CONSUMER GRIEVANCES REDRESSAL FORUM, SHIMLA

Complaint No 3234/202508/25

M/s Orissa Metaliks Private Limited
Vs
HP State Electricity Board Limited (HPSEBL) and Ors

Brief facts of Matter–

(1) Complaint has been filed under Regulations 16, 17 and 18 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 by M/s Orissa Metaliks Private Limited – R/o at 1, Garstin Place, Orbit House, 3rd Floor Kolkata, West Bengal - 700001;

(2) As per the Complainant, pursuant to proceedings and Order passed by Ld National Company Law Tribunal (NCLT) on 04.10.2024, it has in the month of November 2024 taken over the plant of Corporate Debtor namely M/s Metenere Ltd at Damtal (Himachal Pradesh) and started running it. Against the said take-over, the approved Resolution Plan by the Ld NCLT, provided merger of Corporate Debtor into the petitioner before the Ld NCLT / Complainant herein;

(3) The said proceedings before the Ld NCLT are in terms of provisions of central Act namely the Insolvency and Bankruptcy Code, 2016;

(4) Under the Electricity Act, 2003, HP State Electricity Board Ltd (or the HPSEBL) is the electricity distribution licensee in State of Himachal Pradesh and also the Respondent herein. The electricity connection against the said plant in Damtal bears consumer ID No 100012000178 and is in the name of M/s Metenere Ltd, the plant of which has been taken over by the Complainant;

(5) In the matter, the Complainant before approaching this Forum had also filed CWP No 11306 of 2025, before the Hon’ble HP High Court challenging Demand Notice raised dated 30.06.2025 and also a coercive letter dated 08.07.2025 written by the Respondent. This CWP was disposed by the Hon’ble Court vide Order passed on 15.07.2025 (**Annexure C9**) which in its concluding para is pleased to order as follows:-

> *"5. Be that as it may, taking into consideration the fact that there is an alternative Dispute Redressal Fora exists and as the said statutory remedy has not been exhausted by the petitioner, this petition is disposed of with the direction that let the connection of the petitioner be restored forthwith and the same shall not be disconnected as upto 31.07.2025, to enable the petitioner to invoke the jurisdiction of the Statutory Fora. However, in case the petitioner does not approaches the appropriate Fora by 31.07.2025, then the protection granted to the petitioner shall cease to exist and shall come to an end and further, if the petitioner does approaches the statutory Fora on or before 31.07.2025, then the protection granted to the petitioner to continue till appropriate orders are passed on the application that may be filed by the petitioner seeking interim relief. It is clarified that this Court has not made any observation as far as the merits of the case are concerned and indulgence shown to the petitioner should not be construed as this Court has made any positive observation as far as the contentions of the petitioner are concerned. Pending miscellaneous applications, if any, also stand disposed of."*

(6) Pursuant to the ibid Order passed by the Hon'ble Court, the instant complaint was submitted before this Forum on 30.07.2025 and thereafter observation was raised on the same date by the Registry of the Forum for submission of copy of CWP filed by the Complainant before the Hon'ble HP High Court. After the Complainant attended to the said observation and placed on record copy of the said CWP, on 19.08.2025, matter for the first time came up for admission hearing before this Forum on 20.08.2020. Vide Forum Order passed on 03.09.2025 stay against disconnection of ibid consumer ID was granted;

(7) Complainant is aggrieved by the demand raised by the Respondent for Security Deposit vide Notice dated 30.06.2025 (**Annexure C6**) and further letter dated 08.07.2025 (**Annexure C7**) written by the Respondent, as required under the Electricity Act, 2003 and the relevant HPERC Regulations;

Complainant:

(8) That in accordance with the process, proceedings before the National Company Law Tribunal (NCLT), approval of Resolution Plan by the NCLT, Deposit of Plan Amount of Rs 295,14,95,611/= by it and Order passed by NCLT on 04.10.2024, it has in the month of November 2024 taken over the plant of Corporate Debtor namely M/s Metenere Ltd at Damtal (Himachal Pradesh) and started running it;

(9) That it has regularly been paying electricity bills since November 2024 (**Annexure C-2**) and that in line with the merger sanctioned by the NCLT, on 13.06.2025 it wrote letter (**Annexure C3**) to Respondent requesting a formal change of name in the electricity records from M/s Metenere Ltd. to Orissa Metaliks Private Limited. Respondent replied on the same date requesting certain documents which was responded by it on 20.06.2025 stating that the name change was under process with the Registrar of Companies and would be completed shortly, following which the required formalities including submission of a fresh security deposit (BG) would be complied with. Copies of these letters along with Application pending before ROC are at **Annexure C4**;

(10) That on 24.06.2025, Respondent reiterated (**Annexure C5**) its earlier communication asking it to submit the change of name file online, and to follow Sales Manual Instructions;

(11) That without waiting for the completion of ROC formalities and without complying with any mandatory legal procedure, the Respondent issued an arbitrary demand notice dated 30.06.2025 (**Annexure C6**) demanding 1,56,85,212/- towards "new ACD" (Additional Consumption Deposit) citing vague references to the 3rd and 4th Amendments of the HPERC Regulations. The notice contained no supporting calculations, no adjustment of the existing deposit of ₹99,46,600/-, and no mention of the installment facility prescribed under law;

(12) That again without following due process or providing any calculation or justification, the foregoing was followed by a coercive threat letter dated 08.07.2025 (**Annexure C7**) from Respondent;

(13) That it objected to the demand on 11.07.2025 (**Annexure C8**);

(14) That on grounds of violation of HPERC Regulations 4(3), Regulation 6(2)(b), proviso of Regulation 6, violation of Articles 14 and 19 and violation of principles of natural justice and legitimate expectations, it is seeking reliefs.

(15) During the course of proceedings in the matter, Complainant also made written submissions / arguments-

(a) That on approval of Resolution Plan by the Ld NCLT, Corporate Debtor's business, all assets, rights and liabilities including subsisting contracts such as that of electricity supply are acquired and vested in the successful Resolution Applicant and all prior claims stand concluded and are extinguished and cannot be reopened and enforced against successful Resolution Applicant as has been settled by Hon'ble Supreme Court vide Judgments in matters titled Ghanashyam Mishra & Sons Pvt. Ltd. V. Edelweiss ARC reported in (2021) 9 SCC 657 and in Essar Steel India Ltd. V Satish Kumar Gupta reported in (2020) 8 SCC 531;

(b) That it is a going concern and a continuing consumer who has stepped into the shoes of the Corporate Debtor (M/s Metenere). The issue of the security deposit raised herein pertains exclusively to post-resolution and cannot be mixed with pre-CIRP liabilities. The issue of illegal demand raised by the Respondent is regulatory in nature and does not pertain to any pre-Corporate Insolvency Resolution proceedings, dues or recovery proceedings and the Respondent's attempt to link the same with insolvency related liabilities is misplaced and unsustainable;

(c) That the reliance placed by the Respondent on Paschimanchal Vidyut Vitaran Nigam Ltd. V DVS Steels & Alloys(P) Ltd reported in (2009) 1 SCC 210 is misplaced wherein the said decision deals with different facts and where a new applicant sought reconnection after disconnection due to default on the part of previous consumer.

Respondent:

(16) That Complainant has no locus-standi to file and maintain the present complaint while it is estopped due to its own act and conduct to file and maintain the present complaint;

(17) That originally M/s Metenere Ltd was released connection (SCO) in October 2010 and it continued to make regular payments till October

2020 and thereafter financial dispute with the State Bank of India (SBI) led to its insolvency proceedings, under the Insolvency and Bankruptcy Code, 2016, before the Hon'ble NCLT;

(18) That before initiation of CIRP process, M/s Metenere defaulted in making payments to the replying Respondent and liability amounting to Rs 2,02,14,983/- created against M/s Metenere, out of which Rs 1,23,55,283/- and Rs 39,79,000/- has been admitted (**Annexure RA1**) by the Resolution Professional of the firm;

(19) That vide Order passed by NCLT on 04.10.2024, Resolution Plan size of Rs 295,14,95,611/= towards CIRP costs and towards claims of Creditors along with and an additional infusion of capital amount of Rs 300,00,00,000/-, has been approved in favor of the Complainant for taking over operations of M/s Metenere;

(20) That Respondent received an application for change of name vide Metenere letter dated 13.06.2025 (**Annexure RA2**) for change of name from Metenere Ltd to Orissa Metaliks Ltd, where in it is also informed that the outstanding dues of Rs 2,05,27,335/- shall be discharged and paid by RP after clearance from NCLT court;

(21) That in accordance with sub-regulation 4 and 6 of the (Third Amendment) Security Deposit Regulations, 2020 notified by the HPERC on 03.07.2020, Respondent has issued notice to the Complainant for deposit of Additional Security Deposit of Rs 1,56,85,212/- (**Annexure C6**);

(22) That the complaint is misconceived as it seeks the adjustment of security deposit or the waiver of statutory charges. The Complainant is bound by provisions of HPSEBL Sales Manual / HPERC (Security Deposit) Regulations, 2005. Complainant has taken over the Corporate Debtor (M/s Metenere) assets subject to all existing liabilities, including electricity dues in terms of approved Resolution Plan. Complainant having voluntarily stepped into the shoes of the Corporate Debtor, is bound by the terms and conditions of supply, HPERC Regulations and Supply Code and Complainant cannot avoid

statutory liability by alleging pending ROC formalities. In the matter the Complainant was required to deposit Rs 1,56,85,212/- towards security along with submission of requisite documents and completion of prescribed procedure which has not been done by it. Vide Annexure C6 dated 30.06.2025 calculation along with security amount has been conveyed to the Complainant. Vide its letters dated 13.06.2025, 20.06.2025 and 24.06.2025 multiple opportunities were given however, Complainant is neither completing the process of change of name nor depositing the Security as per Regulations;

(23) That the NCLT Approval does not exempt the Complainant from the HPERC (Security Deposit) Regulations. Further, the Hon'ble Supreme Court in Paschimanchal Vidyut Vitaran Nigam Ltd Vs D.V.S Steels and Alloys (P) Ltd., (2009) 1 SCC 210 has held that a new purchaser / consumer is liable to comply with statutory conditions of supply, including fresh deposits, irrespective of earlier dues or arrangements;

(24) Electricity Supply constitutes an essential service and the Insolvency and Bankruptcy Code, 2016 does not absolve the corporate debtor from obligation to clear its outstanding dues. On approval of Resolution Plan on 04.10.2024, moratorium period has culminated and the liability of M/s Metenere Ltd and the Complainant towards it remains payable and enforceable under the approved Resolution Plan. The alleged infusion of additional capital does not exempt the Complainant from statutory requirements, electricity dues and Security Deposits;

(25) On foregoing grounds, the Respondent has prayed for dismissing the complaint with directions to the Complainant to complete process of change of name and to deposit additional security deposit amount of Rs 1,56,85,212/- as per revised Regulations within a time period.

ORDER

(26) Forum at the outset observes that Complainant's grievance is against the monetary demand for Security Deposit raised by the Respondent vide Annexure C6 dated 30.06.2025;

(27) It is the Complainant's submissions and arguments that on approval of Resolution Plan by the Ld NCLT, Corporate Debtor's business, all assets, rights and liabilities including subsisting contracts such as that of electricity supply are acquired and vested in it being the successful Resolution Applicant. Accordingly, all prior claims stand concluded and are extinguished and cannot be reopened and enforced against successful Resolution Applicant;

(28) Complainant has also submitted and argued that, it is a going concern and a continuing consumer who has stepped into the shoes of the Corporate Debtor (M/s Metenere) and that the issue of the security deposit being raised herein pertains exclusively to post-resolution and cannot be mixed with pre-CIRP liabilities. Further, the issue of demand raised by the Respondent is regulatory in nature and does not pertain to any pre-Corporate Insolvency Resolution proceedings, dues or recovery proceedings and thus no fresh Security can be imposed. Still further, the said demand seeks to treat the Complainant being an existing consumer as a new consumer and to recover fresh deposit. Still further that the existing supply connection continues without interruption or re-application and that it is regularly paying the electricity bills raised by the Respondent;

(29) Forum observes that the said proceedings before the Ld NCLT are in terms of provisions of central Act namely the Insolvency and Bankruptcy Code, 2016. Pursuant to these proceedings before the Ld National Company Law Tribunal (NCLT), approval of Resolution Plan by the Ld NCLT and Order passed by the Ld NCLT on 04.10.2024, the Complainant in the month of November 2024 has taken over the plant of Corporate Debtor namely M/s Metenere Ltd at Damtal (Himachal Pradesh) and started running it;

(30) Forum has examined the relevant provisions of the Electricity Act, 2003, Insolvency and Bankruptcy Code, 2016, various relevant Regulations framed by the Ld HP Electricity Regulatory Commission (or the HPERC) including relevant provisions of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 (or in short referred to as the 'CGRF Regulations'), HPERC (Security Deposit) Regulations, 2005, HP Electricity Supply Code, 2009 (or in short referred to as 'the Supply Code') and amendments thereto, HPSEBL Sales Manual, CWP filed by the Complainant before the Hon'ble HP High Court, Orders passed by the Ld NCLT and the Hon'ble Court placed on record, Judgments of the Hon'ble Apex Court cited by the parties and record as facts along with pleadings of the parties. This Forum has heard the parties at length. The considered opinion of the Forum has been gathered after considering the fair facts, evidences and correspondence placed on record and arguments adduced by both the parties;

(31) Before the Forum delves into the case of the Complainant, foremost it finds it necessary and expedient to decide the issue of locus-standi contended by the Respondent in terms of Complainant's right to raise and maintain the instant grievance against the monetary demand for Security Deposit raised by the Respondent on 30.06.2025 (**Annexure C6**), not upon the Complainant but upon the Corporate Debtor (M/s Metenere) –

(32) Forum finds that Complainant has not objected to the ibid contention with regard to locus-standi raised by the Respondent;

(33) The Complainant has merely stated on record that on approval of Resolution Plan by the Ld NCLT, it being the successful Resolution Applicant has taken over the plant at Damtal (HP)/ business of the Corporate Debtor (M/s Metenere) and is running the said plant and is regularly paying the electricity bills raised by the Respondent;

(34) During the proceedings before this Forum, Complainant informed the Forum that when it took over the plant, its electricity connection was

not a disconnected one. This was not opposed by the Respondent. Complainant also placed on record a single page Certificate of Amalgamation dated 02.09.2025 in respect of M/s Metenere Ltd issued by the Ministry of Corporate Affairs;

(35) From foregoing, Forum safely summarizes that the electricity connection of the Corporate Debtor was not disconnected by the Respondent when the Complainant took over the plant at Damtal and that the status of the Corporate Debtor remained that of a going concern during the Resolution process. Further, Complainant claims to have been supplied electricity by the Respondent which is evident from the electricity bills (**Annexure C2**) after it took over the plant;

(36) However, Respondent has pointed out that the Complainant after stepping into the shoes of Corporate Debtor (M/s Metenere), has not completed the codal formalities as required under the statute notified by the HPERC, which includes change of name, executing Agreement and deposit of Security mandated by way of HPERC Regulations;

(37) From perusal of code 3.5 of HP Electricity Supply Code, 2009 notified by the HPERC read with its Appendix, for transfer of title / ownership, Forum finds that the Complainant has to submit an 'Application and Agreement form' and complete all codal formalities as required under the statute, which the Forum from record does not find to have been done by the Complainant. Thus in the eyes of the Respondent, complaint is barred on grounds of locus-standi because the Complainant does not exist in record of the Respondent as a consumer;

(38) From foregoing, Forum observes that while the Respondent perceives the complaint to be barred on grounds of locus-standi, however, Complainant, having taken over the plant of Corporate Debtor (M/s Metenere) at Damtal and stepped into its shoes in accordance with the Ld NCLT Order dated 04.10.2024 and the plant continued to remain electrically connected and receive electricity supply and further

Certificate of Amalgamation issued on 02.09.2025, therefore in the considered opinion of the Forum, even if the perception of the Respondent is valid, however, when dispute has arisen between parties that concerns a matter of electricity which is within Forum's jurisdiction to adjudicate upon, then Forum's indulgence becomes necessary and it shall not be in the interest of justice to sustain the issue of locus-standi raised by the Respondent;

(39) Therefore, Forum in interest of justice, decides to proceed in the matter without considering the issue of locus-standi raised by the Respondent in terms of Complainant's right to raise and maintain the instant grievance against the monetary demand for Security Deposit raised by the Respondent not upon the Complainant but upon the Corporate Debtor (M/s Metenere) and accordingly here-in-after proceeds to determine the matter on its merits-

(40) However Forum points out that despite Forum's decision to not consider the ibid issue of locus standi raised by the Respondent, Forum holds that once the Complainant has stepped into the shoes of the Corporate Debtor (M/s Metenere), then in matters of electricity, Complainant shall be governed by the electricity laws which are in terms of central Act namely the Electricity Act, 2003 / Regulations notified by the HPERC and the Complainant cannot on its own hold exemption from not being governed by the Electricity laws and shall accordingly be mandated to complete the codal formalities as required under the statute for availing and continuing the electricity connection and supply which includes but is not limited to applying to the Respondent for change of name, executing an Agreement and paying any monetary dues that may become due under the statute and it is not open to the Complainant to defy the electricity statute in any way. It is also not open for the Complainant to presume that once the plant/industrial unit has been taken over by it pursuant to Ld NCLD Orders dated 04.10.2024 passed under provisions of central Act namely the Insolvency and Bankruptcy Code, 2016, then it was/is not bound by the electricity statute which includes Regulations/ Codes

framed by the HPERC and was thus not required to apply separately to the Respondent for change of name and/or to execute an Agreement with the Respondent. The Complainant cannot be a judge of its own cause. The stand adopted by the Complainant tantamount to wrong implications. When the Complainant has taken over the business and assets of the Corporate Debtor (M/s Metenere) by way of Ld NCLT Order, then it is not for it to decide that it is not bound to execute a separate Agreement for electricity supply and that the already executed Agreement between the Respondent and M/s Metenere automatically becomes that between it and the Respondent. This would then have the wrong resultant effects such as that while the electricity connection in the records of the Respondent, the future electricity bills and the future violations / offences specified in the Act, to continue in the name of Corporate Debtor (M/s Metenere) for all times however, the Complainant continues to avail and enjoy the electricity supply during these times. This stand adopted by the Complainant is obviously wrong and untenable in the context of electricity statute governing it. In the instant matter, Forum holds that in matters of electricity, the Complainant is bound to be governed by the electricity statute / laws and it is not open to the Complainant to hold exemption from the applicability of the electricity statute / laws to it;

(41) Subsequent to the NCLT proceedings, Forum, with regard to its ibid observations on the applicability of electricity statute to the Complainant in matters of electricity, finds its observations to be in consonance with the the import of Ld NCLAT judgment in Appeal titled Maithan Alloys Limited Vs Easter Power Distribution Company and Anr, No Comp. App. (AT) (Ins) No. 1514 of 2024 & I.A. No. 5492, 5493 of 2024, cited by the Respondent.

(42) Now moving forward, before the Forum delves into the case of the Complainant with regard to the issue of monetary demand for Security Deposit raised upon it by the Respondent, Forum observes and finds that the parties in their respective submissions and

arguments have relied upon Sales Manual Instructions and used the term “ACD” in short for “Advance Consumption Deposit”. Forum is inclined to understand these-

(43) From perusal of statute, Forum finds that the term “ACD” (in short for “Advance Consumption Deposit”) was prevalent before the advent of the statute namely ‘the Electricity Act, 2003’. Pursuant to the advent of the said statute, this term was substituted with the term ‘Security Deposit” when also a Security Deposit Regulation was notified by the HPERC. However, Forum observes that the offices of the Respondent continue to use the erstwhile term ACD interchangeably with the term Security Deposit;

(44) Further, on examining the Sales Manual of the Respondent HPSEBL, Forum finds that this is an internal document of the Respondent carrying therein standardized instructions to its field units with regard to common operational procedures to be adopted by them. While this Sales Manual may be applicable to the Respondent, however, when statute under the Electricity Act, 2003 has already been laid down and notified by the HP Electricity Commission by way of the HP Electricity Supply Code, 2009, Security Deposit Regulations and other Regulations respectively, then this Sales Manual in the opinion of the Forum does not supersede the said prevailing statute and thus cannot be relied upon by the Complainant nor help the Forum in determining the instant complaint. Forum holds that its decision has to be governed by the prevailing statute that includes the Electricity Act, 2003 and the Regulations / Code notified by the HPERC under this Act.

(45) Now coming to the case of the Complainant, where the monetary demand for Security Deposit raised by the Respondent vide Annexure C6 dated 30.06.2025 has been challenged, Forum after placing reliance on the said electricity statute notified under the Act, proceeds to determine the instant complaint-

(46) Briefly, it is the Complainant’s argument in support of its case that the Security previously deposited by Corporate Debtor (M/s Metenere), by default now becomes that of its because it has taken over the assets of the M/s Metenere. Further, that the monetary demand for Security Deposit raised by the Respondent vide Annexure C6 dated 30.06.2025 is wrong and illegal because the Security already available with the Respondent has to be adjusted / factored in while determining the Security Deposit now payable by it. Still further, that the said Security deposited by Corporate Debtor (M/s Metenere) cannot be adjusted against the outstanding payable by the Corporate Debtor (M/s Metenere) because this outstanding has been admitted in the Resolution Plan where the Ld NCLT has passed Orders on 04.10.2024. The issue of the Security Deposit raised by it herein pertains exclusively to post-resolution and cannot be mixed with pre-CIRP liabilities in context of a going concern.

(47) Forum is inclined to analyze the validity and sustainability of above arguments made by the Complainant-

(48) Forum after perusal of the electricity statute, at the outset observes that pursuant to claim against the Corporate Debtor (M/s Metenere) filed by the Respondent in the proceedings before the NCLT and Order passed by the Ld NCLT, if the complete claim against default committed by the Corporate Debtor is not received by the Respondent, then that shall either result in permanent loss to the Respondent being a distribution licensee under the electricity statute or result in such default burdening other electricity consumers under the existing Electricity Regulatory regime. Both of these eventualities are bad. Here the existence of the Corporate Debtor as a going concern has to be ensured so as to balance the interests of all stake holders which also include the existence of the Respondent as a going concern. Here the Respondent as an electricity distribution licensee does not cater to a single electricity consumer but to many and it cannot be expected to continue to bear the losses or pass on its losses to other consumers every time high end consumers resort to the

insolvency and bankruptcy proceedings before the NCLT. The existence of the Respondent cannot be threatened and it cannot be the position of law that to save an enterprise, the existence of other enterprises be threatened or other electricity consumers be made to be burdened with such loss in the electricity regulatory regime;

(49) Forum finds the ibid observations of its to be in consonance with the discussion in para 71 in case titled Essar Steel India Ltd. V Satish Kumar Gupta cited by the Complainant with regard to the Corporate Debtor who must be kept a 'going concern' during the insolvency resolution, so as to enable it to pay the operational creditors without which such operations as a going concern would become impossible.

(50) Forum also observes that the instant matter is with regard to the issue where the Complainant as a successful Resolution Applicant in the NCLT proceedings seeks adjusting the Security deposited by the Corporate Debtor against that demanded by the Respondent vide Annexure C6 dated 30.06.2025 and it is this issue which is before this Forum for determination-

(51) Forum after perusal of the electricity statute finds that the position of law with regard to the said Security is as laid down in the Electricity Act, 2003. Forum finds that the Regulations framed by the HPERC are in terms of the provisions of this Electricity Act, 2003. Forum is therefore of the opinion that the provisions of the Act be reproduced here for the sake of convenience and is as follows:-

*"**47. Power to require security.**--(1) Subject to the provisions of this section, a distribution licensee may require any person, who requires a supply of electricity in pursuance of section 43, to give him reasonable security, as determined by regulations, for the payment to him of all monies which may become due to him -*

(a) in respect of the electricity supplied to such persons; or

(b) where any electric line or electrical plant or electric meter is to be provided for supplying electricity to such person, in respect of the provision of such line or plant or meter,

and if that person fails to give such security, the distribution licensee may, if he thinks fit, refuse to give the supply of electricity to such person or to provide the line or plant or meter for the period during which the failure continues.

(2) Where any person has not given such security as is mentioned in subsection (1) or the security given by any person has become invalid or insufficient, the distribution licensee may, by notice, require that person, within thirty days after the service of the notice, to give him reasonable security for the payment of all monies which may

become due to him in respect of the supply of electricity or provision of such line or plant or meter.
(3) If the person referred to in sub-section (2) fails to give such security, the distribution licensee may, if he thinks fit, discontinue the supply of electricity for the period during which the failure continues.
(4) The distribution licensee shall pay interest equivalent to the bank rate or more, as may be specified by the concerned State Commission, on the security referred to in sub-section (1) and refund such security on the request of the person who gave such security.
(5) A distribution licensee shall not be entitled to require security in pursuance of clause (a) of sub-section (1) if the person requiring the supply is prepared to take the supply through a pre-payment meter."

(52) From the perusal of the ibid provisions of the Act on Security Deposit, Forum safely summarizes that the Security Deposit is allowed to be received / recovered by the Respondent distribution licensee against the electricity supplied / to be supplied to a consumer in respect of which monies may become due, implying thereby that any electricity supplied to a consumer, if remaining unpaid/defaulted, is extinguished/offset with the available Security Deposit. Forum finds the ibid provisions to be of continuous nature and not one time. This further implies that, after the said extinguishment/offsetting, the distribution licensee becomes vested with the right to seek additional security from a defaulting consumer;

(53) The above is now seen in light of the issue raised by the Complainant. It is the submission of the Complainant that because it has now stepped into the shoes of the Corporate Debtor thus by virtue of the Ld NCLT Order, the assets of Company earlier owned by the Corporate Debtor are now vested in it. Further, it is also submitted by the Complainant itself that along with the assets, the liabilities of the Corporate Debtor are also vested in it;

(54) Forum on perusal of the Ld NCLT Order passed on 04.10.2024, finds that it admits claims from the stake holders against the Corporate Debtor and thereafter approves the quantum of claim disbursable to these stake holders. Further, from perusal of the ibid Ld NCLT Order, Forum finds that when the Order allows the transfer of assets of the Corporate Debtor (M/s Metenere) to the Complainant, it nowhere bars or disallows the transfer of the Corporate Debtor's liabilities. It

simply takes from the successful Resolution Applicant a fixed deposit of Rs 295,14,95,611/= against the admitted claims of the creditors to the tune of Rs 3672.39 crore. Thus, as per Complainant's argument, the burden of the default against electricity supplied (in units) to the Corporate Debtor will also have to be inherited by it along with any Security Deposit, which nowhere is the case of the Complainant;

(55) Thus, Forum holds that when the Corporate Debtor (M/s Metenere) is a going concern, its liabilities are also transferred to the Complainant along with the Corporate Debtor's assets. Here in the instant matter even prior to the NCLT proceedings, the liability is that of erstwhile electricity supplied (in electricity units) to the corporate debtor which is a pre-CIRP liability while the Security deposit by the Corporate Debtor is also a pre-CIRP liability with Respondent, having been received by the Respondent against the electricity supplied to the Corporate debtor by the it. Accordingly, if the Corporate Debtor's Security deposit gets vested into the Complainant after the CIRP, then so does the electricity supplied to it, if not paid by the Corporate Debtor and if this electricity supplied does not get vested, then the Security deposit by Corporate Debtor too cannot. Equitable treatment cannot be that pre-CIRP asset/liability is offset against a post CIRP liability of the Complainant as is wrongly being sought by the Complainant. To only vest the Security Deposit of the Corporate Debtor into the Complainant and not the unpaid electricity supplied to the Corporate Debtor, amounts to enriching the Complainant which Forum holds as patently wrong and cannot be the intention of the law especially when the Complainant has taken over the plant after deposit of Plan amount of Rs 295,14,95,611/= against the admitted claims of the creditors to the tune of Rs 3672.39 crore, which in the opinion of the Forum is final as per the Orders of the Ld NCLT;

(56) The Respondent during the hearing in the matter, informed the Forum that pursuant to the Orders passed by the Ld NCLT on 04.10.2024, till date no amount towards its filed claim as an operational creditor, has been received by it and that based on its past experience it was

also not bound to receive the complete default committed by the Corporate Debtor or to receive only a meager amount resulting in loss to it. This also becomes evident from the fact of admitted claims by the creditors being to the tune of Rs 3672.39 crore against the approved deposit by the Complainant which is approximately to the tune of Rs 295.15 crore and on this the operational creditor has no say or vote either before the Committee of Creditors (CoC) or in the proceedings before the NCLT. Being an operational creditor, the claim filed by the Respondent is under the presumption that neither will it be denied its claim nor its claim reduced in any manner because during the Resolution proceedings the Corporate Debtor is bona-fide kept a going concern by the Respondent who continues to receive electricity and its electricity connection not disconnected, as is the case in the instant matter. Forum is of the opinion that Respondent to later be denied its claim or its claim subverted in any manner, is detrimental to the concept of keeping a Corporate Debtor a going concern. If such eventualities arise before the Respondent, then the only option before the Respondent shall be to disconnect a consumer Corporate Debtor, immediately on default, so as to prevent future arrears from piling up during the Resolution process and thus enable the Respondent to protect its interest and that of other electricity consumers and further to challenge before the Hon'ble Courts any directions by the Ld NCLT during the Insolvency proceedings to keep a Corporate Debtor a going concern.

(57) Now coming to various judgments cited by the Parties-

(58) Forum has gone through Judgment passed by the Hon'ble Apex Court, as relied upon in its Reply by the Respondent, titled Paschimanchal Vidyut Vitaran Nigam Ltd Vs D.V.S Steels and Alloys (P) Ltd., (2009) 1 SCC 210. Forum finds that while this Judgment is in terms of the Electricity Act, 2003 for the recovery of electricity dues from the purchaser of a sub-divided plot however, the factual matrix therein is different from that in the instant matter for the reason that the matter before the Apex Court is not one pertaining

to NCLT proceedings under the Insolvency and Bankruptcy Code, 2016 and is therefore distinguishable;

(59) On the other hand, during the hearing stage the Respondent also relied upon Learned National Company Law Appellate Tribunal (Ld NCLAT) judgment in Appeal titled Maithan Alloys Limited Vs Easter Power Distribution Company and Anr, No Comp. App. (AT) (Ins) No. 1514 of 2024 & I.A. No. 5492, 5493 of 2024 wherein the Appellant has been held liable to pay true up charges determined by the Electricity Regulatory Commission after it took over the Corporate Debtor being a going concern and Sales Certificate issued, under the Insolvency and Bankruptcy Code, 2016. Forum observes that Truing-Up is integral in the process of Tariff Determination under the Electricity Act, 2003 thus implying that even a successful Resolution Applicant in the CIRP is governed by the electricity statute in matters of electricity, as is the case in the instant matter. This position held by the Ld NCLAT, vindicates the position held by the Forum in this Order;

(60) Forum has also gone through the judgments of the Hon'ble Apex Court cited by the Complainant. Forum finds that the Hon'ble Apex Court in para 105 and para 107 of case titled Essar Steel India Ltd. V Satish Kumar Gupta, while relying on case titled SBI v. V Ramakrishnan, has held that an approved resolution plan is binding on all stake holders for the reason that the provisions of Section 31(1) of the NCLT Code ensures that successful resolution applicant starts running the business of the Corporate Debtor on a clean slate and that it cannot suddenly be faced with undecided claims after the resolution plan submitted by him is accepted. All claims must be submitted to and decided by the Resolution Professional so that the prospective Resolution Applicant knows exactly what has to be paid in order that it may then take over and run the business of the Corporate Debtor;

(61) Forum finds that the factual matrix in the instant matter is not that of undecided claims being raised upon the Complainant after the resolution plan submitted by it is accepted but on the contrary relates

to the payment of Security Deposit by the Complainant against electricity to be supplied to it by the Respondent in accordance with the Electricity statute and where the Complainant wrongly seeks adjustment of this Security Deposit by way of the Security deposited by the Corporate Debtor. This issue raised by the Complainant is therefore distinguishable from law being cited by it. Complainant has failed to appreciate that the said Security Deposit made by the Corporate Debtor is deemed immediately extinguished / offset against the electricity supplied by the Respondent to the Corporate Debtor at the time of default of payment by it and any formal order of adjustment shall not be required or shall merely be consequential to accounts / accounting. Further, the Complainant has also failed to appreciate that that no Security Deposit now remains with the Respondent for adjustment against the Security to be deposited by the Complainant. Still further, the Complainant has failed to appreciate that to seek adjustment of any Security deposited by the Corporate Debtor in the past, results in enriching the Complainant over and above the Plan amount of Rs 295,14,95,611/= deposited by it. Still further, the Complainant has also failed to appreciate that such Security was in the first place recovered by the Respondent from the Corporate Debtor pursuant to the Electricity Act, 2003 and against the electricity to be supplied to it and that the dues arising therefrom offset/extinguish the Corporate Debtors default against the electricity supplied to it either to keep it a going concern or otherwise also;

(62) Here the fact is that the Corporate Debtor was kept a going concern from October 2020 to October/ November 2024 and it is not the question of Complainant being a going concern which may be a question in future. Here, the Security deposit by the Corporate Debtor against which electricity was supplied to it by the Respondent immediately stands extinguished / offset against the Corporate Debtors default. Thus the Security to now be deposit by the Complainant has to be against the electricity now to be supplied to it and dues arising therefrom, which has to be in terms of the electricity

statute and not the NCLT statute, even if its stepping into the system is in continuity of a previous consumer being the Corporate Debtor. Thus the judgments passed by the Hon’ble Apex Court and cited by the Complainant cannot come in support of the Complainant;

(63) In the present matter, Forum reiterates and holds that the Complainant wrongly perceives the Security deposited by the Corporate Debtor to not extinguish the default against electricity consumption on part of the Corporate Debtor but to enrich the Complainant over and above its approved plan amount of Rs 295,14,95,611/=. This enriching cannot be allowed by the Forum under the garb of the Complainant claiming itself to be a going concern which defeats the very concept of a going concern in respect of the Corporate Debtor to whom electricity was continued to be supplied from October 2020 to October/ November 2024 to keep it a going concern. Forum holds that Law cannot be seen and read in isolation;

(64) Forum reiterates and holds that even when the Complainant has to start on a fresh slate, however still the law governing the electricity is applicable to it when it steps into the system and the Complainant cannot claim directly or indirectly on its own to either not be governed by the electricity laws or to not pay the Security Deposit due from it under the electricity laws or to escape a statutory provision;

(65) Thus the only conclusion that becomes effective in the instant matter is that against the electricity supplied (in electricity units) to Corporate Debtor (M/s Metenere) to keep it a going concern, defaults / fails to make payment against such electricity supplied, then the said Security deposited by it with the Respondent, immediately extinguishes / offsets the said default as is in the instant matter;

(66) Forum does not find any strength in the arguments by the Complainant that the issue of the Security Deposit raised herein pertains exclusively to post-resolution and cannot be mixed with pre-CIRP liabilities in context of it being a going concern and that it is

being burdened by additional Security Deposit. Forum cannot hold a statutory levy to be a burden;

(67) In the instant matter, when the defaulted / unpaid electricity (in electricity units) supplied to the Corporate Debtor (M/s Metenere) before the start of the NCLT proceedings is deemed extinguished / offset against the complete Security deposited by M/s Metenere, then Forum holds that there exists no question of Security transfer into the account of the Complainant and consequently enriching the Complainant over and above the Plan amount of Rs 295,14,95,611/= deposited by it;

(68) Forum further holds that against electricity supplied / to be supplied to the Complainant, the Complainant is mandated under the statute to deposit the Security, by whatever name 'initial' or 'additional', at the rates specified in the relevant HPERC Security Deposit Regulations and amendments thereto notified under the Electricity Act, 2003;

(69) Forum thus finds the arguments made by the Complainant in support of its case, to be farfetched and legally untenable in the facts and circumstances of the instant matter. Forum holds that the arguments of the Complainant do not sustain and accordingly rejects and dismisses such argument as being misleading, wrong, invalid and baseless;

(70) Forum further holds that when the Complainant is compulsorily mandated under the relevant electricity statute to deposit Security at the rates as specified in the HPERC Regulations then for the Respondent to demand such Security shall not amount to Respondent's action as being arbitrary, unreasonable, violative of Article 14 and 19(1)(g) of the Constitution, against principles of natural justice and legitimate expectation or illegal in any way for the simple reason that the Security deposit demand by the Respondent is in consonance with the Electricity Act, 2003 and also that no prejudice arises against the Complainant if it deposits such Security. To not deposit Security shall be against the electricity statute and the

Complainant shall be liable to be proceeded against by the Respondent under the provisions of electricity statute governing the instant matter, which includes taking any coercive action against the Complainant;

(71) In view of foregoing, Forum does not find any violation / contravention of electricity statute by the Respondent and finds the demand for Security Deposit raised by Respondent vide Annexure C6 dated 30.06.2025 to be legal and valid and accordingly upholds the same.

(72) Complainant is directed to deposit the Security raised by Respondent vide Annexure C6 dated 30.06.2025, within a period of 10 days from this Order;

(73) On not depositing the said Security raised by Respondent vide Annexure C6 dated 30.06.2025, as directed in the para supra, the Respondent shall be at liberty to take action as per electricity statute governing the instant matter;

(74) Any stay granted in the matter is accordingly vacated in view of foregoing findings by the Forum.

On aforesaid terms, the complaint is **Dismissed** and accordingly disposed.

Parties are left to bear their own costs.

Order is announced before the parties present today on 19.11.2025 at Shimla in open Forum.

Certified copies of this Order be supplied to the parties. The complaint along with this Order be consigned to record room for safe custody.

Date: 19.11.2025
Shimla

--Sd--	**--Sd--**
Vikas Gupta	**Tushar Gupta**
(Member)	**(Chairperson)**

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-9.

Complaint No.: - 3234/202508/25
Date of Admission: - 29.07.2025
Quorum: - Er. Tushar Gupta, Chairman
Er. Vikas Gupta, Member

In ref:-

M/s Orissa Metaliks Pvt. Ltd.
Village and P.O (Damtal) Tehsil
Indora Kangra Distt. Kangra.

Pin-176403 **Complainant**

V/s.

HPSEBL & Others. **Respondents**

1. The Executive Director (Pers.),
HPSEBL,Vidyut Bhawan,
Shimla-171004.

2. The Assistant Engineer,
Electrical Sub-Division, HPSEBL,
Damtal, District Kangra HP. **Respondents**

Final hearing:- 28.10.2025.

Counsels:-
Complainant 1. Sh. Viplav Sharma, Sr. Advocate

Respondent 1. Sh. Rajesh Kashyap, Advocate

2. Sh. Kamlesh Saklani, U.S. Law

Date of Decision:- 19.11.2025

Notice

Registered

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.

No. CGRF/Complaint No. 3234/202508/25 Dated:-

M/s Orissa Metaliks Pvt. Ltd.
Village and P.O (Damtal) Tehsil
Indora Kangra Distt. Kangra.
Pin-176403 **Complainant**

V/s.

HPSEBL & Others. **Respondents**

Complaint No. 3234/202508/25

1. The Executive Director (Pers.),
HPSEBL,Vidyut Bhawan,
Shimla-171004.

2. The Assistant Engineer,
Electrical Sub-Division, HPSEBL,
Damtal, District Kangra HP. **Respondents**

The Certified copy of final order dated 19.11.2025 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.