

BEFORE THE ELECTRICITY OMBUDSMAN, JHARKHAND
4th floor, Bhagirathi Complex, Karamtoli Road, Ranchi – 834001

Appeal No. EOJ/02/2012

Dated- 08th August, 2012

Jharkhand State Electricity Board & others **Appellant**
Versus
M/s T & T Metals Pvt. Ltd. **Respondent**

Present:

Electricity Ombudsman	-	Shri Arun Kumar Datta
Counsel for the appellant	-	Shri Ravi Kr. Singh Shri Kumar Sundaram
Counsel for the respondent	-	Shri D.K. Pathak Shri Vijay Kr. Gupta Shri Vikash Kr. Singh

J U D G E M E N T

1. This appeal has been filed by appellant/J.S.E.B. against the Judgement/Order dated 16.03.2012 passed in case No. 24/2010 by learned Vidyut Upbhokta Shikayat Niwaran Forum (In short to be referred as V.U.S.N.F.) of J.S.E.B., Ranchi, against the only issue no. III which was decided against the appellant/J.S.E.B. by learned V.U.S.N.F. in its Judgement dated 16.03.2012 passed in case No. 24/2010.

2. The case of appellant/J.S.E.B. in brief is that in the Tariff order of 2010-11 it is mentioned that the consumer with arrears are not eligible for voltage rebate and load rebate. Therefore the disconnection was served due to non payment of arrear of Rs. 3,69,143/- up to the bill of July 2010. As such it

has been prayed by appellant/J.S.E.B. to set aside the Judgement dated 16.03.12 passed by learned V.U.S.N.F. in case No. 24/2010 and to modify the aforesaid Judgement.

3. The Consumer/Respondent namely M/s T & T Metals Pvt. Ltd. has appeared in this appeal and also filed its counter affidavit. The case of Consumer/Respondent in brief is that the Consumer/Respondent has always paid the monthly energy bills within the due date and has never fallen in arrears and in the monthly energy bills of Consumer/Respondent zero amount has been shown against the heading 'Arrears' and the adjusted amount has been shown under the heading "Kept in Abeyance".

4. The further case of Respondent/Consumer is that the load factor have been calculated by the appellants on the basis of 100% of the contract demand which is against the provisions of the Tariff and therefore the appellant/J.S.E.B. may be directed to correct the load factor rebate and issue revised energy bill. Further the Jharkhand State Electricity Regulatory Commission's Regulation does not specifies that calculation of power factor shall be based on 2 decimals only for the calculation of power factor rebate. The Appellant/J.S.E.B. is also imposing penalty of 1% on every .01 fall in power factor, therefore the Appellant/J.S.E.B. may not be allowed to over look 0.5 or more than that for the purpose of power factor rebate.

5. Thus on the aforesaid pleadings the following issues are framed for there discussions and decision there on:-

I S S U E S

Issue No. I:-

Whether power factor can be calculated up to 2 digits or 3 digits after decimals for the purpose of allowing power factor rebate ?

Issue No. II:-

Whether 75% of the contract demand or actual recorded KVA has to be taken for the purpose of calculation of load factor rebate ?

Issue No. III:-

Whether the Consumer/Respondent is entitled for voltage rebate or not ?

Issue No. IV:-

Whether the Consumer/Respondent is entitled for timely payment rebate or not ?

F I N D I N G S

Issue No. III :-

6. The Appellant/J.S.E.B. has filed this appeal challenging the order of learned V.U.S.N.F. to allow all the rebates since 01.05.2010 and onwards and impugned energy bills raised for the month of May' 2010 onwards were quashed. As such this issue is being taken up as first issue for its discussion and its decision.

7. On this issue it has been submitted by Shri Ravi Kr. Singh the learned additional standing Counsel of Appellant/J.S.E.B. that the Tariff order of

2010-11 of JSERC it is mentioned that the consumers with arrears are not eligible for load factor rebate and voltage rebate and therefore the learned V.U.S.N.F. has failed to appreciate that the disconnection notice was served due to non payment of arrear of Rs. 3,69,143/- up to the bill of July 2010. It has been further submitted by the learned Counsel of appellant that the calculation of power factor rebate had been allowed as per the J.S.E.B.'s rule in the monthly energy bill of the Consumer/Respondent and the load factor rebate was not allowed to Consumer/Respondent because the Respondent/Consumer was running in arrears.

8. On the other hand it has been submitted by Shri D.K. Pathak the learned Counsel appearing on behalf of Consumer/Respondent that the Consumer/Respondent has regularly paid the energy monthly bills and zero amount has also been shown against the heading 'Arrears' and the adjusted amount has been shown in the heading "Kept in Abeyance". It has been further submitted on behalf of Respondent/Consumer that the appellant has allowed voltage rebate, power factor rebate and load factor rebate till the month of April' 2010 but the voltage rebate and load factor rebate are not being allowed from 01.05.2010 and onwards after coming in to force of JSERC Tariff order 2010-11 treating the Consumer/Respondent as running in arrears for an amount of Rs. 1,45,93,068/- in view of the order of the Hon'ble Jharkhand High Court passed in WP(C) No. 1687/2007. The Appellant/J.S.E.B. has shown the zero arrear in the energy bills of the Consumer/Respondent. Therefore according to

learned Counsel of Consumer/Respondent the Consumer/Respondent cannot be said to be running in any arrears.

9. I also find my self in agreement of the aforesaid contention of the learned Counsel of Consumer/Respondent because the aforesaid amount of Rs. 1,45,93,068/- has been “Kept in Abeyance” under the order of the Hon'ble Jharkhand High Court and therefore it cannot be said that the Consumer/Respondent was running in arrears. Accordingly it is held that the Consumer/Respondent is entitled to voltage rebate from 01.05.2010 and onwards and accordingly this issue is decided against the Appellant/J.S.E.B. and favour of the Consumer/Respondent.

Issue No. I :-

10. This issue was decided by the learned V.U.S.N.F. in favour of Appellant/J.S.E.B., therefore the Appellant/J.S.E.B. has neither stated any thing in its memo appeal nor any thing has been argued on behalf of the Appellant/J.S.E.B. The learned Counsel of Consumer/Respondent has also not argued any thing on this issue but in its counter affidavit filed on behalf of Respondent/Consumer it has been stated at para 18 and 19 at page- 08 that in the Regulations framed by the JSERC it is no where stated that the calculation of power factor shall be based on 2 decimals only nor the appellant have filed any rules and Regulations in this regard. Similarly it has also been stated at para 19 of counter affidavit that calculation of power factor rebate to the extent of 2 decimals gets falsified from the provisions of power factor penalty wherein for

every 0.01 fall below 0.85 a penalty of 1% has been imposed. Therefore the appellants/J.S.E.B. may not be allowed to overlook 0.5 or more than that for the purpose of power factor rebate. Therefore the finding is also being given on this issue.

11. On this issue it is found that the JSERC Tariff is silent, though the Tariff says that in case of power factor being 85% rebate will be 1% and it will be 2% if power factor is more than 95%. The Tariff of JSERC does not provide about calculation of 3 digits after decimal, therefore it is held that only 2 decimal points can be calculated for power factor. Therefore this issue is decided in favour of appellant/J.S.E.B. and against the Consumer/Respondent.

Issue No. II :-

12. On this issue it has been stated at para 14 and 16 at page 6 and 7 of the counter affidavit filed on behalf of Consumer/Respondent that it has not been specified in the Tariff that load factor has to be calculated on the basis of full contract demand or recorded KVA which ever is higher rather in the Tariff order 2010-11 it has been mentioned that the demand charges shall be charged on the basis of 75% of the contract demand or the actual recorded KVA which ever is higher. Therefore the calculation of load factor on the basis of 100% of the contract demand by the appellant/J.S.E.B. is illegal and against the provisions of Tariff and hence the appellant may be directed to correct the load factor rebate and issue revised bills. But on perusal of the record it is found that the appellant/J.S.E.B. has adopted a formula for the calculation of load factor

which is energy consumed/maximum power (KW) X No. of hours, the maximum power being product of maximum KVA and power factor. The maximum power can be achieved only when KVA is highest whether it is contract demand or recorded KVA. Therefore the appellant/J.S.E.B. has rightly found contract demand as highest KVA for calculating the load factor rebate. Accordingly this issue is also decided against the Consumer/Respondent and in favour of appellant/J.S.E.B.

Issue No. IV :-

13. On perusal of the Judgement dated 16.03.2012 passed in case No. 24/2010 by learned V.U.S.N.F. it is found that there was another issue as issue No. IV which is “whether the petitioner is entitled to timely payment rebate or not.” The finding of the learned V.U.S.N.F. on this issue is that Tariff order of JSERC 2010-11 and Tariff of 2011-12 don’t provide for payment of timely payment rebate, therefore the board has rightly not given this rebate of Consumer/Respondent and this issue was decided in favour of the appellant/J.S.E.B. and against the Respondent/Consumer. Because of the same reason this finding of the learned V.U.S.N.F. is also upheld and this issue is also decided in favour of the appellant/J.S.E.B. and against the Consumer/Respondent.

14. Thus from the aforesaid discussions and finding made above the impugned energy bills raised for month of May 2010 onwards are quashed and the appellant/J.S.E.B. is directed to allow voltage rebate from 01.05.2010 and

onwards showing the amount of Rs. 1,45,93,068/- as “Kept in Abeyance” under orders of the Hon'ble High Court in all the energy bills. It is further directed that excess payment made by Consumer/Respondent in paying the bills are hereby quashed which shall be adjusted with interest as per norms.

15. In the result there no merit in this appeal and the findings on all the IV issues given in the Order/Judgement passed by learned V.U.S.N.F. in case No. 24/2010 on 16.03.2012 is hereby confirmed and this appeal is hereby dismissed.

Let a copy of the Judgement be served on both the parties.

Sd/-
Electricity Ombudsman