

No.: N/56/2013

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**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,  
BANGALORE**

**Dated : 18<sup>th</sup> July, 2014**

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| 1. Sri M.R. Sreenivasa Murthy | Chairman |
| 2. Sri H.D. Arun Kumar        | Member   |
| 3. Sri D.B. Manival Raju      | Member   |

**Complaint No.7/2013**

**BETWEEN :**

Karanja Industries Pvt.Ltd.  
Akkamahadevi Colony  
BIDAR

Bidar District

*[Represented by M/s. Raghavendra Prasad & Co., Advocates]*

.. **COMPLAINANT**

**AND:**

The Assistant Executive Engineer  
O & M Division  
Gulbarga Electricity Supply Company Limited  
HUMNABAD

Bidar District

*[Represented by Shri Ravindra Reddy. Advocate]*

.. **RESPONDENT**

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1) This is a complaint filed under Section 142 of the Electricity Act, 2003, alleging non-compliance of the Order of the learned Ombudsman dated 26.9.2012 by the Respondent, which has resulted in the contravention of Regulation 22.8 of the KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004.

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2) The material facts leading to the filing of the above complaint may be stated as follows :

- (a) The Complainant has been a consumer under the Respondent. It has two installations, one bearing R.R.No.HKHT-4, with contract demand of 750-kVA, Voltage Class 33 kV, and another R.R.No.HKHT-5, with contract demand of 990 kVA, Voltage Class 33 kV.
- (b) The Complainant noticed in the year 2009-10 that there were excess claims made in the past by the Respondent in respect of consumption of electricity through the above-mentioned two electricity connections. The Complainant put forth its grievance before the Consumer Grievance Redressal Forum (CGRF), Gulbarga.
- (c) By Order dated 3.6.2011, the CGRF, Gulbarga, held that the Respondent shall extend, for the period from 1999 to 2011, the rebate of Rs.3,42,467/- in respect of R.R.No.HKHT-4, and for the period from 2002 to 2010, the rebate of Rs.39,718/- in respect of R.R.No.HKHT-5, and further held that these rebates shall not carry any interest and the said credits shall be adjusted in the bill for the month of May, 2011.
- (d) So far as the disallowing of the interest is concerned, the Complainant went before the Electricity Ombudsman, Bangalore. After hearing the

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parties, the learned Electricity Ombudsman, by Order dated 26.9.2012, directed that the Respondent shall pay interest on the excess claims made by it, for the periods in question, at the rate specified in the KERC Regulations.

- (e) The relevant portion of Regulation No.29.08(a) of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, 2006, specifies the rate of interest at which the excess claims made in the past by the Distribution Licensee shall be settled with the Consumers. The said portion of the Regulation reads as follows :

*"In case the verification of the Consumer's account shows excess claims made in the past, the excess amount shall be credited to the Consumer's account along with interest at Bank Rate from the date of payment up to the date of credit. This shall be done within one month from the date of pointing out the excess claims. If for any reason there is delay in crediting the amount to the Consumer's account, interest at 2% per month shall be paid to the Consumer for the period beyond two months."*

- (f) The Complainant has filed this Complaint before this Commission on 27.5.2013. The Respondent, in its written statement, has contended that it has calculated the excess claim amounts with interest at the Bank rate of 6% per annum from the date of the CGRF's Order, and

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has adjusted the amount payable to the Complainant in the energy bill of March, 2013.

(g) The Complainant has disputed the duration and rate of interest considered by the Respondent while making the payment.

3) We have heard the learned counsel for the parties at length and perused the records.

4) The main dispute between the parties is in respect of the duration for which, and the rate at which, the interest on the excess claims is to be charged. There is also no consensus between the parties regarding the date of pointing out of the excess claims.

5) The Complainant has relied upon the letters dated 19.3.2010, 27.4.2010 and 27.8.2010 addressed to the Respondent, and also the Courier Receipts for despatch of letters, pointing out the excess claims made by the Respondent in various energy bills for the previous periods, in order to establish the date of pointing out of the said excess claims. However, it is found that there are no Courier Receipts for having despatched the letters dated 19.3.2010 and 27.4.2010. Therefore, we accept the letter dated 27.8.2010 as the earliest date of pointing out of the excess claims. The

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letter dated 27.8.2010 must have been delivered to the Respondent on or before 31.8.2010. In view of the above facts, we may safely consider 1.9.2010 as the date of pointing out by the Complainant of the excess claims.

6) There is also some confusion between the parties regarding the interpretation of 'interest at bank rate' mentioned in Regulation 29.08(a) of the above-mentioned Conditions of Supply Regulations, 2006. Usually, in the Electrical Sector, the 'bank rate' of interest is considered as the State Bank of India's base lending rate prevailing as on 1<sup>st</sup> April of a Financial Year. The Respondent, in its written statement, has stated that it has taken 6% per annum as the 'bank rate' for the purpose of calculation of interest payable for the entire period. The Respondent should consider the State Bank of India's base lending rate prevailing as on 1<sup>st</sup> April of a Financial Year for the purpose of calculation of interest payable by it.

7) There is also some confusion between the parties as to the rate of interest to be levied on the excess claims, and also for what period such interest is to be levied. The reading of the aforementioned Regulation 29.08(a) leads to the following conclusions :

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- (a) If the excess claim is credited to the Consumer's account by the distribution licensee within one month from the date of 'pointing out of the excess claim', the rate of interest to be paid is 'bank rate';
- (b) The distribution licensee is given a further two months 'grace period' to credit the excess claim along with interest at 'bank rate';
- (c) If the distribution licensee fails to credit the excess claim even within the 'grace period', then the rate of interest to be paid shall be 2% per month.

8) Had the above-stated clarifications been mentioned in the Order dated 26.9.2012 of the learned Electricity Ombudsman, the non-compliance of the said Order would have amounted to contravention of Regulation 22.8 of the KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004, and thereby the Respondent would have been liable for punishment, as stated in Section 142 of the Electricity Act, 2003. Therefore, under the facts and circumstance of this case, we are of the opinion that the Respondent could be granted an opportunity to comply with the Order dated 26.9.2012 of the learned Electricity Ombudsman before proceeding against it under Section 142 of the Electricity Act, 2003.

9) For the foregoing reasons, we pass the following :

### **ORDER**

We hereby direct the Respondent to comply with the Order dated 26.9.2012 of the learned Electricity Ombudsman, keeping in view the above findings and conclusions relating to the interpretation of Regulation 29.08(a) of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, 2006, and to make payment of interest after adjusting the amounts, if any, already paid to the Complainant, within 60 (sixty) days from the date of receipt of this Order. The Respondent shall report the compliance of this Order to the Commission after making such payment.

Office is directed to send a copy of this Order to the learned Electricity Ombudsman.

Sd/-  
(M.R. SREENIVASA MURTHY)  
CHAIRMAN

Sd/-  
(H.D. ARUN KUMAR)  
MEMBER

Sd/-  
(D.B. MANIVAL RAJU)  
MEMBER