BEFORE THE ELECTRICITY OMBUDSMAN, JHARKHAND-RANCHI

(4th floor, Bhagirathi Complex, Karamtoli Road, Ranchi – 834001)

Present- Prem Prakash Pandey
Electricity Ombudsman

Case No. EOJ/02/2017 **Ranchi, dated,7th day of September 2017**

The Jharkhand Urja Vikas Nigam Limited through its Law Officer namely Mithilesh Kumar, S/o- Sri. R. B. Choudhary, R/o- Kusai Colony, P.O. & P.S.- Doranda, District- Ranchi …Appellant

Versus

M/s Kalpana Cement, situated at Bellwagadha, P.O. & P.S.- Ramgarh, represented through its Parsuram Sah, S/o- Late Bhagwati Sah, R/o- Tagore Road, Bijulia, near Meloni Club, P.O. & P.S.- Ramgarh, District- Ramgarh …….. Respondent(s)

For the Appellant : Sri. Rahul Kumar (Standing Counsel)
: Sri. Prabhat Singh (Additional Counsel)

For the Respondent : Sri. D.K.Pathak - Advocate

(Arising out of impugned Judgement and order dated 27-12-2016, passed in complaint case no. 08 of 2012 by the Learned V.U.S.N.F., Hazaribag)

J U D G E M E N T

1. The instant appeal is directed against the impugned judgment and order dated 27-12-2016, passed by the Learned Vidyut Upbhokta Shikayat Niwaran Forum; here in after called VUSNF, Hazaribag, in complaint case no. 08 of 2012 ,corresponding to case no. 23/2012, whereby and where under, the learned forum quashed energy bill dated 23.03.2012, amounting to Rs. 5,52,353/- with direction to the appellant to fix charges on 110 H.P. w.e.f. June 2011 be revised and Appellant have to charge on the basis of

sanctioned load of 95 H.P. because Appellant have not produced any evidence with regard recording of 110 H.P. load by meter or any other means with further direction based on inspection report dated 13-12-2-16 an action be taken as per tariff order 2015-16 and supply code Regulation 2015.

2. Respondent, who was petitioner before the learned VUSNF, has instituted this case with prayer for quashing the energy bill dated 21.03.2012 and subsequent demand letter dated 02.04.2012, wherein, the demand was raised for a sum of Rs. 5,52,352/- on account of audit objection raised by the office of Accountant General and also for quashing the letter no. 600 dated 31.03.2012, issued under signature of Electrical Executive Engineer, Electric Supply Division, Ramgarh. & also with direction not to take any coercive action for realization of the same amount and issue revised bills from November, 2005 on fixed charges and adjust the excess realized fixed charges in the subsequent bill along with payable rate of interest.

3. Factual matrix of the petitioner's (Respondent) case in brief is that the Respondent is a **cement production unit,** and for the purpose of running its unit, had taken electrical connection, bearing **consumer no. HH4R3LI00000000300 GRL 10463** under LTIS-Mode of tariff, having contract demand of 79 HP. However, later on, it was enhanced to 95 HP and supply of electricity has commenced from November, 2005 and accordingly, an agreement was executed. The load was always remained well within the sanctioned load i.e. 95 HP and at no point of time, the same has ever increased beyond the sanctioned load. It is alleged that the dispute pertains to the period during which the tariff order 2003-04 was applicable. Till the month of December 2005, the Appellant used to charge fixed charges on the basis of 95 HP, but appellant has started raising fixed charges on the

basis of 110 HP from January, 2006, though, in the energy bill itself, the connected load was shown as 95 HP till December, 2005. Therefore, as per tariff order2003-04, the contract load for the purpose of billing would have been taken 75% of 95 HP i.e. 71 HP and fixed charges would have been charged on the basis of 71 HP only. However, instead of doing the same, the appellant arbitrarily charge fixed charges on the basis of 95HP.

4- The further case of the Respondent is that from January, 2006, the appellant has arbitrarily enhanced the connected load from 95HP to 110 HP, which was absolutely wrong. Moreover, even on 110 HP of connected load, as per tariff order 2003-04, would be 75% of 110 HP i.e. 82.5 HP only and the fix charge can b charged accordingly but Appellant has charged the fix charges, taking the entire connected load, which is completely wrong. It is further alleged that by way of committing another illegality, the appellant vide its letter no.2321 dated 05-11-2009 intimated to the Respondent that in the light of inspection report of domestic accounts Examination officer, Electricity Board ,Ranchi because of 110 HP load, it has been directed to convert its connection from low tension to high tension. Accordingly, the energy bill was raised under H.T. tariff from January ,2006 to April, 2008 to the tune of Rs. 5,52,353,00 and the concerned Electric Executive Engineer directed to the Respondent vide its letter no. 2321 dated 05-11-2009 to deposit the same. Though, the copy of the said inspection report was not supplied to the respondent. Moreover, before imposing such a huge charge, the Appellant have neither issued any show cause nor even given any opportunity of hearing to the Respondent and on such score itself the demand contained in letter dated 05-112009 is liable to be quashed. It is further alleged that since , the respondent is having multiple motors/ equipments, even if the connected load, as per tariff would be only 82.5HP i.

e. 83 HP only , which is well within prescribed limit of LTIS category, therefore, there was no question of conversion of respondent connection from LTIS to HT Tariff. As matter of fact, soon after receiving letter date 05-11-2009, he had immediately protested the aforesaid demand through letter dated 12-12-2009, with prayer for recall of the demand, since its load is only 95 HP, which was received by the appellant on 14-12-2009, thereupon, Appellant did not ever demanded the said amount nor even the same was shown in the energy bill.

5- The further case of the Respondent is that there had been no verification, showing the load of 110 HP. However, the Appellant on baseless assessment of load has proposed to impose penalty upon him without providing any opportunity of hearing to him. It is further alleged that he has been charged excess amount on account of fixed charges treating its contract demand as 110 HP against the actual and sanctioned load i. e. 95 HP since January 2006 without any basis, while ignoring the provision of Tariff Order 2003-04 and, as such, the entire bill since January, 2006 is supposed to be revised. It is further asserts that raising of energy charges by converting the category of Respondent from LTIS to HP on the basis of the 110 HP, is totally unjust and arbitrary. The appellant neither provided the details of calculation of the said amount nor even they have provided any opportunity of hearing before imposing such huge amount upon the Respondent, which is against to the principle of natural justice. Undoubtedly, the Respondent is still availing supply at 440 Volt at the strength of its LTIS agreement executed with Board.

6- The further case of the Respondent is that on his protest against the demand raised vide letter dated 05-11-2009, was never further made by the Appellant nor even the same was continuously shown in the monthly energy

bill. Resulting thereof, the Respondent being bonafide, reasons to believe that the same has been recalled and as such , he had no occasion to challenge the demand letter dated 05-11-2009 before any competent authority of law. It is further alleged that after more than two years, all on sudden, the Appellant served energy bill dated 21-03-2012, while ,adding the same amount i.e. Rs. 5,52,353.00 as audit amount along with current energy bill. Though, as per section 56 (2) of the Electricity Act 2003, no sum due from any consumer can be recoverable after the period of two years from the date, when such sum become first due unless such sum has been shown continuously as recoverable as arrears of charges. Thus, as per aforesaid provision of law, so called demand raised on account of audit charge on 05-11-2009 can't be realized on 21-03-2012. It is further alleged that soon after the receipt of the bill dated 21-03-2012, he has made protest against the arbitrary demand with request to accept the current energy bill vide its representation dated 22-03-2012, whereupon, the appellant accepted the current energy bill, which was paid by the Respondent on the same day i. e. dated 22-03-2012. However, the Electricity Executive Engineer vide his letter dated 31-03-2012 turn the entire matter in different direction by giving the same as colour of penalty u/s 126 of the Electricity Act 2003, for unauthorized use of electricity and while rejecting his objection, directed to pay the demand ,so raised within 15 days and also pressurizing him to pay the demand, so raised, failing which, his electric line would be disconnected.

7- Appellant appeared through its law officer and filed counter affidavit before the learned VUSNF, admitting there in that Respondent is its consumer, having sanctioned load of 96 HP. An Electronic meter has already been installed in his premises, which recorded demand more than 100 KVA from January, 2006 to April 2008. Therefore, audit raised the point for

wrong categorization of tariff (LTIS to HTS) in term of demand charges as well as in difference in rate of unit consumption charges of Rs. 5,52,353.00 only, included in the mentioned energy bill of 02/2012, which is as per provision of Tariff as well as Electricity Act 2003.It is further asserted that as per tariff order 2003-04, billing of sanctioned load is 75% of connected load. Although, in this matter, no inspection of the premises of the Respondent has been done rather billing of the Respondent has been done on 100% sanctioned load. Audit raised the point for increasing demand more than 100 KVA and for wrong categorization of tariff. There upon, show because notice was issued to the Respondent vide its letter no.2321 dated 05-11-2009. Since it was case of unauthorized use of electricity energy for such long period, which comes under the purview of section 126 of the Electricity Act 2003. Therefore, demand is correctly recorded by LTCT meter, so there was no inspection report. It is further asserted that demand raised vide letter no. 2321 dated 05-11-2009, while, it was made over to the Respondent thereupon, Respondent filed an objection so after scrutiny, raise amount is charged in the monthly bill of 02/2012. Therefore, under the facts, the section 56(2) of the Electricity Act 2003 is not applicable in this case. Thus, under the facts and circumstances of the case, there is no merit and is fit to be dismissed.

8- The learned VUSNF ,after perusal of the whole material available on the record & after hearing of the both sides, found that instant case was instituted on 25-05-2012, therefore, as per clause 10 (1) (ii) of Jharkhand Gazette Notification 9th November 2011 (Guidelines for Establishment of forum for Redressal of Grievances of the consumers and Electricity Ombudsman) Regulation 2011, the grievances related to the period before may 2011 can't be entertained , accordingly, the grievance related to period

after May 2011 has been considered. The learned VUSNF has further raised a point for adjudication that **whether the board has continuously shown Rs. 5.52,353.00 in the bill, as arrear, after 05-11-2009 on not ?** On this issue**, The** learned VUSNF has found no positive paper on the record and accordingly, decided that as per section 56(2)
of Electricity Act,2003, Appellant can not realize this amount. It is further held that Respondent 's agreement with the Board was under LTIS category but Respondent used the energy of H.T.Tariff, which is evident from the perusal of audit report(Annexure-4) attached with Annexure -7 of the Respondent petition, so if the consumer consumed the energy more than sanctioned load then this will be a case of unauthorized use of electricity, which will come under section 126 of the Electricity Act 2003. It is also held that Auditor has no authority to charge for the un authorized use of electricity therefore, appellant can proceed according to law only.

9- Assailing the impugned judgment and order passed by the learned VUSNF, it has been contended by the learned counsel for the Appellant that before adverting to the grounds for challenging correctness of the impugned order passed by the learned VUSNF, it would be appropriate, firstly, to place correct factual matrix of the case. It is admitted by him that Respondent is a cement production unit and for the purpose of running its unit , had taken electrical connection from the Appellant and electricity was supplied under LTIS Tariff in November ,2005, having contract demand of 95 HP and accordingly . till the Month December, 2005, the appellant used to charge fixed charges but the Accountant General in its audit objection pointed out to the Appellant regarding charging bill to the Respondent under erroneous category of Tariff. Actually, the bill for the period in question, will be governed by Tariff Order of 2003-04, which specifically provides that

maximum demand recorded in a year will be treated as contract load for that year for the consumer , who opts for maximum demand meters. The learned counsel has further submitted that in the present case maximum demand recorded for the period in between January 2006 to April 2008 was 110 HP i. e. 103 KVA, which falls under the category of HTS consumers, Moreover, the Respondent was charged under LTIS Tariff for the said period. Since , it was pointed out in the said A.G. report that due to wrong categorization, the Board has suffered a loss of revenue to the tune of Rs.5,53,353.00, therefore , the appellant had issued notice vide memo no. 2321 dated 03-11-2009 and asked the Respondent to pay the aforesaid amount , which could not be realized earlier due to wrong categorization of Tariff but the respondent did not respond to the notice and continued to pay the energy bill issued to him. The learned counsel further submitted that

The Respondent ought to have been charged under HTS tariff for the period 2008 to 2012 but due to some official error, the said amount could not be charged and realized from the Respondent. The unit of the Respondent is closed from the year 2012, so, thereafter, billing under HTS tariff could not be made and served to him. However, in the month of February the Respondent had been served with bill, which included the amount payable by him, after detection of error, but no payment was made by the Respondent against the bill ,served in the month February 2012, so, a notice was issued to the Respondent vide letter dated 03.04.2012 and vide memo no. 600 dated 31.03.2012 ,wherein, the Respondent was asked to deposit the due amount but the Respondent did not make any payment against the demand notice rather filed this case before the learned VUSNF , where the Learned VUSNJ have committed an error in not properly appreciating provision u/s 56(2) of the Electricity Act, 2003 and has passed erroneous

order without appreciating correct facts and settled law rather learned forum have stretched too far in interpreting the provision made u/s 56(2) of the Electricity Act 2003.

10- The learned counsel for the appellant has further submitted and drew my attention to wards recent judgment passed by our Hon'ble court in a matter relating to limitation period of two years under section 56(2) of the Electricity Act, 2003 and contended that it has already been decided by the Hon'ble High court that a bill amount can be realized after a period of two years and has further been pleased to held that said section is only limited for the purposes of disconnection of electricity. It has further been submitted that section 126 of the Electricity Act, 2003 is not applicable under the facts and circumstances of this case. It has further been contended that Learned VUSNF have committed an error in holding that a consumer can not be charged under HTS Tariff on the basis of report of Accountant General, which was internal report of the Board. As matter of fact, the learned VUSNF ought to have considered that the said report was made by a constitutional institution and the Appellant have no concern with its preparations. Lastly, it has been submitted that if the this Fourm came to conclusion that it was case of under section 126 of the Electricity act, then a liberty may be given to the appellant to proceed for Assessment. Thus , under the aforesaid facts and circumstances of the case, as well as, the law involved in this case , the impugned judgment is liable to be set-aside.

11- Refuting the contention advanced by the learned counsel for the Appellant , it has been submitted by the learned counsel for the respondent that stand of the respondent was that the electrical connection was taken under LTIS Tariff with connected load of 95 H.P. and the same load was continuing, the fixed charge was being charged on the basis of 95 H.P., only

up to December 2005, treating its connected load as 95 H.P. However, the Appellant , all on sudden, without any inspection or show-cause or notice or any opportunity of hearing, at their own started raising bill charging fixed charges on 110 HP from January 2006. More surprising fact is that even after showing the connected load as 110 H.P. in the energy bill, the billing has been done under LTIS mode of Tariff. The learned counsel further submitted that it is specific case of the Respondent that neither there had been any inspection nor there had been any report, which may suggest the connected load of the Respondent as 110 H.P. . Hence , the load has been enhanced without any basis and without any verifying the actual physical load of the Respondent, as such, no action can be taken on account of the so called enhancement of load, which is without any basis and factually incorrect. It has further been contended that the appellant in their counter affidavit before the learned VUSNF, in para 10,11 &13 have also admitted that there had been no inspection of the respondent premises, prior to the enhancement of the load.

12- The learned counsel for the Respondent has further submitted that in the Tariff Order 2003- 04, there is specific stipulation that in case of LTIS, consumer having multiple motors, the contract load for the purpose of billing, would be 75% of the connected load. The most important fact is that this provision was made on the proposal of the Appellant, the then Board, itself. The reasoning behind such provision was that all electrical appliance/ motors in any industrial Unit , does not run simultaneously. The other ground of challenge to the change of category from the HTS to LTIS was that as per the applicable Tariff Order 2003-04. Since contract load was to be taken as 75% of the contract load, hence in any view of the matter, the category of the Respondent can not be changed from LTIS to HTS. It has

further been contended that as per standard Formula:- 1 HP=0.878 KVA. In the instant matter, the appellant has raised the demand claiming the load of the Respondent as 110 HP. The respondent emphatically denied the load of 110 HP. However, if 110 HP is converted into KVA, it will come to 110 x 0.878= 96.58 KVA. As per Tariff, the HTS category starts from 100 KVA, thus , in any view of the matter, the claim of change of category from LTIS to HTS and accordingly, demand of Rs. 5,52,353.00 on account of change of category is not sustainable.

13- The learned counsel for the Respondent has further submitted that appellant, unsuccessfully, claimed that the demand has been raised u/s 126 of the Electricity Act, 2003 but he has forget the relevant provision , where, there is a procedure, prescribed under said section, and the assessing officer has also been designated. Neither the procedure as prescribed i. e.. inspection of the premises, issuance of provisional bill, invitation of objection, opportunity of hearing and then final determination, has been followed nor the designated authority has assessed the amount. Thus, any demand order u/s 126 of the Electricity Act has no leg to stand. Therefore, under the aforesaid facts & circumstances of the case and relevant provision of law, the demand raised by the appellant has no leg to stand, resulting thereof, the learned VUSNF, after discussing the entire facts and provision of law , has given the finding, which is absolutely in accordance of law and thus the same may not require any interference there in as such the instant appeal is fit to be dismissed.

14- It will admit of no doubt that the respondent has taken electrical connection under LTIS Tariff, with connected load of 95 HP and the same load was continuing, the fixed charge was being charged on the basis of 95 HP, only upto December ,2005, treating its connected load as 95 HP. but

Vide its memo no.2321 dated 05-11-2009, raised demand of Rs, 5,52,353.00 as per audit repot and directed to the Respondent to deposit the same because the Accountant General in its audit report, pointed out that the Respondent load as per the **ledger** is 110H.P. i.e. 103 KVA hence it falls under the category of HTS Tariff from January 2006 to January 2010 ,accordingly, it was reported that due to wrong categorization of the Respondent's electrical connection, the Board has suffered loss of revenue to the tune of Rs, 5.52,353.00. It is also admitted fact that before imposing such huge charge , the appellant neither issued any show cause nor provided any opportunity of hearing to the Respondent, consequently, the Respondent protested the same before the concerned authority of the Appellant vide its representation dated 12-12-2009 by reiterating its load is only 95 HP, therefore, the demand may be recalled. Thereafter, no demand was made nor was its shown in the energy bill . It is also admitted fact that after more than two years, the Appellant served energy bill dated 21-03-2012 (Annexure-3 of the appeal) upon the Respondent, adding the same amount , as audit amount, along with current energy bill. Thereupon, the instant case has been filed before the learned VUSNF.

15- Now the point for determination before me is :-

Whether consumer can be charged on higher rate, on the basis of report of Accountant General?

To answer this question, I would like to go in detail with regard provision of enhancement of load of the Unit and conversion from LTIS to HTS. Admittedly, Respondent has taken electrical connection under LTIS Tariff . in November, 2005 , having contract demand of 79 H.P. for running its unit for production of cement, at Garhbandh, Belwagarh, Ramgarh. The electricity was being supplied at **440 V**. and Respondent had installed

multiple motors. Later on, it was enhanced to 95 H.P. Hence his total connected load was 95 HP. Accordingly, energy bill had been issued till December, 2005 on load of 95 HP. But appellant started raising fixed charges on the basis of 110 HP from January, 2006. Now a sub question arises that when and under what circumstances the load of 110 HP had been increased and if it was increased by whom order?. To answer this sub question, I would like to discuss the submission of the appellant. It is admission of the Appellant that no sanction was ever passed to enhance the load of 110 HP from the side of the authority of the appellant. It is also admission of the appellant that no application had ever been filed by the Respondent for enhancing the load from 95 HP to 110 HP. It is submission of the appellant that first of all, it come to the knowledge of the appellant that Respondent was consuming electrical energy of 110 HP in his unit, when the audit report of Accountant General was received and on that very basis demand on the basis of 110 Hp, which comes under the HTS Tariff, had been demanded from the Respondent. It is also admission of the Appellant that the said audit report was submitted by A.G. on the basis of entry in the ledger book. The third point arises that on what basis this entry was made in the ledger book? No satisfactory answer has been given by the Appellant. Thus, it appears that an entry was made in ledger book by account office and on that very entry, audit report was submitted. In my opinion, this fault was committed on the part of the Appellant and when this fact came in to knowledge to the authority of the Appellant through audit report, then without going in to an enquiry in details with regard an entry in ledger book, placed responsibility upon the respondent to pay such amount.

16- It is also relevant to mention at very out set, that it is admission of the appellant in its counter affidavit in para 10,11 &13 before the Learned

VUSNF that there had been no inspection to the premises of the Respondent, prior to the enhancement of the load i.e. 110 HP. Thus, taking in to consideration of the entire facts, as discussed above, I do find that neither there had been any inspection nor there had been any report, which may suggest the connected load of the respondent was 110 HP. Thus, I find and hold that the load of 110 HP has been enhanced and made an entry in the ledger book, without any basis and without verifying the actual physical load of the Respondent's unit, therefore ,in my view , no such action can be taken on account of the so called enhancement of load, which is apparently incorrect.

17- The second and most important aspect for consideration is that:- **Whether the load of 110 HP comes under the category of HP or LTIS, as per TARIFF ORDER 2003-04?** To answer this issue , I would like to discuss the audit report , which reads as –*" As per tariff schedule effected from 1st January 2004 of Jharkhand State Electricity Regulatory commission, Ranchi in respect of LTIS consumers. The maximum demand recorded in year will be treated as contract load for that year for the consumer, who opts for maximum demand meters. This option shall shall be availed only after installation of maximum demand meters and executing an agreement with the Board for this option of Tariff. If demands exceeds 107 HP or 100 K.V.A. it will be converted into High Tension Service (HTS) and will be billed as per HTS tariff. But scrutiny of consumer Ledger of sub-division Ramgarh, section iii revealed that maximum demand of consumer No.GRL10463 M/S Kalpana Cement co.,Catetegory- LTIS was recorded 110 HP (103 KVA) from the period of 01/06 to 04/08 but its billing was done as per Tariff applicable to LTIS, not as per HTS. Due to wrong categorization the Board has suffered a loss of revenue of Rs.5,52,353=00,On account of*

energy charge. ***In reply, it was stated that notice has already been served to consumer for conversion in HTS tariff. Reminder will issued to consumer.*** *If not turn up, action will be taken as per Board's Rule and intimated to Audit".* Thus as per aforesaid audit repot, Appellant ought to have firstly issued notice to the Respondent for conversion in HTS tariff and again a reminder. It is also relevant to mention that in reply from the side of Appellant before audit officer, it was stated to the Audit authority that notice of conversion had already been given but it is very surprising that no such chit of paper has been brought or shown on the record or any plea had been taken by the Appellant in its counter affidavit, to show that any kind of notice for conversion from LTIS to HTS was ever issued to the Respondent. On this point , no explanation has been given by the appellant, which clearly goes to show that no notice was ever been given to the Respondent for conversion of electrical connection in HTS Tariff, prior to the audit. Thus, I found that it is itself proved the fault of the concerned officer of the Appellant and further proved the wrong entry was made in ledger book with bad intention. It is further proved that first of all, while, this fact(audit report) brought to the knowledge to the authority of the Appellant , the appellant raised the demand vide memo no. 2321 dated 05-11-2009 with direction to the Respondent to deposit aforesaid amount as audit charge, which was protested by the respondent vide its representation dated 12-12-2009 by reiterating that its load is only 95 HP, therefore, the demand may be recalled. Thereafter, neither demand was made nor the same was shown in the energy bill rather after more than two years, the appellant served current energy bill dated 21-03-2012 with adding the same amount as audit amount, which has been challenge before the learned VUSNF. Moreover, if ,it is taken to be true , then whether the connected load as 110 HP comes under

the category of LTIS or HTS?. To answer this question ,it is pertinent to mention that as per the applicable Tariff Order2003-04, the contract load was to be taken as 75% of the contract load and as per the standard formula, as mentioned in Tariff Order for JSEB (Provisional) Financial Year 2011-12 with effective from 1st august 2011 in clause 12.86(d) is that 1 Horse Power(1HP) =0.878 Kilovolt ampere(KVA). If 110 HP is converted into KVA, it will come to 110 x 0.878 =96.58 KVA. Therefore, as per the Tariff the HTS category starts from 100 KVA, thus in any view of the matter the claim of change of category from LTIS to HTS does not arise and accordingly, demand of Rs. 5, 52,353=00 on account of change of category is not sustainable in the eye of law.

18- Lastly, I would like to mention one important point that learned VUSNF has specifically mentioned in para 12 of the impugned judgment that *"on perusal of inspection report by a team of JVBNL official dated 13-12-2016 and submitted to forum on 20-12-2016 through letter no.1616 dated 19-12-2016, it becomes evident hat connected load is 105 HP, forum is of the view that respondent (Appellant of this appeal) may take action as per tariff Order 2015-16 and Electricity Supply Code Regulation 2015".* In my view, this liberty is still open to the Appellant because this fact has not been challenged before me through cross appeal by the Respondent of this case.

19- Having considered the entire facts & circumstances of this case and submissions advanced on behalf of both sides, I do find and hold that it is not case of unauthorized use of electricity as per clause 15.7 (iii) Electricity Supply Code, Regulation 2005, wherein it is mentioned:- **Exemption: Following activities shall not be considered as unauthorized use of electricity;** *(a) where a consumer is billed on demand basis but the*

connected load exceeds the sanctioned load. In such cases one month notice is to be served by the licensee indicating additional load to be regularized by the consumer. Thus, taking into consideration of the whole facts, as discussed above, I find and hold that the learned VUSNF, after analyzing the entire facts and circumstances of the case and also relevant provision of law, has given finding, save and except with regard the provision of section 126 of the Electricity Act, which is absolutely correct, in accordance with law and that does not require any interference therein. . In the result , it is therefore,

O R D E R E D

20- That **t**here is no merit in this appeal and it fails. The appeal is hereby dismissed. Under the facts and circumstances of the case , both sides shall bear their respective costs. Let copy of this order be given to the both sides.

Sd/-
(Prem Prakash Pandey)
Electricity Ombudsman