

CONSUMER GRIEVANCE REDRESSAL FORUM

ELECTRICAL CIRCLE, ROURKELA

Plot No. UU/9, Civil Township, Rourkela-769004

Phone: (0661) 2952614, E-mail: grf.rourkela@tpwesternodisha.com

Present:

Sri Achyutananda Meher ... President
Sri Pulakesh Dasbhaya ... Member (Finance)
Sri Girish Chandra Mohapatra... Co-opted Member

1	Case No.	RKL/ 281 /2024			
2	Complainant	Name & Address:		Consumer No:	
		M/S Bajrangbali Sponge & Power Ltd.		8130-0000-0283	
		Plot No-82, Sec-A,At/PO- Kalunga Ind. Estate, Kalunga, Dist- Sundargarh-770031.		Contact No.: 7008874188	
3	Respondent	Name		Division	
		Executive Engineer, RED, TPWODL, Rajgangpur.		RED, TPWODL, Rajgangpur.	
4	Date of Application	02.05.2024			
5	In the matter of-	1. Agreement / Termination		2. Billing Disputes	√
		3. Classification / Reclassification of Consumers		4. Contract Demand / Connected Load	
		5. Disconnection / Reconnection of Supply		6. Installation of Equipment & apparatus of Consumer	
		7. Interruptions		8. Metering	
		9. New Connection		10. Quality of Supply & GSOP	
		11. Security Deposit / Interest		12. Shifting of Service Connection & equipments	
		13. Transfer of Consumer Ownership		14. Voltage Fluctuations	
		15. Others (Specify) -			
6	Section(s) of Electricity Act, 2003 involved	42(5)			
7	OERC Regulation(s):				Clauses
1	OERC Distribution (Licensee's Standard of Performance) Regulations,2004				
2	OERC Conduct of Business) Regulations,2004				
3	Odisha Grid Code (OGC) Regulation,2006				
4	OERC (Terms and Conditions for Determination of Tariff) Regulations,2004				
5	Others-OERC Distribution (Conditions of Supply) code, 2019				
8	Date(s) of Hearing	18.05.2024, 28.05.2024, 04.07.2024, 20.07.2024			
9	Date of Order	22.08.2024			
10	Order in favour of	Complainant	√	Respondent	Others
11	Details of Compensation awarded, if any.	Nil			
12	Appeared for the Complainant:		Appeared for the Respondent:		
	Bijay Kumar Panda		1. Er. Samaresh Pal, EE, RGP 2. Sri Uma Shankar Yadav, Manager (F & C) 3. Sri Bhakti Ranjan Swain, DM (Legal)		

ORDER

Brief Facts of the Case

The present case has been registered in this forum vide Case No. 281 of 2024. Brief facts pertaining to the case are that the Complainant is a HT-Large Industry consumer having consumer No. RRKL/3-0283 with contract demand of 12000.00 KVA.

That the Complainant has raised objection regarding not refunding the interest on security deposit from 01-04-2015 to 28-02-2019.

Gist of Arguments made by the Parties

During the hearing on dated 18-05-2024, 28-05-2024 and 20-07-2024 both the parties were present. The contentions made by the parties are as follows:

1. Submission of the Complainant:

- a. That the Petitioner M/s. Bajrangbali Sponge and Power Ltd. is a Limited Company having its office at Plot No.82, Sector-A, Kalunga Industrial Estate, Kalunga in the district of Sundargarh, is a consumer under the jurisdiction of the Respondent.
- b. That previously the above company was running in the name and style of M/s. Kalinga Sponge Iron Ltd., who was a consumer under the jurisdiction of the Respondent bearing Consumer No. RRKL/3-0128 with a contract demand of 950 KVA and which was originally 4500KVA against which security deposit amount was Rs.1,27,83,240.00.
- c. That on reduction of contract demand from 4500 KVA to 950 KVA the security deposit was recasted and the Petitioner placed original money receipts before the Respondent for refund of balance security deposit of Rs.86,71,840.00 vide their letter dt.30.05.2013 **(Annexure-I)**.
- d. That the present matter on security deposit relates to security deposit deposited by M/s. Kalinga Sponge Iron Ltd. on different occasions, which is as per Regulation-19 of OERC Distribution (Conditions of Supply) Code 2004.
- e. That the Respondent vide an office Order No. 3283 dt.12.06.2013, intimated that balance security deposit will be Rs.44,67,584.00 on

reduction of contract demand and Rs.83,15,656.00 is the security deposit refundable amount **(Annexure-II)**.

- f. That the Petitioner informed the Respondent vide their letter dt.06.07.2017 that this unit is closed from 09/2012 and balance security deposit of Rs.44,67,584.00 is to be refunded with interest **(Annexure-III)**.
- g. That again the Petitioner requested the Respondent for the balance security deposit of Rs.44,67,584.00 vide his office letter No. 30 dt.02.02.2018 **(Annexure-IV)**.
- h. That the Respondent vide his letter No. 2878 dt.16.03.2018 requested to the Petitioner for refund of Rs.44,67,584.00, they have to furnish the original money receipts, even though such money receipts are available with Respondent's office **(Annexure-V)**. This is a process of the Respondent to make delay in refund of the security deposit to the Petitioner without interest.
- i. That the Petitioner in their letter No. 144 dt.26.10.2018 intimated that their security deposit with interest amount is Rs.95,06,649.00 which should be refunded to the Petitioner **(Annexure-VI)**. In such letter the Petitioner furnished the necessary calculation sheet on security deposit to be refunded. In this regard Regulation 22 of OERC Distribution (Conditions of Supply) Code 2004 can be referred to:
"22. Refund of Security Deposit after termination of the Agreement
- The security deposit shall be returned to the consumer only after the termination of the agreement and after adjustment of outstanding dues, if any, within a period of one month from the date of termination. In case of non-refund of such security deposit during the aforesaid period, it shall carry interest at the rate of 15% per annum from the effective date of termination of the agreement (without prejudice to other rights and remedies of the consumer) payable to the consumer. Before termination of the agreement, the licensee is entitled to adjust the whole or part of the security deposit towards arrears payable by the consumer."
- j. That as per letter dt. 07.12.2021 of the Respondent, it was noticed that from 01.04.2015 to 28.02.2019, interest on security deposit was not considered by the Respondent with a plea on submission of the original money receipt.
- k. That in this regard, the Petitioner has made a lot of correspondences with the Respondent with FIR in Police Station and Affidavit, which was also

published in the newspaper 'the Daily Samaj' on dt.22.02.2019. Again, in the different bills, security deposit has also mentioned.

- I. That from the above Regulation, it is noticed that such Regulation doesn't provide that for refund of security deposit, submission of original money receipt is a mandatory.
- m. That in this regard, the Petitioner has approached the Respondent many a times through their different bunch of letters, on dt.06.07.2017, 28.04.2020,05.05.2020,03.09.2020, 05.12.2020, 28.01.2021(**Annexure-VII series**), the Respondent has only settled the security deposit interest for FY 2013-14, 2014-15 & 2019-20 but has not considered the interest on security deposit for the period from 01.04.2015 to 28.02.2019. So, the Petitioner wants to appeal before this learned Forum for necessary redressal of their grievances. Hence this is the petition before the learned Forum.

2. Reply Submission of the Respondent:

- i. That, in the instant case the Complainant has prayed before this Ld. Forum to refund the Security Deposit along with interest for the period from 1.4.2015 to 28.2.2019, notwithstanding the present case is not maintainable and liable to be dismissed at the threshold.
- ii. That, at the outset, this case is not maintainable as the present Complainant doesn't disclose its locus-standi under what legal right it has prayed for refunding of security deposit with interest which is pertaining to M/S Kalinga Sponge Iron Ltd.
- iii. That, since the present complainant fails to show its legal right over M/S Kalinga Sponge Iron Ltd, then it is debarred from claiming any security deposit with interest which is pertaining to M/S Kalinga Sponge Iron Ltd, as such the present Complaint is liable to be rejected at the outset on the ground of no cause of action arises regarding security deposit concerning the present Complainant.
- iv. That, further the present case is not maintainable in view of the doctrine acquiescence. In the instant case the last communication was made between M/S Kalinga Sponge & Iron and respondent was on 7/12/2021. In the said communication the respondent had asked the M/S Kalinga Sponge to submit the original money receipt of the security deposit. But in the meantime, although almost three years have been passed but M/S Kalinga Sponge has seated over the matter and now filing complaint through other, that appears clear latches and delay in their part which falls

under the doctrine of acquiescence. The Hon'ble Supreme Court in **Civil Appeal No 8223 (Chairman, SBI VS MJ James)** held as follows:

"Doctrine of acquiescence is an equitable doctrine which applies when a party having a right stand by and sees another dealing in a manner inconsistent with that right, while the act is in progress and after violation is completed, which conduct reflects his assent or accord. He cannot afterwards complain. In literal sense, the term acquiescence means silent assent, tacit consent, conduct that is concurrence, or acceptance, which denotes evidence of an intention of a party to abandon an equitable right and also to denote conduct from which another party will be justified in inferring such an intention. Acquiescence can be either direct with full knowledge and express approbation, or indirect where a person having the right to set aside the action stands by and sees another dealing in a manner inconsistent with that right and in spite of the infringement takes no action mirroring acceptance."...

In view of the above, M/S Kalinga Sponge has agreed to submit original money receipt of the security deposit in terms of the letter dt. 7/12/2021 of the respondent and gave its consent to submit the same without objecting to it, now after passing almost three years when it didn't find the original money receipt filing the instant case through other which is not at all maintainable.

- v. That, it is pertinent to mention herein that, it is a general practice and precedent when the present respondent takes step to refund the security deposit after termination of the power supply agreement, it seeks original money receipt from the consumer for processing the refund and the M/S Kalinga Sponge also adhere to this practice when it gets refund in the earlier occasion.
- vi. That, in the instant case the security deposit of the M/S Kalinga Sponge was not refunded due failure on its part to submit the original money receipt with the respondent, therefore the respondent has not violated any regulation in any manner rather he has requested several times to M/S Kalinga Sponge to submit the original money receipt for the period which it has not get back the refund.
- vii. That, in view of the above facts and circumstances, the present case is liable to be rejected.

3. Further Submission of the Complainant:

1. It is submitted by the complainant that, in prayer section there is a typographical error in "Refund of security deposit with interest for the period from 01-04-2015 to 28-02-2019" line, which may be corrected and read as "Refund the security deposit interest for the period from 01-04-2015 to 28-02-2019".
2. Further, the complainant also submitted the copy of the letter addressed to the respondent regarding the name change of the company from Kalinga sponge iron limited to Bajrangbali Sponge and power ltd. With a copy of amended agreement with TPWODL dated 04-03-2021 wherein it has been mentioned that, all the arrears, liabilities and security deposit under the agreement executed on 05-03-2019 and subsequent agreement with M/s Kalinga Sponge Iron Ltd. Bearing consumer no. RRKL/3-0283 in the same premises shall be treated as arrear, liabilities and security deposit of M/s Bajrangbali Sponge & Power Ltd..
3. Further it is submitted by the complainant that, with wrong interpretation of Civil Appeal No. 8223 (Chairman, SBI Vrs. MJ James), the Respondent is not prepared to refund the security deposit of the petitioner which is available with them. The citation of above order of the Hon'ble Apex Court of India is not applicable to the present petition of the petitioner. Regarding law of limitation is applicable in this regard against which the Hon'ble APEX Court passed order on dated 18.02.2020 against Civil Appeal No. 1672 of 2020. As per law of limitation such order reads as below:

"As per Section 17 (1) (C) of the Limitation Act, in case of a mistake, the limitation period begins to run from the date when the mistake is discovered for the first time.

In Mahabir Kishore and Ors. Vrs. State of Madhya Pradesh's this Court that: "Section 17 (1) (c) of the Limitation Act, 1963, provides that the case a suit for relief on the ground of mistake, the period of limitation does not begin to run until the plaintiff had discovered the mistake or could with reasonable diligence, have discovered it. In a case where payment has been made under a mistake of law as contrasted with a mistake of fact, generally the mistake become know to the party only when a court mistake a declaration as to the invalidity of the law. Though a party could, with reasonable diligence, discover a mistake of fact even before a court makes a pronouncement it is seldom that a person can. Even with reasonable

diligence, discover a mistake of law before a judgment the availability of the law."

In the present case, the period of limitation would commence from the date of discover of the mistake i.e., 18.03.2014. The licensee company may take recourse to any remedy available in law for recovery of the additional demand, but. is barred from taking recourse to disconnection of supply of electricity under sub-section (2) of Section 56 of the Act."

4. That it is to state that a general practice cannot override the provisions of law. In every month bill of M/s. KSIL security deposit amount is there. If somebody missed his money receipt against security deposit that will not be refunded is not coming under any mandatory provisions of law. In this regard necessary affidavit of Petitioner (M/s. KSIL) was also placed in the different papers along with the Respondent on dated 13.02.2019. In spite of that, security deposit has not been refunded to the Petitioner yet. Moreover, for refund of security deposit, original money receipt is must to be produced by such consumer is not mandated under the provisions of law, but may be a general practice. Hence, petitioner is to be refunded with his balance security deposit with interest from 01.04.2015 to till date.

Findings and observations of the Forum

Written/verbal Submissions made by both parties and arguments heard at length. This Forum, after hearing the parties and going through the relevant documents and provisions of law have concluded as follows:

1. That the complainant has executed an agreement with the respondent on 04-03-2021 regarding the name change of the company from Kalinga sponge iron limited to Bajrangbali Sponge and power ltd.
2. That on reduction of contract demand from 4500 KVA to 950 KVA the security deposit was recasted and the Petitioner placed original money receipts before the Respondent for refund of balance security deposit of Rs.86,71,840.00 vide their letter dt.30.05.2013.
3. That the Respondent vide an office Order No. 3283 dt.12.06.2013 refunded the security deposit of Rs. 86,71,840.00 and intimated that balance security deposit will be Rs.44,67,584.00 on reduction of contract demand.

4. That, the Petitioner informed the Respondent vide their letter dt.06.07.2017 that this unit is closed from 09/2012 and balance security deposit of Rs.44,67,584.00 is to be refunded with interest.
5. That the Respondent vide his letter No. 10358(7) dated 13-11-2017 and 2878 dt.16.03.2018 requested to the Petitioner that, for refund of Rs.44,67,584.00, they have to furnish the original money receipts.
6. That the complainant submitted all the required documents to the respondent on dated 09-05-2019 vide letter no. 215.
7. That the respondent refunded the balance security deposit of Rs. 41,01,114.00 after adjusting the energy bill of Rs.8,64,393 from the balance security deposit of Rs.44,67,584.00 and paid an interest amount of Rs.4,97,923.00 vide office order no. 3552 dated 08-06-2020.
8. That after refund, the petitioner requested the respondent regarding detail calculation of interest paid to him which has been provided by the respondent.
9. It is noted from the letter no. 1380 dated 07-12-2021 of General Manager, Commerce that interest on security deposit was not considered for the period from 01-04-2015 to 28-02-2019 as the original money receipt was not submitted.

Directions of the forum

In view of the above findings and observations, the Forum is of the view that, as per Section 57 (i), (ii) and (iii) of Odisha Electricity Regulatory Commission Distribution (Conditions of Supply) Code, 2019 it has been clarified as mentioned below:

57. Interest on Security Deposit payable by the Licensee/supplier

- (i.) The Licensee/supplier shall pay interest on security deposit to the consumer, at the bank rate. (SBI Base Rate as on 1st April of the relevant year) provided that
- (ii.) The Commission in its tariff order for the respective financial year may direct the licensee/supplier to pay a higher rate of interest.
- (iii.) The interest accruing to the credit of the consumer shall be adjusted annually in the amounts outstanding from the consumer to the licensee/supplier as on 1st May of every year and the amounts becoming due from the consumer to the licensee/supplier immediately thereafter.

In view of this, the respondent has been asked to provide circular/office order with details regarding procedure to refund the security deposit with/without interest to the consumer in case where original money receipt is lost. But the respondent could not provide any such circular/office order.

In view of the above findings and observations, the Forum is of the view that, the interest on security deposit from 01-04-2015 to 28-02-2019 is to be given at the rate as per tariff order for the respective financial year published by the Commission.

"If the complainant is aggrieved with this order or non-implementation of the order of the Grievance Redressal Forum in time, he/she can make the representation to the Ombudsman-II, Qrs. No. 3R-2(S), GRIDCO Colony, P.O: Bhoinagar, Bhubaneswar-751022 within 30 days from the date of order of the Grievances Redressal Forums".


Co-Opted Member


Member (F)


President

No. GRF/RKL/ 539⁽⁴⁾

Date: 22/08/2024

Certified Copy to:

- 1) The Superintending Engineer, Electrical Circle, TPWODL, Rourkela.
- 2) The Chief Legal, TPWODL, Burla.

