

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

Case no. EOJ/12/2007

Dated- 25-Jan.-2008

JSEB through its Chairman & others

.....Appellant(s)

Versus

M/s Om Dayal Ingots & Steel Pvt. Ltd & 04 others.

..... Respondent(s)

Present:

Shri Sarju Prasad

Electricity Ombudsman

Shri Rajesh Shanker (Advocate)

Counsel for the Appellant(s)

Shri Manoj Kejriwal

Représentative JSEB

Shri Ajit Kumar (Advocate)

Counsel for the Respondent(s)

Shri Vijay Kumar Gupta (Advocate)

Counsel for the Respondent(s)

ORDER

This appeal has been preferred against the order/Judgement dated 18/07/07 passed in case Nos. 58/06, 61/06, 62/06, 01/07 and 12/07 by Vidyut Upbhokta Shikayat Nivaran Forum (In short VUSNF), of JSEB, Ranchi.

The brief facts, giving rise to this appeal is that the respondents are the consumers under category HTSS with induction furnace. According to the respondents as per the tariff order of Jharkhand State Electricity Regulatory Commission (in short JSERC) there is no provision for charging demand charge on the basis of 100% of the contract demand but the appellant, JSEB is charging not on the basis of actual demand recorded in the meter of the consumers; rather 100% of the contract demand which is against the tariff order of 2004.

The aforesaid 05(five) cases filed by the respondents against the JSEB before the VUSNF, JSEB, Jharkhand, Ranchi were heard and disposed of by the common judgement against which the present appeal has been filed.

The case of the appellant is that in the tariff schedule of BSEB dated 24/09/99 and 07/05/01 there is provision for charging the demand charge on the basis of actual maximum demand recorded in the meter of the consumer or the 100% of the contract demand whichever is higher and therefore the appellant is charging 100% of the contract demand in case there is shortfall in the recorded demand from the contract demand.

It is worth to mention here that after the division of the State of Bihar there was the division of the BSEB; and the JSEB came into existence with effect from 1st April, 2001 thereafter the JSEB was charging the electricity charges in accordance with the tariff order of BSEB as it was applicable at the time of division of the BSEB and the JSEB. The JSEB went on charging on the basis of tariff order of the BSEB but the tariff order for the JSEB came into force with effect from 1st January, 2004. All the respondents are consumers of JSEB after the tariff order of 2003-04 came into force.

1. M/s Om Dayal Ingots & Steel Pvt. Ltd. respondent no.01 is the consumer from 03/09/05.
2. M/s Uday Vijay Steel Pvt. Ltd respondent no.02 is a consumer from November,2005
3. M/s Kalyaneshwary Ispat Pvt. Ltd. respondent no. 03 is a consumer from 04/06/05.
4. M/s Balaji Industrial Products Ltd. respondent no.04 is the consumer from 05/08/06.
5. M/s Regal Ingots Pvt. Ltd. respondent no. 05 is the consumer from 01/10/07

It is also clear that with the notification of the tariff order of 2003-04 the JSEB is not charging as per the tariff of 2003-04 but it is also charging demand charges as per the tariff order of BSEB of the year 1999 and 2001. So far tariff order of 2001 is concerned it was published after the separation of JSEB from BSEB which repealed its earlier tariff order of 1999. There is no gazette notification adopting the tariff order of BSEB for the year 2001 which was published in Bihar on 07/05/2001 after the separation of JSEB. In the tariff order of 2004 which was applicable in case of consumers of the JSEB, we find

that there is no mention of the charging 100% of the contract demand in case there is any shortfall in the maximum recorded demand in the meter of the consumer. The learned lawyer for the appellant has submitted that in page 148 of the JSERC tariff order of 2003-04 other terms and conditions have been saved by the saving clause and on that basis the JSEB can charge 100% of the contract demand as demand charge in case there is any shortfall in the maximum recorded in the meter of the consumer.

In order to appreciate the submission of the learned lawyer for the appellant it is worth to reproduce Para 1.4 of the terms and conditions of the supply as mentioned in page 148 of the JSERC tariff order, 2003-04.

“ 1.4 All other Terms and Conditions in respect of Meter Rent, Supply at Lower Voltage, Capacitor Charge, Circuit-Breaker Charge, Electricity Duty, rebate, security deposit, surcharge for exceeding contract demand etc shall remain the same as existing in the state.”

From the plain reading of the aforesaid provisions we find that there is specific mention in terms and conditions in respect of Meter Rent, Supply at Lower Voltage, Capacitor Charge, Circuit-Breaker Charge, Electricity Duty, rebate, security deposit, surcharge for exceeding contract demand etc. shall remain the same as existing in the state. We do not find any mention of the making charge on the basis of 100% contract demand in this clause. Therefore it will not be justified that the terms and conditions of the BSEB as it was in the tariff order of 1999 or 2001 regarding charging 100% of the contract demand or the maximum recorded demand whichever high still exists.

In similar case M/s T & T Metals Pvt. Ltd. Case No. EOJ/03/2006 as decided by this Forum dated 15th February, 2007 already held that the JSEB is not entitled for charging 100% of the contract demand in case there is any shortfall in the maximum recorded demand. It has made clear that on the basis of the tariff order 2003-04 as determined by the JSERC which is effective from 1st January, 2004, the JSEB can charge

on the basis of maximum contract demand as recorded in the meter of the consumer. The aforesaid order of the Forum has been challenged by JSEB by filing a writ petition, the same has been neither stayed nor has it been set aside. I am still of the view that JSEB can not charge more than the maximum demand recorded in the meter of the consumer. Therefore, this appeal has got no merit and in this result the Judgement/order of the VUSNF dated 18th July, 2007 is upheld and this appeal is dismissed. The JSEB must implement the order of the VUSNF within 30 days from today and adjust the excess amount, if any realized from the respondents, in their electricity bills, failing which the JSEB will have to pay interest at the rate of JSEB charging as DPS on excess amount, if any realized from the respondents.

Sd/-
Electricity Ombudsman