

**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. 34/2020

M/s. Raja-1 Flyash Bricks	Petitioner
Vrs		
The E.E (Elect.), CED, NESCO Utility	Respondent

In the matter of: Application under Section 142 of the Electricity Act, 2003 for Non-Compliance of the order dated 14.8.2019 of OERC passed in Case No. 24/2019 and order dated 31.01.2020 of the Ombudsman-II passed in C.R. Case No. 31/2019.

For Petitioner: Shri Lalit K. Maharana, Advocate

For Respondent: The Executive Engineer (Elect.), CED, Balasore.

ORDER

Date of hearing: 08.09.2020

Date of order: 15.09.2020

- M/s. Raja Flyash-1 Bricks, Balasore has filed the above case under Section 142 of the Electricity Act, 2003 for violation of successive RST orders of the Commission since 2005-06 onwards and Regulation 64 of the Distribution (Conditions of Supply) Code, 2004 against the E.E. (Elect.), CED, NESCO Utility, Balasore.
2. Shri Maharana, the counsel of the petitioner submits that the petitioner has earlier approached this Commission in Case No. 24/2019 and the Commission had observed that since this was a billing dispute the Petitioner should approach the appropriate forum. Accordingly, the Petitioner had approached the GRF, Balasore and subsequently Ombudsman-II in C.R Case No. 31/2019. The Learned Ombudsman did not accede to the representation of the Petitioner in view of the fact that final decision on this matter is yet to come from Hon'ble High Court of Orissa. The Learned Ombudsman upheld the decision of GRF, Balasore in C.C Case No. 144/2019.
 3. The Executive Engineer(Elect.), CED, Balasore submits that the petitioner prior to the present proceeding had filed Case No. 24 of 2019 before the Commission on the self

same ground and the Commission while disposing of the said case vide its order dated 14.08.2019 has observed that :-

“Heard the parties and perused their written notes of submissions which are taken into record. The Commission observed that the order dated 23.10.2018 passed in Case No. 21/2018, as referred by the respondent at para 4 above, is different from the instant case, as in the earlier case penalty was imposed under Section 126 of the Electricity Act, 2003. But in the present case overdrawal penalty has been imposed by the respondent without penalty under Section 126 of the Electricity Act, 2003 and there are clear provisions in the Retail Tariff Order of the Commission on this matter. Hence, it is a case of billing dispute between the petitioner and the respondent herein. Therefore, the petitioner should approach the proper forum of law for resolution of billing dispute.

With the above observation, the case is disposed of.”

4. The respondent further submitted that according to the above order of the Commission, the petitioner approached the GRF, Balasore in C.C. Case No.144 of 2019 and the GRF while disposing of the said consumer complaint has observed that in connection with the same issue, the matter is pending before the Hon’ble High Court of Orissa in W.P. (C). No. 10153 of 2014 and it will abide the final verdict of the Hon’ble Court in the said writ petition.
5. Shri Maharana, the counsel of the petitioner prays the Commission to allow him to withdraw the present case herein and file the same before the appropriate forum for consideration.
6. Prayer of the petitioner for withdrawal of the case is allowed.
7. The case is dismissed as withdrawn.

Sd/-

(G. Mohapatra)
Member

Sd/-

(S. K. Parhi)
Member

Sd/-

(U. N. Behera)
Chairperson