(2003) 10 NCDRC CK 0055

In the National Consumer Disputes Redressal Commission

SATYAM CASTING PVT. LTD. — APPELLANT

Vs

CESCO — RESPONDENT

Date of Decision : 31-10-2003

Acts Referred:

Citation : 2005 2 CPJ 238

Hon'ble Judges : D.M.Patnaik , Arati Mohanty , Pramodnath Das J.

Final Decision : Complaint allowed.

Judgement

1. THIS is an original case.2. The complainant is the director of a Private Limited Company registered as a large scale industry and engaged in manufacturing/ production of finished products of cast iron. For running the industry the complainant has taken power connection from the Cesco authorities to his industrial unit at Ghoudwar with a contract demand of 2350 KVA vide Consumer No. MT-70. On 2.8.2003 during night hours there was an accident of explosion for which the meter got damaged. Though it was the responsibility of the authorities to instal the new meter immediately instead of doing that they installed a new meter on 27.9.2003 and for the period under reference in violation of the regulation they charged illegally and imposed by way of penalty a sum of Rs. 43,00,000/- and odd. The complainant challenges the said bill as illegally and arbitrarily raised.

2. THE Cesco authorit ies justified their calculation by taking stand in the written version that when the power supply was disrupted the complainant had agreed in writing that he was willing to pay the additional energy charges that would be found from the Gridco meter and the check meter installed by them. It is their case that they accordingly calculated the energy bill. Heard Mr. L. Misra, the learned Counsel for the complainant and Mr. B.K. Nayak, the learned Counsel for the opposite parties. Perused the materials on record. Admittedly the meter accidentally was damaged on 2.8.2003. The letter of the S.D.O. date 3.8.2003 addressed to the complainant indicates that the metering unit inside the factory premises was damages and power supply disrupted since 12.30 mid-night of

2.8.2003 and that it was not possible to supply power from 33 KV without metering arrangement. As such there was discontinuance from 33 KV power supply to his premises and gave out further that after due investigation by the higher authorities power supply would be resumed with proper metering arrangement. Admittedly nothing was done immediately but it is the admitted case that the meter was installed on 27.9.2003.

Mr. Nayak has drawn our attention to the report date 5.8.2003 and submitted with reference to the letter of the complainant dated 3.8.2003 for restoration of the power supply with a condition that he was willing to pay the energy charges as per the reading of the Gridco meter and check meter and, therefore, the authorities did not commit any deficiency of services by calculating the energy charges accordingly. But on going through the letter we find that in fact the complainant agreed to this for 3 to 4 days only expecting that the new metering unit would be installed within no time. This cannot be said to be an undertaking to accept the arrangement for about a month which arrangement was to his detriment. We cannot accept the case of the Cesco authorities merely because the complainant agreed for this stop-gap arrangement he should be charged the way it has been so done.

3. SO far as the 1998 Regulation is concerned, we do not find any justifiable explanation from Mr. Nayak as to why they did not go for calculation of the energy bill on the basis of average reading for the 3 preceding months as provided under Regulation Chapter-4, Regulation 60(1) of the Code. The said clause reads as follows: For the period the meters other than that of domestic, commercial, small industry, irrigation pumping and agricultural consumers remained defective or was lost, the billing shall be done on the basis of average meter reading for the consecutive three billing months preceding the billing period in which the defect or loss was noticed. Other clauses are not necessary. The industry of the complainant comes under a large scale industry and this clause is applicable. In his letter dated 8.9.2003 the complainant gave out that with the assurance of the authorities that the new meter would be installed within 3 to 4 days he agreed to pay the energy charges as per the difference between the Gridco meter and the check meter. In the said letter he also brought to their notice that as per the O.E.R.C. Code the calculation of energy should be on the basis of average of the three preceding billing months and this comes to Rs. 23,79,010/- and he also sought for revision of the bill. By the letter date 10.9.2003 the Cesco authorities intimated that because of the undertaking given by the complainant the bill for the month of August, 2003 has been prepared on the basis of the differential units in between the Gridco meter and the check meter. Therefore, they refused to revise the bill for the month of August, 2003. So much so by 12.9.2003 the complainant also gave in writing that he was liable to pay Rs. 23,70,010/- in case the authorities are unable to instal the meter immediately then he might be permitted to purchase the same from the open market and instal it. This was also not accepted. It seems the complainant had paid Rs. 26,45,014/- and according to him he is to get back Rs. 2,00,000/- and

odd. We do not direct for refunding of this amount. But he is no more required to pay anything for the energy bill for the month of August, 2003. However, the bill for the month of August and September, 2003 should be revised on the basis of the consumption of energy to be calculated as per Clause 50(1) of the Code and demand be made accordingly for payment. However, if the liability of the complainant would be still there to pay any further amount on revision for this period, he shall pay that since he is availing power supply. Let him deposit a sum of Rs. 10,00,000/- more towards energy charges for the month of August and September, 2003 without prejudice and would be liable to pay anything more if calculated on the basis which we have mentioned or in case if he has paid any excess of such calculation the same should be adjusted towards the future bill if any. Let him deposit the amount by 10th November, 2003. The complaint petition is allowed. Parties to bear their own costs. After judgment was prepared Mr. Nayak in the Court on 23.10.2003 filed a memo stating that the bills have been revised as per Clause 60 of the O.N.R.C. and the party has been served the same on 22.10.2003. No supporting document has been filed showing such calculation and revision of the Bill claimed. Nor it is known if the complainant has received the same on 22.10.2003. Be that as it may, the memo be kept on record. In case the bill has been revised, the complainant is to pay the revised bill as per our observation. Complaint allowed.

