

**ODISHA ELECTRICITY REGULATORY COMMISSION  
BIDYUT NIYAMAK BHAWAN,  
UNIT – VIII, BHUBANESWAR – 751 012**

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**Present : Shri S. P. Nanda, Chairperson  
Shri S. P. Swain, Member  
Shri A. K. Das, Member**

**Case No. 53/ 2013**

**M/s Magnum Sea Food Pvt Ltd. ....Petitioner  
Vrs.  
Executive Engineer (Elect.) KED, Khurda .....Respondents**

**In the matter of: An Application under Section 142 of the Electricity Act, 2003 for non-implementation of order dated 19.10.2012 of the GRF, Khurda passed in C. C. Case No. 256/2012 (KED).**

For the Petitioner: Shri A. K. Sahani, authorised Representative.

For the Respondents: Shri J. K. Mishra, Executive Engineer, Khurda Elect. Division, CESU.

**ORDER**

**Date of hearing:-21.10.2014**

**Date of order:30.10.2014**

1. The petitioner M/s. Magnum Sea Food Pvt. Ltd. is having a sea food processing unit at Botanda, Jankia, Dist-Khurda with a connected load of 666 KVA under the category of large industry. After creation of a new category under Regulation 80 (5) (3) for “allied agro industrial activities”, the petitioner segregated the processing unit from cold storage. The total load was 600 KW out of which 107 KW is for processing unit which is within 20% of the total load. Accordingly, the petitioner requested the licensee vide letter dated 18.02.2012 to execute the agreement accordingly. Despite several requests the CESU has raised bills one for cold storage classifying it as allied agro industrial activities and the processing unit as large industry instead of billing the entire consumption as per the tariff applicable for allied agro industries.
2. The Petitioner had moved GRF, Khurda in C. C. Case No. 256/2012 on the above grievances and GRF in its order dated 19.10.2012 had directed CESU authorities to revise the bill as per guideline dated 15.09.2011 of CESU consequent upon amendment to the Regulation 85 of OERC (Conditions of Supply) Code, 2004. The petitioner alleges that CESU has not yet complied the above directives of the forum.
3. During the course of hearing CESU submitted that the directive of COO, CESU on dated 15.09.2011 emphasises on separate billing for freezing and processing unit wherever possible for such consumers. Only in cases where the processing units and freezing units are

not possible to separate common billing under Allied Agro category will be done provided the commercial load remains within 20% of the total load. Hence it has not violated the order of the forum.

4. The authorised representative of the petitioner further submitted that as per letter dated 08.12.2009 of the OERC to the CEO, CESU for separation of metering arrangements for cold storage and process unit, metering of the petitioner's unit was segregated and separate bills were served under AAIC & LT tariff on him but no other such unit was billed in such manner and they have made payment under AAIC tariff even bills were served as LT tariff. Thereafter as per interim order of the Hon'ble High Court of Orissa in case of Sea Food Export Associations, the respondent herein has not disrupted power supply to the units namely M/s. Falcon Marine Exports, M/s. Capital Freezing Complex, M/s. Konark Aquatics & Exports (P) Ltd., M/s. Sunshine Packaging & M/s. Utkal Exports subject to payment of current dues as per old scheme till next date.

A meeting was conducted by CESU authorities with all the Sea Food Exports Associations (SFEA) wherein it was decided that all the SFEA members will be allowed the connected load as per AAIC tariff by CESU subject to the condition that they have to withdraw their cases pending before the Hon'ble High Court of Orissa against CESU. Accordingly, the above named Sea Food Exports Units along with the petitioners herein have withdrawn their cases pending before the Hon'ble Court. As per the understanding at the said meeting CESU has revised the bills of all the above such consumers except the petitioner's unit. Therefore, the petitioner moved to the GRF, Khurda for redressal of his grievances in GRF C.C. Case No.256/2012. The GRF vide its order dated 09.10.2012 directed the respondents to extend the benefit to the petitioner unit as per Letter No. 32675 dated 15.09.2011 of CESU which is as follows:-

*“The category of consumers which have power supply connections mainly for cold storage activities (for meat, fish, prawns, flowers, fruits & vegetables) and the processing and freezing activities could not be separated due to negligible processing load including light, fan, water pump, small electrical appliances may be re-classified as ‘allied Agro Industrial Activities’ as per OERC amended Regulation 80 (5) (iii) w.e.f. 09.11.2009”*

The above has not been implemented by the respondent in case of the petitioner for which the petitioner's unit is deprived of natural justice.

5. Heard the parties at length. It is to note that subsequent to the amendment of Regulation 80(5) of OERC Supply Code introducing new definition to Agro-industrial category dated 26.10.2009, OERC had issued a clarification on 08.12.2009 stating that *it is possible to*

*separate power supply connection / separate metering arrangement for cold storage / chilling / milk chilling activities if the consumer desires so to avail the benefit under the Allied Agro industrial activities. Otherwise, the total energy drawn shall be included in the relevant category of industries as per the Supply Code.* Accordingly, the petitioner had also made a separate sub-metering on 19.03.2010 to know the consumption of other ancillary activities.

6. OERC had also directed in para 258 of Retail Supply Tariff order for 2012-13 *that food processing unit attached to with cold storage shall be charged at agro industrial tariff if cold storage load is not less than 80% of the entire connected load. If the load of the food processing unit other than cold storage unit exceeds 20% of the connected load, then the entire consumption by the cold storage and the processing unit taken together shall be charged with the tariff as applicable for general purpose or the industrial purpose as the case may be.*
7. The above direction in Para 258 in Retail Supply Tariff Order for FY 2012-13 was issued because some industries expressed difficulties in implementing the earlier direction of OERC for separate power connection / separate metering arrangement for cold storage and processing activities. However, this should not in any way debar the benefit to a consumer who has already separated power supply connection and metering arrangement for processing activities. This consumer who has complied the earlier direction, therefore, should get the benefit of Allied Agro-Industrial Activities tariff.
8. Therefore, there appears to be no difficulty in implementing orders of the GRF in line with various guidelines and Regulation in force and treating the case of petitioner similar to others mentioned above without any discrimination.
9. The respondent is therefore, directed to implement the orders of the GRF within 3 weeks failing which penalty of Rs. 2, 000/- (Rupees Two thousand) only may be recovered from the officer responsible in addition to Rs. 1000/- (Rupees One thousand ) only for each day of delay beyond 21 days till the order is complied.
10. Accordingly, the case is disposed of.

Sd/-  
**(A. K. Das)**  
Member

Sd/-  
**(S. P. Swain)**  
Member

Sd/-  
**(S. P. Nanda)**  
Chairperson