

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNOKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751 021**

**Present: Shri U. N. Behera, Chairperson
 Shri S. K. Parhi, Member**

Case No. 69/2017

M/s Pragati Mill Products Ltd. Jagatpur, Cuttack	Petitioner
Vrs.		
EE, CDD-2, CESU	Respondents

In the matter of: An application under Section 142 of the Electricity Act, 2003 for non-implementation of Order dated 31.08.2017 of the Ombudsman-I, passed in Case No. 92 of 2017.

For Petitioner: Shri A K Sahani, the authorized representative.

For Respondent: Shri Satyabrata Mohanty Manager (Electrical) CDD-II, CESU.

ORDER

Date of hearing: 18.09.2018

Date of order: 23.10.2018

The Petitioner M/s. Pragati Mill Products Ltd. Jagatpur, Cuttack, having a dairy unit with contract demand of 950 KVA has approached the Commission under section 142 of the Electricity Act, 2003 for non-implementation of order dated 31.8.2017 of Ombudsman-I in CR Case No. 92/2017. The petitioner submitted that it had executed an agreement on 25.10.2008 with respondent CESU to avail supply for 'milk processing purpose'. As per agreement the petitioner was categorized under Agro Industrial Tariff category and was being billed under the same category till February, 2009. However, CESU raised bill under Medium Industry tariff category from March, 2009 to July, 2009 and under Large Industrial category from August, 2009 till date.

2. The petitioner approached GRF, Cuttack for a direction to CESU for billing as per the agreed category up to 18.10.2009 and under Allied Agro Industrial category with effect from 19.10.2009. The prayer of the petitioner was turned down by the GRF, Cuttack vide its order dated 30.05.2017 in Case No 656 of 2017. The petitioner being aggrieved appealed before Ombudsman-I against order of GRF, Cuttack which was registered as C.R. Case No.92/2017. After hearing both the

parties, Ombudsman-I in its judgment on 31.8.2017 directed CESU to recognize the Petitioner under an Allied Agro Industrial Activities tariff category w.e.f. 19.10.2009 and execute a fresh agreement accordingly. Further, CESU was directed to revise the bill of the petitioner under the category of Allied Agro Industrial activity with effect from 19.10.2009 within 30 days and adjust the excess amount if any in the further energy bill as per Regulation, which has not yet carried out by CESU.

3. In the course of hearing respondent CESU submitted that it has already challenged the order of Ombudsman-I dated 31.8.2017 in C.R. Case No. 92 of 2017 before the Hon'ble High Court of Odisha, Cuttack along with an application for stay of the order. After hearing both the parties, Hon'ble High Court has put a stay vide its order dated 08.11.2017 on the order of the Ombudsman-I dated 31.8.2017 in C. R. Case No. 92/2017. Accordingly, CESU prayed before the Commission to drop the case till outcome of the final verdict from Hon'ble High Court of Odisha.
4. After hearing both the parties and perusal of the case records, it is observed that the dispute between both the parties lies on categorization of consumer. Since the matter is sub-judice before the Hon'ble High Court in W.P. (C) No. 21448 of 2017 and the Hon'ble Court has stayed the impugned order dated 31.08.2017 of the Ombudsman-I passed in C.R. Case No. 92 of 2017, there is no need to proceed further in this case. The outcome of the above writ petition shall be applicable to the parties herein.
5. With the above observation, the case is disposed of.

Sd/-
(S. K.Parhi)
Member

Sd/-
(U. N. Behera)
Chairperson