
(2003) 03 AHC CK 0159
In the Allahabad High Court
Case No : First Appeal No. 34 of 2003

Raman Ispat (P.) Ltd.

APPELLANT

Vs

U.P. Electricity Regulatory Commission and Others

RESPONDENT

Date of Decision : 21-03-2003

Acts Referred:

Uttar Pradesh Electricity Reforms Act, 1999 — Section 24

Citation : (2003) 2 AWC 1672

Hon'ble Judges : N.K. Mehrotra, J

Bench : Single Bench

Advocate : Vishal Dixit and D.D. Chopra, for the Appellant; I.B. Singh, for the Respondent

Final Decision : Disposed Of

Judgement

N.K. Mehrotra, J.—This is an appeal against the order dated 22.10.2002 passed by the U. P. Electricity Regulatory Commission u/s 24 of the U. P. Electricity Reforms Act, 1999 in Petition No. 7 of 2002.

2. The appellant has challenged only that part of the order dated 22.10.2002 which is in respect of Clause 8 (a) of Rate Schedule rebate Clause of H.V.-2 category consumers. This impugned clause which relates to rebate, is as follows :

"Rebate.-- (a) Load factor rebate.--For all consumption in excess of the defined K.V.A.H. per K.V.A. (of contracted demand) a rebate is provided on the energy charges for such excess consumption, as given in the above Table. This rebate will be available only on monthly basis. Consumer with arrears shall not be eligible for this rebate."

3. The portion of the rebate clause that "the rebate shall not be applicable to the consumers who are in arrears" only is being assailed in this appeal on the ground that this contention imposed by the Commission is wholly erroneous because the outstanding arrears could be due to various cases including the dispute between the consumers and the licensee on the question like : meter dispute, bill

processing dispute, etc. Besides the above, there may be other reasons, namely ; stay order of the High Court, Supreme Court or any other Court and this factor has not been kept in mind while imposing these conditions. According to the appellant, if the stay order has been granted in the matters of meter dispute or wrong billing by any Court then, those arrears cannot be called as "outstanding dues" therefore, in those cases consumers cannot be debarred from getting rebate under Clause 8 (a) of the Rate Schedule of H.V. 2 category. It is alleged that by imposing this condition, the U. P. Electricity Regulatory Commission has tried to give undue benefit to the Licensee, i.e., U. P. Power Corporation, the Kanpur Electricity Supply Agency (K.E.S.C.O.) and NOIDA Power Corporation. Alongwith this appeal, the appellant has moved an application for interim relief for stay of the operation of the impugned condition of outstanding dues and directions to the opposite parties to allow high load utilization rebate to the appellant without imposing the said condition. The appellant has also moved an application for exemption from filing original decree and judgment and besides the other applications as stated above, an application for condonation of delay for filing the first appeal has also been moved.

4. I have heard Shri Vishal Dixit, the learned counsel for the appellant and Shri I.B. Singh, the learned counsel for the U. P. Electricity Regulatory Commission (respondent No. 1). The other respondents are only formal and no relief has been claimed against them.

5. C.M. Application No. 120 of 2003 for exemption from filing the original decree and judgment and C. M. Application No. 121 of 2003 for condonation of delay are allowed. The appellant is exempted from filing the original copy of the order and the delay is condoned.

6. It has been argued by the learned counsel for the appellant that similar appeals were filed by M/s. Vijay Ispat Alloys Limited and M/s. Shivangi Steel Pvt. Limited in this case earlier and those appeals were disposed of finally at the admission stage with the direction to the appellant to move a review petition before the Regulatory Commission and the Commission will decide the review petition expeditiously and an interim order was passed that the appellant shall not be treated as defaulter in respect of the rebate claimed, which is in dispute, till the decision of the Regulatory Commission on the review petition. At the time of admission, the learned counsel for the appellant sought the same relief and agreed to hear and dispose of the appeal finally at admission stage itself. The learned counsel for the Regulatory Commission has pointed out that in the earlier two appeals when the matter was referred by this Court, the review petition was filed before the Regulatory Commission and the Regulatory Commission has disposed of the review petition vide order dated 25.2.2003 and the relevant portion of the order on review is as follows :

"(a) in case the petitioner or any other consumer in the H.V. 2 category is in arrears and has obtained an order of stay, from a Court or any statutory authority the amount of load factor rebate for which the consumer is eligible in

respect of the amount of the bill shall be calculated and the same shall accrue to the account of the consumer but actual credit thereof will not be given to the consumer in his monthly bill until the case relating to the dispute regarding arrear is finally decided by the competent court/statutory authority.

(b) If the petitioner succeeds in his dispute relating to his arrear, the load factor rebate, as accrued to him, for the entire period shall be paid to him with interest at the rate equal to deposit rate of the State Bank of India during that period. However, this rebate shall be payable to the consumer only when the consumer has cleared the reduced amount of arrear, if any, as decided by the Court/Authority, in full.

(c) On the other hand, if U.P.P.C.L. succeeds in establishing that that amount of arrear, as claimed by it, was correct the consumer shall not be eligible for load factor rebate and will be liable to pay the arrears along with the late payment surcharge."

7. The aforesaid order of the Regulatory Commission, the respondent No. 1 passed on the review petitions filled by certain consumers on the direction of this Court in the either appeals goes to show that the Regulatory Commission has passed the order for all the consumers in H. V. 2 category who are in arrears and who have obtained an order of stay from the Court or any statutory authority. Having seen the order of the Regulatory Commission, the respondent No. 1, the learned counsel for the appellant as well as the respondent No. 1, both have agreed that no purpose will be achieved by referring the matter to the Regulatory Commission in the case of the appellant because the Regulatory Commission itself has modified Clause 8 (a) of Rate Schedule rebate column of the Class H.V. 2 category consumers vide order dated 22.10.2002. In view of the statements of the learned counsel for both the parties, I am of the opinion that the appeal can be disposed of finally at the admission stage with the direction to the Regulatory Commission, the respondent No. 1 to apply the aforesaid order dated 25.2.2003 passed in Review Petition Nos. 55 of 2002, 62 of 2002, 52 of 2002, 56 of 2002 and 60 of 2002 in the case of the present appellant also and the appellant shall also be entitled to the benefit of this order.

8. in result, the appeal is disposed of accordingly.