

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

Case No. EOJ/07/2007

Dated- 19th Sept. 2007

M/s Incore Metals & Cement Pvt. Ltd. **Appellant(s)**
Versus
JSEB through its Chairman & others **Respondent(s)**

Present:

Shri Sarju Prasad **Electricity Ombudsman**
Shri N.K. Pasari (Advocate) **Counsel for the Appellant(s)**
Shri Rajesh Shankar (Advocate) **Counsel for the Respondent**

J U D G E M E N T

1. This appeal has been filed by the consumer, M/s Incore Metals & Cement Pvt. Ltd. against the judgement/order dated 25.01.2007 passed by Vidyut Upbhokta Sikayat Niwaran Forum (In short VUSNF) of JSEB in case no. 26/2006.

2. It is the admitted case of the parties that the appellant is a consumer under HTSS (IND.FUR). It is also admitted that a bill was raised for energy charges etc. for the consumption for the month of December, 2005 on 02/01/06. In the energy bill the due date for payment of bill was 21/01/2006 but it was not paid by due date. A rebate of Rs. 7,941/- was to be given to the consumer, if paid by due date. Admittedly, the consumer (appellant) did not pay the energy bill by due date and the appellant paid the energy charges less the rebate amounting to Rs. 7,941/- on 28/01/06, i.e. after the due date. The respondent issued a energy bill for consumption for the month of January and in that bill the appellant was not allowed load factor rebate as per the JSERC Tariff Order, 2003-04 (clause 5.25 of the tariff order). The respondent also levied DPS (Delayed Payment Surcharge) charges as the bill was not paid by the due date. The appellant made representation before the appropriate authorities of the respondent on number of occasions but his grievance was not redressed, then he moved to the VUSNF but the VUSNF by the impugned judgement/order held that since the consumer was with arrear as he did not pay the energy charges for the month of December, 2005 by due date he is not entitled for load factor rebate and DPS has been rightly levied. Being aggrieved with the judgement/order of VUSNF, the present appeal has been filed.

In the present appeal following contentions have been made:-

- (a) The appellant has paid the energy charges for the month of December, 2005 on 28/01/06 and the rebate amount is on 07/02/06, the date on which the energy bill for January, 2006 were issued, therefore he is entitled for load factor rebate etc.

- (b) The appellant has made payment of the bulk amount of the bill on 28/01/06 and only a sum of Rs. 7,941/- the rebate amount was unpaid on the date, the bill for January, 2006 was issued, therefore; DPS charges should have been levied only on a sum of Rs. 7,941/- which was paid on the date of issue of the bill for the month of January, 2006.
- (c) The last submission of the appellant is that, as a matter of fact, the appellant was entitled for various rebates from April, 2005 to December, 2005 which amounted to Rs. 6, 79,769/-and if those amounts would have been adjusted timely or even before the date of actual payment of the bill by the appellant then there would not have been any arrears and the appellant was entitled for load factor rebate etc. as per the tariff order of 2003-2004.

FINDINGS

3. It is admitted that the consumer (appellant) has not paid the energy bill for the month of December, 2005 by due date which was 21.01.06. As per the tariff order of 2003-2004 as contained in clause 5.25 it is crystal clear that the consumer with arrears shall not be eligible for the above rebates. Since the appellant has not paid the energy bill etc. for the month of December, 2005 by the due date he was certainly with arrear in the month of January, 2006 therefore the VUSNF and respondent has rightly held that the appellant is not entitled for the rebate as per the tariff order of 2003-2004.

4. The submission of the appellant is that the appellant has made payment of energy bill for the month of December, 2005 on 28/01/06 (i.e. after a week of the due date) excluding the rebate amount of Rs. 7,941/- which was also paid by him on 07/02/06 i.e. the date on which bill for January, 2006 was issued. In my opinion, this will not cure the fact that the consumer was with arrear. When the consumer does not pay the energy bill etc. by the due date then certainly he becomes a consumer with arrears. The rebate is allowed only on payment by due date. And if the appellant would have made payment of the entire bill for the month of December, 2005 after due date on 28.01.06 then also he had become a consumer with arrears (the cut off date is the due date). If the energy bill is not paid by due date then the appellant can not take any rebate and his subsequent payment does not cure the fact that he is a consumer with arrear. Therefore, on this score also the appellant is not entitled for any rebate as claimed by him because he was with arrear in the month of January, 2006 for which the bill was issued on 07/02/06. The vital date for payment of bill is the due date it is not the date on which bill for the next month is issued. In other words, even one day delay in payment of energy bill is made by the consumer, a consumer becomes with arrear.

5. The submission has been made on behalf of the appellant is that a sum of Rs. 6, 79,769/- had not adjusted as difference of load factor rebate from April, 2005 to December, 2005 in the energy bill for the month of March, 2006. Certainly this amount was with the respondent on the due date for payment of energy bill of January, 2006. Therefore, on this score the respondent should have adjusted this amount on the energy bill for the month of December, 2005 itself and if it would have been adjusted in the month of December, 2005, there would not have been any delay in payment by the appellant. It is pertinent to note that the energy bill for the month of December, 2005 was to the tune of Rs. 27, 56,166/- payable on 21.01.06 and the amount to be adjusted was to the extent of only $\frac{1}{4}$ of the energy bill and if it should have been adjusted in the energy

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bill of December, 2005 then also the appellant was to pay further sum of Rs. 20 lakhs and odd. Therefore, on that score also the appellant can not claim that he was not with arrear in the month of January, 2006.

6. No other contention has been made to show that the judgement/order of the VUSNF is otherwise illegal or irregular.

7. I do not find any merit in this appeal; hence the appeal is hereby dismissed.

Sd/-
Electricity Ombudsman