

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Khatema Fibres Limited
UPSIDC Industrial Area,
Khatema, Distt. Udham Singh Nagar,
Uttarakhand

Vs

Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
Khatema, Distt. Udham Singh Nagar, Uttarakhand

Representation No. 08/2018

Order

Date: - 07.06.2018

The petitioner, M/s Khatema Fibres Ltd. have filed this representation no. 08/2018 against the order dated 20.02.2018 of the Consumer Grievance Redressal Forum, Rudrapur zone (hereinafter referred to as Forum) in complaint no. 78/2017-18. Petitioner is aggrieved by the imposition of LPS of Rs. 2,77,508.00 against the bill for the month of November 2017 for which the due date was 19.12.2017. Petitioner deposited cheque of SBI for the said amount. Petitioner has also explained that his account had balance of Rs. 5,15,87,246.00 as per statement taken from the bank. However, since the threshold limit for a cheque was Rs. 50,00,000.00, when the bill was received for clearing on 22.12.2018 petitioner was informed by the bank about this inadequacy. Petitioner immediately taking cognizance of this information sent a cheque no. 001509 of his HDFC bank account for the amount of Rs. 2,22,00,636.00. However, since respondent had not received any intimation from the bank till then, they refused to accept the second cheque. From 23.12.2017 to 25.12.2017 banks observed closed holiday and on 26.12.2017 immediately after opening of banking hours, petitioner deposited the bill amount through RTGS directly in the respondent's account. Petitioner case is that since his account had sufficient balance he submitted payment in a bonafide way before due date and when he learnt of the technical problem regarding threshold limit of cheque amount, he immediately took steps to

reach the bill amount to the respondent. The money was deposited in the respondent's account at the first available opportunity. In this situation he finds the imposition of LPS of Rs. 2,77,508.00 unwarranted, since respondent has presumed while issuing the bill for December 2017 that his cheque has been dishonored whereas the due amount has been paid via RTGS on 26.12.2017 into respondent's bank account.

2. Forum in their order have accepted the argument advanced by the respondent that since the bill amount was deposited on 26.12.2017 and the due date was 19.12.2017 which are both accepted facts, the levy of LPS is as per rules and no relief is admissible to the petitioner.
3. Respondent in their written statement have explained that the cheque of the petitioner dated 19.12.2017 drawn on State Bank of India was returned with the objection "cheque payment not allowed beyond cheque threshold amount." As such the objection of the Bank had nothing to do with sufficiency of balance in the petitioner's account. They have further explained that when petitioner attempted to submit a second cheque on 22.12.2017 with a back date of 19.12.2017, respondent had no intimation about objection in the clearance of the first cheque and they were not duty bound to accept a back dated cheque. Further, petitioner deposited the bill via RTGS on 26.12.2017 while the last date of deposit of bill was 19.12.2017. It is on this account that LPS has been charged and the same is payable.
4. Both parties have been heard and record available has been perused. It is seen from the bill for the month of November 2017, that it carries bill date of 01.12.2017 and the due date for the said bill has been shown as 04.12.2017. Further, amount payable without LPS is due on or before 19.12.2017.

Provisions of UERC (The Electricity Supply Code) Regulations, 2007 lay down as below:

"3.3.1 (3) Delivery of each bill to the consumer shall be effected at least 15 days before the due date for payment of the bill."

The bill as per regulation 3.3.2 shall include amongst other particulars also

25) Due Date including last date before which the bill has to be paid.

Provisions of Tariff 2017-18 (applicable in the instant case) lay down the grace period admissible before levy of Late Payment Surcharge:

Annexure 1: Rate Schedule effective from 01.04.2017 A. General Conditions of Supply

7. Delayed Payment Surcharge (DPS) (for all categories except PTW)

In the event of electricity bill rendered by licensee, not being paid in full within 15 days' grace period after due date, a surcharge of 1.25% on the principal amount of the bill which has not been paid, shall be levied from the original due date for each successive month or part thereof until the payment is made in full without prejudice to the right of the licensee to disconnect the supply in accordance with Section 56 of the Electricity Act, 2003. The Licensee shall clearly indicate in the bill itself the total amount, including DPS, payable for different dates after the due date, after allowing for the grace period of 15 days, taking month as the unit...

5. With the above provisions taken together it is clear that a bill with a bill date of 01.12.2017 (presuming that is the date on which bill is delivered to the consumer) can have a due date for payment of the bill not earlier than 16.12.2017. Grace period of 15 days is admissible after due date before levy of LPS, which means 31.12.2017. With these provisions in mind respondent were asked during the hearing to explain if certain other provisions of Regulations/tariff were available to the respondent which may have been incorporated later and to give the same in writing. Respondent through their letter dated 30.05.2018 have filed a copy of UERC (The Electricity Supply Code) Regulations, 2007 which suggest admissibility of the same time frame as quoted above.
6. It is clear, therefore, that provisions of the regulations and the tariff are in the knowledge of the respondent but bills have been issued and due date has been indicated which is inconsistent with provisions of Regulations/tariff. In the instant case the petitioner deposited his bill amount via RTGS on 26.12.2017 where as the due date (inclusive of grace period) as per Regulations/Tariff cannot be before 31.12.2017. No LPS is therefore payable by petitioner. Forum order is set aside. Petition is allowed

7. Since 3 bills available on file have all followed the same practice, it appears that this practice may be a generalized practice not limited to the petitioner's case. If so, senior management of respondent are advised to ascertain the situation on the ground and ensure that billing practice is consistent with provisions of Supply Code Regulations and Tariff.

Dated: 07.06.2018

(Vibha Puri Das)
Ombudsman