



Madhya Pradesh Electricity Regulatory Commission

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Dated: 22nd August, 2007

SUBJECT : IN THE MATTER OF APPEAL AGAINST THE ORDER DATED 02.05.2001 OF DY. CHIEF ELECTRICAL INSPECTOR, INDORE ANNULING THE SUPPLEMENTARY BILL OF RS. 3,76,470/- GIVEN TO THE RESPONDENT BY THE APPELLANT AS A RESULT OF INSPECTION OF THE RESPONDENT'S PREMISES.

M. P. Paschim Kshetra Vidyut Vitaran Co. Ltd., - Petitioner
Indore

V/s
M/s Sai Steel Fabrication Ltd., - Respondent
75, Sector-D, Sawyer Road, Indore

ORDER

Petition No. 32/2007

(Passed on this day 22nd August, 2007)

Shri S. N. Rao, IAS (Retd.), Advocate, Shri S. K. Rukmangad, Addl. S.E., City Division, North, and Shri Himanshu Dube, Addl. E.E., City Division, North, Indore appear for the Petitioner.

Shri Sanjay Jaiswal and Shri D. P. Jaiswal, Proprietors appear for the respondent.

2. The petitioner M.P. Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore has filed this petition on 20.06.2007 in the matter of appeal against order dated 02.05.2001 of Dy. Chief Electrical Inspector, Indore.

3. The facts of the case are in brief as under:

It has been submitted by the petitioner that the impugned order dated 02.05.2001 of the Dy. Chief Electrical Inspector is that the respondent, M/s Sai Steel Fabrication Ltd. Indore had an industrial supply connection of 40 HP load provided by the appellant and that an inspection was conducted on 13.10.97 by Executive Engineer (Vigilance) in the presence of the respondent and the Inspection Report was drawn on the spot. This report indicated that the C.T. Ratio used for billing was 100/5 whereas the actual C.T. Ratio as per the C.T. attached to the meter was 150/5 and, therefore, an erroneous multiplying factor of 10 was being used to evaluate the consumption of units recorded by the meter and the correct multiplying factor should have been 15. The signature of the consumer was taken on the said inspection report and the City Division (North), Indore gave a supplementary bill for recovering the balance energy charges which were being recovered in less amount on account of erroneous multiplying factor of 10 instead of 15. As a result, this supplementary bill of Rs. 2,97,247.00 was raised in July, 1998.

4. The respondent had filed a writ petition before the Hon'ble High Court of MP which gave the direction that the Chief Electrical Inspector shall enquire into the matter and the parties were directed to present their case before him and accordingly the Dy. Chief Electrical Inspector at Indore examined the meter and the C.T. and gave the finding that the C.T. ratio as per the equipments presented to him and got tested in the laboratory had the ratio of 100/5 and not 150/5 and accordingly he quashed the disputed bill and directed the revision of the bill taking the multiplying factor as 10 as the basis.

5. It is further submitted by the petitioner that the applicant aggrieved by the order of the Dy. Chief Electrical Inspector had filed the appeal against this order dated 02.05.2001 to the Secretary, Govt. of M.P., Energy Department stating that the Dy. Chief Electrical Inspector did not peruse the inspection report which had the signature of the consumer and which clearly showed that the C.T. of the meter had the ratio of 150/5. Since, the M.P. Vidyut Sudhar Adhiniyam, 2000 had been enacted by that time, the GoMP returned it vide letter dated 22.09.2001 with the direction to file the appeal to the MPERC as the MPERC was the competent authority as per the Adhiniyam.

6. On the date of first hearing, the petitioner had sought adjournment till 21.08.2007. The Commission had directed the petitioner to spell out the reasons for delay in filing the appeal and also about the action taken against the officer responsible for the delay. The Commission had also directed the petitioner to spell out the logic for approaching the Commission instead of the Hon'ble High Court for fulfillment of its stated objective. On the query by the Commission, the representative of the petitioners had stated that the CT of the old meter is not available at this time for testing by the Dy. Chief Electrical Inspector.

7. The case is listed for motion hearing on 22.08.2007. The required information has been submitted by the petitioner alongwith other documents. During the course of hearing, the petitioner's advocate Shri S. N. Rao has submitted that the existing C.T. found on 13.11.2000 was of the capacity 100/5 Amp. Memi Make, which was not the same C.T. of the capacity 150/5 Amp., found during the inspection carried out by E.E. (Vigilance), Indore on 13.10.1997 and the meter replacement done by J.E. West City Division, Indore on 05.03.1998. It seems that the then concerned A.E./J.E. of Commercial Section of West Discom, City Division, Indore might have replaced the C.T. without bringing it on record. For above irregularity the then A.E. and the then J.E were issued show cause notices. It is also submitted by the petitioner's advocate that petitioner has filed an appeal on 03.09.2001 to the Secretary, Department of Energy, Bhopal but the same was returned from the Energy Department vide letter dated 22.09.2001 with a note to file the appeal before Hon'ble MPERC, Bhopal under the clause 40 of M.P. Vidyut Sudhar Adhiniyam, 2000. On the query made by the Commission, Shri Rao stated that the petitioner has not approached the Hon'ble High Court again, because the earlier case had been disposed off by the Hon'ble High Court.

8. Explaining the causes of filing the appeal belatedly, Shri Rao has submitted that the Executive Engineer (North), City Division has sought the legal opinion and certain clarifications from the C.E. and Sr. Law officer,

Jabalpur for filing the appeal before the Commission but no action was taken from 22.04.2002 till 10.12.2004. Infact that clarification was not given. It is also submitted by the petitioner that in the meanwhile, there was redistribution of the work and all papers in this case and other files were sent to the concerned zonal officers where they remained unattended to and were misplaced. This was the reason for delay in submitting the petition. Action had been initiated against the officials responsible for the same. Shri S. N. Rao, Advocate has concluded by saying that after 05.03.1998 and before 13.11.2000 neither meter nor CT's were checked and replaced by the concerned officers. The lead seals provided on dated 05.03.1998 were found tampered during testing in LTMT Lab, Indore on dated 15.11.2000. Hence, replacement of all three CT's by consumer himself cannot be ruled out. Therefore, this petition may kindly be admitted for hearing.

9 Considering the facts and circumstances of both the parties, the Commission is of the opinion that there is abnormal delay of about 6 years after returning of appeal by the State Government on 22.09.2001 in filing the appeal. Given reasons for delay as mentioned in aforesaid para 4 in filing the appeal are neither fully explanatory nor are they quite acceptable. Moreover, the representative of the petitioner during the course of hearing on 24.07.2007 has admitted that CT of the old meter is not available at this time for testing by Dy. Chief Electrical Inspector. Further, the Commission does not think it proper to consider the case on merits as according to the provisions of section 56(2) of the Electricity Act, 2003, no sum due from any consumer shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied. The Commission does not feel appropriate to admit this petition for consideration on merits and decides to close this case owing to lack of justified grounds for admissibility.

Ordered accordingly.

Sd/-
(R.Natarajan)
Member (Econ.)

Sd/-
(D.Roybardhan)
Member (Engg.)

Sd/-
(Dr. J.L.Bose)
Chairman