

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT
PANCHKULA**

Case No. HERC/P. No. 42 of 2023

Date of Hearing : 15.11.2023

Date of Order : 15.11.2023

IN THE MATTER OF:

Complaint under Section 142, 146 and S.149 of Electricity Act, 2003 for violating the order dated 17.02.2023 passed by the Hon'ble Consumer Grievances Redressal Forum, DHBVN in DH/CGRF/ 4432/2023 and for violating the various Circular and Regulation passed by this Hon'ble Commission.

Petitioner:

Pioneer Urban Land Infrastructure Ltd. through Sh. Akesh Bohra, authorized signatory pioneer square, Golf Course Extension Road, Sector 62, Gurugram, Haryana -122098

VERSUS

Respondents:

1. Dakshin Haryana Bijli Vitran Nigam Limited through its M.D. Vidyut Sadan, Vidyut Nagar, Hisar-125 005
2. S.D.O OP S/Division Dakshin Haryana Bijli Vitran Nigam Limited Badshahpur, Haryana

Present

On behalf of the Petitioner

None

On behalf of the Respondent

Ms. Sonia Madan, Advocate

QUORUM

Shri Naresh Sardana, Member

ORDER

1. Petition

- 1.1 That the present Complaint is being filed by the Complaint as the respondents have failed to comply with the order dated 17.02.2023 passed by Hon'ble Consumer Grievance Redressal Forum, Dakshin Haryana Bijli Vitran Nigam,

Hisar, Haryana in case bearing DH/CGRF/4432/2023. That the brief facts of the case are as given below :

- 1.2 That the Complainant i.e. Pioneer Urban Land Infrastructure Ltd. is a limited company registered under the companies Act and Sh. Rakesh Bohra is Authorized Signatory of the company , authorized by way of the resolution by the board of directors of the company to take any legal action and file the present complaint against respondents for the recovery of the excess payment made to the DHBVN.
- 1.3 That the Complainant has obtained an electricity connection through its Account No. G22 BPHT 0142/ 7464833000(new) at Pioneer Square ,Sector 62, Golf Course Extension Road , Gurugram, Haryana-122098, having the sanctioned load of 4329 KW under the category of HT-NDS in the name of Pioneer Urban Land Infrastructure .
- 1.4 That the office of Complainant i.e. Pioneer Square is situated in the area which falls under Sector 62, Golf Course Extension Road , Gurugram, Haryana, which was beyond the limit of M.C Area till 05.01.2021 and hence no municipal tax was applicable on the office of Complainant till 05.01.2021 but despite this facts the respondents have levied the municipal tax on the Complainant in the electricity bill raised against by the respondents even prior to January 2021 , illegally and arbitrarily.
- 1.5 That a notification was issued by the DHBVN Vide Memo No. Ch-1/SE/Comml./R-16/720/Vol-I/f-28,Dated 08/01/2018 and as per the notification a tax on consumption of energy @ 2% of the electricity bill consumed within the Municipal area/Limits of Municipality will be applicable w. e. f. 23.11.2017, this tax will be applicable on the electricity bill including energy charges+ fixed charges + FSA.
- 1.6 That vide Government notification dated 28.12.2020 Municipal area was extended in Gurugram and in this regard a notification was issued by the MCG on 05.01.2021, if at all if the municipal tax was applicable on Complainant then it will be applicable w.e.f. 05.01.2021 and not prior to 05.01.2021 and hence charging municipality tax on Complainant prior to 05.01.2021 by the respondents was illegally, arbitrarily and unjustified and thus the excess amount charged in the shape of municipality tax is liable to be refunded along with interest @ 18%.
- 1.7 That despite specific order passed by the CGRF directing the respondents to refund the excess payment charged on account of M.Tax from any consumer

even the consumer did not approach the Court then also the respondents failed to comply with the order and hence the Complainant was forced to serve a legal notice to the respondent through the counsel but no action was taken by the respondents to refund the excess amount charged from the Complainant.

- 1.8 That since the respondent failed to refund the M Tax charged illegally and hence the Complainant was forced to file a Complaint before the Consumer Grievances Redressal Forum, Gurugram vide Complaint No. DH/CGRF/4432/2023.
- 1.9 That the respondent filed the reply vide Memo No. 2628 dated 08.02.2023 in which it was stated that after pre-audit the M Tax will be adjusted in consumer account as per Government Notification and hence after hearing both the parties the following order was passed by the Hon'ble Forum on 17/02/2023 directing the respondent to adjust the amount in the bill of the consumer. But the respondents have failed to comply with their own submission and also order passed by the Hon'ble Forum.
- 1.10 That since the respondents have failed to refund the excess amount charged and hence the respondents despite making the statement and hence they are liable to pay the interest @ 18 % P.A.
- 1.11 That after hearing both the parties the Hon'ble Forum passed the order on 17.02.2023 whereby directing the respondents to comply with the instructions of DHBVN in true letter and spirit. It was further held that it is the prime duty of the S/Div. to make compliance of the instruction issued by the DHBVN. But the respondents have failed to comply with the order passed by the Hon'ble Forum.
- 1.12 That despite the order was passed by the Hon'ble Forum on 17.02.2023 no action was taken by the respondents to comply with the order within 21 days of the order passed by the Hon'ble Forum.
- 1.13 That as per Section 142 of the Electricity Act, 2003 if in case any person violates the rules/regulation made under the Electricity Act, 2003 or order passed under the Act, then he is liable for action under Section 142 Read with Section 146 & Section 149 of The Electricity Act, 2003 and hence this Complaint.
- 1.14 That the cause of action arose in favour of the complainant and against the respondents when they started charging the Municipal Tax illegally from the complainant, again when the notification was issued for levy of the M Tax from 05.01.2021 which clarify that prior to 05.01.2021 M Tax was not payable in the area where the office of the Complainant is situated, again when the

respondent fails to reply the notice issued by the Complainant for refund the excess amount received, again when the respondent fails to comply with the order passed by the Hon'ble CGRF within the stipulated period. Cause of action is still subsisting.

PRAYER :-

- 1.15 In view of the above facts and circumstance it is most respectfully prayed that this Hon'ble Commission may kindly be pleased to :-
- 1.15.1. Initiate an inquiry against the respondents as the respondents have charged MC Tax illegally and despite filing the Memo before the Hon'ble CGRF to refund the amount charged , fails to comply with its own memo,thereafter violated the order dated 17.02.2023 passed by the CGRF , Hisar in DH/CGRF/4432/2023 for refund, and hence requested to take strict action against the guilty officers under section 142, 146 and 149 of Electricity Act, 2003 and;
- 1.15.2. Award the interest on the refund amount as the respondent has collected the municipal tax illegally and despite the statement given before the Hon'ble CGRF fails to refund the excess amount calculated by the respondent.
- 1.15.3. Award the compensation and costs of present proceedings in favour of Complainant and against the Respondent and;
- 1.15.4. Any other or further order which this Hon'ble Commission may deem fit and proper in the facts and circumstances of the case in favour of the Complainant in the interest of justice.

2. Petitioner's submissions vide email dated 18.10.2023:

- 2.1 The counsel for the Petitioner has filed the complaint nos. 42/2023 and 45/2023 of Pioneer urban land and infrastructure Ltd. vs DHBVN & anr. , after filing the Petition the respondents have revised the bill and complied with the order passed by Hon'ble CGRF and thus the dispute between the parties stand resolved. The revised bill is already received by the Petitioner, the same is enclosed. It is, therefore, prayed that both the Petitions may kindly be disposed off in terms of the letter written by the respondents and revised bill issued by the respondents as settled. Petition No. 45/2023 is listed on 25/10/2023 and Petition No. 42 /2023 is listed on 15/11/2023

3. Proceedings:

- 3.1 The case was heard on 15/11/2023, as scheduled, in the court room of the Commission.

3.2 Ms. Sonia Madan advocate for the respondent stated that CGRF order has been complied with.

3.3 Further, taking cognizance of the E-mail dated 18.10.2023 received from counsel of the petitioner, the commission perceives that the respondents have revised the bill and complied with the order passed by the CGRF and thus the dispute between the parties stands resolved and nothing remains to be adjudicated in the present petition.

3.4 The petition is disposed off accordingly.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 15.11.2023.

Date: 15/11/2023

Place: Panchkula

**(Naresh Sardana)
Member**