

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

Appeal No. 57 of 2006

Dated : November 10, 2009

**Present: Hon'ble Mrs. Manju Goel, Judicial Member
Hon'ble Mr. H.L. Bajaj, Technical Member**

Madhyanchal Vidyut Vitran Nigam Ltd. & Ors -Appellant(s)
V/s.
Sheo Rice & Floor Mills & Anr. -Respondent(s)

Counsel for Appellant : Mr. Pradeep Misra along with Mr. Suraj
Singh, Advocates

Counsel for Respondent : Mr. M. G. Ramachandran, Mr. Gaurav
Agarwal and Ms. Prana Mehta for Sheo
Rice & Floor Mills

ORDER

The present appeal is directed against the order of the Uttar Pradesh Electricity Regulatory Commission dated 03.03.05 in petition No. 234 of 2005. The respondent, M/s Sheo Rice & Floor Mills & Anr., filed a petition on 23.02.05 under clause 7.27 (B) of Supply Code 2002 against assessment dated 26.11.2000 of purported theft of electricity, consequent appellate order dated 29.12.04 and recovery certificate issued dated 02.02.05 under section 3 of Uttar Pradesh Government Electricity Dues Recovery Act 1958. The respondent also filed an application for interim relief. The Commission after examining the legal position in respect of admissibility of the petition proceeded to consider the same and passed an order, inter alia, directing the respondent to approach the Consumer Grievance Forum constituted under The Electricity Act, 2003 and granted an interim relief by withholding the recovery proceedings against the respondent if the respondent deposited

Rs.1.5 Lacs with the appellant. Rs. 1.5 Lacs has been deposited and the recovery proceedings have been withheld.

02) The contention of the appellant in the present appeal is that the Commission had no jurisdiction in the matter inasmuch as the dispute being in the nature of billing dispute, the jurisdiction lies with the Consumer Dispute Redressal Forum constituted under the Electricity Act 2003. Further it is contended that the Commission not having any jurisdiction in the matter could not have passed the interim order of withholding recovery.

03) Mr. M. G. Ramachandran informs that the respondent has not gone to the Consumer Grievance Forum so far and has instead filed an application before the Commission itself so that the Commission assumes complete jurisdiction in the matter and disposes of the petition before it. He further informs that the Commission has not passed any order on the petition in the last four years. Mr. Ramachandran further contends that the respondent is willing to approach the Consumer Dispute Redressal Forum, constituted under section 42(5) of the Electricity Act 2003, as directed by the Commission in the impugned order without prejudice to the pleas of the parties while keeping the interim order intact.

04) The appellant also wants the dispute to be decided through the procedure prescribed by section 42 of the Electricity Act 2003. However, he requests the Tribunal to keep the question of law open so as to agitate the same, if necessary, later in an appropriate case. Hence, we direct the respondent to comply with the Commission's order by [in view of the situation it is directed that the respondent shall approach the Consumer Redressal Forum within 4 weeks and the Forum shall decide dispute within 6 weeks of the filing of the petition. While the Forum decides the issue the appeal here will continue to remain pending]

05) We ***dispose of the appeal*** keeping the question of law regarding jurisdiction to decide the issue involved open.

(H. L. Bajaj)
Technical Member

(Justice Manju Goel)
Judicial Member