



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA
First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: R. DAMODAR

Saturday the Eighteenth Day of November 2017

Appeal No. 33 of 2017

Preferred against Order Dt.13.09.2017 of CGRF In

C.G.No.462/2017-18/MBNR Circle

Between

M/s. Sri Navdurga Billets (P) Ltd., # 21-1-820, Patel Market,
Hyderabad - 500 002. Cell 9440944114.

... Appellant

AND

1. The SAO/OP/Mahaboobnagar/TSSPDCL/Mahaboobnagar Dist.
2. The DE/OP/Mahaboobnagar/TSSPDCL/Mahaboobnagar Dist.
3. The SE/OP/Mahaboobnagar Circle/TSSPDCL/Mahaboobnagar.

... Respondents

The above appeal filed on 21.09.2017, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 15.11.2017 at Hyderabad in the presence of Sri. Ch. Vinod - On behalf of the Appellant Company and Sri. B. Sammaiah - SAO/OP/Medak for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The issue in this Appeal related to the payment of interest on the Consumption Deposit. The Appellant M/s. Navadurga Billets Pvt. Ltd. has HT SC No. MBN 725 with Contracted Maximum Demand of 9990 KVA. The Appellant claimed that as per Clause 7 of Regulation 6 of 2004, the Respondents/DISCOM are liable to pay interest on Security Deposit as approved by the TSERC based on Clause 5.72 at page No. 161 of Tariff Order FY 2016-17. The Appellant claimed that the ERC has approved the interest @ 7.75% on the Security Deposit payable by the DISCOM to the consumers each year and adjust the amount on 1st May of every year as per Clause 7(2) of Regulation 6 of 2004. The Appellant claimed that on verification of the interest adjustment, it was found that the DISCOM has not computed the interest as per the approved formula and thus the Appellant was given less credit of Rs 7,19,242/-

towards interest on Security Deposit FY 2016-17. The Appellant addressed the Respondents through letter dt.6.6.2017 about the discrepancy seeking correction and credit of the balance amount of Rs 7,19,242/-. The Respondents failed to adjust the balance interest on Security Deposit as on 1st May 2017 and therefore, the Appellant lodged a complaint with the CGRF claiming that as on the date of the complaint, the Respondents are liable to pay interest amounting to Rs 3,61,890/-.

2. The 1st Respondent/SAO/O/Mahaboobnagar through letter dt.26.8.2017 stated that the interest on Security Deposit/ Consumption Deposit for the year 2016-17 has been calculated in accordance with the interest rates specified by the Reserve Bank Of India (RBI) from time to time based on Clause 7 of Regulation 6 of 2004. He further stated that the ICD was adjusted in the month of April,2017 for the consumption bill paid in May,2017. The Respondent No.1 further stated that the Consumer/Appellant has considered the rate of interest as 7.75% on whole of Consumption Deposit instead of rates specified by the RBI, which is incorrect and contrary to the Regulation No. 6 of 2004. He addressed a letter dt.23.06.2017 to the Appellant furnishing the details of calculation of ICD for the FY 2016-17. He stated that the Appellant/Consumer has been making wrong allegations and gave misleading information in calculating ICD and in fact, he is liable to pay the interest as mentioned in the bill.

3. Before the CGRF, the representative of the Appellant stated that the Respondents ought to have calculated interest @ 7.75% P.A. on ICD for the entire FY 2016-17 as per Clause 5.72 of Tariff Order 2016-17. The details of computation made by the Respondent No.1/SAO/O/Mahaboobnagar shows that he had calculated interest wrongly and paid Rs 3,85,057/- less towards interest on Consumption Deposit for FY 2016-17 as on 1.5.2017.

4. The CGRF, having considered the record and rival contentions, came to the conclusion that the interest on Security Deposit has been calculated by the DISCOM as per the interest rates communicated by RBI from time to time and approved by the ERC as per Clause 7(1) of Regulation 6 of 2004 and advised the DISCOM to seek suitable clarification from TSERC on interest payable to the consumer on Security Deposit held with the licensee and further observed that the interest on Security Deposit has been calculated as per the interest rates communicated by the RBI from time to time, though the impugned orders.

5. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal seeking a direction to set aside the impugned order passed by the CGRF, to pay ICD @ 7.75% P.A. for FY 2016-17, to pay balance amount of Rs 7,70,112/- @ 15.50% interest P.A for FY 2016-17.

6. The 1st Respondent SAO submitted a reply dt.9.10.2017 stating that the interest on Consumption Deposit (ICD) for the year 2016-17 has been calculated based on the interest rates specified by the RBI from time to time and as per Clause 7 of Regulation 6 of 2004. He stated that ICD arrived at was adjusted in the month of April,2017 for the consumption bill paid in May,2017. The interest is calculated uniformly by the DISCOM.

7. The 1st Respondent in support of his claim pointed out Clause 7 of Regulation 6 of 2004 on payment of interest on Security Deposit at the rate notified by RBI, provided that the commission may specify a higher rate of interest from time to time by notification in the official gazette.

8. The 1st Respondent further stated that based on the note approved by the Chairman and Managing Director (CMD) prescribing interest rates to be paid as approved by the RBI on 13.4.2017. Further he stated that based on U.O. note to the General Manager (IT) the interest rates in HT software to allow ICD on CC bills dt.15.4.2017. Further the 1st Respondent stated that the interest on consumption deposit @7.75% is allowed on opening balance of deposit only and later varied rates have been calculated on consumption deposit in accordance with the orders issued by RBI from time to time and retail supply tariff approved by TSERC and Regulation No. 6 of 2004. The 1st Respondent claimed that the Appellant has been making misleading and wrong allegations with discrepancies and is liable for excess adjustment of interest.

9. In view of the rival contentions, the efforts at mediation failed and therefore, the matter is being disposed of on merits.

10. Based on record and rival contentions, the following issues arise for determination:

1. Whether the Appellant is entitled to interest @ 7.5% on its Security Deposit for the FY 2016-17?
2. Whether the DISCOM is liable to pay interest on Security Deposit for the year 2016-17 as per U.O. note to the General Manger dt.15.4.2017

@ of 7.75% from 1.4.2016 to 4.4.2016, @ 7.00% from 5.4.2016 to 3.10.2016 and @ 6.75% from 4.10.2016 to 31.3.2017 as per the DISCOM?

3. Whether the impugned orders are liable to be set aside?

Heard.

Issues 1 to 3

11. The Appellant is relying on Clause 5.72(at page No. 161) of Tariff Order FY 2016-17 wherein the interest rate specified on consumption deposit @ 7.75% has to be paid and whereas, the Respondents are relying on Clause 7 of Regulation 6 of 2004 where under payment of interest of Security Deposit is prescribed. For clarity the Clause 7 of Regulation 6/2004 is reproduced here:

Interest on Security Deposit payable by the Licensee:

1. The licensee shall pay interest on security deposit of a consumer, at the Bank Rate notified by Reserve Bank of India provided that the Commission may specify a higher rate of interest from time to time by notification in Official Gazette.
2. The interest accruing to the credit of the consumer shall be adjusted annually against the amounts outstanding from the consumer to the Licensee as on 1st May of every year and the amounts becoming due from the consumer to the Licensee immediately thereafter.
3. The Licensee shall duly show the amounts becoming due to the consumer towards interest on the security deposit in the bills raised on the consumer.
4. The License shall pay interest at twice the rate specified under sub clause (1) above for the delay in making the adjustments for interest on security deposit.

12. Based on Clause 7 of Regulation 6 of 2004 and also varying rates of RBI, the DISCOM has calculated the interest as follows:

SC.No.	DP Date	DP Amount	Start Date	End Date	I Rate	Days	Interest Amount
MBN 725	01.04.16	42685292	01.4.16	04.04.16	7.75	4	36253
MBN 726	01.04.16	42685292	05.04.16	03.10.16	7	182	1489892
MBN 727	01.04.16	42685292	04.10.16	31.03.17	6.75	179	1413000
MBN 728	17.11.16	1921315	17.11.16	31.03.17	6.75	135	47967
MBN 729	28.12.16	2000000	28.12.16	31.03.17	6.75	94	34767
MBN 730	21.01.17	2000000	21.01.17	31.03.17	6.75	70	25890
							3047770
Less; TDS 10%							304777
Adjusted in CC bill							2742993

13. At this stage it is pertinent to note about the Tariff Order FY 2016-17 Clause 5.70 at Page 160 which mentions that:

“As per the provisions of the Regulation 6 of 2004, the Licensee shall pay interest on security deposit of a consumer at the bank rate notified by the RBI. Accordingly, TSSPDCL has considered an interest rate of 7.75% P.A. as per the recent notification of RBI. However TSNPDCL has considered an interest rate of 9% P.A.”

On this aspect the TSERC has approved the interest rate @ 7.75% P.A in Clause 5.71 in the following words:

“Pursuant to the regulations notified by the erstwhile APERC: adopted by TSERC, the Commission has approved an interest rate for Consumer Security Deposit @ 7.75% P.A. as notified by the Reserve Bank of India. The interest is calculated on the opening balance of security deposit in the beginning of the year and additional deposit anticipated on the sales during the year, the commission has considered the opening balance of security deposit as per the audited annual accounts of the licensees.”

14. From the aforementioned Clauses of Tariff Order FY 2016-17 it is clear that the TSERC has considered and approved the rate of interest to be paid on consumer

Security Deposit @ 7.75% P.A.. If the DISCOM feels that the current rate of interest approved by the RBI would come to 6.75% P.A., it is incumbent on them to get the rate approved by the TSERC as they did in the Tariff Order for 2016-17.

15. In view of the clear mandate of the TSERC, the rate of interest payable based on Clause 7(1) of Regulation 6 of 2004 the interest has to be paid on Security Deposit @ 7.5% P.A. The finding of the CGRF that the interest on Security deposit calculated as per the interest rates communicated by RBI which is on order, is too vague without giving any guidance and without any mention about the binding nature of Rate of Interest approved by the TSERC in the Tariff Order FY 2016-17 and thus the impugned order cannot be sustained on any ground. The issues are answered accordingly.

16. The Appeal is allowed with the following directions:

1. The Appellant is entitled to and the DISCOM is liable to pay interest @ 7.75% P.A on the Security Deposit for the year 2016-17 as per Clause 5.71 of the Tariff Order FY 2016-17 until the rate of interest is varied by the TSERC.
2. The DISCOM is not entitled to, on its own, to pay interest on Security Deposit at varying rates at 7% P.A from 5.4.2016 to 3.10.2016, @ 6.75% from 4.10.2016 to 31.3.2017, @ 6.75% P.A. from 17.11.2016 to 31.3.2017, @6.75% from 28.12.2016 to 31.3.2017, @ 6.75% P.A. from 21.1.2017 to 31.3.2017 without approval from the TSERC.
3. The impugned orders, in view of the aforementioned reasons, cannot be sustained and they are set aside.

17. The licensee shall comply with and implement this order within 15 days for the date of receipt of this order under clause 3.38 of the Regulation 3 of 2015 of TSERC.

TYPED BY Clerk Computer Operator, Corrected, Signed and Pronounced by me on this the 18th day of November, 2017.

Sd/-

Vidyut Ombudsman

1. M/s. Sri Navdurga Billets (P) Ltd., # 21-1-820, Patel Market,
Hyderabad - 500 002. Cell 9440944114.
2. The SAO/OP/Mahaboobnagar/TSSPDCL/Mahaboobnagar Dist.
3. The DE/OP/Mahaboobnagar/TSSPDCL/Mahaboobnagar Dist.
4. The SE/OP/Mahaboobnagar Circle/TSSPDCL/Mahaboobnagar.

Copy to :

5. The Chairperson, Consumer Grievance Redressal Forum - 1, TSSPDCL,
Vengal Rao Nagar, Erragadda, Hyderabad - 500 045.
6. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapool,Hyd.