

**BEFORE THE ELECTRICITY OMBUDSMAN, JHARKHAND**  
4<sup>th</sup> floor, Bhagirathi Complex, Karamtoli Road, Ranchi – 834001

**Dated- 13<sup>th</sup> September, 2011**

**Appeal No. EOJ/04/2011**

JSEB through its Chairman & others	.....	Appellant(s)
	Versus	
M/s Madhura Ingots & Steel Co. Ltd.		Respondent(s)

**Appeal No. EOJ/05/2011**

JSEB through its Chairman & others	.....	Appellant(s)
	Versus	
M/s Shree Nanak Ferro & Alloys (P) Ltd.		Respondent(s)

**Appeal No. EOJ/06/2011**

JSEB through its Chairman & others	.....	Appellant(s)
	Versus	
M/s Globe Steel & Alloys (P) Ltd.		Respondent(s)

**Appeal No. EOJ/07/2011**

JSEB through its Chairman & others	.....	Appellant(s)
	Versus	
M/s Galaxy Exports Pvt. Ltd.		Respondent(s)

**Appeal No. EOJ/08/2011**

JSEB through its Chairman & others	.....	Appellant(s)
	Versus	
M/s Shankar Ferro Alloys Pvt. Ltd.		Respondent(s)

**Present:**

<b>Shri Arun Kumar Datta</b>	<b>Electricity Ombudsman</b>
<b>Shri Rajesh Shankar</b>	<b>Standing Counsel for appellant Board</b>
<b>Shri Dheeraj Kumar</b>	<b>Addl. Counsel for appellant Board</b>
<b>Shri Ajit Kumar</b>	<b>Counsel for respondent</b>
<b>Shri Vijay Gupta</b>	<b>Advocate for respondent</b>

**J U D G E M E N T**

1. All the aforesaid appeal Nos. EOJ/04/11 JSEB Vrs. M/s Madhura Ingots & Steel Co. Ltd., No. EOJ/05/11 JSEB Vrs. M/s Shree Nanak Ferro & Alloys (P) Ltd., No. EOJ/06/11 JSEB Vrs. M/s Globe Steel & Alloys (P) Ltd. No. EOJ/07/11 JSEB Vrs. M/s Galaxy Exports Pvt. Ltd. and No. EOJ/08/11 JSEB Vrs. M/s Shankar Ferro Alloys Pvt.

Ltd. have been filed by the Appellant JSEB against the common Judgement/order dated 26/04/2011 passed in case nos. 38/2010, 39/2010, 41/2010, 43/2010 and 10/2011 by the learned Vidyut Upbhokta Shikayat Niwaran Forum (In short to be referred as V.U.S.N.F.) of JSEB, Ranchi by which the learned VUSNF has quashed all the notices demanding additional security in one lump sum amount and directed the consumers to pay in 20 equal monthly installments without any interest till the pre payment meter is installed by the JSEB.

2. Being aggrieved by and dissatisfied with the aforesaid Judgement/order of the learned VUSNF, the appellant JSEB has filed the aforesaid five appeals before this Forum praying therein to set aside the impugned Judgement/order dated 26/04/2011.

3. The brief fact of all the aforesaid cases is that notices were issued to consumers to all the aforesaid five consumers/respondents for payment of revised security by the JSEB. All the aforesaid five consumers represented their grievances before the authority of the JSEB and they opted for pre payment meters in view of the Clause 10.1 of the Electricity Supply (Code) Regulations, 2005 instead of payment of revised security amount as mentioned in the notices of JSEB. The Learned VUSNF has found that fixation of the pre payment meters is not possible therefore on the basis of counter affidavits filed on behalf of all the aforesaid consumers the learned VUSNF had ordered for payment of security deposit as mentioned in notices sent to all aforesaid consumers in 20 equal installments without any interest.

#### FINDINGS

4. In this context it will be pertinent to mention here that all the aforesaid five consumers had filed their respective counter affidavits in course of hearing of the cases before the learned VUSNF mentioning therein that the JSEB has indicated impossibility with regard to compliance of the provision of Clause 10.1 of the Electricity Supply (Code) Regulations therefore they chose to fix long easy interest free installments for payment of the security amount. On the basis of the aforesaid averments by the aforesaid consumers, the learned VUSNF has passed the order for payment of revised amount of security demanded by the JSEB through impugned notices in 20 equal monthly installments which shall be interest free. The learned VUSNF in its Judgement has relied the letter no. 883 dated 03/10/2008 of the Chief Engineer (C&R) JSEB, Ranchi in which

energy charges have been allowed to be paid in 50 and 30 installments and the ruling reported in JCR 2005 (2) page- 437 (JHR) in which the Hon'ble Jharkhand High Court, Ranchi has held that no interest can be charged on payment of revised security/additional security. According to Sri Rajesh Shankar the learned Standing Counsel of appellant JSEB as per the Clause 11.9 of the Electricity Supply (Code) Regulations, 2005 the licensee may grant the facility of payment of arrear bill in installments and accordingly Board's officers have been delegated power to grant installment maximum upto 05 numbers against the energy dues whereas the learned VUSNF has ordered for payment of arrear bills in 20 equal installments and that without any interest. According to Sri Shankar the aforesaid ruling reported in 2005 (2) JCR page-437 (JHR) was passed by the Hon'ble Court on the basis of old tariff of 1993 in which Clause 15.3 of the tariff the Board was not empowered to charge delayed payment surcharge/interest on the security amount if not deposited within time nor any interest was payable towards deposit of security whereas in the Electricity Supply (Code) Regulations, 2005 of the Jharkhand State Electricity Regulatory Commission (In short to be referred as J.S.E.R.C.) Regulations in Clause 11.9.1 clearly lays down for payment of surcharge for the delayed payment as per tariff notification issued from time to time, till full payment and clearance of arrears. It has further been contended by the learned Standing Counsel of JSEB that the learned VUSNF was wrong in holding in its Judgement that in the letter No. 883 dated 03/10/2008 of the Chief Engineer (C&R) JSEB, Ranchi has allowed for payment of energy charges in 50 and 30 installments. But according to Sri Shankar the learned Standing Counsel of appellant JSEB, the Chief Engineer (C&R) Ranchi had passed the aforesaid payment of dues of consumers which was the amount under Section 126 of the Electricity Act, 2003 whereas in all the aforesaid five cases it was demand notices for payment of arrear of security amount. As such the aforesaid letter can not be made basis for ordering the payment of arrears in 20 equal installments as ordered by the learned VUSNF. Beside it in view of Clause 10.2 of the Electricity Supply (Code) Regulations, 2005 the security amount has to be revised on the basis of billing of the consumers which shall be equal to the three months average billing amount of the average of the billing of the consumers for the last 12 months. As such this security amount has to be changed after every 12 months and if already existing arrear of security amount has to be paid in 20 installments then again after 12 months the arrear will fall to the consumers which will

be unnecessary burden on the consumers. In this regard Sri Ajit Kumar the learned Counsel appearing on behalf of consumers/respondents has submitted that the consumer will pay the installment of arrear of security amount and also the revised amount of security amount which may change after 12 months. But in my view considering the aforesaid provisions of 10.2 of the Electricity Supply (Code) Regulations, 2005 the installment of arrear of security amount can not be more than 12 months and therefore the payment of arrears of security amount as mentioned in the notices of the respective consumers are ordered to be paid in 12 monthly equal installments.

5. Now the question arises as to whether all the aforesaid consumers in all these five appeals are entitled to pay the aforesaid arrears of revised security amount without any interest or not. In this regard the learned Counsel of consumers/respondents has relied on the ruling reported in 2005 (2) JCR page-437 (JHR) which has also been relied by the learned VUSNF by ordering the payment of arrear amount without any interest. On perusal of the aforesaid ruling reported in 2005 (2) JCR page-437 (JHR) it is found that the Hon'ble Court had passed the order that the Board can not charge delayed payment surcharge/interest on the security amount because Clause 15.3 of 1993 tariff does not empower the Board to charge delayed payment surcharge/interest on the security amount which was not the case in all these five appeals because according to Clause 11.9.1 of the JSERC's Electricity Supply (Code) Regulations, 2005 which reads as follows:- "Grant of installment facility shall not affect the liability of the consumer to pay surcharge for delayed payment as per tariff notification issued from time to time, till full payment and clearance of arrears". As such the consumers/respondents are liable to pay the surcharge/interest for delayed payment surcharge of arrears of security amount. Clause 10.6 of Electricity Supply (Code) Regulations, 2005 of JSERC Regulations, 2005 also lays down that the Distribution licensee shall pay interest on the amount of security deposited by the consumer at the prevalent bank rate of the Reserve Bank of India. Clause 11.10.3 also lays down that if the consumer has paid any excess amount, it shall be refunded to the consumers within 15 days or if consumer opts, be adjusted in the minimum possible number of subsequent bills. The licensee shall pay to the consumer's interest charges at the rate equivalent to the delayed payment surcharge as per tariff on the excess amount outstanding on account of such wrong billing from the date of payment till the date of refund or adjustment in subsequent bills. Considering the aforesaid clause of the

Electricity Supply (Code) Regulations, 2005 the respondents/ consumers are directed to make payment of interest to the appellant JSEB on the arrears of amount of security deposit at the prevalent bank rate of the Reserve Bank of India and to charge at the same rate on which rate of interest the excess amount is refunded or adjusted by the appellant JSEB to the consumers.

6. The learned Counsel of consumers/respondent has also argued that the jurisdiction of this Forum is barred under Clause 18 (I) mentioned in the JSERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers and Electricity Ombudsman) Regulations, 2005. Because the order of the learned VUSNF was passed with the consent of both the parties. In this regard it has been submitted by the standing Counsel of appellant JSEB that the JSEB has only consented for payment of arrear of security deposit in installments as laid down in Clause 11.9 of the Electricity Supply (Code) Regulations, 2005 but the JSEB has not consented for payment of arrears of security deposit in 20 equal monthly installment nor the JSEB has consented for payment of installment without any interest which is against the provisions of law. On perusal of the impugned Judgement/order passed by the learned Forum on 26/04/2011 passed in all the aforesaid cases it is found that the learned VUSNF has observed in its judgement that “ the learned Counsel appearing for the Board as well as the Nodal Officer present in the Forum submitted in this regard that this Forum may pass order for payment of the revised amount of security in installments”. Thus from the aforesaid order of the VUSNF it is found that appellant JSEB has only consented for payment of revised amount of security in installments and the appellant JSEB has not consented for payment of revised amount of security in 20 installments without any interest. Therefore the appellant JSEB has rightly moved this Forum for setting aside the impugned Judgement/order of the learned VUSNF passed on 26/04/2011 in all the aforesaid five cases and the jurisdiction of this Forum is not barred under Clause 18 (I) of the JSERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers and Electricity Ombudsman) Regulations, 2005.

7. Thus from the aforesaid discussions and findings made above I am led to hold that the Judgement/order of the learned VUSNF passed on 26/04/2011 in case nos. 38/2010 & Cons. No.- NNS-1188 M/s Madhura Ingots & Steel Co. Ltd. Vrs. JSEB, 39/2011 & Cons. No.-RRH-10541 M/s Shree Nanak Ferro & Alloys (P) Ltd. Vrs. JSEB, 41/2010 & Cons.

No. RCH/10683 M/s Globe Steel & Alloys (P) Ltd. Vrs. JSEB, 43/2010 & Cons. No. HT-44 M/s Galaxy Exports Pvt. Ltd. Vrs. JSEB and 10/2011 & Cons. No.-CKU-5 M/s Shankar Ferro Alloys Pvt. Ltd. Vrs. JSEB can not be upheld in view of facts and as well as on law and thus they are set aside. All the aforesaid five consumers shall pay their respective demand of additional security as mentioned in their notices in 12 equal monthly installments with interest at the prevalent bank rate of the Reserve Bank of India and also at the same rate on which the JSEB pays the interest charge on the refunded security deposit to the consumers. The parties will execute agreement in this regard in the office of the concerned Electrical Superintending Engineer within 15 days from the date of this order. The Board is also directed to make every efforts for obtaining pre payment meter for giving effects to Clause 10.1 and its proviso with regard to supply of power under pre payment mode.

8. In the result all the aforesaid five appeal nos. EOJ/04/11 JSEB Vrs. M/s Madhura Ingots & Steel Co. Ltd., No. EOJ/05/11 JSEB Vrs. M/s Shree Nanak Ferro & Alloys (P) Ltd., No. EOJ/06/11 JSEB Vrs. M/s Globe Steel & Alloys (P) Ltd. No.EOJ/07/11 JSEB Vrs. M/s Galaxy Exports Pvt. Ltd. and No. EOJ/08/11 JSEB Vrs. M/s Shankar Ferro Alloys Pvt. Ltd. are hereby allowed and all the aforesaid appeals are disposed of by this common judgement.

Let a copy of this order be served on both the parties.

Sd/-  
Electricity Ombudsman