

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

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

Case No. 26/2020

M/s. Super Market Complex	Petitioner
Vrs.		
The E.E.(Elect.), BNED,Bhadrak	Respondent

In the matter of: **Application under Section 142 of the Electricity Act, 2003 for non-implementation of Order dated 30.01.2018 of the Ombudsman-II passed in C.R. Case No.71 of 2017.**

For Petitioner: Shri R. K. Behera, the authorised representative.

For Respondent: Shri S. C. Dash, Advocate.

ORDER

Date of hearing: 04.08.2020

Date of order:04.08.2020

The authorized representative of the petitioner submits that M/s. Super Market Complex, Chandabali, Bhadrak has filed the above case under Section 142 of the Electricity Act,2003 for non-implementation of order dated 30.01.2018 of the Ombudsman-II passed in C.R. Case No.71 of 2017. The Ombudsman-II while disposing of C. R. Case No.71 of 2017 has directed the Respondent to revise the bills of the petitioner, withdrawing the transformer loss units with effect from 01.04.2010 and not to add it any further. That order however would be subject to the final decision of the Hon'ble High Court of Orissa in W.P.(C) No.23237 of 2017 and Misc. Case No.19913 of 2017 in which principle with reference to transformer loss was to be decided.

2. The learned counsel for the respondent submits that being aggrieved by order of Ombudsman-II passed in C.R. Case No.71 of 2017 the respondent has preferred writ before the Hon'ble High Court of Orissa in W.P.(C) No.6580/2018 along with Misc. Case No.5594/2018 for stay of operation of the above impugned order of the Ombudsman-II. In the above writ petition notice has already been issued to the petitioner herein but due to the prevalence of pandemic COVID-19, the matter could not be taken up for hearing. Therefore, he prays the Commission to dispose of the matter as the outcome of the order of the Hon'ble High Court in the above mentioned writ petition will be applicable to both the Petitioner and Respondent herein.

3. The authorized representative of the petitioner submits that the petitioner agrees to pay the current dues for consumption of power provided power supply is not disconnected. He also prays the Commission to direct the respondent not to disconnect the power supply basing on the disputed amount as the said issue is pending before the Hon'ble High Court in W.P. (C) No.23237 of 2017 and Misc. Case No. 19913 of 2017 wherein the Hon'ble Court vide their interim order dated 10.11.2017 has directed as follows:-

“x x x The impugned order i.e. the disconnection notice dated 17.08.2017 shall not be given effect to, in the event the petitioner goes on paying the current electricity charges except charges for transformer loss units till the next date of hearing.”

4. The Authorized representative of the petitioner has also agreed with the submission of the Respondent that as the matter is sub-judice before the Hon'ble High Court in WP(C) Nos. W.P. (C) No.23237 of 2017 and in W.P.(C) No.6580/2018 for adjudication by the Hon'ble Court and the outcome of the Hon'ble Court in the above two writ petitions will be applicable to both the Petitioner and the Respondent. Therefore, he prays the Commission to close the present case herein.
5. The order Order dated 30.01.2018 of the Ombudsman-II passed in C.R. Case No.71 of 2017 is subject to the outcome of the Hon'ble High Court of Orissa in the above noted writ petitions pending for adjudication. As both parties agree to close the matter as the same is sub-judice before the Hon'ble High Court there is no need to proceed further in the above matter.
6. With the above observation the case is disposed of.

Sd/-
(G. Mohapatra)
Member

Sd/-
(S. K. Parhi)
Member

Sd/-
(U. N. Behera)
Chairperson