

Sub : In the matter of non-compliance of the Tariff order 09-10 with regard to general terms and conditions of low tension tariff under the other terms and conditions clause 5(I) in case of any dispute on applicability of tariff on a particular LT category, the decision of the Commission shall be final and binding.

Order

Date of hearing 23.03.2010

Date of Order 19.5.2010

Shri Ajay Porwal consultant Govindpura Industrial Association, Bhopal appeared on behalf of the petitioner in the motion hearing held on the subject matter.

2. It is observed from the petition that the cases under subject matter are related to vigilance checking by the Assessment Officers of the Distribution Licensee and these cases are booked under Section 126 of the Electricity Act, 2003.

3. The petitioner pleaded that the billing by the licensee in the instant case is violation of the provisions of the Tariff Order for 2009-10. The petitioner further stated that they have not exceeded the contract demand, although their connected load found was in excess of sanctioned load. The Commission observed that the tariff schedule LV-4 at Clause-(e) under Terms and Conditions, provide for billing of additional charge in case the maximum demand exceeds the contract demand. It does not provide for billing of penal charges for excess connected load. In the instant case, the maximum demand has not exceeded the contract demand and therefore, there is no question of levy of additional charge as per the tariff schedule. The licensee has not billed the additional charge provided as per the condition under Tariff Schedule LV-4 but has assessed the charges under Section 126 for unauthorized use of electricity for connected load in excess of the sanctioned load. Therefore, there is no violation of provisions of the Tariff Order.

4. As regards, billing under section 126 by the Licensee, the Electricity Act, 2003 has following provisions:

“Appeal to Appellate Authority.

127. (1) Any person aggrieved by a final order made under section 126 may, within thirty days of the said order, prefer an appeal in such form, verified in such manner and be accompanied by such fee as may be specified by the State Commission, to an appellate authority as may be prescribed..... (3) The appellate authority referred to in sub-section (1) shall dispose of the

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appeal after hearing the parties and pass appropriate order and send copy of the order to the assessing officer and the appellant. (4) The order of the appellate authority referred to in sub-section (1) passed under sub-section (3) shall be final.”

“Civil court not to have jurisdiction

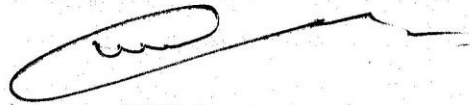
145. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an assessing officer referred to in section 126 or an appellate authority referred to in section 127 or the adjudicating officer appointed under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.”

5. In view of the foregoing provisions of the Electricity Act, 2003, the Commission is of the opinion that the Commission is not the appropriate forum in the subject matter. The Commission therefore decides to dismiss the petition. The petitioner is, however at liberty to take up the matter with the appropriate forum.

Ordered accordingly.


(C. S Sharma)

Member (Economics)



(K.K.Garg)

Member (Engineering)