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

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

Case No. 23/2018

M/s. Abdyut Udyog …… Petitioner
Vrs.
The E.E (Elect.), UED, NESCO Utility …..... Respondent

In the matter of: **An application under Section 142 of the Electricity Act, 2003 for non-implementation of order dated 05.08.2017 passed in C.R. Case No. Om(II)N-25 of 2017 of the Ombudsman-II.**

For Petitioner: Shri F. R. Mohapatra, authorized representative.

For Respondent: Shri Chitta Ranjan Mohapatra, Asst. Manager (Fin.), UED, NESCO Utility.

ORDER

Date of hearing: 17.07.2018 **Date of order:04.01.2019**

The present petition has been filed by M/s. Abdyut Udyog, At-Raipada, Mahuladhia, Dist.-Mayurbhanj under Section 142 of the Electricity Act, 2003 for non-implementation of order dated 05.08.2017 passed in C.R. Case No. Om(II)N-25 of 2017 of the Ombudsman-II.

2. The representative of the petitioner submitted that the petitioner is a consumer of NESCO Utility under UED, Udala having contract demand of 74 KW since long. The Commission vide their tariff orders for the FY 2005-06 has clarified that the MMFC for the consumers having contract demand of less than 110 KVA shall be the maximum demand recorded by the static meter instead of the contract demand. But the respondent is billing MMFC on contract demand so far. Therefore, the petitioner had filed C.C. Case No. 09/2017 before the GRF-Balasore for revision of bills against MMFC from the month of initial power supply till date. After hearing the matter the GRF-Balasore had dismissed the petition with an observation that the consumer having 110 KVA is liable to pay MMFC as per Regulation 84 of OERC Distribution (Conditions of Supply) Code, 2004. Being aggrieved by the above order dated 21.04.2017 of the GRF, the petitioner herein has filed C.R. Case No. 25/2017

before the Ombudsman-II. The learned Ombudsman after hearing the parties and going through the case records had observed that a similar case on the issue of MMFC is under consideration of the Hon'ble High Court of Orissa and directed the respondent to revise the bills regarding MMFC as per the judgment of Hon'ble High Court of Orissa which will be passed in W.P.(C). No. 3881/2013 on the issue of MMFC. The authorised representative of the petitioner has also submitted that the present case of the petitioner is not identical to the issues in W.P.(C). No. 3881/2013 as it is belongs to another consumer and based on the tariff orders of the Commission for different years. The respondent has not preferred any appeal against the order of the Ombudsman-II passed in C.R.Case No. 25/2017.

3. The representative of the respondent has stated that the NESCO Utility has filed W.P.(C). No. 3881/2013 before the Hon'ble High Court of Orissa against the order of the Ombudsman-II regarding MMFC. In another W.P.(C). No. 3385/2017 filed by the respondent before the Hon'ble High Court of Orissa against the order of the Ombudsman-II passed in C.R.Case No. 60/2016 regarding same issue of claiming MMFC wherein the Hon'ble Court vide their order dated 17.05.2017 in Misc. Case No. 2911/2017 has stayed the operation of the said order of the Ombudsman-II. The learned Ombudsman-II considering the stay order of the Hon'ble High Court of Orissa in the above writ petition has dismissed C.R. Case No. 25/2017 with an observation that since the issue of the MMFC is under consideration by the Hon'ble High Court of Orissa, this forum concludes to wait till the disposal of the above writ petition by the Hon'ble Court.

4. After hearing the parties and perusal of the records, we observe that petitions in series have been placed before Hon'ble High Court of Orissa on similar issues. Therefore, Ombudsman-II has preferred to wait for outcome of the aforesaid cases by Hon'ble High Court. We do not consider this issue as appropriate for action under section 142. The outcome of the petitions before Hon'ble High Court may be awaited.

5. With the above observation the case is disposed of.

Sd/-	Sd/-	Sd/-
(S. K. Parhi)	**(A. K. Das)**	**(U. N. Behera)**
Member	**Member**	**Chairperson**