

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

Case No. EOJ/29/2008

Date: - 27th May 2009

M/s Shree Ram Steels

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Petitioner(s)

Vrs.

JSEB through its Chairman & others

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Respondent(s)

Present:

Mr. Arun Kr. Datta

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Electricity Ombudsman

Mr. Vijay Kr. Gupta

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Counsel for the Petitioner

Mr. Rajesh Shankar

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Counsel for the Respondent Board

ORDER

1. This is an order on the application of petitioner/ M/s Shree Ram Steels for compliance of the order/Judgment dated 18/03/2008 passed in case No. 45/07 by learned VUSNF, JSEB Ranchi which have not carried out by the respondents in spite of a lapse of considerable time and also for commanding upon the respondents to issue revised energy bill as per the order dated 18.03.08 while adjusting the excess realized KVA charges and interest as directed in the said order.

2. The brief fact of the case is that the petitioner/ M/s Shree Ram Steels had taken an electric connection for running its induction furnace vide Consumer No. GRD-17 which falls under H.T. Special Services (HTSS) mode of Tariff-2004 which was energized with 1100 KVA supply which was subsequently enhanced to 2175 KVA. The respondents have raised bills upon the petitioner from the month of January,04 on the basis of the concept of previous tariff i.e. on the basis of full contract demand i.e. 1100 KVA and subsequently 2175 KVA instead of charging on the basis of actual recorded 'Maximum Demand' of the petitioner and as such the bills for the months of January,04 to till date are fit to be revised and the monthly demand of KVA should be calculated on the basis of actual maximum demand recorded in the meter of the petitioner. For redressal of its grievances, the petitioner had approached the learned VUSNF and after hearing both the parties the learned VUSNF on

18.03.2008 in case No. 45/07 set aside the bills for the period January, 04 to February, 08 and directed the respondents to revise the entire energy bills after giving adjustment of the excess realized KVA charges. The learned VUSNF has further directed the respondents to comply the order within a period of one month from the date of receipt of the order and a copy of the order was also directly sent to the respondents by the learned VUSNF and the petitioner had also served a copy of the order of learned VUSNF to the respondents for due compliance. But in spite of service of order of VUSNF on the respondents, the respondents did not comply the order of the VUSNF, rather the respondents filed an appeal before this Forum which was no. as EOJ/15/08 which was also decided in favour of the petitioner on 04.09.08 and the order of the VUSNF was also upheld by this Forum. Thereafter the petitioner had repeatedly representing before the respondents for compliance of the orders passed by the VUSNF as well as this Forum but the respondents did not comply the orders of the VUSNF and this Forum which has led the petitioner to file this application for implementation of the order of the VUNSF as well as the order of this Forum.

3. On the other hand, it has been stated by the learned lawyer of the respondents and the respondents have also mentioned in their counter affidavit filed in this case that the petitioner being an induction furnace consumer falls under HTSS mode of tariff 03-04 and the issue in regard to present case relates to the actual maximum demand recorded in the meter during the month or 100% of the contract demand whichever is higher. The respondents after passing the order dated 4.9.08 passed by this Forum the respondents have taken a decision to move before the Hon'ble Jharkhand High Court, Ranchi and the said writ petition is in process of filing and as such this petition for implementation of order dated 18.03.08 passed by VUSNF, is premature and thus liable to be dismissed. It has been further submitted on behalf of the respondents that order of the VUSNF has not reached its finality and thus there is no question of implementation of the same at this stage.

4. I have heard the arguments advanced by learned lawyers of both the sides and I have also pursued the order passed by the VUSNF in case No. 45/07 dated 18.03.08 and also the order passed by this Forum in case No. EOJ/15/08 dated 04.09.08 by which this Forum has also upheld the order of the learned VUSNF dated 18.03.08 in case No. 45/07.

5. The order dated 18.03.08 passed in case NO. 45/07 passed by VUSNF “it has been clearly ordered by the learned VUSNF that the impugned bills issued to the petitioner for the period from January 2004 to Feb. 2008 in which the KVA charges have been raised by the respondents on the basis of 100% of the contract demand are therefore, quashed. The respondents are directed henceforth to issue the monthly energy bills in future to the petitioner on the basis of actual KVA recorded in the meter in each month as maximum demand. Further, the Board shall also adjust the excess money realized from the petitioner in the subsequent bills with interest as per Supply Code Regulations of JSERC. In the light of above directions, the respondents shall issue revised bills to the petitioner on the basis of actual maximum demand KVA recorded in the meter in each month from January, 04 to Feb. 08 within a period of one month from the receipt of this order”.

6. On perusal of the order of this Forum dated 04.09.08 passed in case No. EOJ/15/08 it is found that the order passed by learned VUSNF in case No. 45/07 dated 18.03.08 was also upheld by this Forum in appeal filed by the respondents before this Forum and the appeal was dismissed. I do not find any force in the contention of the learned lawyer of the respondents that the petition of the petitioner is immature on the ground that the order of the VUSNF and also this Forum has not attained its finality because the respondents have decided to move before the Hon’ble Jharkhand High Court , Ranchi and the writ petition is in process of filing. Because the order of the learned VUSNF was passed on 18.03.08 in case no. 45/07 and order of this Forum was passed on 04.09.08 in case no. EOJ/15/08 by which this Forum had upheld the order passed by the VUSNF in case No. 45/07 dated 18.03.08 and since then the respondents have not filed any writ petition neither in the Hon’ble Jharkhand High Court nor the respondents have filed any stay order of the Hon’ble Jharkhand High Court, Ranchi. As such, this Forum can not restrain itself from implementing the order of the VUSNF dated 18.03.08 passed in case No. 45/07 and also the order of this Forum passed in case No. EOJ/15/08 dated 04.09.08.

7. The zerox copy of certified copy of the order of the Hon’ble Jharkhand High Court, Ranchi passed in W.P.(c) NO. 5150 of 2007 in the case of JSEB Vs. M/s Kumardhubi Steels Pvt. Ltd. In the aforesaid ruling the Hon’ble High Court has held that “there is another factor which needs consideration with regard to the double standard and discrimination meted out to the respondent by the petitioner Board. A similar order has been passed in favour of the consumer in Sourya Metals & Others

Vrs. JSEB and the Board has accepted the order given by the Court/Forum and has admittedly chosen not to challenge it". The Hon'ble Court has further held in the aforesaid ruling that the Board has implemented the order of the Forum in identical case of HTSS induction furnace consumer in Sourya Metals & Others, this writ petition under Article 226 of the Constitution of India is devoid of any merit and is even otherwise not maintainable and the same is accordingly dismissed without any order as to cost". In view of the aforesaid ruling held in the case of JSEB Vrs. Kumardhubi Steels Pvt. Ltd. passed by Hon'ble Jharkhand High Court, Ranchi in W.P. (c) 5150 of 2007 it appears not reasonable for implementing the order of the VUSNF and this Forum by the respondents because the respondents have implemented the order of the Forum in identical case of consumer of Sourya Metals & Others.

8. In view of the aforesaid discussions and findings made above, the representation of the consumer's petition is allowed. The respondents are directed to implement the order of the VUSNF passed in 45/07 dated 18.03.08 which was also upheld by this Forum in EOJ/15/08 dated 04.09.08 without any further delay.

Let a copy of this order be given to both parties.

Sd/-
Electricity Ombudsman