhayani has been intimated by letter no. 4501 dated 26/07/2019 to furnish information online as per commercial circular no. 204 to process the refund of Electricity duty as per IGRC Buldana order. According to NA MSEDCL following documents required to be submitted by complainant alongwith online application for processing refund

1. Details in form 'F'.

2. Original Electricity Duty Exemption certificate issued by competent authority.
3. Month wise statement of electricity duty paid during the exempted period for claiming refund.
4. Copies of energy bill paid during the exempted period.

According to NA MSEDCL refund will be adjusted after getting above documents from complainant. NA MSEDCL Annexed copy of letter EE/4501 dated 26/07/2019 and energy bill from April 15 to June 15, with the reply.

4) Shri. Bhavesh H. Somaiya learned representative for complainant and Shri. B. U. Jayebhaye learned Executive Engineer MSEDCL were present for the hearing held on 29/08/2019. Shri. Bhavesh H. Somaiya learned representative for complainant reiterated the complaint on record and brought to the notice of Forum that NA MSEDCL filed contradictory reply on record directing complainant to get exemption certificate from competent authority when industrial establishment of Vidarbha Region are exempted by Government of Maharashtra by notification for payment of electricity duty.

5) Shri. B. U. Jayebhaye, Executive Engineer, MSEDCL in defence brought before Forum that electricity duty will be refunded on furnishing information by complainant as per commercial circular no. 204, issued by their Corporate Office.

6) Having heard the parties and after considering material placed on record Forum is of the view that there was confusion about entitlement of industrial consumers for exemption from electricity duty on the part of NA MSEDCL when Government of Maharashtra by notification exempted industrial consumers of Vidarbha Region from payment of electricity duty from year 2004 up to 2024. NA MSEDCL in their reply or during hearing never denied the said notification issued by Government of Maharashtra which were implemented by corporate office by issuing commercial circulars but referred circular no. 204 issued by their corporate office for exemption of electricity duty. The circular no. 204 has not been filed on record by NA MSEDCL but produced before Forum at the time of hearing. Forum after going through the circular no. 204 is of the opinion that the said circular is applicable only in case of establishments specifically exempted by competent authority wherein flat exemption in electricity duty as per Government notification is not applicable. Forum is of the

view that there was no confusion about implementation of the Government notifications and departmental circulars about exemption from electricity duty however, the NA MSEDCL failed to implement the same in the case of the complainant and continued to collect electricity duty from complainant up till now. Hence the complainant is liable to get refund of electricity duty from 07/02/2015 with interest till adjusted in the ensuing energy bill payable by the complainant. Forum is of the view that the complainant is not bound to furnish any information to NA MSEDCL as complete record is available with MSEDCL in consumer personal ledger. Forum is of the view that interest should be allowed at the rate equivalent to bank rate declared by Reserve Bank of India prevailing during the relevant period as per Practice Directions issued by MERC dated 22/07/2019.

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

ORDER

1. That the Complaint No. 37 of 2019 Dated 17/07/2019 is hereby partly allowed.
2. That the NA MSEDCL is directed to refund electricity duty recovered through energy bills from 07/02/2015 with interest at the rate equivalent to bank rate declared by Reserve Bank of India prevailing during relevant period and refund amount with interest be adjusted in forthcoming bill payable by the complainant.
3. That the NA MSEDCL is directed to stop recovering electricity duty through energy bills immediately forthwith by modifying necessary code.
4. Parties to bear their own cost.
5. That the NA MSEDCL is directed to submit a compliance report to this Forum within one month of this order.

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/202

Dt :- 04.09.2019

To,
The Nodal Officer
Executive Engineer,
MSEDCL, O. & M.
Division Khamgaon.

The order passed on **04/09/2019** in the Complaint No. **37 of 2019** is enclosed herewith for further compliance and necessary action.

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

Copy s.w.r. to:-

- 1) Chief Engineer, MSEDCL, Akola Zone, Akola.
- 2) Superintending Engineer, MSEDCL, O. & M. Circle Buldana.

Copy to :-

- 1) Shri. Piyush Suryakant Bhayani, 84 At. TAKLI DHARAO Tq. Shegaon Dist. Buldana, C/o Bhavesh H. Somaiya, A 2-405 Rami Heritage Society Opposite Old RTO Office Murtizapur Road Akola 444004.