

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

Case No. EOJ/10/2007

Dated- 23rd May, 2008

M/s S.R.G. Iron & Steel Pvt. Ltd. Appellant(s)

Versus

Jharkhand State Electricity Board & others Respondent(s)

Present:

Shri Sarju Prasad **Electricity Ombudsman**

Mr. M. S. Mittal, Advocate **For the Appellant**

Mr. N.K. Pasari, Advocate **For the Appellant**

Mr. Rajesh Shankar, Advocate **For the respondent**

Mr. Abhay Prakash, Advocate **For the respondent**

J U D G E M E N T

1. This appeal has been filed by the consumer M/s S.R.G. Iron & Steel Pvt. Ltd. being aggrieved with the Judgement/order dated 12th April, 2007 passed by Vidyut Upbhokta Shikayat Niwaran Forum (in short VUSNF) of JSEB, Ranchi, in consumer case no. 63/2006.
2. The brief facts; giving rise to this appeal is that M/s SRG Iron & Steel Pvt. Ltd. a company incorporated under the Company Act, 1956 is a HT consumer of electricity with contract demand of 450 KVA. The premise of the appellant was inspected by a team of six officers of the JSEB on 08/10/2001. The team made an

inspection note on spot observing that the capacity of electronic meter of the premises of the appellant is 800/5AMP whereas the capacity of the CT is 400/5AMP and as such multiplying factor ought to have been ½ (half) whereas the bill is being raised on the basis of multiplying factor of 0.33 which should be corrected. After the inspection, the Electrical Superintending Engineer wrote a letter to the Electrical Executive Engineer, MTR Division enquiring whether it is a case of Clause 16.9 of the tariff and as to from which period his consumption is to be multiplied by ½ (half) of the actual consumption. Further in pursuant to the said inspection report, the Electrical Executive Engineer wrote a letter dated 22/10/2001 to the Electrical Superintending Engineer regarding the mode of billing and the matter be referred to the Revenue Billing Wing for raising the bill. According to inspection report, the appellant was served a bill for the month of October, 2001 in which extra assessment was made on the basis of the said inspection report using the multiplying factor (1/2) and other charges were also raised. Although, in the month of October, 2001 the bill was made on the basis of inspection report but no bill was made for the period prior to October, 2001. All of a sudden by a bill dated 10/04/04, a supplementary bill on account of the said inspection report of the respondent/Board held on 08/10/2001 was raised in which it was mentioned that the actual bill ought to have been for Rs.16,90,728/- whereas the bill was raised only for Rs.6,33,473/- and as such the total further amount payable is Rs. 11,01, 072/-. This bill was raised after Audit report.

3. According to the appellant, the JSEB can not recover the said amount of the supplementary bill in view of Section 56(2) of the Electricity Act, 2003, which provides that no electricity dues can be recovered after two years from the date when such sum became **first due** unless the said amount has been shown continuously recoverable as arrear of charges for electricity supplied and on that ground the electric connection of the consumer can not disconnected. According to appellant the inspection was held on 8/10/2001 and a supplementary bill has been raised on 10/04/2004 i.e. more than two years after the inspection and therefore the amount has become irrecoverable in view of provision under Section 56(2) of Electricity Act, 2003. Although, there is a provision under Section 56(2) of the Electricity Act for not disconnecting the electricity supply line but respondent disconnected the line of the appellant on 27/11/04. After receipt of the

supplementary bill, the appellant made representations to General Manager-cum-Chief Engineer and requested to look into the matter and further requested that personal hearing may be given to recall the said supplementary bill and also to recall the earlier bill of Rs. 6.00 lakhs vide letter dated 19/06/04 but it was not heard and the electric connection of the appellant was disconnected on 27/11/04, on account of non-payment of supplementary bill. The appellant made several representations to the authorities of the Board but the same were not considered, then the appellant filed a case before Consumer Grievance Redressal Forum of JSEB, Ranchi being case No. 32/2005. The case was fixed for hearing on 19.09.2005. On that date the order was to be passed both on the point of admission and interim relief but in the mean time the terms of Chairperson of Consumer Redressal Forum ended and the Board did not give any extension as such in absence of Chairperson of the Consumer Redressal Forum, the appellant filed a writ petition before the Hon'ble High Court being WPC No.5581 of 2005. The Hon'ble High Court ordered for restoration of electric connection vide order dated 3/10/05 on payment of six lakhs by the appellant and ultimately the writ petition was disposed of by a order dated 20/12/05 with direction to the respondent to decide the issue within two months on the question of limitation as well as otherwise, the correctness of the bill and till then only current monthly bill should be paid. According to interim order of Hon'ble High Court dated 20/12/2005, a representation was filed by the appellant before the General Manager-Cum-Chief Engineer; Jamshedpur who vide order dated 28/04/06 was pleased to dismiss the petition of the appellant. However, the said order was received by the appellant on 18/11/06 by registered post. The appellant, thereafter, challenged the order of the General Manager-cum-Chief Engineer by filling the consumer case no. 63/06 before VUSNF of JSEB, Ranchi, in which interim order was passed to the effect that if appellant goes on making payment of current monthly bill, no coercive action shall be taken against him by respondent/Board. Finally, the VUSNF delivered the Judgement on 12th April, 2007 in which two Members, including Chairperson dis -allowed the petition of the appellant whereas one Member allowed the petition of the appellant. Against the said order, the present appeal has been filed.

4. Before the VUSNF, the appellant has contended only two issues (1) the interpretation of Section 56 (2) of the Electricity Act, 2003 and (2) whether any agreement can be entered into which is contrary to the statute. On the basis of these two submissions, the VUSNF formulated two issues for decision:-
 - (i) Whether provisions under Section 56(2) are applicable in the present case.
 - (ii) The agreement entered into by both the parties can be given effect to or not.

In the majority Judgment of VUSNF the first issue has been answered in negative and the second issue has been answered in positive. It is worth to mention here that there was an agreement between the appellant and respondent for making payment of all dues in five installments and actually the appellant has paid three installments thereafter stopped of payment of installment and started to challenge that amount of supplementary bill dated 10.04.2004 has become irrecoverable in view of the limitation of two years prescribed under Section 56(2) of Electricity Act, 2003.

5. Before this Forum also only argument which has been put forward by the lawyer of the appellant is that the inspection was held on 8/10/2001 and thereafter the respondent did not take any action and raised the supplementary bill on 10/4/2004 which is more than two years and therefore the amount has become irrecoverable.
6. The learned lawyer for respondent has relied upon the Judgement of Jharkhand High Court passed in LPA No. 329 of 2007 and another arising out of W.P.(C) no. 2777, 2261,2430,2274,1306,1257, 2016, 2330, 2030, 675 and 663 of 2007 and 7208 of 2006. In the aforesaid LPA, it has been held by the Division Bench of Jharkhand High Court that the period of limitation will start to run from the date when such demand is made by the Board. In another case decided by the Appellate Tribunal for Electricity Appellate Jurisdiction arising out of 202 & 203 of 2006 in which also it has been held that the words “first due” occurring under Section 56(2) of Electricity Act, 2003 is the date when notice of demand by the electricity supply company is given to the consumer.
7. In both the aforesaid Judgments it has been held that words “first due” occurring under Section 56(2) of Electricity Act, 2003 means the first date on which the demand of the due is given to the consumer and not on the date the electricity is consumed.

- 8.** I have carefully gone through all the Judgments cited above by the learned lawyer for respondent and which are fully applicable in the present case also. On applying ratio decided in the aforesaid case, I find that the amount of the bill in question has not become irrecoverable in view of the Section 56(2) of Electricity Act, 2003. In the present case, the period of limitation will start to run on the date when for the first time the supplementary bill dated 10-04-2004 was served upon the appellant. In view of Sub-Section 56 (2) of the Electricity Act, the period of limitation will also go on extending, if the dues are continuously shown as arrear recoverable in subsequent bills.
- 9.** From the discussion as made above, I find that there is no merit in this appeal hence, this appeal is dismissed and Judgement/order of VUSNF as decided by majority is hereby upheld.

Sd/-
Electricity Ombudsman