

Consumer/Respondent w.e.f. 10.07.2010 i.e. the date on which the consumer applied for load reduction and to issue revised bill and to refund/adjust the excess charged amount with interest as per norms.

2. The brief facts of this case is that the Consumer/Respondent had applied for reduction of load from 4500 KVA to 3000 KVA on 10.07.2010 and requisite fee was also deposited by the Consumer/Respondent. The G.M. cum C.E. electric supply area Jamshedpur had sanctioned the reduction of load vide his letter No. 2598 dated 01.11.2010 with some conditions among which deposit of security was also one of the conditions. The consume/respondent had opted for power supply through pre-payment meter in accordance with Clause 10.1 of the Supply Code Regulation. The appellant/J.S.E.B. as well as the Consumer/Respondent could not arrange pre-payment meter therefore the Consumer/Respondent became ready to deposit the security amount in 20 equal installments without any interest. In view of Tariff Order 2010-11 in case of HTSS consumers for the induction/arc furnace, the contract demand shall be based on total capacity of the induction/arc furnace and the equipment as per manufacturer technical specification and not on the basis of measurement. It is also not necessary to clear old dues when reduction of load is applied as per Clause 9.2 of the aforesaid Regulation.

3. On the other hand the case of appellant/J.S.E.B. is that as per Clause 11.9 of the Electric Supply Code Regulation 2005 the licensee

may grant the facility of payment of arrear bills in installment and accordingly the officers of the J.S.E.B. have been delegated power to grant installment maximum up to 5 Nos. against the energy dues.

4. Thus from the pleading of both the sides following issues emerges for their discussion and decision thereon:-

ISSUES

Issue No. I :-

Whether the Jurisdictions of this forum is barred as per clause 18(1) of the (Guidelines for Establishment of Forum for Redressal of Grievance of the Consumer and Electricity Ombudsman) Regulation 2005 or not ?

Issue No. II :-

Whether payment of revised security as demanded by the G.M. cum C.E. in 20 installments without any interest as ordered by learned V.U.S.N.F. can be upheld or not ?

Issue No. III :-

Whether the reduction of contract demand will be applicable from 01.05.2010 or from 10.07.2010 ?

Issue No. IV :-

Whether it is necessary to clear the old dues before reduction of contract demand ?

Issue No. V :-

What directions can be given to appellant/J.S.E.B. and the Consumer/Respondent ?

FINDINGS

Issue No. I :-

5. On this issue it has been submitted by Shri Dhananjay Kumar Pathak learned Counsel, of Consumer/Respondent that the Jurisdiction of this forum of Electricity Ombudsman is barred under Clause 18(1) of the (Guidelines for Establishment of Forum for Redressal of Grievance of the Consumer and Electricity Ombudsman) Regulation 2005. Which prescribes for power and duties for Electricity Ombudsman specifically stipulates that the consented order passed by the learned forum cannot be appealed against by the consumer/licensee. He has further submitted that the learned standing Counsel of J.S.E.B. has consented for payment of arrears of security deposit in installments and on that basis the learned V.U.S.N.F. has ordered for payment of arrears of security amounts in 20 installments. On the other hand the learned standing Counsel of appellant/J.S.E.B. has submitted that he had only consented for payment of arrears of security deposit in installments as provided in Clause 11.9 of the Electricity Supply Code Regulation 2005, but he has not consented

for payment of arrears of security deposit in 20 equal monthly installments.

6. The Impugned Judgement/Order of learned V.U.S.N.F. does not go to show that the appellant/J.S.E.B. has consented for payment of arrears of security deposit in 20 equal monthly installments. As such it is not the consented order/Judgement and therefore the jurisdiction of this forum of Electricity Ombudsman is not barred under Clause 18(1) of the aforesaid Regulation. This issue is accordingly decided.

Issue No. II :-

7. On the aforesaid issue it has been submitted by Shri Rajesh Shankar the learned standing Counsel appearing on behalf of appellant/J.S.E.B. that in view of Clause 10.2 of the Electricity Supply Code Regulation, 2005 this security amount has to be changed after ever 12 months in the basis of average billing amount which shall be equal to three months of the consumer. Therefore the installment of arrears of security amount cannot be made for more than 12 months. It has been further submitted by him that as per clause 11.9 of the Electricity Supply Code Regulation, 2005 the licensee may grant the facility of payment of arrear bill in installments and as such the officers of the J.S.E.B. have been empowered to grant installment maximum up to 5 No. against the energy dues. Further, security deposit in 20 installments without any interest is also against the Regulation under clause 11.9.1, according to

which it is the liability of the consumer to pay surcharge for delayed payment surcharges as per Tariff notification issued from time to time, till full payment of clearance of arrear.

8. On the other hand it has been submitted by Shri Dhananjay Kumar Pathak learned standing Counsel of Consumer/Respondent that in the ruling reported in 2005 (2) JCR page 437 (JHR) the Hon'ble court has held that no interest can be charged on the security and if not deposited in time. It has been further submitted by Shri Pathak that in the letter No. 883 dated 03.10.2008 of the C.E. (C&R) of J.S.E.B. has allowed the payment of arrears of energy charges in 30 and 50 installments. Therefore learned V.U.S.N.F. has rightly held payment of security amount in 20 installments without any interest.

9. But I don't find any force in the aforesaid contention of the learned Counsel of Consumer/Respondent because the C.E (C&R) of J.S.E.B. in its letter No. 883 has allowed the payment of arrears of energy charges in 30 and 50 installments which was the amount under section 126 of the Electricity Act 2003 and it was not the security amount which has to be revised in every 12 months on the basis of average three months consumption. The ruling reported in 2005 (2) of JCR 437(JHR) of the Hon'ble Jharkhand High Court has got no application because the aforesaid ruling was made in the case of old Tariff of 1993 in which there was no provision for charging D.P.S./interest on the security amount if

not deposited in time nor the consumer was paid any interest towards deposit of security in Clause 15.3 of old Tariff of 1993. Where as in new Tariff of JSERC's Electricity Supply Code Regulation there is clear provision in Clause 11.9.1 which empowers the appellant/J.S.E.B. to charge interest/D.P.S. as per notification issued from time to time till full payment and clearance of arrears. Beside it Clause 10.6 of Electricity Supply Code Regulation 2005 also provides that the distribution licensee shall pay interest on the amount security deposited by the consumers at the prevalent bank rate of the Reserve Bank of India. Therefore the appellant/J.S.E.B. can also charge interest on the arrears of revised security amount at the prevalent Bank rate of Reserve Bank of India. This has also been held by this forum of Electricity Ombudsman in the appeal Nos. EOJ/04/2011, EOJ/05/2011, EOJ/06/2011, EOJ/07/2011, EOJ/08/2011. EOJ/09/2011 and EOJ/10/2011.

10. Therefore it is held that the findings of learned V.U.S.N.F. on this issue cannot be upheld and it is fit to be modified and as such it is directed that the Consumer/Respondent shall pay the amount of revised security as demanded by the G.M. cum C.E., electricity supply area Jamshedpur 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 appellant/J.S.E.B. pays the interest charge on the refunded security deposit to the consumers. In this regard the

Consumer/Respondent will execute agreement in the office of the concerned Electrical Superintending Engineer within 15 days from the date of this order. The appellant/J.S.E.B. is also directed to make every effort 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. Accordingly this issue is decided and modified.

Issue No. III :-

11. On this issue the learned V.U.S.N.F. has held in its impugned Order/Judgement that the Consumer/Respondent has applied for reduction of contract demand on 10.07.2010, therefore it cannot be made applicable from 01.05.2010 on which day the Tariff 2010 came into force. I am also of the same view as held by the learned V.U.S.N.F. in its impugned Judgement/Order because the Consumer/Respondent had applied for reduction of contract demand on 10.07.2010 by paying the requisite fee of Rs. 100/-. Therefore the reduction of contract demand cannot be made applicable from 01.05.2010. Therefore finding of learned V.U.S.N.F. on this issue in its impugned Judgement/Order is hereby upheld and it is directed that the date of reduction of contract demand shall be fixed on 10.07.2010 on which date the Consumer/Respondent has applied for reduction of contract demand. This issue is accordingly decided.

Issue No. IV :-

12. On this issue it has been submitted by learned standing Counsel of appellant/J.S.E.B. that Clause 9.1 and 9.1.2 of the Supply Code Regulation, 2005 provides that there should not be any old dues for enhancement of contract demand. But on the other hand it has been submitted on behalf of Consumer/Respondent that it is not so for reduction of contract demand. There is no such provision which restrains the Consumer/Respondent for reduction of contract demand that there should not be any dues of any licensee or even of appellant/J.S.E.B. Therefore it is held that it is not necessary to clear the old dues in case of reduction of contract demand. Accordingly this issue is decided in favour of Consumer/Respondent and the finding of learned V.U.S.N.F. on this issue is thus upheld.

Issue No. V :-

13. While deciding issue No. II, III and IV directions have already been given and in view of the directions given there in, it is further directed that the Consumer/Respondent will pay the revised amount of security as demanded by the G.M. cum C.E., electricity supply area Jamshedpur in 12 equal monthly installments with interest at the prevalent bank rate of Reserve Bank of India and also at the same rate on which the J.S.E.B. pays the interest charge on the refunded security

deposit to consumers. In this connection both the parties will execute the fresh agreement before the concerned Electrical Superintending Engineer within 15 days from the date of this order regarding reduction of contract demand taking the date of reduction to be 10.07.2010 on which date the Consumer/Respondent has applied for reduction of contract demand. The appellant/J.S.E.B. is further directed to issue revised energy bills w.e.f. 10.07.2010 and onwards and to adjust/refund the excess charged amount with interest as per norms.

14. In the result, with the aforesaid modification this appeal is partly allowed and disposed off.

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

Sd/-
Electricity Ombudsman