IN THE FORUM OF ELECTRICITY OMBUDSMAN, JHARKHAND-

(2nd floor, *Rajendra Jawan Bhawan- Sanik Market, Mahatma Gandhi Marg (Main Road), Ranchi – 834001)*

Present- Prem Prakash Pandey
Electricity Ombudsman

Case No. EOJ/03/2019 **Ranchi, dated,24th day of October, 2019**

Jharkhand Bijli vitran Nigam Limited through its Law Officer- namely Mithilesh Kumar, S/o- Sri. R. B. Singh, R/o- Kusai Colony, P.O. & P.S.- Doranda, District-Ranchi

…… …….……..…… Appellant

Versus

M/s Model Coke Industries through its authorized partner namely Pushkar Mal Dokania, S/o- Late Raghubar Prasad Dokania officiating at near Maa Lilori Asthan at Khudandih, P.O. Kankomati,P.S.-Katras, District- Dhanbad. …….Respondent

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

For the Respondent : Sri. N.K.Pasari Advocate, Miss. Sidhi Jalan - Advocate

(*Arising out of Judgement and order dated -06/03/2019, passed in complaint case no.55 of 2018, by the Learned V.U.S.N.F., Hazaribag*)

J U D G E M E N T

1. The instant appeal is preferred by the appellant, named above, against the impugned judgment and order dated 06/03/2019, passed in complaint case no. 55 of 2018 by the Learned Vidyut Upbhokta Shikayat Niwaran Forum (VUSNF) Hazaribag, whereby and where under, the learned VUSNF has quashed additional energy bill to Rs.5,49,880.00 & not allowed for enhancement of contract demand from 180 KVA, right from Jan.2013 onwards and with this direction disposed off the petition of the complainant(Respondent of this appeal)

2. The factual matrix of the case in brief, as contained in complaint petition of the complainant; herein after called Respondent, is that his M/s Model Coke Industries is situated near Maa Liloria Aasthan Khudandih, P.S. Katras, District Dhanbad, which was purchased by him on 01.01. 2013 through registered sale deed and its consumer no is KT 1722 and the firm has been regularly paying consumed electricity energy charges. It is alleged that all of a sudden in November 2017, the respondent received a bill of Rs 2,14,387.00 for

consuming electricity energy along with additional bill of Rs.5,49,880.00 , from January 2015 to March 2016, amounting to total of Rs. 7,62,746.00.

3. The further case of the Respondent that it was the duty of the Appellant to send a notice to the consumer, if the consumer consumes more than 110% of the accepted consumed load for two consecutive months but in the instant matter, Respondent had not received any notice for executing the new agreement since 2013. Moreover, the Respondent had not consumed excess electricity for more than two consecutive months ever. As per record, the respondent had consumed excess electricity for two months only i.e. for September 2012 and October 2012 and thereafter all consumption was within accepted load therefore, the Respondent had not violated any terms or condition of the Electricity Act 2003. It is further stated that soon after receipt of the aforesaid bill, respondent sent legal notice on 06-01-2018 to the authority of the Appellant, seeking enquiry in to the matter with request to rectify and send the correct bill for consumption of electricity. However, the Appellant submitted a reply, which was totally not tenable and was not in consonance with law. Lastly, it is alleged that after waiting for sufficient time, the respondent was forced to invoke the jurisdiction of learned VUSNF for Redressal of his bonafide grievances.

4- Appellant appeared before the learned VUSNF and filed its counter affidavit admitting therein that respondent is a consumer bearing consumer no. KT -1722, HTS. It is further alleged that as per the compliance of A.G. audit, contract demand of the respondent , revised to 263 KVA from 180 KVA from Jan.2013 and different charges on account of difference in KVA, is charged in bill for the month of Nov.,2017. Letter to this effect has already been sent to the respondent vide letter no. 2722/ESE/Chas, dated 15.12.2017.

5- It is further alleged by the appellant that respondent exceed actual contract demand by 110% of sanctioned load from Sept.2012 to Oct.2012 and again in Dec.2012. It is further stated that as per Tariff, duly approved by JSERC for the Financial Year2011-12 Section A-II, “Terms and Conditions of Supply- clause I of recorded KVA exceeds from 110% of sanctioned load continuously for two months, notice should be issued to consumer for revised agreement on enhanced load within 15 days. If the consumer gives undertaking that his demand will not enhanced from already sanctioned load in future then billing should continuous on exiting load but if under taking fails within six months then new contract demand will be enhanced load, as is happened in this

matter in the month of Dec.2012. So as per compliance of A.G. audit, contract demand of respondent revised to 263 KVA from 180 KVA from Jan.2013 and differentiate charges on account of difference in KVA is charged in bill for the month of Nov, 2017 and letter to this effect has already been sent to the respondent vide dated 15-12-2017.Therefore the bill served upon the respondent is as per duly approved Tariff order and its clauses. So it is not an arbitrary in nature. Hence the respondent has not fully understood the clauses and agreement of enhancement of load and unnecessary dragged Appellant before the Forum.

6- Respondent filed reply against the counter affidavit of the appellant, stating therein that if the recorded KVA exceeds from 110% of sanctioned load, then notice for revised agreement on enhanced load should be issued to the consumer within 15 days. It is further submitted that the matter de-facto is that the exceeded load was recorded in the month of Sept.& Oct.2012 but no notice was ever sent within stipulated period of 15 days by any authority of the Appellant and its department has not taken any undertaking from the respondent rather directly sent notice on 15-12-2017, after elapse of more than Five Years, and no any Tariff plan has been attached.

7- Respondent further by attaching copy of the Tariff order dated 25-07-2011 for the Year 2011-12, submitted that It is the rule as per Tariff order that the billing demand shall be maximum demand recorded during the month or 75% of contract demand, whichever is higher. In case higher actual demand is recorded for three continuous months the same shall be treated as the new contract demand for the purpose of billing of future months and the consumer will get into a new agreement for the revised contracted demand with the respondent .The penalty on exceeding contract demand shall be 1.5 times, the normal charges for actual demand exceeding 110% of the contract demand and panel charges shall be applicable on exceeded demand only. It is further pleaded that respondent has not consumed excess electricity for three consecutive months. Neither any notice has been issued by the appellant within prescribed period of 15 days of recorded enhanced consumption nor has any revised agreement been executed by the appellant since 2012. Lastly it was prayed by the respondent before the learned VUSNF that the enhanced and revised bill of Rs.5,49,888.00 as issued by the department for excess KVA charged based on new contract demand from Jan.2013 to March 2016 is quite arbitrary,

whimsical and illegal and as such the same is not maintainable and liable to be set aside.

8- The learned VUSNF, after discussing the entire facts and taking in to consideration of the law points, as provided under section 56(2) of the Electricity Act 2003 and Tariff order 2012-13, section 14-Terms and condition of supply, found that the appellant could not explain the basis of taking contract demand 294 KVA in Nov.2017 and 263 KVA in Dec.2017 and it clearly shows that the bills for contract demand were raised arbitrarily and accordingly allowed the complaint petition & quashed Additional Bill amounting to Rs 5,49,880.00, with direction to the Appellant to raise bill on 180 KVA contract demand ,right from Jan.2013 on wards.

9- Assailing the impugned judgment and order, passed by the learned VUSNF Hazaribag, it has been contended by the learned standing counsel for the Appellant that the learned VUSNF is erroneous and has been passed the order without appreciating correct facts of the case and following settled principle of law, thus it appears bad in law & liable to be set aside. The learned VUSNF has failed to consider that there is no bar of two years for raising electricity bill in terms of section 56(2) of the Electricity Act 2003 as it has been held by division bench of the Hon'ble Jharkhand High Court in L.P.A. No.665 of 2015,M/s Sheo shakti Cement Industries Vs JUVNL that section 56(2) of the Electricity Act 2003 never restricts other mode of recovery and it is confined to mode of recovery made u/s 56 of the Electricity Act 2003. It has further been contended that learned VUSNF has further committed an error in interpreting section 14 of Tariff order 3012-13 and has failed to consider the provision of Tariff which makes the consumer liable for entering into fresh agreement for enhanced load after the recorded demand exceeds 110% of contract demand for three continuous months.

10- It is also submitted that learned VUSNF has not taken note of provision made under Tariff 2012-13 as per which Issuance of notice is **obligatory** and **not mandatory.** Therefore, the impugned order lacks reasonableness and has been passed without any application of mind, ignoring terms and condition of validly executed agreement, which is bad in the eye of law and as such the same is liable to be set aside. The learned standing counsel has further submitted that the appellant herein on receipt of notice appeared

before the learned VUSNF and filed counter affidavit & two supplementary affidavit, in reply, have brought on record that in compliance of Accountant General Audit Objection, contract demand of respondent has been enhanced to 263 KVA from 180 KVA and difference of KVA charges has been levied upon the Respondent and accordingly Respondent was informed through letter no. 2518/ESE/Chas, dated 20-11-2017 and another letter dated 15-12-2017 with request for execution of fresh agreement on enhance contract of 263 KVA w.e.f. January 2013 (Annexure-2 & 2/ of memo of appeal1),Because the relevant Tariff specifically states that " *In case higher actual demand is recorded for three continuous months, the same shall be treated as the new* contract demand for the purpose of billing of future months and consumer will get into *a new agreement for the revised contracted demand with the petitioner".*

11- The learned standing counsel has further contended that, in the present case, the Respondent has continuously exceeded his maximum contract demand for the month of September, October and December 2012, which was inadvertently overlooked by the Authority of the Appellant but the same was detected later on by A.G. and accordingly an objections were raised in his report**,** thereupon the authorities of the Appellant made analysis of the audit report and came to a conclusion that as per Tariff provision the Respondent ought to have been levied maximum demand charges on the basis of enhanced load w.e.f. January 2013. Therefore, under the facts and circumstances, as submitted above, the impugned judgment and order passed by the learned VUSNF is fit to be set aside.

12- Refuting the contention advance by the learned standing counsel for the appellant , the learned counsel Shri N.K. Pasari, appearing on behalf Respondent has totally supported the finding of the learned VUSNF with submissions that after duly taking into consideration the law in existence, including provisions of section 56(2) of the Electricity Act 2003 and Tariff Order 2012-13, the impugned order was passed. The learned counsel has further submitted that certain clarifications were sought from the Appellant, before passing the order, to which no proper reply was given, whereupon the learned VUSNF has observed that *"Respondent could not explain the basis of taking contract demand 294 KVA in Nov.20017 and 263 KVA* in Dec.2017, which shows that the b*ills for contract demand were raised arbitrarily."* Likewise, taking into consideration clause –I, Section 14-Terms and condition of supply

of the Tariff Order 2012-13, it is also *observed- " As pee above clause of terms and conditions, notice was to be served to the consumer in case demand exceeded 110% of sanctioned contract load . But the Respondent did not file any document showing such notice. Hence the Forum is of the view that additional bill amounting Rs.5,49,880/ and enhancement of contract demand from sanctioned contract demand of 180 KVA are liable to be set aside as both actions are against the law under Electricity Act, 2003 and Tariff Order"* Thus the learned VUSNF has very rightly interpreted the provision of section 14 of the tariff Order 2012-13 as neither any notice was ever served upon the Respondent nor any under taking was obtained.

13- The learned counsel has also submitted that only if the actual demand is higher than the contract demand for three continuous months, a new agreement needs to be executed. However, in the present case, the actual demand did not exceed the contract demand for three continuous months and hence no new agreement was required to be entered into. So for as the recorded demand for the months of Sept., Oct. and Dec.2012, having exceeded the contract demand by 110% is concerned, according to section 14 of the tariff Order 2012-13, penal charges ar**e** livable for exceeding the demand, which was duly levied from the Respondent. Hence, no further liability can be imposed on the respondent.

14- The learned counsel for the Respondent has further submitted that a perusal of section 14 of tariff Order 2012-13 would transpire that the modalities as prescribed in the Tariff Order is nor optional or directory, but it is mandatory. In order to give effect to section 14 of the Tariff Order , duty is cast upon the licensee to carry out the modalities, viz:-

(i)- *If the actual demand recorded is higher than the contract for two continuous months, the licensee has to serve the notice after the end of* ***second*** *month for enhancement for enhancement of contract demand.*

(II)- *The consumer has to respond within 15 days.*

(III)- *Within 15 days of receipt of response from the consumer, after carrying out necessary changes at consumer's installations, new agreement for revised contract demand has to be executed.*

(iv)- *In case the consumer does not respond, the licensee has the right to initiate proceedings for enhancement of load.*

*(**v**)-* *An undertaking can be given by the consumer for not exceeding the contract demand again for a period of 6 months.*

(vi)*–If the undertaking fails, the consumer shall have to pay penal charges of two times the normal tariff for three consecutive months.*

(vii)- *The licensee has to serve 7 days notice to the consumer for enhancement of contract demand as per the last recorded actual contract demand*

15- The learned counsel for the Respondent has further submitted that aforesaid are stages, which have not been fulfilled and the licensee cannot take the advantage of its own lapses that too after a period of 5 years from the relevant date because it is settled proposition of law that what cannot be done directly, cannot be allowed to be done indirectly. However, every power vested in the State is coupled with duty. There are certain does and doesn't for the state while carrying out such duty and is not Dependant on the whim and caprice of the State Officer. Moreover, the licensee or its officer cannot act in any manner whatsoever to frustrate the purpose of the Act, Rules and Tariff Order, which are mandatory in nature.

16- The learned counsel has further contended that there is no bar of two years for raising electricity bill in terms of section 56(2) of the Act , on the contrary, it is stated and submitted that section 56(2) of the Act clearly mandates: "*Notwithstanding anything contained in any other law the time being in force, no sum due from any consumer , under this section shall 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 arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity"*. Therefore, taking into consideration of the aforesaid provision, the Appellant herein cannot raise additional bill of Sept., Oct. and Dec.2012 in the month of Nov. 2017, after a lapse of almost 5 years, as it is time barred and the initial bills have already been paid by the respondent, including the penal charges. Thus, the decision rendered in the matter of *M/s Sheo Shakti Cement Industries Vs JUVNL* is not applicable in the facts and circumstances of the instant case, inasmuch as

in that case it was due to the mistake in applying of multiplying factor that the supplementary bills were issued and thus, by applying section 17 of the Limitation Act, the Hon'ble Court opined that section 56 was not attracted. Moreover, the present case is not a case of fraud or mistake due to which the additional bill has been issued rather , the case in hand, it is only on the basis of an audit objection that the appellant here in issued additional bill amounting to Rs. 5,49,880/ which is not permissible in law.

17- The learned counsel has also submitted that entire process of billing is split into three stages namely: (a)-consumption of electricity, (b)-Raising of demand and (c)- Payment of demand. Therefore, the decision of the Hon'ble Jharkhand High Court interpreting section 56(2) of the Electricity Act, 2003 is absolutely clear and unambiguous, which declares that no demand can be raised for the first time after a period of two years from the date when such demand become first due. The sum due from the consumer is the amount for charge of electricity which the consumer has neglected to pay and which was within the knowledge of the consumer or within the knowledge of the licensee. In the case in hand , there is no calculation error or wrong application of tariff for relevant period, the energy bill was raised by the appellant including penalty as envisaged in the tariff Order 2012-13. Thus, taking into consideration of the entire facts and provision of law, as submitted above, instant appeal deserves to be dismissed with costs. Lastly, it has been contended that there is no illegality in the impugned judgment and order, passed by the learned VUSNF, which require interference by this forum. Moreover, the other modalities in order to maintain an appeal have not been carried out and such the entire appeal has to fail. Thus, there is no merit in this appeal and is liable to be dismissed.

18- It will admit of no doubt that the Appellant is deemed licensing-cum – utility, which is engaged in the business of generation, transmission and distribution of electricity to the consumers. Respondent, being a consumer having electric connection no.KT-1722 was previously standing in the name of M/s MODEL FUEL(P) Ltd, prior April 2013, which was purchased by a partnership Firm MODEL COKE INDUSRIES Ltd through registered sale deed dated 31.12 2012.Accordingly billing were being issued in the name of M /S MODEL Fuel(p) Ltd to M/S Model Coke Industries Ltd. and the same was paid regularly . It is also admitted fact that dispute

was raised in the month of Nov.2017 i.e. after 4½ years, where maximum demand recorded by meter exceeded 110% of contract demand and for this enhancement an additional bill was raised on the basis of audit objection of A.G.. It is also admitted fact that in electricity bill for the month of Nov.2017, the contract demand is mentioned as 294 KA ,where as in the electricity bill for the month of Dec.2017 ,contract demand has been mentioned as 263 KVA,. The contract demand mentioned in the electricity bill for the month of Oct.2017 is 180 KVA, whereupon a notice was served upon Appellant by the learned VUSNF to clarify but it is surprising that Appellant could not be able to explain the basis for contract demand 294KVA in Nov.2017 and 263 KVA in Dec.2017.

19- It is relevant to mention at very outset that the dispute between parties started for the period of Sept.2012, Oct. 2012 and Dec. 2012, having exceeded the contract demand by 110% according to section 14 of the Tariff Order 2012-13, penal charges are leviable for exceeding the demand, which was duly levied from the Respondent .

20- Now the main issues for adjudication before this Forum is that:-

(i) Whether the Additional bill Penalty for exceeding Billing/contract demand is made by Appellant, as per section 14 clause I of the Tariff Order 2012-13 is correct or not ?

(ii)Whether the principle of law laid down in Sheo Shakti Cement Industries case regarding section 56(2) of the Electricity Act 2003 is applicable under the facts and circumstances of the instant case?

21- Since both issues are co- related with each other, hence they are taken together for proper adjudication. Before entering into details of the facts of the case , it is desirable to mention at this juncture that it is admitted fact of the Appellant in para 8 of its counter affidavit ,filed before the learned VUSNF, that as per the compliance of AG audit, contract demand of the petitioner i.e. M/S Model Coke Industries Ltd., revised to 263 KVA from 180 KVA from January 2013 and differential charges on account of difference in KVA is charged in bill for the month of Nov.2017 and a letter to this effect has already been sent to him vide dated 15-12-2017. So bill served as per duly approved Tariff. It is pertinent to mention that the report of the AG audit is genesis of this case but it is very surprising

that not a single chit of paper regarding audit report of the AG has been brought on the record, reason best known to the Appellant of this case. It is also important to mention that for the period of Sep 2012, October 2012 and December 2012 a initial electricity bills have already been paid by the Respondent, including the panel charges. So it is not case of the Appellant that they had no knowledge that respondent was consuming higher than the contract demand. Though, it is specifically submitted by the Appellant in para (e) of the memo of appeal that in the present case the Respondent have continuously exceeded his maximum contract demand for the month of September, October and December 2012, which was inadvertently overlooked by the authorities of the Appellant. Later on it was detected by the office of the A.G. and the objections were raised in report. Thereupon, the authorities of the Appellant made analysis of audit report and came to conclusion that as per Tariff provision the Respondent ought to have been levied maximum demand charges on the basis of enhanced load w.e.f. January 2013.

22- Now I would like to reproduce the **Tariff Provisions regarding Terms and conditions of supply in section 14 clause I of the Tariff Order 2012-13,** which reads as under:-

" In case of the actual demand exceeding 110% of the contract demand . The panel charges would be charged as follows:

If the recorded demands exceeds 110% of the contract demand , then the demand charge up to 110% of contract demand will be charged as per the normal tariff rate. The remaining recorded demand over and above 110% will be charged@ 1.5 times the normal Tariff rate.

In case actual demand is higher than the contract demand for three continuous months, the same shall be treated as the new contract demand for the purpose of billing of future months and the consumer will have to get into a new agreement for the revised contract demand with the licensee.

Once the actual demand is recorded to be higher than the contract demand for two continuous months, the Licensee would serve noticed to the consumer after the end of second month for enhancement of contract demand .The consumer would be liable to respond within 15 days of receipt of such notice and submit application for enhancement of contract demand

to the Licensee. The Licensee would , within 15 days of receipt of response from the consumer , finalize the new agreement after making necessary changes at consumer's installations.

In case the consumer fails to respond within 15 days , the Licensee would have the right to initiate enhancement of load as per the last recorded contract demand . While, in case the consumer provides an under taking that the actual demand shall not exceed the contract demand again for a period of at least six months from the last billing , the Licensee shall continue to bill the consumer as per existing contract demand and billing demand .

Provided that if the consumer fails to adhere to the undertaking and the actual demand exceeds the contract demand within the subsequent six months of the that normal tariff for period of three consecutive months and the Licensee shall, after serving 7 days notice to the consumer , enhance the contract demand of the consumer as per the last recorded actual demand."

23- In view of the aforesaid provision, it appears that over and above it is mandatory for Licensee and consumer also. The determination of tariff Order is governed by Section 62 of the Electricity Act,2003 , Functions of State Commission as per section 86 and Powers of State Commission to make Regulation as per section 181 of the Electricity Act, 2003.Therefore,it is my considered view that any provision under the Tariff Order is mandatory and it cannot be treated as obligatory. In the instant case, maximum demand recorded by meter exceeded 110% of contract demand for the month of Sept. and October 2012 i.e. two continuous months , in such circumstances duty cast upon the Appellant to serve notice upon Respondent for enhancement of contract demand as per provision of clause I of Tariff Order 2012-13, but no such notice was served within stipulated period to the Respondent rather a notice is being served after four and half years , having come to know the objection raised by the AG audit report. In my view, it is not permissible in law, as per aforesaid provision. Therefore, Additional electricity bill for the month of Sept, October and December 2012, was raised in November 2017 is totally prohibited under aforesaid provision Tariff Order and also under section 56(2) of the Electricity Act 2003.

24- It is admitted fact that Respondent had exceeded contract demand by 110% in the months of September and October 2012 i.e. continuously for two months (disputed months) but as per provision of section 14 of the Tariff Order 2012-13, no notice was served upon the Respondent after the end of second month for the enhancement of the contract demand .No undertaking was ever given by the Respondent that actual demand shall not exceed the contract demand again for the period of at least six months from the last billing. In such circumstances, duty casts upon the Licensee that Licensee shall continue to bill to the consumer as per existing contract demand and billing demand. Though it is submission of Appellant in para (c) of the memo of appeal that Respondent had exceeded contract demand by 110% in the months of Sept, October and December 2012 for the three months, which shall be treated as the new contract demand for the purpose of billing in future months and consumer will get into a new agreement for revised contract demand with Licensee. But it is relevant to mention that as per clause I of section 14 Terms and condition of supply as provided under tariff Order 2012-13, there is specific word "Three continuous months". In the instant case Respondent did not exceed contract demand for three continuous months. So under this circumstances , the aforesaid provision does not attract .Therefore I find and hold that the Additional bill Penalty for exceeding Billing/contract demand is made by Appellant, as per section 14 clause I of the Tariff Order 2012-13 is not correct and accordingly this issue is decided against Appellant.

25- Now I advert to the second issue that Whether the principle of law laid down in Sheo Shakti Cement Industries case regarding section 56(2) of the Electricity Act 2003 is applicable under the facts and circumstances of the instant case? The learned standing counsel for the Appellant has strongly submitted that learned VUSNF ought not to have taken aid of section 56(2) of the Electricity Act 2003 for quashing the impugned energy bill as it has been held by the Division Bench of Hon'ble Jharkhand high Court in Sheo Shakti Cement Industries case that section 56(2) never restricts other modes of recovery and it is confined to mode of recovery made under section 56 of the Electricity Act 2003. On the other hand, the learned counsel appearing on behalf of Respondent has contended that for recovering any sum due from a consumer including the charges for

electricity or any sum other than a charge of electricity, it is necessary that such sum must be shown continuously as recoverable as arrear of charges. Hence the Appellant herein cannot raise additional bill of September, October and December 2012 in the month of November 2017, after lapse of almost five years, as it is time barred and the initial bills have already been paid by the respondent, including the penal charges. Therefore, the decision rendered in the matter of Sheo Shakti Cement Industries case is not applicable in the facts and circumstances of the present case in as much as in that very case it was due to the mistake in applying multiplying factor that the supplementary bill were issued and thus by applying section 17 of the Limitation Act, the Hon'ble Court opined that section 56 was not attracted. It is further contended that in the present case, it is not a case of fraud or mistake due to which the addition bill has been issued rather it is case where only on the basis of an audit objection of A.G., additional bill amounting to Rs 5, 49, 880/ has been issued , which is not permissible in Law.

26- Thus taking into consideration of the aforesaid facts of the case and submission advanced on behalf of the both sides I do find that additional bill to Rs 5, 49,880/ as issued by the Appellant is not accordance with Tariff Order 2012-13 hence the said bill cannot be raised after lapse of four and half year from the relevant date and such raising bill is totally prohibited under section 56(2) of the Electricity Act 2003. On perusal of the provision of the tariff Order 2012-13 and section 56 of the Electricity Act 2003, Appellant cannot take advantage of its own lapses of their subordinate authority at belated stage .The case of the Appellant is not supported with objection report of audit of A.G. which is the genesis of the instant case. Therefore, appellant is not entitled to recover the said amount of additional bill from the Respondent. Moreover, the facts of the instant case is differ from the facts of Sheo Shakti cement Industries case. Thus, the principle of law laid down in that very case is not applicable in the facts and circumstances the present case. Considering the entire facts and circumstances of the case and settled principle of law by our own Hon'ble High court, as discussed above, t I do not find any force in submissions advanced by the learned standing counsel for the Appellant. Accordingly this issue is decided against the Appellant.

27- Having considered the e entire facts & circumstances of the instant case and settled principle of law, I find and hold that the learned VUSNF has properly and meticulously consider the facts & circumstances of the case in hand and settled principle of law , as discussed above, in proper perspective and rightly interpreted section 56(2) of the Electricity Act 2003 as also the Tariff Order 2012-13 and has committed no error in coming to the finding to accept the contention of learned counsel for the respondent and quashed the impugned energy bill, directing the Appellant to raise bills on reduced contract demand right from January 2013 onwards .. Thus, considering all the pros and cons of the matter as well as the settle principle of law by the Hon'ble Jharkhand High Court, it appears that there is no legal infirmity in the impugned judgment and order passed by the learned VUSNF. In the result, it therefore,

O R D E R E D

28- That there is no merit in this appeal and it fails. The appeal is hereby dismissed. The impugned judgment and order of the learned VUSNF is herby affirmed. Under the facts and circumstances of the case, the parties shall bear their own costs. Let a copy of this judgment and order be given to the concerned party.

Sd/-
Dated-24-10-2019. (Prem Prakash Pandey)
Electricity Ombudsman

Dictated to the confidential Assistant, transcribed and typed by him, corrected and signed by me.

Sd/-
Dated-24-10-2019, (Prem Prakash Pandey)
Electricity Ombudsman