

**ODISHA ELECTRICITY REGULATORY COMMISSION
PLOT NO. 4, CHUNUKOLI, SAILESHREE
VIHAR, CHANDRASEKHARPUR,
BHUBANESWAR-751021**

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

Case No. 20/2024

M/s. G.D Industries Petitioner

Vrs.

The Executive Engineer (Electrical),
KED, Khordha, TPCODL, Khordha Respondent

In the matter of: Application under Section 142 of the Electricity Act, 2003 alleging non-compliance of order dated 21.09.2023 of the GRF, Khordha passed in C.C. Case No.267/2023.

ORDER

Date of Hearing: 10.09.2024

Date of Order: 10.09.2024

This matter has been taken up for hearing through hybrid arrangement

2. Shri Nabin Agarwal on behalf of the Petitioner-M/s. GD Industries and Sri Debashis Pattanaik, Learned Advocate on behalf of the Respondent-Licensee do appear. The Memo of compliance submitted by the Respondent-Licensee as per interim order dated 13.08.2024 of the Commission regarding implementation of order dated 21.09.2023 of the Learned GRF, Khordha passed in C.C. Case No.267/2023 is taken on record.
3. The Petitioner submits that the Learned GRF-Khordha, in their order dated 21.09.2023 passed in C.C. Case No.267/2023 had observed as follows:

“x x x x x

However, in course of hearing the petitioner agreed that, if the excess amount will be refunded within 30 days of order by GRF then also he will not claim for any interest on the said excess amount.”

Further, the Learned GRF, Khordha have directed as follows:

“The Respondent is directed to prepare the revised final bill & to refund/adjust the excess amount of supervision charges within 30 days of issue of this order.”

4. Since the Respondent-Licensee has not complied the above order of the GRF, Khordha, the Petitioner has filed the present Petition under Section 142 of the Electricity Act, 2003 and sought for the following reliefs:
 - i) to comply the order dated 21.09.2023 of the Learned GRF, Khordha passed in C.C. Case No.267 of 2023 (KED).
 - ii) to take action against the Respondent-Licensee as contemplated under Section 142 of the Electricity Act, 2003.
5. The Memo of compliance submitted by the learned Counsel on behalf of the Respondent-Licensee in pursuance of the interim order dated 13.08.2024 of this Commission is as follows: -

“As per the direction vide interim order dated 13.08.2024 of this Commission for compliance of order dated 21.09.2023 of the learned GRF, Khordha, the Respondent- licensee has verified the interest amount in respect of payment to GST Authority against the Industry of the Petitioner vide GSTIN No.AAVFG9502GIZC for the month of September,2021-22 and also the screen shot of GST Portal shows that CGST of Rs.70,730.37 and SGST of Rs.70,730.37 have been deposited against the total taxable value of Rs.7,85893.00, against the GSTIN No.21AAVFG9502GIZC of the Petitioner-GD Industries. This matter has already been intimated to the Petitioner-Industry by the Respondent-Licensee vide Letter dated 16.08.2024 with request to file GST Returns with GST Authority and not claim the differential GST which has already been deposited by the Respondent-Licensee with the GST Authority.”

6. The Learned Advocate for the Respondent-Licensee prays the Commission that the instant case filed under Section 142 of the Electricity Act, 2003 may be dropped as the aforesaid order dated 21.09.2023 of the Learned GRF, Khordha has already been complied with.
7. The Representative of the Petitioner submits that the issue regarding refund of GST amount has been resolved with the abovementioned memo compliance report submitted by the Respondent-Licensee, but the issue regarding payment of interest on the excess supervision charges has not yet been resolved. Therefore, he prays the Commission to direct the Respondent-Licensee to make payment of the interest amount claimed by the Petitioner.
8. Heard the parties. We observe that the Respondent-Licensee has already refunded a sum of Rs.3,34,047.44 to the Petitioner-Industry by way of RTGS on 27.05.2024 against excess amount deposited by the Petitioner on account of 6% supervision charges. Further, the Respondent-Licensee has already deposited excess amount of GST with the GST Authority and the Petitioner-Industry is to make claim before the GST Authority for refund of such excess amount of GST. The Petitioner-Industry has no issue on refund of excess GST amount as stated during hearing. Thus, the aforesaid order of the Learned GRF, Khordha is supposed to be complied with and therefore, it may not be prudent to continue the present proceeding filed under Section 142 of the Electricity Act, 2003.

9. We further observe that the Learned GRF, Khordha, in the aforesaid order dated 21.09.2023, has observed that in course of hearing, the petitioner agreed for not claiming any interest on the excess amount to be refunded, if the excess amount is refunded within 30 days from the date of that order. But, in the operating part of that order, the Respondent has been directed to prepare the revised final bill & to refund/adjust the excess amount of supervision charges within 30 days of issue of that order, wherein there is no mention about payment of interest. However, as the excess amount of supervision charges has not been refunded by the Respondent-Licensee within the stipulated time of 30 days, in the present petition, the Petitioner has claimed interest on the excess amount of supervision charges deposited by him. Basing on such claim of the Petitioner, the Commission, in its interim order dated 13.08.2024, had directed the Respondent-Licensee to verify the interest amount claimed by the Petitioner and reconcile the same with the Petitioner for paying the amount accordingly. Now, we reiterate our earlier direction on the issue of payment of interest amount claimed by the Petitioner and direct both the Petitioner & the Respondent-Licensee to sit together and discuss the issue for amicable settlement, as no clear direction has been issued by the Learned GRF, Khordha in their order dated 21.09.2023.
10. With the above observations and directions, the case stands disposed of.

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

Sd/-
(G. Mohapatra)
Officiating Chairperson