

**ODISHA ELECTRICITY REGULATORY COMMISSION
BUDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNOKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751021

**Present: Shri G. Mohapatra, Officiating Chairperson
Shri S. K. Ray Mohapatra, Member**

Case No. 95/2022

M/s. Satyam Castings Pvt. Ltd. Vrs. The Executive Engineer (Elect), CED, Jobra,TPCODL, Cuttack	Petitioner
	Respondent

In the matter of: **Application under Section 142 of the Electricity Act, 2003 for non-compliance of order dated 14.3.2011 of the GRF, Cuttack passed in C.C. Case No.05 of 2011.**

For Petitioner : Shri Lingraj Dash, Advocate and Shri Bibhuti Bhushan Panda, Advocate

For Respondent : Shri D. K. Mohanty, Advocate and Shri P.K. Sahoo, Advocate

ORDER

Date of Hearing: 27.12.2022

Date of Order: 03.01.2023

The Petitioner M/s. Satyam Casting Pvt. Ltd. has filed the present petition under Section 142 of the Electricity Act, 2003 for initiating action against the Respondent - Executive Engineer, CED, Zobra, Cuttack (now TPCODL) for non-compliance of the order passed by the GRF, CESU (TPCODL), Cuttack.

2. The petitioner, M/s. Satyam Casting Pvt. Ltd. is a consumer under large industrial category having consumer No.HT-70 with a contract demand of 2350 KVA and availing power supply through 33 kV line since 2001. Though the petitioner was running the unit in off-peak hours (22 hrs to 06 hrs of next day) and it ought to get off peak facilities, but without doing so, the O.P. demanded penal charges for over drawal, which was within 120% of Contract Demand without indicating off peak MD. Further, no TOD benefit was allowed to the unit from April 2005 to October, 2006 and also for the periods, i.e. 01/2007 to 02/2007, 06/2007 to 08/2007, 11/2007, 03/2008 to 08/2008, which would be 1/3rd of the units consumed in such months in absence of TOD readings as the unit was a continuous process unit. The petitioner though raised complaints before the SE, Electrical Circle, Cuttack, vide its letter dated 19.11.2005 and made several personal requests, but failed to get a decision on the matter.
3. According to the Respondent, the petitioner had not disputed the bills as per Clause 91 of the OERC Distribution (Conditions of Supply) Code, 2004 nor acted as per provision of

complaint handling procedure for redressal of grievance and regularly making the payments of the energy bills and therefore the complaint before the GRF was not maintainable. Further, it was stated by the respondent that the petitioner had prayed for withdrawal of penal demand charges from 01.02.2002 to 10/2010 and extension of TOD benefits from April, 2005 for which the petitioner had not approached the competent authority as provided under the OERC Distribution (Conditions of Supply) Code, 2004.

It was also stated that the claim of the petitioner from 2002 to 2010 was a stale one and no record was available in the office to verify the same at such a belated stage. It was further submitted that no provision either in the Regulation or in tariff order to the effect that in absence of record of consumption for TOD facility, 1/3rd of the total consumption shall be taken into consideration for giving TOD benefit. Lastly, the respondent submitted that the claim of the Petitioner being a money claim can only be adjudicated by civil proceedings.

4. Being aggrieved, the petitioner approached the Learned GRF, Cuttack in Consumer Complaint No.05 of 2011. The learned GRF vide their order dated 14.3.2011 had directed as follows:

“The OP shall revise the bill of the complainant within 15 days of receipt of this order, by giving TOD facility from 01.04.05 @ 33.33% of monthly consumption, if off peak consumption is not ascertained, excepting those months in which TOD facility has already been allowed and by withdrawing over drawal charged from 19.11.05 which are within 120% of the Contract Demand. During revision of bills, the excess amount, if found, shall be adjusted in next bill.”

5. On perusal of order dated 14.3.2011 passed by the GRF, following instruction is found at the foot of the order.

“If the complainant is aggrieved with either by this order of due to non-implementation of the order of the Grievance Redressal Forum in time, he/she can make representation to the Ombudsman-I, Qrs. 3R-2(S), GRIDCO Colony, PO : Bhoi Nagar, Bhubaneswar-751022 (Tel/Fax No.0674-2546264) within 30 days from the date of order of the Grievance Redressal Forum.”

6. The Respondent – Executive Engineer (Electrical), (TPCODL), CED Jobra, Cuttack challenged the aforesaid order dated 14.3.2011 of the learned GRF, Cuttack before the Hon’ble High Court of Orissa in WP(C) No.17993 of 2011 and the following order was issued by a Division Bench of the Hon’ble Court on 28.3.2022.

“1. None appears for the Petitioner

2. The writ petition is accordingly dismissed for non-prosecution.”

In view of the fact that no stay order has been granted by the Hon'ble High Court in the aforesaid writ petition or in the present CMAPL referred by the Respondent – TPCODL, there is no impediment on the part of this Commission to direct Respondent – TPCODL to comply with the order dated 14.3.2011 passed by GRF, Cuttack in C.C. Case No.CED/05 of 2011 and therefore, the present application is maintainable. Accordingly, the Respondent – TPCODL, Cuttack is hereby directed to implement the said order of GRF, Cuttack within a month failing which the Petitioner – Satyam Casting Pvt. Ltd. would be at liberty to approach this Commission for necessary redressal of grievance by this Commission.

Further, it is made clear that if any order would be passed by the Hon'ble High Court in favour of the Respondent – TPCODL, then the order of GRF as well as this Commission will definitely be governed by such order of Hon'ble High Court.

12. With the above direction, the present application filed by the Petitioner – Satyam Casting Pvt. Ltd. is disposed of.

Sd/-
(S. K. Ray Mohapatra)
Member

Sd/-
(G. Mohapatra)
Officiating Chairperson