

BEFORE THE ELECTRICITY OMBUDSMAN

No.16 C-1, Miller Tank Bed Area (Behind Jain Hospital)
Vasanthanagar, Bengaluru-560052.

Present: S.S Pattanashetti,
Electricity Ombudsman,

Case No. OMB/B/G-309/2018

Dated 21/02/2019

In the matter of

M/s Orient Bell Ltd.,
Chokkahalli Village,
Hoskote Taluk,
Bangalore Rural District,-562114

Represented by:

Shri M.G Prabhakar, Advocate, # 79, 14th Cross,
II Phase, J.P Nagar, Bangalore-560078 -

Appellant

Vs

- 1) Bangalore Electricity Supply Company,
Registered Office at K.R Circle,
Bangalore.
- 2) Assistant Executive Engineer,
O & M Sub-Division, Near KEB Circle,
Hoskote.
- 3) Consumer Grievance Redressal Forum
(Bangalore Rural) of BESCOM - Respondents

1. This Application is filed by M/s Orient Bell Limited, under Regulation 21.3 of Karnataka Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) Regulations 2004 read with sub-section 6 of section 42 of the Electricity Act, 2013, before this Authority by inter-alia seeking the following reliefs:

- a) To declare the order of CGRF is illegal and to set aside the order passed in complaint No. CGRF/02/2018/3438/02.11.2018;
- b) To direct the licensee to refund the excess amount (as claimed at Annexure-9) (Rs. 1,16,35,233/-) for the amounts retained together with an interest of 1% per month for each month of default up to and inclusive of the date of refund as per KERC (Security Deposit Regulations) 2007;
- c) To award compensation as per Standards of Performance Regulations read with clause (b) of Sub-clause 9.1 of KERC (CGRF & Ombudsman) (Amendment) Regulations-2007;
- d) To award Rs 30,000/- as exemplary cost; and
- e) To pass such other orders as deemed fit, in the fact and circumstances of the complaint.

2. Brief facts of the case, as stated by the Applicant, which are relevant to the matter are as follows:

- a) The Applicant M/s Orient Bell Limited, is a Company registered under the provisions of the Companies Act, 1956 having its registered office at Chokkahalli Village, Hoskote Taluk, Bangalore Rural District-562114, dealing in the business of manufacturing of Ceramic Tiles on a regular basis. It is stated that, the Appellant has availed HT power supply to their installation bearing RR No. HKHT-161 with a contract demand of 2500KVA, and settling the power bills in respect of the said installation from time to time.

- b) It is further stated that as per their books of account, the Appellant has deposited an amount of Rs 1,12,09,680/- (Rupees One Crore Twelve Lakhs Nine Thousand Six Hundred and Eighty only) as security deposit as on the date of filing of the complaint before CGRF.
- c) It is further stated that as per KERC (Security Deposit) Regulations, 2007, the Appellant was required to deposit an amount equivalent to two months consumption charges as per Clause 4 of the said Regulations. It is further stated that the Appellant has deposited the Additional Security Deposit (ASD) as and when the demand was raised and while doing so, failed to notice the excess amount lying with the Respondent. The Appellant has noticed the same, during the month of June 2016, that the Security Deposit lying with BESCO was Rs 1,12,09,680/- which was in excess of the actual requirement of Rs 28,88,816/- requiring Respondent to refund an amount of Rs 1,16,35,233/-. In this regard, the Appellant has made several efforts for refund of excess deposit amount from the Respondents vide letters dated 15/06/2016, 22/07/2016, 05/08/2016, 20/02/2017, 23/02/2017, 01/03/2017, 13/03/2017 & 04/04/2017, but failed to get the refund of the Security Deposit amount and thereby approached the Consumer Grievance Redressal Forum (CGRF) by way of filing a complaint bearing No. CGRF/02/2018 on 15/10/2018, and the said matter was disposed by an order dated 02/11/2018. Aggrieved by non redressal of the grievance, the Appellant has filed this

Application, challenging the Order No. CGRF/02/2018/3438/15-10-2018 dated 02-11-2018, by inter-alia seeking to allow the complaint with costs and to set aside the said order, before the Competent Authority.

3. Respondent No.1, AEE, Hoskote Sub-Division, in his parawise comments submitted on 18/01/2019, has said that the Appellant in his request letter for refund of additional security deposit nowhere stated the details of deposits held in his Account. He has not produced the attested xerox copies of Deposit Receipts, to process his request. Hence the refund could not be processed. The Respondent accepts that the Appellant had approached his office through request letter for refund of excess security deposit amount held in his credit. The request letter was not as per procedure, as mentioned in the Refund Circular No. CYS-10/04-05-2009, issued by the CGM (Technical), Corporate Office. However, the same was orally explained to the Representative of the Appellant. Further, the Respondent goes on to say that the installation bearing R.R No. HKHT 161 is serviced in the name of M/s Bell Ceramics Ltd., but no records found for name transfer in the original docket. The request for Deposit Refund Bill is submitted by M/s Orient Bell Ltd, Wall and Floor Tiles, as such a suspicion was raised, whether both the firms are one and the same. If at all the name transfer has taken place, the Appellant needs to provide authentication of O.M issued by the Division.
4. The Respondent has further stated that the Consumer is not eligible for refund, because of the following circumstances.

- 1) Consumption has reduced due to the fact that the power is availed from the OPEN ACCESS SYSTEM, and the MD Recorded remains the same....
 - 2) The present connected power of 2500 KVA is retained by the consumer, even after availing additional power through OPEN ACCESS SYSTEM.
 - 3) At the time of framing clauses under KERC Notification No.:D/07/7 dated 01/10/2007 on KERC (Security Deposit) and gazette dated 11/10/2017, the OPEN ACCESS SYSTEM was not existing.
5. The provisions regarding adequacy of the amount of Security Deposit is contained in Clause 6 of KERC (Security Deposit) Regulation 2007. As per this clause, the licensee was to review the adequacy of the amount of Security Deposit in respect of all consumers in the 1st quarter of every year, based on the average consumption for the preceding year. Based on such review, the demand for shortfall in the Security Deposit or refund of excess Security Deposit shall be made by the licensee.
6. In case the licensee fails to refund the excess security deposit as per clause 6.2 (a)(ii) of these Regulations, penal interest at 1% per month, on the amount of excess security deposit for actual days of delay shall be payable to the consumer, for the delay beyond this specified period.
7. Heard oral submissions made by both the parties and also perused the written submissions made by them. The Respondent has submitted alongwith his parawise replies, copy of the Circular bearing No. CYS/10 dated 04/05/2009 issued by the Chief General Manager (Tech.) BESCO, regarding uniform procedure for arranging Refund of Deposits. As per this

Circular, the Consumer is expected to submit certain documents alongwith his Application. The Respondent says that the procedure for refund of deposit, as per the Circular dated 04/05/2009 was orally explained to the Representative of the Appellant. The arguments of the AEE and also the stand taken by the CGRF that the Appellant is availing the power from Open Access System and hence, there is no reduction in the consumption pattern, the Security Deposit related to energy supplied by the BESCOM and Security towards energy units procured under Open Access System, are one and the same, the question of refund of Security Deposit will arise only at the time of surrender of power and hence the Consumer is not entitled to claim any refund of excess amounts placed with BESCOM, cannot be accepted.

8. The procedure for determining the adequacy of the amount of Security Deposit paid by the Consumer is clearly laid down in clause 6 of KERC (Security Deposit) Regulations, 2007. This clause does not make any differentiation between the Consumers availing power from BESCOM and consumer availing power through Open Access System. It is incorrect on the part of CGRF to have clubbed the fact that Appellant is a consumer availing power supply through BESCOM. The Appellant has produced alongwith his Appeal Memo, copies of letters written to AEE for refund of Additional Security Deposits. In not even single letter is it mentioned that the Application submitted alongwith all the required documents.

9. In view of the foregoing paras, I proceed to pass the following:

No. OMB/B/G-309/2018/D-1201

Dated 21/02/2019

O R D E R

- a) The order of CGRF, Bangalore (Rural) bearing No. CGRF/02/2018/3438 dated 02/11/2018 is quashed;
- b) The Respondent is directed to process the Application of the Appellant strictly in accordance with Clause 6.2 of KERC (Security Deposit) Regulations, 2007, if and when submitted alongwith all the required documents as per the Circular of BESCOM dated 04/05/2009 and getting clarification from the Respondent with regard to change in the name of the Company;
- c) The Respondent is directed to refund the additional Security Deposit of the Appellant if any, within 30 days of submission of all the documents required;
- d) The demand of the Appellant for refund of excess amount with the Respondent, with interest, and award of compensation as per SOP and award of Rs 30,000/- as exemplary cost is rejected, in view of the fact that the Appellant has never submitted his application alongwith all the required documents and he has not clarified the doubt of the Respondent No.1, regarding change in the name of the Company.

Sd/-

(S.S Pattanashetti)
Electricity Ombudsman

- 1) M/s Orient Bell Ltd.,
Chokkahalli Village,
Hoskote Taluk,
Bangalore Rural District-562114.
- 2) Shri M.G Prabhakar, Advocate, # 79, 14th Cross,
II Phase, J.P Nagar, Bangalore-560078.

- 3) Assistant Executive Engineer,
O & M Sub-Division, Near KEB Circle,
Hoskote.
- 4) The Chairman, CGRF,
(Bangalore Rural) BESCOM.
- 5) PS to Hon'ble Chairman, KERC
- 6) PS to Hon'ble Member (A), KERC
- 7) PS to Hon'ble Member (M), KERC
- 8) PS to Secretary, KERC.

