Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No.55 of 2017
M.A No. 19 of 2017 in Case No. 55 of 2017

Date: 3 October, 2017

CORAM: Shri. Azeez M. Khan, Member
Shri. Deepak Lad, Member

In the matter of
Petition of M/s. Balbir Alloys Pvt. Ltd for non-compliance by MSEDCL of the Commission's Order in Case No. 95 of 2013 and M.A. 187 of 2014 dated 26.06.2015 regarding refund of excess amount collected due to premature billing.

M/s. Balbir Alloys Pvt.Ltd. ..…Petitioner

V/s

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) ..… Respondent

Appearance:

For the Petitioner: …Shri.Vijay Aggarwal (Adv.)

For the Respondent: …Shri.Ashish Singh (Adv.)

Daily Order

1. The parties were informed that the Commission has resolved that the matter will be heard and decided by a two Member Bench.

2. Heard the Advocate of the Petitioner and the Respondent.

3. Advocate of the Petitioner stated as follows:

    a) He re-iterated the submissions as stated in the Petition. He stated that the Commission in its Daily Order dated 4 July, 2017 in Case No. 55 of 2017 had asked MSEDCL about treating the Petitioner and other similar consumers differently in refund of AEC since the refund of

AEC was applicable to all consumers. As MSEDCL has not refunded AEC levied on the Petitioner in August, 2013, the Petitioner has filed this Case. One of the grounds is the discrimination against the Petitioner.

b) As committed by MSEDCL during the previous hearing on 4 July, 2017 and also as directed by the Commission in its Daily Order in Case No. 55 of 2017, MSEDCL, in-spite of submitting its Reply, has issued a notice dated 14 August, 2017 to the Petitioner for payment of differential amount of Rs. 31, 86, 504/- within 15 days. MSEDCL has issued this notice after passing of the Order by the Commission in Case No.78 of 2016 of M/s. Paul Strips and Tubes Pvt. Ltd, and has informed that, if MSEDCL has recovered AEC in six installments on electricity consumption of August, 2013 to January, 2014, then it needs to refund AEC levied on August, 2013 consumption and recover the AEC levied for February, 2014 consumption.

c) Vide its letter dated 29 August, 2017, the Petitioner immediately replied to this notice requesting MSEDCL that, since the matter is sub-judice before the Commission, no coercive action may be taken.

d) Thereafter, MSEDCL issued an energy bill dated 1 September, 2017 for the consumption of August, 2017 which shows principal arrears as Rs. 32, 26, 327.48/-. After enquiry about this bill with MSEDCL, it was informed that MSEDCL received the Petitioner's reply after processing of the bill. It was also informed that Superintending Engineer has sought opinion from Chief Engineer (Commercial) of its Corporate Office.

e) Vide its letter dated 14 September, 2017 , the Petitioner made MSEDCL aware of its earlier letter dated 29 August, 2017 and denied the liability of payment of AEC levied for February, 2014 and requested that no coercive action be taken.

f) In Case No. 78 of 2016, MSEDCL had submitted that the levy of AEC had been restricted to 5 months only, i.e. from August to December, 2013, on account of subsidy received from the Government of Maharashtra vide GR dated 29 January, 2014. MSEDCL had requested the Government to clarify that this subsidy is limited to the sixth installment of AEC, and the consumers who have paid the sixth installment will would accordingly get a refund for it.

g) The act of MSEDCL recovering AEC for February, 2014 from the Petitioner is against its Circular No.218 dated 18 February, 2014. MSEDCL through this Circular revised the rates payable per unit in

view of the Government Subsidy and accordingly issued bills to the Petitioner for January and February, 2014 as per the subsidized rate, which was 633 paise per unit instead of 783 paise per unit.

h) Para.14 of the Commission's Order in Case No. 78 of 2016 should not come in the way of relief to the Petitioner, and the Commission should instruct MSEDCL not to take any coercive action against the Petitioner till the final disposal of this matter.

4. Advocate of MSEDCL stated as follows:

a) MSEDCL has not received the copy of the M.A. However, as per the arguments of the Advocate of the Petitioner, it is observed that the M.A. is contrary to the Petition.

b) Since the six month period of refund is as per the Commission's Order in Case No. 95 of 2013 and M.A. 187 of 2014, the recovery of AEC for February, 2014 is applicable.

c) Circulars cannot hold good if they are not in consonance with the Orders of the Commission.

d) Following the Order of the Commission in Case No. 78 of 2016, MSEDCL has raised the differential amount. The Petitioner is aggrieved as he has been asked to pay AEC levied for February, 2014, but nowhere in the prayers of the Petitioner is there an averment regarding the AEC levied for February, 2014.

e) Petitioner has accepted that the issue in this Case is identical to that of Case No. 78 of 2016.

5. To a query of the Commission, the Advocate of MSEDCL confirmed that it has not received any Government Subsidy for the month of February, 2014. However, the Advocate of the Petitioner stated that MSEDCL has in fact received the same. He stated that MSEDCL has shown discrimination in refunding AEC levied for August, 2013, which is also the observation of the Commission in its Daily Order in Case No. 55 of 2017.The Order in Case No. 78 of 2016 is a generic Order and the Petitioner was not even a party to that Case. He further stated that Petitioner had never stated that the issue in this Case is identical to that of Case No. 78 of 2016.

6. To a query of the Commission, the Advocate of MSEDCL replied that MSEDCL is in process of calculations of differential amount. The number of cases being large, the Corporate Office is in the process of modifying the IT billing system. MSEDCL further informed that the Petitioner is not the only consumer who has been asked to pay the differential amount.

7. Advocate of the Petitioner requested that MSEDCL be directed to submit the treatment given by it to all 1198 consumers who were levied AEC for August, 2013. He further requested that, if it approaches CGRF, its grievance should not be rejected because of time limitation.

8. The Commission directed MSEDCL to submit the following within 2 weeks with a copy to the Petitioner:

    a. What is the exact position of the Government Subsidy with regard to GR dated 29 January, 2014?

    b. Details of compliance of the Order in Case No. 78 of 2016.

9. The Commission also asked the Petitioner as to how he is carving out only one particular month on stand alone basis from a total period of 6 months i.e. from September 2013 to February 2014, for which the Commission has given the dispensation.

The Case is reserved for Order.

Sd/-
(Deepak Lad)
Member

Sd/-
(Azeez M. Khan)
Member