

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-09
No. CGRF/Complaint No. 1453/3/19/026

Complaint No.: - 1453/3/19/026

Date of Admission: - 06.08.2019

Quorum: - Er. Sanjay Dewan, Chairman.
Sh. K.S Dhaulta, Member.

M/s Prime steel Industries Pvt. Ltd,
Known as M/s A.M. Iron & Steel Rolling Mills (P),
Amloh Road, Opposite Aman Gas Agency Mandi Gobindgarh,
Distt. Fatehgarh Sahib, 147301 (PB). **Complainant**

V/s.

HPSEBL & Others. **Respondents**

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Senior Executive Engineer,
Electrical Division, HPSEBL, Baddi,
District Solan (HP).
3. The Assistant Engineer,
Electrical Sub Division, HPSEBL,
Barotiwla, Distt. Kangra (HP).
4. M/s Sh. Rama Steels Ltd., Unit-II, Village Bated,
Teh. Baddi, Distt. Solan (HP).

Respondents

Final hearing:-

20.08.2020

Present for:-

Complainant

1. Sh. Rakesh Bansal (Authorized Representative)

Respondent

1. Sh. Anil Kumar God, Advocate
2. Er. Robin Bansal, XEN, Baddi
3. Er. Pratap Rana, SDO, Barotiwala

Date of Decision: -

20.08.2020

ORDER

1. The Complainant Company claims the refund of Rs. 40, 85,339/- on account of excess amount charged by the Respondents under the head demand charges. The complainant alleges that the respondents are negligent and deficient in rectifying and correcting the monthly energy bills issued w.e.f. 05.04.2013 to 07.10.2013 to the previous company i.e., M/s Sri Rama Steel Industry. The complainant claims it in terms of clause 2(v) of deed of sale dated 07.03.2019, whereby HPFC declared that the entire property hereby, transferred to buyer i.e., M/s Prime steel Ltd., is free from all encumbrances.
2. The brief history of the case is that M/s Sri Rama Steel Industry Unit-I and M/s Chandigarh Iron & Steel Ltd., got amalgamated in M/s Sri Rama Steel Unit-II on 30.10.2009. The M/s Rama Steels applied for connected load of 19991.7 KW on 132 KV sub-station Jharmajari, to its factory take off point for its exclusive use. The Respondents accordingly constructed & provided 132 KV Transmission line on dedicated feeder from 132 KV sub-station Jharmajari to its factory take off point at the entire costs & expenses of M/s Rama Steels Ltd.
3. Subsequently due to a default by M/s Shree Rama Steels Ltd., Unit II in the repayment of the loan of the H.P. Financial Corporation (HPFC) and interest accruing thereupon, the HPFC under Section 31 and 31 (G) of State Financial Act, 1951 initiated recovery proceedings, by filing an application before the respective Competent Authority and obtained decree for sale of mortgaged/ hypothecated/attached properties/assets of M/s Sri Ram Steels Industry Unit-II. The outstanding liabilities of M/s Sri Rama Steels Unit-II accumulated to Rs.12, 68, 88,782.50 and outstanding liabilities of M/s Chandigarh Iron and Steels Co. Ltd. accumulated to Rs. 5, 69, 65,750/- up to 09.10.2012.
4. In the meanwhile, M/s Sri Rama Steel Unit-II and M/s Iron and Steel Co. Ltd. submitted a proposal with the HPFC for settlement of their loan account by sale of their mortgaged/hypothecated/attached properties/assets by the HPFC and introduced a buyer namely M/s Prime Steel Industries (P) Ltd., who negotiated the matter with the HPFC and agreed to buy the assets / properties of M/s Rama Steel Ltd. Unit-II and M/s Chandigarh Iron & Steel Co. Ltd. for a total consideration of Rs. 16 Cr.
5. The HPFC exercising power under Section 32 (G) of the State Financial Corporation Act, 1952 agreed to transfer the said properties and assets to M/s Prime Steels Industries Ltd. for a total consideration of Rs.16 Cr. This amount was deposited by the present complainant with the HPFC

and sale deed dated 07.03.2019, was registered in the office of the Sub-Registrar, Baddi, Distt. Solan (HP). A total land measuring 60 Bigahs along with building and superstructure built upon the said land and machinery and accessories installed at site on the said land stood transferred in favour of the Complainant Company.

6. The complainant further submits that as per Clause 2 (v) of the Sale Deed dated 07.03.2019, the HPFC declared that the said property hereby transferred to buyer/Complainant, is free from all encumbrances and in case any dispute arises qua this, the Seller HPFC shall be bound to clear such encumbrances at its own cost and shall keep the buyer indemnified at all time. Again the complainant asserts that as per Clause 2(vii) of the Sale Deed, the Complainant Co. has acquired vested rights over the existing Connected Load of 19991.7 KW with sanctioned Contract Demand of 22214 KVA, along with Infrastructural Development Charges (IDC) deposited with the Respondent Board and existing rights over Private Transmission Line to 132 KVA Grid. The complainant company had also obtained approval of its project after execution of sale deed from Industry Department of State Government on 2.5.2019.
7. The Complainant Company applied for issuance of demand notice for release of connected load of 19991.7 KW with initial Contract Demand of 12700 KVA on the existing 132 KV Transmission Line emanating from 132 KV sub-station Jharmajari. The complainant further states that after execution and registration of the deed of sale dated 07.03.2019, it has become the absolute owner in possession of all the assets, properties, building superstructure build upon and other installations erected thereon. The complainant company with existing NOC, consent to operate, existing connecting load of 19991.7 KW etc., has acquired the all rights and entitlements, as security and IDC deposited with HPSEBL, and respondents now require to handover the existing dedicated transmission line from 132 KV grid sub-station to take off point to the complainant company. A vested right has accrued in favour of the complainant to claim refund from the respondents for the period 07.03.2013 to 12.09.2013, for the excess amount paid towards monthly energy bills amounting to Rs. 40,85,399/- charged in excess in terms of clause 2(ix) of the deed of sale dated 07.03.2019.
8. The Respondent Board, in its reply has taken the stand that on the request of the M/s Rama Steel Ltd., in the year 2005 for release of connection, an estimate of Rs.184.70 lac was framed & firm offered to get the line constructed by themselves. The said arrangement was in accordance with the HPERC (Recovery of Expenditure for supply of Electricity) Regulations, 2005. The said regulations provide for maintenance of such supply by licensee & the licensee shall also have the right to supply electricity to any other prospective applicant through the said work and the said

works shall become the property of the licensee. The respondents deny the factum that 132 KV transmission line was for exclusive use of M/s Shree Rama Steels.

9. The respondent board submits that the present complaint is not maintainable, in view of the amended provision of HP Electricity Supply Code, 2009 by way of the Himachal Pradesh Supply Code (First Amendment) Regulations 2014, in which third proviso has been added in para No.7.1.2 and it has been specifically made clear in the notification published on 28.04.2014, in the Rajpatra of HP that the Himachal Pradesh Supply Code (First Amendment) Regulations, 2014 (Annexure R-1) shall come into force from the date of their publication in the Rajpatra of HP. Thus these regulations has no retrospective operation and thus Para 7.1.2 of third provision of the said amendment is not applicable to the facts and circumstances of the present case, since the power connection was permanently disconnected on 12.09.2013 (Annexure R-2) i.e. prior to coming into force of the Himachal Pradesh Supply Code (First Amendment), Regulations 2014.
10. The respondent board in its reply further submits that on the one hand the complainant is denying the liability of M/s Rama Steel Ltd., and on the other hand claiming the refund of amount of M/s Rama Steel Ltd., alleged to be lying with the respondents to the tune of Rs. 40,85,399/-. In fact the account of M/s Rama Steel Ltd., already stand overhauled, as is evident from (Annexure R-3) pursuant to the decision of this Hon'ble Forum in complaint No.98/2013 and said company had nothing paid in excess. Thus complaint is stale and liable to be dismissed as the complainant has no vested right to claim anything from the replying respondents. The complainant purchased the aforesaid land and premises from HPFC. Neither complainant nor HPFC has cleared the outstanding dues of M/s Rama Steel Ltd.. The replying respondents were not party to the sale deed executed on dated 07.03.2019 between the complainant and HPFC. There is no such legal vested rights has been created in favour of the complainant and against the replying respondents by way of said sale deed.
11. The respondents further submits that unless and until the outstanding amount in respect of the disputed electricity connection is not cleared, the respondents are unable to release the load to the complainant, as per rules and regulations. The complainant has no right to dispute the correctness of charges levied by the respondents on M/s Rama Steel Ltd., and the complaint is liable to be dismissed. The Respondent Board has also placed the record the copy of interim order dated 21.06.2019 of this Forum whereby interim directions given to respondent board to issue a demand notice to the complainant for release of power supply.
12. The Complainant in its Rejoinder dated 23.11.2019 & arguments on 20.08.2020 has reiterated the stand taken by him in his Complaint and prayed that the Respondents be directed to refund the amount of 40, 85,399 deposited by its predecessor M/s Rama Steel Ltd., in excess towards the

demand charges during the period March 2013 to September 2013, when the electricity supply stood temporarily disconnected in terms of third proviso of Para 7.1.2 as amended by HPERC by way of HP Electricity Supply Code (First Amendment) Regulations 2014 which is having retrospective effect in terms of insertion of para 1.1.4.1 in amended Regulations, 2014.

13. We have heard both the parties at length and also gone through the case file carefully and it has transpired that the claim of refund of excess demand charges of M/s Rama Steel Ltd., by complainant company in view of the provisions of sale deed dated 07.03.2019, is interlinked to the counter claim of the respondents which has been filed against the of M/s Rama Steel Ltd., in the court of law. Thus, the issue presently stated to be sub-judice it will not be appropriate for this Forum to decide a matter already pending decision before competent court of law, as the same, if decided at this stage, may prejudice the interests of the contesting parties. It has also been brought to our knowledge that the present Respondents have already moved the Hon'ble High Court of H.P., by way of filing a Civil Suit No. 31/2016, for recovery of outstanding amount from M/s Rama Steels Industries Ltd., as per the provisions of the Supply Code, 2009 Para 5.2.13.
14. In view of the aforesaid terms, without expressing any opinion on the merits of the complaint; the present complaint stood disposed of, on the fact that the Civil Suit No. 31/2016 is pending adjudication before the Hon'ble High Court of H.P. The issue of refund claim of the dues of M/s. Rama Steel Pvt. Ltd. in present complaint cannot be ascertained without having decision on the counter claim of Respondent Board made in above referred Civil Suit. The parties are left to bear their own costs.

The Order announced on 20.08.20 before the parties present at Shimla.

The file be consigned to record room after due completion. A copy of the order be kept in safe custody of folder of orders. A certified copy of these orders be supplied to both the parties.

Dated:-20.08.2020

Place:- Shimla

Sd/-
(K.S. Dhaulta)
Member

Sd/-
(Sanjay Dewan)
Chairman

Notice

Registered
CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-9.
No. CGRF /Complaint No. 1453/3/19/026 **Dated:-**

M/s Prime steel Industries Pvt. Ltd,
Known as M/s A.M. Iron & Steel Rolling Mills (P),
Amloh Road, Opposite Aman Gas Agency Mandi Gobindgarh,
Distt. Fatehgarh Sahib, 147301 (PB). **Complainant**

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Complaint No. 1453/3/19/026

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4. M/s Sh. Rama Steels Ltd., Unit-II, Village Bated,
Teh. Baddi, Distt. Solan (HP).

Respondents

The Certified copy of final order dated 20.08.2020 passed by the Hon'ble Forum in the aforesaid complaint is enclosed find herewith for further necessary action at your end please. The compliance be reported/ intimated within one month after the receipt of order in the office.

DA:-As above.

Secretary,
Consumers Grievances Redressal Forum,
HPSEBL, Kasumpti Shimla-9.