

Territorial Jurisdiction: State of Jharkhand

**AUTHORITY OF THE ELECTRICITY OMBUDSMAN: JHARKHAND**

Present: Gopal Kumar Roy  
Electricity Ombudsman  
2<sup>nd</sup> Floor, Rajendra Jawan Bhawan  
Main Road, Ranchi- 834001.

Dated- Ranchi, the 13<sup>th</sup> day of August, 2024

**Appeal No. EOJ/01 of 2023**

(Arising out of judgment passed in case no.77 of 2019 by the VUSNF, Hazaribagh)

M/S Amit Steel Industries Private Limited,  
Registered office at II-B, 33, Industrial Area,  
P.O & P.S – Balidih, Dist.- Bokaro,  
through its Director, Shri Amit Prasad,  
Son of Late A. K. Prasad, resident of 151,  
Gujrat Colony, Chas, P.O & P.S- Chas, District- Bokaro -----Appellant

Versus.

1. Jharkhand Bijli Vitran Nigam Ltd.,  
through its Managing Director,

having its Head Office at Engineering Building, Dhurwa,  
P.O. & P.S- Dhurwa, Dist. Ranchi-834004

2. General Manager – cum – Chief Engineer,  
Jharkhand Bijli Vitran Nigam Ltd.  
Hazaribagh, Electric Supply Area,  
P.O & P.S - Hazaribagh, District- Hazaribagh.

3. Electrical Superintending Engineer,  
Electric Supply Circle, Chas, P.O & P.S – Chas, District – Bokaro.

4. Electrical Executive Engineer (Commercial & Revenue),  
Jharkhand Bijli Vitran Nigam Ltd. Electric Supply Circle,  
Chas, P.O & P.S – Chas, District – Bokaro. -----Respondent

#### Counsel/Representative

On behalf of Appellant : Mr. Rahul Lamba, Advocate

On behalf of Respondent : Mr. Mohan Kumar Dubey, Standing Counsel

#### Cases Referred :

1. (2008) 14 SCC 151: Sahara India (Firm), Lucknow v/s Commissioner of Income Tax, Central
2. (2018) 9 SCC 472 : State of Bihar and Ors v/s Bihar Rajya Bhumi Vikash Bank Samiti
3. (2019) 5 SCC 480 : Dharani Sugars and Chemicals Ltd vs Union of India and Ors
4. 2020 SCC Online 1730: CG Power and Indus. Solu. Ltd vs U.P. Power Transmission Corp. Ltd.
5. (2021) 6 SCC 15: U.P. Power Transmission Corporation Ltd vs CG Power and Industrial Sol. Ltd
6. (2021) 18 SCC 564 : Canon India Pvt Ltd v/s Commissioner of Customs

## **JUDGEMENT**

**1.** The present appeal has arisen out of the Judgement / Order passed by the learned Vidyut Upbhokta Shikayat Nivaran Forum (hereinafter shall refer as VUSNF), Hazaribagh in case No.-77/2019 on 16.11.2022.

**2.** The appellant M/S Amit Steel Industries Private Limited ( through its Director Shri Amit Prasad) has preferred this appeal under Clause-15 of the Jharkhand State Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumer and Electricity Ombudsman) Regulation,2020 against the Jharkhand Bijli Vitran Nigam Limited (hereinafter shall be referred as JBVNL) and its Officers.

**3. Reliefs sought for by the appellant in this appeal :**

The Appellant, in the present appeal/ representation, has sought for the following reliefs:-

For quashing/ setting aside the Order, bearing no.96 and dated 16.11.2022, passed by the Ld. Vidyut Upbhokta Shikayat Nivaran Forum, Hazaribagh in Case No. 77/2019, to the extent it has allowed the Respondents to change the tariff application to the Appellant from High Tension Special Service (“HTSS”) with retrospective effect from October 2010 to October 2017 and also to the extent it has directed the Respondents to raise fresh bill on the Appellant for the said period on the basis of such change of tariff made application to Appellant. For an order declaring that the change of tariff of the Appellant by the Respondents in November 2017 from HTSS to HTS, with effect from October 2010 to October 2017, is not valid in law; For an order directing the Respondents not to change the tariff of the Appellant from HTSS to HTS with effect from October 2010 to October 2017 or thereafter; For an interim order directing the Respondents not to take any coercive steps against the Appellant in relation to any dues

arising out the Order, being no.96 and dated 16.11.2022, passed by the Ld. Vidyut Upbhokta Shikayat Nivaran Forum, Hazaribagh in Case No.77/2019, till the pendency of the present appeal.

#### **4. Operative portion of impugned Judgement / Order.**

The learned VUSNF, Hazaribagh passed Order in Case No.77/2010 vide Order No. 96 dated 16.11.2022. The operative portion of order of the learned VUSNF, Hazaribagh reads as follows:-

“The detailed statement of calculation prepared on the basis of the change of Tariff from HTSS to HTS from October 2010 to October 2017 and Additional Charge added in the bill for the month of November 2017 are quashed. The current bill for the month of November 2017 will be intact if it is not found revisable by the Respondents in view of rebates, if any. The respondents are directed to prepare a fresh detailed statement of bill after providing rebates, if any, from the month of October 2010 to October 2017 on the basis of the change of Tariff from HTSS to HTS and tariff Order applicable from time to time and raise bill accordingly. The Respondents are further directed to permit the petitioner to deposit Additional Security Money and to enter into a new agreement for the enhanced contract demand of 385 KVA within time fixed by the Respondents. Respondents are further directed to change Tariff from HTS to HTSS from the month of November 2017 onwards and raise bills accordingly. Hence this case is disposed of in terms of my aforesaid findings and order.”

#### **5. Grounds taken in appeal by the appellant.**

The Impugned Order to the aforesaid extent that it has allowed the actions of the Respondents to reclassify / change the consumer category of the Appellant from HTSS

consumer to HTS consumer, with retrospective effect from October 2010 to October 2017, and also to the extent that the Impugned Order has directed the Respondents to raise fresh bill on the Appellant for the said period on the basis of such change of consumer category, is erroneous and not sustainable in law or on facts. The actions of the Respondents in November 2017 to reclassify the consumer category of the Appellant from HTSS consumer to HTS consumer, with retrospective effect from October 2010 to October 2017, are contrary to Clause 7.15 of the Jharkhand State Electricity Regulatory Commission ( Electricity Supply Code) Regulations, 2015 (“ Supply Code”). That Clause 7.15 of the Supply Code, 2015 provides that if it is found that a consumer has been wrongly classified in a particular category, the Distribution licensee may consider reclassifying the consumer under appropriate category. However, it has been provided that the consumer shall be informed of the proposed reclassification through a notice by duly giving 30 days notice period to the consumer to file objections’ if any. It is only after due consideration of the consumer’s reply, if any, that the Distribution Licensee may alter the reclassification. The Respondent prior to reclassifying the consumer category of the Appellant, from HTSS to HTS, in November 2017, has not given any notice providing a 30 days time period to the Appellant to file its objection to the proposed reclassification. Further, since there was no opportunity provided by the Respondents to the Appellant for filing their reply or objections, the said reclassification has been done by the Respondents ex-parte in November 2017 and without considering any reply from the Appellant. That accordingly, the actions of the Respondents to reclassify the Appellant from the category of HTSS to HTS consumer with effect from October-2010 till October-2017 is not valid in law as the same has not been done in accordance with the due procedure and the manner prescribed in Clause 7.15 of the Supply Code, 2015. The said actions of the Respondents, to reclassify the consumer category of the Appellant, are in violation of principles of natural justice since the said actions were undertaken by the

Respondents without giving any show cause notice or opportunity of hearing to the Appellant. The Appellant has been erroneously treated as a HTS consumer instead of HTSS consumer from October 2010 till October 2017. It is humbly submitted that the Appellant, from October 2010 to October 2017 and even thereafter, is fulfilling the criteria to be eligible for HTSS tariff under the 2010 Tariff Schedule as promulgated by the Jharkhand State Electricity Regulatory Commission with effect from 01.05.2010. The mandatory conditions or criteria for applying HTSS tariff to a consumer has been specifically provided in the said 2010 Tariff Schedule which are as follows:

- i). The consumer should have a contract demand of 300 KVA and more for Induction Furnace.
- ii). The Induction Furnace should have a melting capacity of more than 500 Kg.

The above are the two criteria for applying the HTSS Tariff.

In the said 2010 Tariff Schedule a procedure has been provided that the contract demand shall be based on the total capacity of the Induction Furnace and the equipment as per manufacturer technical specification and not on the basis of measurement. It is most humbly submitted that there is nothing in the said 2010 tariff Schedule, that the Appellant is duty bound to provide the manufacturer technical specification of the Induction Furnace to the Distribution Licensee. Accordingly, it cannot be the sole responsibility of the consumer to provide the said manufacture technical specification to the Distribution Licensee. Further, most importantly there is nothing in the 2010 Tariff Schedule that if the consumer does not provide the said manufacturer technical specification to the Distribution Licensee, then the consumer will be disentitled to avail HTSS Tariff. In fact, there are no consequences provided in the said 2010 Tariff Schedule for non-submission of the said manufacturer technical specification. This, the finding in the Impugned Order that the failure to submit said manufacturer technical specification by the Appellant to the Respondents would disentitle the Appellant from availing the HTSS Tariff, is erroneous and not in

accordance with law. Further, the said procedure in the said 2010 Tariff Schedule for calculating the contract demand as per manufacturer technical specification is not mandatory but only directory. For ready reference the relevant extract of the 2010 Tariff Schedule in relation to HTSS Tariff is reproduced herein below for ready reference:

HT Special Service (HTSS) Tariff : Applicability:

*This tariff schedule shall apply to all consumers who have a contracted demand of 300 KVA and more for induction/ arc Furnace. In case of induction/arc furnace consumers, the contract demand shall be based on the total capacity of the induction / arc furnace and the equipment as per manufacturer technical specification and not on the basis of measurement. This tariff schedule will not apply to casting units having induction furnace of melting capacity of 500 Kg or below.”*

There is no obligation on the consumer to provide to the Distribution Licensee, the manufacturer technical specification of the Induction Furnace for being entitled to avail HTSS Tariff under the 2010 Tariff Schedule. That without prejudice to the above, it is submitted that the obligation, if any, on the consumer to provide to the Distribution Licensee, the manufacturer technical specification of the Induction Furnace, for being entitled to avail HTSS Tariff under the 2010 Tariff Schedule, is not mandatory but directory specifically when there is no consequence provided in case of non-submission of such specifications. It is pertinent to consider that the Impugned Order, for the same Induction Furnace which is admittedly being used by the Appellant since October 2010, has applied HTSS Tariff for the period after November-2017 but not applied the HTSS tariff for the period prior to November 2017. The only reason, that the Impugned Order has not applied HTSS tariff to the Appellant for the period between October 2010 to October 2017, is that the Appellant allegedly did not submit the manufacturer technical specification of the Induction Furnace to the Respondents

during the said period. The Impugned Order to the extent that it has not applied HTSS Tariff to the Appellant for the period between October 2010 to October 2017 is erroneous, in as much as the Appellant cannot be so heavily and financially burdened by disentitling the Appellant from HTSS Tariff only for the reason of alleged non submission of manufacturer technical specification. The same Induction Furnace cannot fall under two different categories of consumer i.e. under HTS and HTSS. Accordingly, once it is held to be eligible for HTSS for a particular period then it cannot be held to be ineligible only for alleged non-submission of manufacturer technical specification. There is no fraud played by the Appellant and in fact there is no allegation also of any fraud being played by the Appellant while availing the HTSS Tariff from October 2010 to October 2017. Accordingly, it is submitted that the actions of the Respondents to reclassify the consumer category of the Appellant from HTSS to HTS in November 2017 with effect from October 2010 i.e. after seven years is totally arbitrary, illegal and unjustified. Further, even the additional bill raised by the Respondents on the Appellant consequent to such change in the consumer category after seven years is also arbitrary, illegal and unjustified. The actions of the Respondents to follow the Audit Objection and reclassify the Appellant from HTSS to HTS without due application of mind and without following due procedure in law is not justified and is invalid. The actions of the Respondents to reclassify the Appellant from HTSS to HTS category after 7 years and/or to raise the consequent bill are barred by limitation, waiver and / or estoppels. The Impugned Order to the extent that it has allowed the Respondents to reclassify the tariff applicable to the Appellant from HTSS to HTS with retrospective effect from October 2010 to October 2017 and also to the extent that the Impugned Order has directed the Respondents to raise a fresh bill on the Appellant for the said period on the basis of such change of tariff, is perverse and not sustainable in law.



**6. Counter affidavit of respondents:**

The petitioner is a consumer of the respondent company having consumer no. BIA-09. The petitioner earlier had been availing a sanctioned load of 300 KVA under HTS tariff from November 2004. The consumer applied for the tariff change from HTS to HTSS on the date of 13/10/2010. Consumer in his application had undertaken to install a 750 Kg induction furnace in place of the existing 300 Kg. induction furnaces. That pursuant to application of the petitioner dated 13.10.2010, necessary procedure for change of tariff was carried out by the officials of respondents and thereupon approval for change of tariff from HTS to HTSS was given to the petitioner on 03.11.2020. Subsequently an agreement for supply of electricity under HTSS tariff was executed with the consumer on 08.11.2010. The application of the consumer for conversion of tariff from HTS to HTSS was given with two conditions. Firstly, the petitioner consumer was to deposit additional security amount and secondly, the cubical induction furnace equipment and manufacture technical specification of induction furnace. The respondents started to bill the petitioner under HTSS tariff, however the consumer failed to comply with the conditions attached with the approval letter dated 03.11.2010. As per provision made under tariff order 2010 as was approved by JSERC, submission of manufacturer technical specification was essential for change of tariff from HTS to HTSS. It is after lapse of almost 2 years when requisite documents and additional security was not deposited. The petitioner requested for final line disconnection vide letter no. ASI/ELE/36 dated 19.12.2022 and accordingly consumer service connection was finally disconnected on dated 31.03.2023. After final disconnection of the petitioner's connection the final energy bill amounting Rs.22.27.932/- in the line of Judgement order no.96 passed by VUSNF, was served to the petitioner vide. Electrical Executive Engineer (Commercial & Revenue), Electric Supply Circle, Chas on dated 15.03.2023.

Petitioner made payment of the same final energy bill on dated 16.03.2023 vide RTGS No. CNRBR52023031651424730.

**7. Key Point Argument on behalf of appellant :** Submission of Manufacturer Technical Specifications was not a condition imposed upon the consumer in agreement. The Distribution Licensee has committed wrong to change the tariff from HTSS to HTS on the basis of audit objection. The Clause 7.15 of the Jharkhand State Electricity Regulatory Commission ( Electricity Supply Code) Regulations, 2015 prescribes a procedure to reclassify category, if it is detected at any point of time that a consumer has been wrongly classified in a particular category. The Distribution Licensee has disregarded the provisions of Regulation, 2015.

The learned VUSNF Hazaribagh has failed to appreciate above key points and committed wrong to pass the impugned order.

**8. Key Point Argument on behalf of respondents :** The application of the consumer for conversion of tariff from HTS to HTSS was given with two conditions. Firstly, the petitioner consumer was to deposit additional security amount and secondly, the cubical induction furnace equipment and manufacture technical specification of induction furnace. The respondents started to bill the petitioner under HTSS tariff, however the consumer failed to comply with the conditions attached with the approval letter dated 03.11.2010. As per provision made under tariff order 2010 as was approved by JSERC, submission of manufacturer technical specification was essential for change of tariff from HTS to HTSS.

The learned VUSNF Hazaribagh has rightly appreciated above key points and pass the order. There is no any illegality or irregularities in the impugned order.

## FINDINGS

### 9. Basic differences in HTS & HTSS Tariff for the Financial Year 2010-11.

To understand the dispute, we should know the basic differences between the tariff of HTS (High Tension Voltage Supply Service) and HTSS (High Tension Voltage Supply Special Service).

RATE: As per JSEB Tariff Order for FY.2010-11

Head	HTS	HTSS
Demand charges of Consumer Category 11KV, 33 KV,132KV Rupees/KVA/Month Rate -	Rs.165 per kVA per month	Rs.330 per kVA per month
Energy Charges Rate Rupees/Kwh	Rs.4.35	Rs.2.50
Voltage Rebate	Same as of HTSS	Same as of HTS
Load Factor Rebate	Same as of HTSS	Same as of HTS
Delayed Payment Surcharge	Same as of HTSS	Same as of HTS
Power Factor Rebate	Same as of HTSS	Same as of HTS
TOD Tariff	<u>Off Peak Hours</u> 10 PM to 6 AM - 85% of Normal rate of energy charges.	Not Proposed.

	<p><u>Peak Hours</u> 6 AM to 10 AM and 6 PM to 10 PM: 120% of normal rate of energy charge.</p>	
<p>Billing Demand  (as per JSEB Tariff Order for FY.2011-12)</p>	<p>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 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 petitioner.</p>	Same as of HTS
<p>Penalty on Exceeding Contract Demand  (as per JSEB Tariff Order for FY.2011-12)</p>	<p>1.5 times the normal charges for actual demand exceeding 110% of the contracted demand. The penal charges shall be applicable on exceeded demand only.</p>	Same as of HTS

APPLICABILITY: As per JSEB Tariff Order for FY 2010-11

Requirements	for HTS Tariff	for HTSS Tariff
Contracted Demand for Induction/ Are Furnace	Above 100 KVA	300 KVA & More
Melting Capacity of Induction Furnace	----	Above 500 Kg
Service Character	50 Cycles 3 phase at 6.6 KV/11KV/33KV or 132 KV	----

The above data make it clear that the rate of energy charges of HTSS is much lesser than the HTS. Except the demand charges in HTS, the other charges and rebates of both the HTS and HTSS are same or similar. There is a reason to opt for HTSS by the consumers, who use Induction furnaces or Arc furnaces.

**10. Whether an existing HTS Induction Furnace Consumer can switch over to HTSS? If yes, what are the requirements and conditions to change the tariff from HTS to HTSS?**

The Tariff Schedule of the JSEB Tariff Order for the Financial Year 2010-11 answers the above questions. A17: Tariff Schedule of the JSEB Tariff Order for FY.2010-11 at page-159 reads about the 'Applicability' of HT Special Service (HTSS).

It reads that - " This tariff schedule shall apply to all consumers who have a contracted demand of 300 KVA and more for Induction/arc Furnace. In case of induction / arc furnace consumers, the contract demand shall be based on the total capacity of the induction / arc furnace and the equipment as per manufacturer technical specification and not on the basis of measurement. This tariff schedule will not apply to casting units having induction furnace of melting capacity of 500 Kg or below."

It makes clear that an existing HTS Induction Furnace Consumers, who has a contracted demand of 300 KVA & more and his casting unit of induction furnace having melting capacity of more than 500 Kg, can apply for HTSS Tariff.

The Tariff Schedule for the Financial Year 2010-2011 was applicable from 1.5.2010. The present matter was generated on 12.10.2010, when the consumer had made an application for changing tariff.

**Conditions & Requirements to change the tariff from HTS to HTSS**

- a. The Contracted Demand shall be 300 KVA and more for Induction Furnace.
- b. The melting capacity to casting units should be above 500 Kg.

- c. The contract demand shall be based on the total capacity of the Induction Furnace and the equipment as per “Manufacturer Technical Specification” and not on the basis of measurement.
- d. The consumer & distribution licensee is required to enter into an agreement under H.T.S.S. tariff within fifteen days from issue of the letter. (As apparent from the Annexure - 1/A of Memo of Appeal i.e. the letter issued by Electrical Superintending Engineer of Electric Supply Circle, Loyabad to M/S Amit Steel Pvt. Ltd.). The above condition mentioned in Annex.- 1/A has not been disputed by the appellant.
- e. The consumer has to deposit Additional Security on the basis of three months consumption. (As apparent from the Annexure - 1/A of Memo of Appeal i.e. the letter issued by Electrical Superintending Engineer of Electric Supply Circle, Loyabad to M/S Amit Steel (P) Ltd.). The above condition as mentioned in Annex. - 1/A has not been disputed by the appellant.
- f. The Consumer (of Induction/Arc furnace) is required to submit Manufacturer's Technical Specification to the Licensee. (As apparent from the Annexure - 1/B of Memo of Appeal i.e. the letter issued by the Electrical Executive Engineer, Electric Supply Circle of Chas to M/S Amit Steel Pvt Ltd on 26.10.2012 vide letter no. 1930.). The appellant has disputed this condition / requirement.
- g. The Manufacturer's Technical Specification was/is required for assessment of load by the Distribution Licensee (As apparent from the Annexure - 1/B of Memo of Appeal i.e. the letter issued by the Electrical Executive Engineer, Electric Supply Circle of Chas to M/S Amit Steel Pvt Ltd on 26.10.2012 vide letter no. 1930.) The appellant has not disputed this assertion of the distribution licensee.

**11. Whether furnishing of ‘Manufacturer Technical Specification’ of Induction Furnace, for HTSS Tariff, by the consumer to the licensee is a necessary condition & requirement? And whether the consumer had furnished it during the period between October 2010 to October 2017?**

The consumer appellant M/S Amit Steel Industries Pvt. Ltd. at para-40 & 41 (page-27 & 28) of the Memo of Appeal has stated that there is no obligation on the consumer to provide to the Distribution Licensee, the manufacturer technical specification of the Induction Furnace for being entitled to avail HTSS under the 2010 Tariff Schedule. Without prejudice to the above, the obligation, if any, on the Consumer to provide to the Distribution Licensee, the manufacturer technical specification of the Induction Furnace, for being entitled to avail HTSS Tariff under the 2010 Tariff Schedule, is **not mandatory but directory** specifically when there is no consequence provided in case of non- submission of such specifications. (emphasis supplied by bolding).

On the other hand the Distribution Licensee respondents in their counter affidavit at para- 9 have stated that the application of the consumer for conversion of tariff from HTS to HTSS was given with two conditions. **Firstly, the petitioner consumer was to deposit additional security amount and Secondly, the cubical induction furnace equipment and manufacture technical specification of induction furnace.**(emphasis supplied by bolding)

The consumer appellant in its rejoinder at para 10 to the above counter affidavit has denied above two conditions.

Mr. Rahul Lamba, the learned counsel for the appellant has submitted that to provide the 'Manufacturer Technical Specifications' of Induction Furnace and Crucible by the consumer M/S Amit Steel Industries Pvt. Ltd to the distribution licensee was not a condition precedent to get its tariff changed from HTS to HTSS. There was no reflection of such conditions in the Approval Letter (Annexure-1/A of memo of appeal). Mr. Lamba has further submitted that for the sake of argument, if it is considered that furnishing manufacturer technical specifications was a condition, in that case also it shall fall under the category of 'Directory' and not a 'Mandatory' condition. He has vehemently submitted that since no consequence has been mentioned in Annex.1/C in case of failure to deposit the 'Manufacturer Technical Specifications', then the condition shall be considered as directory and not mandatory. Mr. Lamba has

relied upon the Authority of Hon'ble Apex Court in the case of **State of Bihar & Ors v/s Bihar Rajya Bhumi Vikash Bank Samiti** reported in **(2018) 9 SCC 472**.

A pertinent question arises as to whether furnishing of 'Manufacturer Technical Specifications' of Induction Furnace, for HTSS Tariff, by the consumer to the licensee is a necessary condition & requirement?

Before ambling with this issue, it is apposite to quote Tariff Order for JSEB for Financial Year 2010-11 regarding applicability of HTSS. The Tariff Schedule A17 is the Tariff approved by the Commission for FY 2010-11. The Applicability for HTSS Tariff has been shown at page- 159. It reads as follow:

### **HT Special Service (HTSS)**

#### **Applicability:**

This tariff schedule shall apply to all consumers who have a contracted demand of 300 KVA and more for induction/are Furnace. In case of induction/are furnace consumers, the contract demand shall be based on the total capacity of the induction/are furnace and the equipment as per manufacturer technical specification and not on the basis of measurement. This tariff schedule will not apply to casting units having an induction furnace of melting capacity of 500 Kg or below.

For billing, the demand shall be the maximum demand recorded during the month or 75% of the contract demand, whichever is higher.



I am in a considered view that whenever, the consumer M/S Amit steel Industries Pvt. Ltd. had applied for change in tariff from HTS to HTSS, he must had been aware that:-

1. The Contract Demand shall be based upon the melting capacity of Induction Furnace.
2. The Contract Demand, for HTSS Tariff, shall be as per 'Manufacturer Technical Specification' of Induction Furnace i.e. the literature/booklet being provided by the manufacturing company of induction furnace alongwith product.
3. The Contract Demand, for HTSS Tariff, shall not be on the basis of measurement of equipment.
4. The 'Load' shall be assessed on the basis of 'Manufacturer Technical Specification' and the consumer has to deposit additional security amount.( The appellant was an existing customer and he must had deposited security amount after his existing load assessment in HTS connection)
5. For billing purposes, Contract Demand has got an important role. If the maximum demand recorded during the month is less than 75% of the contract demand, the 'HIGHER' shall be considered for billing.

I have gone through the Annexure- 1/A of the Memo of Appeal i.e. the approval letter issued from the office of the Electrical Superintending Engineer, Electric Supply Circle, Loyabad to M/S Amit Steel Private Limited regarding change of tariff from H.T.S. to H.T.S.S. A few conditions have been mentioned in this approval letter. The language of letter makes it clear that the approval shall not come into force unless the conditions are fulfilled by the consumer. The approval letter itself reflects the consequences for non-fulfillment of conditions. And hence the conditions are mandatory in nature.

The Consumer M/S Amit Steel Industries Pvt. Ltd. being the **EXCLUSIVE Possessor** of Invoice and Technical Literature (i.e. Manufacturer Technical Specifications) of Induction Furnace and Crucible, cannot be permitted to take a plea that it was not his obligation to provide the copy of documents to the Licensee. The Distribution Licensee has no alternative way to procure the manufacturer technical specifications of the product purchased and/or installed by the customer, if it is not provided by the Consumer. The Tariff Order for JSEB for Financial Year 2010-11 mandates that the contract demand shall be based on the total capacity of the induction/are furnace and the equipment as per manufacturer technical specification and not on the basis of measurement.

Conclusion : I find and hold that furnishing of manufacturer technical specifications of induction furnace and crucible, for HTSS Tariff, by the consumer to the licensee is a mandatory condition & requirement.

Now a question arises as to whether the Distribution Licensee had asked the Consumer for the Manufacturer Technical Specification?

The Consumer appellant M/S Amit Steel Industries Pvt. Ltd. in its Memo of Appeal has admitted that the Distribution Licensee had asked for the manufacturer technical specification through its letter dated 26.10.2012 (Annexure-1/B of the Memo of Appeal).

On 3.4.2013 the inspecting team of distribution licensee had requested the consumer to submit technical literature of the furnace.(Annexure-1/C of the Memo of Appeal). This document has been filed by the consumer himself and it bears the signature of the consumer also.

Conclusion : The Distribution Licensee had asked the Consumer for the Manufacturer Technical Specifications

Now another question arises as to whether the Consumer had submitted the Manufacturer Technical Specification, during the period between October 2010 to October 2017 i.e. the billing period challenged in this appeal?

The consumer appellant at para 12 of his memo of appeal has stated that the Appellant had **resubmitted** in November 2017, the manufacturer's technical specification of the induction furnace, with the Respondents. The Respondents have admitted at para 8 of counter affidavit that the required documents were deposited on 1.12.2017 (not November 2017) along with a letter. (Annexure A series of the counter affidavit). The term "**Resubmitted**" has been used by consumer appellant to take a plea that he had provided the required manufacturer technical specifications & invoice to the licensee earlier but had not taken receipt in good faith.

The Authority of Electricity Ombudsman finds that the Consumer appellant has made a wrong statement at para- 9 & 10 of the Memo of Appeal regarding furnishing of documents. The consumer has made a statement at para 9 that he had provided the required documents to the licensee but had not taken receipt in good faith.

The relevant paragraphs read as follow:

(9) That subsequently (after asking for manufacturer technical specification by the Distribution Licensee), the Appellant had submitted the manufacturer's technical specification of the induction furnace with the Appellant, although in good faith no receiving was taken by the Appellant. However, the fact, that the said manufacturer's technical specification was submitted by the Appellant with the Respondents, is clear from the fact

that the Respondents, subsequently and till November 2017, never again asked the Appellant to submit the said manufacturer's technical specification.

(10) That from time to time, inspections were being carried out by the officials of Respondent and at no time, after the said letter dated 26.10.2012 of the Respondents, any dispute, with regards to non-submission of the said manufacturer's technical specification by the Appellant, was raised by the Appellant.

The Annexure- 1/C of the Memo of Appeal falsifies the above assertion of the consumer (the respondents subsequently and till November 2017, never again asked the appellant to submit the said manufacturer's technical specification) made at para-10 . I feel it expedient to quote the Remarks of Annexure-1/C.

Remarks :-

(1) Today at the time of inspection, a retail invoice dtd.30.08.2008 (Bill No. R/607) of M/s Electro Power engineers has been provided by the consumer, which suggests that the capacity of the furnace is 1000 KG.(one ton) This could also be confirmed by measurement of cylindrical shaped furnace, whose length is 74.5 cm and average diameter is 47 cm. Hence its volume =  $\frac{22}{7} \times (0.047)^2 \times 0.745 = 0.1293\text{m}^3$ .

7 4

Taking the diversity of iron as  $7.8 \times 10^3$ , the capacity of furnace is  $0.1293 \times 7.8 \times 10^3 = 1008.54$  kg (say

One Ton). **The consumer is requested to submit the technical literature of the furnace** and explain before assessing officer (Electrical Superintending Engineer,Chas) as why his contract demand should not be considered as 600 KVA. It is pertinent to note that for melting one ton of Steel, a minimum 600 KVA Power will be required.

(2). L.T/ Cover glass of combined CT / PT metering unit signed from inside of the glass.

The Annexure-1/C bears the date 3.4.2013. The document bears the signature of the consumer and the signature of Engineers of J.S.E.B. In Annexure-1/C, it has been clearly requested by the Engineers of JSEB to the consumer to submit the technical literature (i.e. the manufacturer technical specification) of the furnace. It falsifies the above statement of the consumer.

As per calculation made in Annexure 1/C, the Engineers were in opinion that the Contract Demand should be 600 KVA. The existing contract demand, as shown in this document, was only 300 KVA. For assessing correct contract demand, the consumer M/S Amit Steel Industries Pvt. Ltd was requested to submit technical literature of the installed induction furnace to the Assessing Officer - cum- Electrical Superintendent Engineer, Chas.

**Decision :**

In view of the conclusion arrived at on different crucial questions in this paragraph and my findings and comments made above, I find and hold that the manufacturer technical specifications of furnace and crucible are mandatorily required for assessing load & for fresh contract demand. To furnish technical literature i.e. manufacturer

technical specifications of induction furnace & crucible for HTSS tariff by the consumer to the distribution licensee is a mandatory condition & requirement. The distribution licensee has asked for the manufacturer technical specifications of the induction furnace from the consumer. And the consumer had not furnished it during the period between October 2010 to October 2017.

## **12. What is ‘Contract Demand’ in an electricity bill?**

The learned counsel for the appellant Mr. Lamba has argued that the purpose of getting “manufacturer technical specification” by the Licensee is only to ascertain the contracted demand and is not concerned with the generation of electricity bill. It is vociferously argued that a consumer having contract demand of 300 KVA and more for an induction furnace is eligible for HTSS tariff subject to melting capacity of above 500 kg. It is argued that in this instant case, where there was already a contract demand of 300 KVA, the manufacturer technical specification is not required to calculate contract demand.

Now a question crops up as to whether contract demand has any role to generate electricity bills? If the answer is in affirmative, undoubtedly the manufacturer technical specification shall play a vital role and is required to calculate contract demand.

The term ‘contract demand’ in the context of an electricity bill refers to the maximum amount of electricity that a consumer agrees to be able to draw from the electrical grid. If we go through the electricity bills (annexed with Memo of Appeal) we will find different components including charges based on – Part ‘A’ Energy Consumption, Part ‘B’ Maximum Demand (with respect to contract demand), Part ‘C’ Fuel surcharge and Part ‘D’ other charge (Power Factor Rebate, Rental of meter, Load Factor Rebate, Electricity Duty, Delayed Payment Surcharge etc.)

Contract Demand is important for both the Consumer and the Licensee to ensure that the grid can meet the Consumers need during peak demand period. If a consumer consistently exceeds his contract demand, he shall incur additional charges or penalties for exceeding his agreed- upon demand. If the maximum demand (MD) recorded by meter exceeds contract demand (CD) in a billing period then consumer has to pay penalty charges at a rate of 1.5 times of the normal billing charges for the demand exceeded than his contract demand. The Load Factor incentive will not be granted to those consumers of billed maximum demand exceeding the contract demand.

**Instant case:** Now I focus my judgement on the instant case. The following pleading / facts / findings are available on record :-

(i) The learned VUSNF, Hazaribagh at para-9 of the impugned order has mentioned the objection made in the Audit Report of the Jharkhand Accountant General Office. It reads - “Audit observed that neither the Consumer had submitted the dismantling report of old furnace, the installation report of new furnace and manufacturers technical specification nor ESE (Electrical Superintending Engineer ) Chas demanded the same at the time of changing the tariff.”

I have gone through the pleadings of the consumer, in its complaint petitioner filed before the VUSNF, Hazaribagh. The Para- 7 & 8 of the complaint petition reads as follows:

7. The Petitioner since was already having an Induction Furnace of 250 KW having a melting capacity of 500 kg but owing to demand, the Petitioner decided to enhance melting capacity by introducing another 500 kg, meaning thereby the

melting capacity of crucible now stands for 1000 kg with effect from 2010.

8. Having decided to set up a fresh crucible with 1.0 Tone melting capacity, the Petitioner after due discussions, through it appropriate to convert its Tariff category from HTS to HTSS Tariff, as is mandated in 2010 Tariff Schedule as promulgated by the Jharkhand State Electricity Regulatory Commission, w.e.f. 01.05.2010.

I find that the pleadings taken at Para – 7 and 8 are mutually inconsistent. At para-7 the consumer pleads that he already had a furnace having a melting capacity of 500 kg and had decided to introduce another furnace of melting capacity of 500 kg. According to the statement made by the consumer at para-7, “ Two Furnaces, having melting capacity of 500 kg each, ran simultaneously.” While at para-8, the consumer pleads that the consumer had decided to set up a fresh crucible with 1.0 Tonne melting capacity. According to this statement, it reveals that the old crucible was dismantled and a fresh crucible having 1.0 Ton melting capacity was installed.

(ii) The consumer Appellant at para – 4 page 5 of the Memo of Appeal, under heading ‘Factual Matrix’ has stated that the appellant had an induction furnace of 250 KW which had a melting capacity of 500 kg. The appellant decided to enhance the melting capacity by introducing another 500 Kg. melting capacity induction furnace. It is reflected from the statement made by the appellant in this Para - 4 that two crucibles of 500 kg melting capacity each were introduced for a Single Induction Furnace.

On the other hand, the consumer Appellant at para-5 page 6 of the Memo of Appeal under the same heading ‘Factual Matrix’ has made a contradictory statement. It is stated that-“ The Appellant had installed the 1000 kg melting capacity furnace crucible with the existing 250 KW induction furnace.”



(iii) A crucible is a container suitable for melting metal. A furnace is a heating chamber that one puts the crucible of metal in to melt the metal. Now a pertinent question arises as to whether the Induction Furnace of M/S Amit Steel Industries (P) Ltd is/was equipped with double crucibles facility? If two crucibles of 500 kg melting capacity are being used SIMULTANEOUSLY, then only one can claim the melting capacity of 1000 Kg. If two crucibles of 500 kg melting capacity are being used ASYNCHRONOUSLY, then one can not claim that the melting capacity of an induction furnace is more than 500 Kg.

(iv) The appellant M/S Amit Steel Industries Pvt. Ltd. has relied upon the Routine Test Report, inspected by the Engineers of the J.S.E.B. The document has been annexed with the Memo of Appeal as Annexure-1/C. The appellant at para-10 page-9 of the Memo of Appeal has stated that- “The Respondents in its inspections found that the melting capacity of the induction furnace of the Appellant was 1000 kg and the contract demand of the Appellant was above 300 KVA.”

The consumer appellant M/S Amit Steel Industries Pvt Ltd maintains stoic silence about the directions of the J.S.E.B. to explain to the Assessing Officers (i.e The Electrical Superintending Engineer, Chas) as to why his contract demand should not be considered as 600 KVA.

The instant inspection was made and a report was prepared on **3.4.2013** i.e. after more than two years of approval of the application of the consumer to change his tariff from HTS to HTSS. Apparently by that time fresh “Contract Demand” for 1000 Kg melting capacity of the installed induction furnace could not be assessed by the Assessing Officer, the Electrical Superintending Engineer, Chas for want of manufacturer technical specification.

I feel it expedient to quote the Remarks of Annexure-1/C.

## Remarks:-

(1) Today at the time of inspection, a retail invoice dtd.30.08.2008 (Bill No. R/607) of M/s Electro Power engineers has been provided by the consumer, which suggests that the capacity of the furnace is 1000 KG.(one ton) This could also be confirmed by measurement of cylindrical shaped furnace, whose length is 74.5 cm and average diameter is 47 cm. Hence its volume =  $\frac{22}{7} \times (0.047)^2 \times 0.745 = 0.1293\text{m}^3$ .

Taking the diversity of iron as  $7.8 \times 10^3$ , the capacity of furnace is  $0.1293 \times 7.8 \times 10^3 = 1008.54$  kg (say One Ton). The consumer is requested to submit the technical literature of the furnace and explain before the assessing officer (Electrical Superintending Engineer,Chas) **as why his contract demand should not be considered as 600 KVA.** It is pertinent to note that for melting one ton of Steel, a minimum 600 KVA Power will be required.

(2). L.T/ Cover glass of combined CT / PT metering unit signed from inside of the glass.

The Annexure- 1/C confirms that one crucible having volume  $0.1293 \text{ m}^3$  was found installed. That crucible had a melting capacity of 1008.54 Kg (say One Ton).

Meaning thereby the previous crucible having 500kg melting capacity must have been dismantled. The Audit objection says that M/S Amit Steel Industries Pvt. Ltd has / had not submitted a dismantling report of the old furnace in the office of licensee. It has also not furnished the installation report of the new furnace in the office.

(v) The consumer appellant M/S Amit Steel Industries Pvt. Ltd. has courage enough to say that its contract demand was above 300 KVA and hence the consumer was not required to enter into a fresh agreement with the Licensee to enhance contract demand.

The Annexure-1/C of appellant makes it clear that there was necessity to enhance contract demand. The engineers of J.S.E.B. have estimated in Annex-1/C that for melting one ton of steel, a minimum 600 KVA power will be required.

(vi) In compliance with this Authority's direction V.O.S. dated 25.4.2024, the Respondents have filed a copy of purchase paper (Invoice) of Cubical Induction Furnace, Manufacturer's Technical Specification and the letter dated 1.12.2017 of the Managing Director of Amit Steel Industries Pvt. Ltd addressed to the Electrical Executive Engineer.

I have gone through the "**250 kW, 1000 Hz VIP Power Trak Melting Performance**" mentioned in the documents provided by the consumer to the licensee. It is clearly mentioned that the Melting Time of Steel in 500 pounds Furnace Capacity is 32 minutes and 1000 pounds is 64 minutes i.e. just double. The connected load is directly associated with time.

The energy consumed is represented by kilowatt hours (kWh). The rate of consumption would be kilowatt hours per hour or just kilowatt (kW).

The connected load (in kWh) = 
$$\frac{\text{Power (in watt)} \times \text{Time (in hours)}}{1000}$$

The General Formula to calculate 'Maximum Demand' is as below:

Max. Demand = 
$$\frac{\text{connected Load} \times \text{Load Factor}}{\text{Power Factor}}$$

Connected Load = As discussed above

Load Factor = Utility Factor  $\times$  Diversity Factor

Power Factor = System average Power Factor.

Since the Tariff Order says that contract demand for HTSS tariff shall be based on total melting capacity of the induction / arc furnace & the equipment as per manufacturer technical specification and not on the basis of measurement, the Manufacturer Technical Specification is must for HTSS Tariff.

**Conclusion :** The ‘Contract Demand’ is an important factor in an Electricity Bill.

### **13. Inconsistent or misleading facts in consumer’s case :**

On going through the record of the learned VUSNF, Hazaribagh having Case No.77/19 and the record of this Authority having Appeal No-EOJ/01/23, I find following inconsistencies in consumer’s case :-

- (i) It is apparent from Retail Invoice of Electro Power Engineers, Ahmedabad (Annexure - A Series of supplementary counter affidavit of respondents, filed on 9.5.2024) that the consumer M/S Amit Steel Industries Pvt. Ltd had purchased Induction Furnace on **30.8.2008** (ordered the manufacturer Electro Power Engineers on 28.5.2008 and got delivery on 30.8.2008) but had applied for change of tariff from HTS to HTSS on **12.10.2010** (Annexure-1 of the Counter Affidavit of Respondents)
- (ii) Shri Amit Prasad, the Managing Director of Amit Steel Industries Pvt. Ltd. in his Letter No-ASI/10-11/154 dated 12.10.2010 (The Annexure-1 of the Counter Affidavit of Respondents in EOJ/01/2023) has stated that - **We are going to install 750 Kg Induction Furnace in place of 500 Kg, whereas the consumer had already installed or was about to install an Induction Furnace of melting capacity of 1000 Kg.** The consumer has misled the distribution licensee by declaring that the capacity of the new furnace is 750 Kg while it is 1000 Kg melting capacity. The application was made for a change of tariff from HTS to HTSS on **12.10.2010** whereas the consumer had already purchased 1000 Kg Induction Furnace on **30.8.2008**. The Consumer was aware that the

**1000 Kg** melting capacity crucible had already been installed or was going to be installed but had disclosed it as **750 Kg** melting capacity crucible.

(iii) The Annexure -3 of the Petitioner Consumer in Case No-77/2019 before the learned VUSNF-Hazaribagh is a copy of agreement between Amit Steel Industries Pvt. Ltd and the Electrical Superintending Engineer. It was executed on 8.11.2010.

In the schedule of agreement, **the melting capacity of the Induction Furnace has been shown as 750 Kg while the Retail Invoice dt. 30.8.2008 having Bill No. R/607 of M/S Electro Power Engineers confirms the melting capacity 1000 Kg AND on inspection also it was found 1000 Kg melting Capacity.** The Inspection report dated 3.4.2013 bears the signature of Consumer also. The document has been annexed as Annexure-4 by the consumer himself in case no.77/2019 before the learned VUSNF-Hazaribagh.

The letter of Electrical Executive Engineer, Electric Supply Circle, Chas having Letter No. 1930 dated 26.10.2012 (Annexure - 1/B of Memo of Appeal ) also discloses that the entire process was for 750 Kg melting capacity of the induction furnace.

It appears to me that the motive behind non submission of Invoice & Manufacturer Technical Specification of 1000 Kg melting capacity Induction Furnace by the consumer in office of Electricity Department, was to restrict the Distribution Licensee from knowing the fact that induction furnace of 1000 Kg melting capacity has been installed, whereas it has been disclosed (in application and agreement) that it has melting capacity of 750 Kg **to minimise Load Assessment.**

(iv) The Consumer M/S Amit Steel Industries Pvt. Ltd has preferred to maintain stoic silence about the date of dismantling of old crucible of 500 Kg melting capacity and installation of new crucible of 1000 Kg melting capacity.

#### **14. LABELING of important documents available on records:**

I have gone through the documents available on the record of EOJ/01/2023 of the Electricity Ombudsman and on the record of Case No-77/19 of VUSNF, Hazaribagh. I found that several documents available on records are very much relevant for determination of appeal. For brevity, the document needs distinct labeling while adjudicating crucial questions for determination of this appeal.

Mark	Description of document	Remarks
<b>Label - A</b>	<p>A letter issued from the office of the Electrical Superintending Engineer, Electric Supply Circle: Loyabad having Memo No-2226/ESE/Loyabad/dated the 3.10.2010.</p> <p>It appears to me that date 3.10.2010 has wrongly been written in place of 3.11.2010 for the reasons that the letter bears signature of Electrical Superintending Engineer having date 3.11.2010 and the letter has been issued in response to letter of consumer dated 12.10.2010. If the consumer's letter was issued on 12.10.2010 its reply cannot be issued on 3.10.2010 i.e. nine days before the consumer's letter.</p> <p>The letter has been issued by the Electrical Superintending Engineers, Electric Supply Circle, Loyabad and addressed to M/S Amit Steel Pvt. Ltd.</p> <p>The contents of letter reads as follow:</p> <p>Sub- Application for change of tariff from H.T.S. to H.T.S.S.</p> <p>Ref - (i) Your application dtd. ASI-10-11/54 dated 12.10.2010  (ii) This office L.No.2086 dated 20.10.2010  (iii) G.M.-Cum-C.E., DESA/Dhanbad L.No-3419 dated 29.10.10</p>	<p>(1) Annexure-2 of petitioner consumer in Case No-77/2019</p> <p>(2)Annexure- 1/A of consumer Appellant in Memo of Appeal in EOJ/01/2023</p> <p>(3)Annexure-2 of Respondents in Counter Affidavit in EOJ/01/2023</p>

	<p>(iv)Tariff notification Chief Engineer (C&amp;R), L.No.520 dtd.18.05.10</p> <p>Sir,</p> <p>With reference to the above as per Chief Engineer, (C&amp;R), Jharkhand State Electricity Board, Ranchi letter no. 520 dated 18.05.2010 and also approval of General Manager-Cum- Chief Engineer, Dhanbad Electric Supply Area, Dhanbad letter no.3419 dated 29.10.2010 <b>undersigned is pleased to change your tariff</b> from H.T.S to H.T.S.S tariff as per Board's Tariff Notification Communicated by Chief Engineer (C&amp;R), Jharkhand State Electricity Board, Ranchi letter no.520 dated 18.05.2010. You have to execute an agreement under H.T.S.S. tariff within fifteen days from issue of this letter, You have to deposit the Additional Security on the basis of three months consumption other terms &amp; Condition remain same.</p> <p>(emphasis supplied by bolding)</p>	
<p><b>Label - B</b></p>	<p>The Electrical Superintending engineer, Electric Supply Circle, Chas has issued a letter to M/S Amit Steel Industries Pvt. Ltd. having Letter No-1389 / ESE / Chas / Dated, 30.7.2022. Altogether five energy bills for the month of August 2010 to December 2010 are annexed with this letter.</p> <p>I am concerned with the energy bill for the month of October 2010. The relevant entries of this bill read as follows:</p> <p><b>Date of Issue - 4.11.2010</b></p> <p><b>Tariff - H.T.S.S.</b></p> <p>Gen No – BIA-9</p> <p>Due date of payment – 24.11.2010</p> <p>Contract Demand – 300 KVA</p> <p>Date of Connection – (Blank)</p> <p>Name – M/S Amit Steel (P) Ltd.</p> <p>Meter arrangement – H.T. Side</p>	<p>Letter is available on the record of VUSNF, Hazaribagh in case No- 77/19.</p>

	<p>Meter No - (Blank)</p> <p>Address – Bokaro Ind. Area, Balidih</p> <p>Voltage of supply – 11 kV</p> <p><b>Bill for the month of – October 2010</b></p> <p>Supply at - Balidih</p> <p>(emphasis supplied by bolding)</p>	
<b>Label - C</b>	<p>This is a copy of a letter of Mr. Amit Prasad, the Managing Director of Amit Steel Industries Pvt. Ltd. addressed to the Electrical Superintending Engineer, Layabad regarding change of tariff from HTS to HTSS. The letter bears the number ASI/10-11/154 dated 12.10.2010.</p> <p>The contents of letter reads as follows:</p> <p>Sub: Application for change of tariff from HTS to HTSS</p> <p>Dear Sir,</p> <p>We are a HT Consumer at Balidih, Bokaro. Our consumer no. is BIA- 9.</p> <p>We are presently in HTS tariff. We are <b>going to install 750 kg. Induction Furnace</b> in place of 500 kg. Our sanctioned load is 300 KVA.</p> <p>As per the JSEB Tariff which is enclosed, Induction Furnaces of 500 kg and above with 300 KVA and more load fall in HTSS tariff schedule. We would therefore request you to change our tariff from HTS to HTSS <b>for 750 kg. Induction furnace</b> and 300 KVA load as per the latest electricity tariff.</p> <p>We hope you will do the needful at the earliest and oblige.</p> <p>(emphasis supplied by bolding)</p>	<p>(1) Annexure-1 of the petitioner consumer in Case No- 77/2019</p> <p>(2) Annexure-1 of the Respondents in Counter Affidavit in EOJ/01/2023</p>
<b>Label - D</b>	<p>This is a copy of a letter of the Electrical Executive Engineer, Chas having letter No- 1930 dated 26.10.2012. The letter is addressed to M/S Amit Steel Private Limited.</p>	<p>(1)Annexure-3 of the petitioner consumer in case no-77/2019</p>



	<p>The letter has been issued regarding Tariff change from HTS to HTSS. The letter has been issued with reference to the Issuing Office's previous letter no-1777 dt.4.10.2012 and in response to Consumer's letter no- ASI/10-11/154 dated 12.10.2010.</p> <p>The contents of letter reads as follows:</p> <p>महाशय,</p> <p>उपरोक्त प्रसंगाधीन पत्र द्वारा आपसे बांछित कागज़ात की माँग की गयी थी जो अबतक इस कार्यालय को अप्राप्त है। इस सम्बंध में कहना है कि आपके पत्रांक ASI/10-11/154 द्वारा इस कार्यालय को सूचित किया गया था कि आपका विद्युत सम्बंध जो 300 KVA के Contract Demand एवं 500 Kg melting capacity पर है उसे 500 Kg के जगह पर 750 Kg Induction furnace स्थापित किया जा रहा है जिसके आधार पर आपका विद्युत सम्बंध का टैरिफ़ HTS से HTSS किया गया था,परन्तु टैरिफ़ के नियमानुसार उसका <b>Load</b> निर्धारण हेतु <b>Manufacturer's Technical Specification</b> को होना आवश्यक था जो आप अभी तक नहीं जमा किए हैं।</p> <p>अतः आपसे पुनः आग्रह है कि इस कार्यालय के पत्रांक 1777 दिनांक 04.10.2012 द्वारा बांछित कागज़ात पत्र प्राप्ति के एक सप्ताह के अंदर जमा करने का कष्ट करेंगे ।</p> <p>अन्यथा पूर्व टैरिफ़ (Melting Capacity) के आधार पर Load का निर्धारण कर बिलिंग हेतु विभाग को बाध्य होना पड़ेगा। (emphasis supplied by bolding)</p>	<p>(2)Annexure-1/B of Consumer Appellant in Memo of Appeal</p>
<p><b>Label - E</b></p>	<p>This is a copy of a letter having Memo No- 1651 dated 2.9.2015 issued by the Electrical Superintending Engineer, Chas addressed to M/S Amit Steel (P) Ltd.</p> <p>The letter reads as follows :</p>	<p>(1)A particular letter from Annexure-1/F Series of Memo of Appeal.(page 70)</p> <p>(2)Annexure-4 of Counter Affidavit of JBVNL &amp; Ors</p>

	<p>Sub:- Enhancement of contract demand from 300 KVA to 385 KVA under HTS Tariff.</p> <p>Ref:- 1. Acctt. General Audit letter no.EG-II, 44/2014-15/138 dt. dtd.28.04.15</p> <p>2. This office letter no.911 dtd.03.06.15</p> <p>Sir,</p> <p>During the Audit examination for the period April'13 to March'14, it has been observed that your contract demand 300 KVA has been increased by as follow :-</p> <p>Oct.'13 – 385 KVA  Nov.'13- 354 KVA  Dec.'13- 378 KVA  Jan.'14- 385 KVA  Feb.'14- 366 KVA</p> <p>Through the previous letter no.911 dtd. 03.06.15 has already been served to you and <b>directed to deposit security money and execute agreement for enhance load</b>. But still no any response has been received from your end.</p> <p>Accordingly as per norms of Jharkhand Urja Vikas Nigam Limited and tariff order of JSERC the contract demand is hereby enhanced/sanctioned for 385 KVA load. <b>You are directed to deposit security money of Rs.10,39,500/- (Rupees ten Lac Thirty Nine Thousand Five Hundred) only minus already paid</b> in shape of cash/bank draft payable in favour of Jharkhand State Electricity Board to be deposited in the office of the Assistant Electrical Engineer, Electric Supply Sub-Division, Chas (U) within 15 days. <b>You will have to execute fresh agreement ..... (illegible) from for enhanced 385 KVA load in the office of undersign after depositing security amount.</b> You have to follow the required guidelines of IE Act/IE rule and instructions issued from time to time.</p> <p>(emphasis supplied by bolding)</p>	<p>in case  No-77/2019 before  V.U.S.N.F,  Hazaribagh.</p>
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<p><b>Label - F</b></p>	<p>This is a letter dated <b>1.12.2017</b> of the Managing Director Shri Amit Prasad of Amit Steel Industries Pvt. Ltd addressed to the Electrical Executive Engineer (C&amp;R), Electric Supply Circle, Chas Bokaro.</p> <p>The subject of this letter is regarding installation of Induction Furnace but the ‘Technical Specifications’ was submitted on 1.12.2017 through this letter.</p> <p>The letter reads as follow:-</p> <p>Dear Sir,</p> <p>Please find <b>enclosed the technical specifications of the Induction Furnace installed at our works</b>. The 1000 kg. crucible was installed at our factory by our own maintenance team, as per the drawing and instructions of the manufacturer.</p> <p>You may inspect the furnace at our factory any time as per your convenience. Also, the Electrical Superintending Engineer visited our factory and inspected our furnace as per the report dated 03/04/2013. The same is also enclosed for your reference.</p> <p>(emphasis supplied by bolding)</p>	<p>A letter from Annexure-A Series of the Respondents in their Supplementary Counter Affidavit in EOJ/01/2023 (page 14)</p>
<p><b>Label - G</b></p>	<p>This is a copy of a letter having L.No- .....(omitted/deleted) dated..... (omitted/deleted) of the Electrical Executive Engineer (C&amp;R), Electric Supply Circle, Chas addressed to M/S Amit Steel (P) Limited. It is regarding conversion of connection from HTS to HTSS.</p> <p>The letter reads as follow :-</p> <p>Sir,</p> <p>With reference to the above subject, we have to inform you that <b>your above connection was converted from H.T.S to H.T.S.S from the period 08.11.2010</b>. Hence, it is requested you to submit the</p>	<p>Annexure-3 of the Counter Affidavit of Respondents in EOJ/01/2023 (page 22)</p>

	<p>following document or supporting papers regarding furnace for official record.</p> <ol style="list-style-type: none"> <li>1. Purchase paper of crucible induction furnace equipment.</li> <li>2. Manufacture technical specification of induction furnace.</li> </ol> <p>(emphasis supplied by bolding)</p>	
<b>Label - H</b>	<p>This is an Inspection Report of the Engineers of the J.S.E.B. Conducted on 3.4.2013. The report bears the signature of Consumer also, The report is titled with :</p> <p>Routine Test Report</p> <ol style="list-style-type: none"> <li>1. Name of consumer: M/S Amit Steel Industries Pvt. Ltd.</li> <li>2.Consumer No : BIA - 09, Tariff HTSS</li> <li>3.Contract Demand : 300 KVA</li> <li>4.Voltage of Supply : 11 kv</li> <li>5.Metering arrangement : HT Side</li> <li>6.Date : <b>03.04.13</b></li> </ol> <p>The 'Remarks' of report reads as follows :</p> <p>Remarks :-</p> <p>(1) Today at the time of inspection, a retail invoice dtd.30.08.2008 (Bill No. R/607) of M/S Electro Power engineers has been provided by the consumer, which suggests that the capacity of the furnace is 1000 KG.(one ton) This could also be confirmed by measurement of cylindrical shaped furnace, whose length is 74.5 cm and average diameter is 47 cm. Hence its volume = <math>\frac{22}{7} \times \frac{(0.047)^2}{4} \times 0.745 =</math></p> <p>0.1293m<sup>3</sup>.</p> <p>Taking the diversity of iron as <math>7.8 \times 10^3</math>, the capacity of the furnace is <math>0.1293 \times 7.8 \times 10^3 = 1008.54</math> kg (say One Ton). <b>The consumer is requested to submit the technical literature of the furnace and explain before assessing officer (Electrical Superintending Engineer,Chas) as to why his contract demand should not be considered as 600 KVA.</b> It is pertinent to note that for melting one ton of Steel, a minimum 600 KVA Power will be required.</p>	Annexure- 1/C of Memo of Appeal in EOJ/01/2023

	<p><b>(2).</b> L.T/ Cover glass of combined CT / PT metering unit signed from inside of the glass.</p> <p>(emphasis supplied by bolding)</p>	
<p><b>Label - I</b></p>	<p>The Annexure-4 of Counter Affidavit is a part of the Audit Report on Public Sector Undertakings for the year ended 31 March 2016. It is regarding irregularities in sanction of load to HTSS customers. The observation of Audit in connection to eight HTSS consumers i.e. One of ESC Chas and seven of ESC Ramgarh. The present matter is with regards to ESC Chas.</p> <p>The relevant portion reads as follow :</p> <p>Irregularity in sanction of load to HTSS consumers.</p> <p><b>2.2.2.2</b> - As per JSERC tariff order 2010-11, effective from May 2010, all consumers who have a contracted demand of 300 KVA and more for induction/arc furnace were to be categorized under HTSS tariff. The contract demand was to be ascertained based on manufacturer's technical specification of the total capacity of induction/arc furnace and equipment and not on the basis of measurement. This tariff schedule will not apply to casting units having induction furnace of melting capacity of 500 Kg or below.</p> <p>Audit observed that ESEs Chas Ramgarh provided connection to eight HTSS consumers without obtaining manufacture's technical specification of induction/arc furnace and equipment of induction furnace in violation of above tariff order (Annexure 2.2.1).</p> <p>Cases where tariff had been changed without obtaining manufacturers technical specification are discussed below :</p> <p>M/s Amit Steel Industries Pvt.Ltd. (consumer no.BIA9) was availing (November 2004) power under HTS tariff at 300 KVA. Subsequently, the consumer requested (October 2010) the Company</p>	<p>Annexure-4 of Counter Affidavit of Respondents in EOJ/01/2023</p>

	<p>to change the tariff from HTS to HTSS as the consumer was going to install 750 Kg induction furnace in place of 500 Kg and accordingly an agreement was executed (November 2010) under HTSS tariff.</p> <p>Audit observed that neither the consumer had submitted the dismantling report of old furnace, the installation report of new furnace and manufacturer's technical specification, nor ESE Chas demanded the same at the time of changing the tariff. The same was demanded after delay of two years in October 2012 and in May 2013, however, consumer did not furnish the same. Thus, changing of tariff without ascertaining load as per manufacturer's technical specification, ESE Chas might have extended undue benefit to consumer as well as incurred a revenue loss of Rs. 28.25 lakh during the period November 2010 to March 2016.</p>	
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### **15. Crucial questions for determination in this appeal :**

On going through the memo of appeal and counter affidavit and the documents annexed, the following crucial questions crop up for determination in this appeal -

1. Whether the classification of tariff into HTSS Category i.e. changing in tariff from HTS to HTSS of Consumer M/S Amit Steel Industries Pvt. Ltd. having consumer number BIA-09 (H.T.S.) had been completed during the period between October 2010 to October 2017 ?
2. Whether mere issuance of bills under HTSS Tariff by the Licensee in favour of the consumer is a confirmation of change in tariff from HTS to HTSS?
3. Whether the case in hand falls within the category of re-classification of tariff of consumer from HTSS to HTS?

4. Whether Clause 7.15 of the Jharkhand State Electricity Regulatory Commission, Ranchi (Electricity Supply Code) Regulation, 2015 is applicable in this case?

**16. Whether the classification of tariff into HTSS Category i.e. changing in tariff from HTS to HTSS of Consumer M/S Amit Steel Industries Pvt. Ltd. having consumer number BIA-09 (H.T.S.) had been completed during the period between October 2010 to October 2017 ?**

**16.1** The question involved in the present issue goes to the root of the matter. The entire case rests for its success upon this issue. The relevant documents are the documents having Label Mark - A, C, D, E, F, G & H (as per para-14 of this judgment) The Consumer M/S Amit Steel Industries Pvt. Ltd. had made an application on 12.10.2010 (Document **Label-C**) for change of tariff from HTS to HTSS. In response to the request of the Consumer, the Distribution Licensee issued a letter on 3.11.2010 (Document **Label-A**) The term chosen in this letter is a little confusing. It is mentioned in the letter that the undersigned is “pleased to change your tariff from HTS to HTSS tariff -----” The plain reading of the sentence discloses that the tariff got changed immediately. But it was not. The letter itself contains conditions for changing tariffs. The first condition is that the consumer has to execute an agreement under H.T.S.S. tariff within fifteen days from issuance of this letter and the second condition is to deposit additional security on the basis of three month consumption along with other terms & conditions.

To my view, the other terms & conditions as pointed out in this letter stand for the conditions for the applicability of HTSS tariff and to follow required guidelines of The Indian Electricity Act, The Indian Electricity Rules & the Standing Instructions issued from time to time. Since the letter 3.11.2010 (Document **Label- A**) discloses that

change in tariff from HTS to HTSS is based upon fulfillment of conditions, I find and hold that the tariff had not changed from HTS to HTSS immediately after issuance of this letter. This letter is merely an approval for change subject to fulfillment of conditions.

The Distribution Licensee J.B.V.N.L is Counter affidavit in case No- 77/2019 before the VUSNF, Hazaribagh at para-8 has disclosed this letter as – “Approval for change of tariff from HTS to HTSS.”

**16.2** The consumer M/S Amit Steel Industries Pvt. Ltd. and the Electrical Superintending Engineer, Electric Supply Circle, Loyabad had entered into an agreement on 8.11.2010. The foul played in this agreement is that though the consumer had purchased & installed a 1000 Kg melting capacity crucible but entered into the agreement for 750 Kg melting capacity induction. The consumer in his application dated 12.10.2010 (Document **Label-C**) had also informed the distribution licensee that he was going to install 750 Kg Induction Furnace while the consumer had already purchased ‘Furnace Box 100 Kg’ on 28.5.2008 from Electro Power Engineers. The purchase of the furnace box was made on 28.5.2008 and prayer to change tariff was made on 12.10.2010 i.e after the lapse of 2 years 5 months of purchase.

**16.3** The Authority of Electricity Ombudsman has arrived at a conclusion, at para-11 of this judgement, that the manufacturer technical specifications are mandatorily required for determination of “Load” and for fresh “Contract Demand”. To furnish Technical Literature of Induction Furnace i.e. the Manufacturer Technical Specification by the consumer to the Distribution Licensee is a necessary condition and requirement.

The consumer appellant has admitted the fact that the distribution licensee had asked for manufacturer technical specification.



The letter of Electrical Executive Engineer, Chas issued on 26.10.2012 (Document having **Label- D**) confirms that it was a reminder letter for the manufacturer technical specification. The first letter was issued on 4.10.2012 having letter no-1777. Through the document having **Label - H**, the Engineers of J.S.E.B had requested the consumer to deposit technical literature of the furnace. The consumer M/S Amit Steel Industries Pvt. Ltd, for the first time deposited 'Technical Specification' on 1.12.2017 (Document having **Label -F**).The consumer has failed to establish the fact that he had deposited required documents earlier.

**16.4** The document having **Label-D** issued by the Electrical Executive Engineer on 26.10.2012 to the consumer M/S Amit Steel (P) Ltd makes it clear that the "Manufacturer Technical Specification" was mandatorily required to "Determine the Load". The document having **Label-H** makes it clear that the Engineers of distribution licensee (JEE, AEE, EEE & ESE) had jointly asked explanation from the consumer on 3.4.2013 as to why his contract demand should not be considered as 600 KVA (in place of existing contract demand of 300 KVA). The consumer was again requested through the document **Label-H** to submit technical literature of the furnace.

The circumstances show that the consumer sat over the matter and preferred not to provide the required 'manufacture technical specification' to the distribution licensee. In my opinion, the motive behind non furnishing required 'manufacturer technical specification' to hide the truth that the consumer has installed a 1000 Kg melting capacity of the furnace box but had disclosed it as 750 Kg melting capacity to minimize load in determination.

**16.5** The document having **Label-E** issued by the Electrical Superintending Engineer on 2.09.2015 to the consumer M/S Amit Steel (P) Ltd makes if clear that the consumer was required to execute fresh agreement for "Enhanced Load" in the office of the

Electrical Superintendent Engineer after depositing a “Security amount”. The consumer was advised to follow the required guidelines of the Indian Electricity Act / Indian Electricity Rules and the Instructions issued from time to time. The instant appeal EOJ/01 of 2023 covers the billing period from the month of October 2010 to October 2017. The ‘Approval Letter’ of the Electrical Superintending Engineer dated 3.11.2010 for changing tariff from HTS to HTSS (Document having **Label -A**) confirms that “Deposit of Additional Security” is a mandatory condition. There is nothing on record to establish that the consumer had entered into a fresh agreement for enhanced load and had deposited additional security.

**16.6** The Electrical Executive Engineer (C&R) Electrical Supply Circle, Chas in his letter addressed to M/S Amit Steel (P) Limited (Document **Label-G**) has admitted that – “ Your above connection (BIA-09) was converted from H.T.S. to H.T.S.S. from the period 08.11.2010.” Now a pertinent question arises as to whether mere execution of agreement on 8.11.2010 the tariff was changed that too without fulfillment of necessary conditions, which are mentioned in that very agreement itself ?

At para 10 of my judgement I have discussed the requirements and conditions to change the tariff from HTS to HTSS. This Authority of the Electricity Ombudsman finds & holds that the change of tariff from HTS to HTSS had not been completed, during the period covered in this appeal, for the simple reason that foul has been played in agreement by disclosing installation of 750 Kg melting capacity in place of 1000 Kg melting capacity crucible and the required conditions to change the tariff from HTS to HTSS have not been fulfilled.

**16.7 Decision :** In view of my findings and comments made above and the decision arrived at para number 11 of this judgement, the instant crucial question is being answered and the issue is being decided in favour of the respondents and against the

appellant consumer. I find and hold that the classification of tariff into HTSS category i.e. changing in tariff from HTS to HTSS of Consumer M/S Amit Steel Industries Pvt. Ltd. having consumer number BIA-09 (H.T.S.) had not been completed during the period between October 2010 to October 2017.

**17. Whether mere issuance of bills under HTSS Tariff by the Distribution Licensee in favour of the consumer is a confirmation of change in tariff from HTS to HTSS?**

The record of learned VUSNF-Hazaribagh (at page-131 of the copy of record provided to me) bears a letter from the Electrical Superintending Engineer, Electric Supply Circle, Chas with a few electricity bills. The letter bears L.No.-389/ESE/Chas/Dated 30.7.2022. The letter is addressed to M/S Amit Steel Industries Pvt. Ltd. with reference to his letter no. ASI/E/GMR/254 dt 8.7.2022. The letter bears a copy of several electricity bills. I am concerned with the electricity bill for the month of October, 2010. This bill has been labeled as **Label-B** at para-14 of my Judgement.

A few dates & activities are relevant:

- 1)12.10.2010 – Consumer made an application to change Tariff from HTS to HTSS
- 2)3.11.2010 – The distribution licensee approved conversion of Tariff and directed to enter into an agreement.
- 3)8.11.2010 – An agreement was executed.

The Energy Bill under H.T.S.S. Tariff. for the month of October 2010 was issued on **4.11.2010** i.e. even prior to execution of agreement. The energy bill (**Label-B**) makes it clear that mere issuance of bills under HTSS tariff by the Distribution Licensee in favour of the Consumer is not a confirmation of change in tariff from HTS to HTSS.

I find that the energy bills were issued provisionally on the basis of the approval letter of the Electrical Executive Engineer, Chas but those provisional bills were issued subject to fulfillment of conditions by the customer.

This apart, the consumer can not claim to have been prejudiced by those energy bills for the reason that the distribution licensee had repeatedly requested the consumer to deposit “Manufacturer Technical Specification”, enter fresh agreement for enhanced load and to deposit Security amount. The consumer was also alarmed vide document **Label - D** that - “इस कार्यालय के पत्रांक 1777 दिनांक 04.10.2012 द्वारा बांछित कागज़ात पत्र प्राप्ति के एक सप्ताह के अंदर जमा करने का कष्ट करेंगे अन्यथा पूर्व टैरिफ़ (Melting Capacity) के आधार पर Load का निर्धारण कर बिलिंग हेतु विभाग को बाध्य होना पड़ेगा।”

Accordingly, this crucial question is being answered in favour of the distribution licensee and against the consumer appellant.

**18. Whether the case in hand falls within the category of re-classification of tariff of consumer from HTSS to HTS?**

Mr. Rahul Lamba, the learned counsel for the appellant has vociferously argued that the Distribution Licensee has not followed the provisions of Clause 7.15 of the JSERC, Ranchi (Electricity Supply Code) Regulations, 2015. It is submitted that the Distribution Licensee has arbitrarily reclassified the category of consumer from HTSS to HTS. It is submitted that one can not reclassify a category without following the prescribed procedure as per Clause 7.15 of the JSERC (Electricity Supply Code) Regulations, 2015.

I have gone through the record of this appeal and as well as the record of the learned VUSNF-Hazaribagh. The appellant M/S Amit Steel Industries Pvt. Ltd. was an old

consumer under HTS tariff. The provisions of Clause 7.15 of Regulations, 2015 are not applicable to convert the tariff of an existing consumer from HTS to HTSS. For this conversion of tariff, the required paraphernalia is as follows - (i). The contracted demand shall be 300 KVA and more for the Induction Furnace, (ii). The melting capacity to casting units should be above 500 Kg, (iii). The contract demand shall be based on the total capacity of the Induction Furnace and the equipment as per manufacturer technical specifications and not on the basis of measurement, (iv). The consumer & distribution licensee is required to enter into an agreement under H.T.S.S. tariff, (v). The consumer has to deposit additional security on the basis of three months consumption, (vi). The consumer of an induction furnace is required to submit manufacturer technical specifications to the licensee.

The basic difference in conversion of existing tariff from HTS to HTSS and the re-classification of category is that the first (conversion of existing tariff from HTS to HTSS) initiates at the request of the consumer while the second (re-classification of category) initiates by the distribution licensee. The second was codified for the welfare of the consumer to bring the matter to his knowledge and to provide an opportunity to the consumer to take steps in his defence.

The term '**Re-classification**' has been used in Clause 7.15 of the JSERC (Electricity Supply Code) Regulations, 2015 for the consumers who have **wrongly** been classified in a particular category and the distribution licensee takes steps for **rectification**.

The first question, which comes to my mind as to whether the existing HTS tariff of the consumer M/S Amit Steel Industries Pvt. Ltd. had been changed to HTSS tariff during the period between October 2010 to October 2017 ? If it was changed, the provisions of Clause - 7.15 of the Regulations 2015 shall definitely apply in this case

otherwise the matter does not fall under the category of re-classification and clause 7.15 of Regulation 2015 shall not apply.

**Decision :** In view of the decision arrived at para 11 and para 16 of my judgement, the Authority of Electricity Ombudsman finds and holds that this is not a case of “Reclassification of Tariff” from HTSS to HTS as because the HTS Tariff of consumer (M/S Amit Steel Industries Pvt. Ltd having consumer no- BIA-09) was never changed to HTSS Tariff during the period between October 2010 to October 2017 i.e. the period concerned in this appeal. The matter after November 2017 is not in issue before this Authority and hence I refrain myself from passing any comment or making any observation on it. This is not a case of reclassification of tariff rather a case of non changing of existing HTS Tariff during the period between October 2010 to October 2017. The case in hand does not fall within the category of re-classification of tariff of consumer from HTSS to HTS.

**19. Whether Clause 7.15 of the Jharkhand State Electricity Regulatory Commission, Ranchi (Electricity Supply Code) Regulation, 2015 is applicable in this case?**

The Clause 7.15 of the Jharkhand State Electricity Regulation Commission, Ranchi (Electricity Supply Code) Regulations, 2015 deals with “Reclassification of Consumer Category.” It bears six sub-clauses. I feel it expedient to quote the same in this paragraph of my Judgement.

The Clause 7.15 of above Regulation, 2015 is applicable if it is found that the consumer has wrongly been classified in the HTSS category. The present appeal is concerned with the billing period between October 2010 to October 2017. Since

November 2017 the Distribution Licensee has accepted the tariff of Consumer as HTSS Tariff on the same set of induction furnace and crucible.

### **7.15 Reclassification of Consumer Category**

**7.15.1 If it is found that a consumer has been wrongly classified in a particular category**, or the purpose of supply as mentioned in Agreement has changed, or the consumption of power/connected load has exceeded the limit of that category as per the Commission's order, the Distribution Licensee may consider reclassifying the consumer under appropriate category:

Provided that the Distribution Licensee shall not create any tariff category other than those approved by the Commission. (emphasis supplied by bolding)

7.15.2 The consumer shall be informed of the proposed reclassification through a notice and duly given a thirty (30) day notice period to file objections, if any. The Distribution Licensee after due consideration of the consumer's reply, if any, may letter the classification. In case of any dispute, the matter shall be referred to the Consumer Grievance Redressal Forum.

7.15.3 If a consumer wishes to change his consumer category, he shall submit an application form to the Distribution Licensee in the format given in annexure 6 to these Regulations. The Distribution Licensee shall process the application form in accordance with clauses 7.6 to 7.11 of these Regulations. For site inspection and issuance & payment to demand note for the estimated cost of works, both the Distribution Licensee and applicant shall follow the procedure and timelines as laid down in clauses 6.0 – 6.17 and 6.19 – 6.25 of these Regulations. The Distribution Licensee shall also note down the meter reading at the time of inspection.

7.15.4 If on inspection the consumer's request for reclassification is found valid, change of category for use of supply in reference of Tariff schedule shall be effected within thirty(30) days of payment of charges, if any, and completion of formalities.

7.15.5 If the Distribution Licensee does not find the request for reclassification valid, it shall inform the applicant in writing, specifying reason(s) for the same, within ten (10) days from date of inspection.

7.15.6 For the period in which the consumer's application for reclassification is pending, the consumer shall not be liable for any action on grounds of unauthorized use of electricity.

Mr. Rahul Lamba, the learned counsel for the appellant, has drawn my attention towards the provisional bill for the month of November, 2017. He has submitted that in this bill the licensee has made - "Additional charge as per Audit for **wrong conversion** of tariff from HTS to HTSS (October 2010 to October 2017) - Rs. 32,05,847.40" Mr. Lamba has emphasised the term 'wrong conversion' and has submitted that since the licensee has admitted wrong conversion, the case in hand falls within reclassification.

I have gone through the bill and considered the submissions of the learned counsel for the appellant. This is a Provisional Bill. The amount has been claimed as per Audit Objection. There is nothing on this bill which suggests that the Distribution Licensee has admitted completion of conversion of tariff. The additional charge of Rs. 32,05,847.40 has been claimed purely on the basis of Audit Objection for the period between October 2010 to October 2017.

The Annexure-4 of Counter Affidavit (Document having Label-I) is a part of the Audit Report. The Auditor in his report has made an observation that neither the consumer had submitted the dismantling report of old furnace, the installation report of new furnace and manufacturer's technical specification, nor ESE Chas demanded the same at the time of changing the tariff. The same was demanded after delay of two years in October 2012 and in May 2013, however, consumer did not furnish the same. Thus, changing of tariff without ascertaining load as per manufacturer's technical specification, **ESE Chas might have extended undue benefit to consumer as well as incurred a revenue loss of Rs. 28.25 lakh** during the period between November 2010 to March 2016. (emphasis supplied by highlighting).



When the Audit has shown suspicion upon the Electrical Superintendent Engineer, Chas to extend undue benefit to the consumer, it should be the duty of the Authority to remain more cautious and judicious while passing judgement. I find that the term “wrong conversion of tariff from HTS to HTSS” used by the Audit is not a recognition of change of tariff from HTS to HTSS during the period between October 2010 to October 2017.

The learned VUSNF, Hazaribagh in impugned order has ordered that - “The respondents directed to prepare fresh detailed statement of bill after providing rebates, if any from the month of October 2010 to October 2017 on the basis of the **change of Tariff** from HTSS to HTS and Tariff Order applicable from time to time and raise bill accordingly.” (emphasis supplied by bolding)

I find that the learned VUSNF, Hazaribagh has wrongly considered it a matter of **change of tariff** from HTSS to HTS and gave direction to raise bills accordingly. This Authority of the Electricity Ombudsman holds that during the period between October 2010 to October 2017, the **existing tariff HTS** of the consumer remains unchanged. The tariff was not converted to HTSS due to non-compliance of mandatory conditions by the consumer.

The Distribution Licensee has recognized the tariff of consumer M/S Amit Steel Industries Pvt. Ltd. as HTSS, since November 2017, on the same set of Induction Furnace & Equipments but after getting the mandatory conditions & requirements fulfilled by the Consumer.

**Decision :** In view of my findings & comments made above and the decision arrived at para 18 of this judgement, I find and hold that the present case is not a case of change in category of tariff from HTSS to HTS rather the existing category HTS remains

unchanged during the period between October 2010 to October 2017 due to non fulfillment of mandatory conditions by the consumer.

This is not a case of wrong classification in the HTSS category, to fall within the ambit of “Reclassification” under Clause 7.15 of the Jharkhand State Electricity Regulatory Commission, Ranchi (Electric Supply Code) Regulations, 2015 during the period between October 2010 to October 2017. The provisions contained in Clause 7.15 of the Jharkhand State Electricity Regulatory Commission, Ranchi (Electric Supply Code) Regulations, 2015 are not applicable in this case.

Accordingly this crucial question is answered in favour of the respondents and against the appellant. The procedure prescribed for reclassification of category under Clause 7.15 of the Jharkhand State Electricity Regulatory Commission, Ranchi (Electricity Supply Code) Regulation, 2015 is not applicable in this case.

**20.** Mr. Rahul Lamba, the learned counsel for the appellant, has submitted that the respondents have changed the tariff from HTSS to HTS on the basis of the Audit objection. During the course of argument Mr. Lamba has drawn my attention towards Annexure-4 of the Counter Affidavit of Respondents (Document **Label-I**). It is submitted that an audit objection can not be the basis of reclassification of category from HTSS to HTS and/or to raise fresh bills. The department had to apply its own mind also and had to abide by the provision of Regulation to reclassify categories. Mr. Lamba has put his reliance upon the authority of the Hon’ble Supreme Court reported in **(2021) 6 SCC 15 Uttar Pradesh Power Transmission Corporation Limited & Anr. v/s CG Power and Industrial Solutions Limited & Anr.** and in 2020 SCC Online All 1730 CG Power and Industrial Solutions Ltd. v/s U.P.Power Transmission Corporation Ltd.

The Annexure-4 of Counter Affidavit is a part of the Audit Report on Public Sector Undertakings for the year ended 31 March 2016. The document has been marked as **Label – I** at para 14 of this judgement. It does not say something extra and no new fact has been revealed. It simply says that the provisions have not been followed. The required manufacturer technical specifications had not been asked for the initial two years. But there is sufficient documentary evidence available on record to establish that the distribution licensee had repeatedly asked for the “Manufacturer Technical Specifications” from the consumer, prior to Audit Objection.

The relevant portion of the audit objection is that- “ **Thus changing of tariff without ascertaining load as per manufacturer’s technical specification, ESE Chas might have extended undue benefit to consumer as well as incurred a revenue loss of Rs.28.25 lakh during the period November 2010 to March 2016.**”

The audit report has made the respondents sensitized towards the foul play of the ESE, Chas but there is sufficient documentary evidence on record to establish that the distribution licensee had repeatedly demanded the required manufacturer technical specifications of induction furnace from the consumer to assess load. The document **Label-E** is a letter issued by the ESE, Chas on **2.9.2015**, i.e. after the said audit objection, regarding enhancement of contract demand from 300 KVA to 385 KVA itself proves that the department has applied its mind in this matter. In document **Label-H** there is a reference of audit objection having Actt. General Audit letter No-EG-II, 44/2014-15/138 dt. 28.4.2015.

I find and hold that the audit objection is not the sole basis of this matter; rather the Distribution Licensee has applied its mind before raising a fresh bill on HTS Tariff. The Audit Objection has not been followed blindly by the Distribution Licensee blindly rather they have applied their mind to rectify their wrong.

**21.** In view of my findings and comments made above, it is therefore

**ORDERED**

that the appeal be and the same is

**DISMISSED**

on contest against the Consumer M/S Amit Steel Industries Pvt. Ltd., the Appellant and in favour of the Distribution Licensee Jharkhand Bijli Vitran Nigam Ltd. and its Officers, the Respondents.

The parties shall bear their own cost. There shall be no order of cost. Let a copy of this judgement be supplied to the parties.

(Dictated & Corrected by me)

Pronounced by me

( G. K. ROY )

(GOPAL KUMAR ROY)

Electricity Ombudsman : Jharkhand