

**Before The Appellate Tribunal For Electricity
(Appellate Jurisdiction)**

Appeal No. 47 of 2007

Dated 16th May, 2007

Present - **Hon'ble Mr. A. A. Khan, Technical Member**
Hon'ble Mrs. Justice Manju Goel, Judicial Member

Bangalore Electricity Supply Co. Ltd. Appellant(s)

Versus

M/s. Aarpee Electricals Pvt. Ltd. & Anr. Respondent(s)

For the Appellant : Mr. M.G. Ramachandran, Adv.

For the Respondents : Mr. R.P. Gupta, MD R-1
Mr. Amit Kapur along with
Mr. Rajnish Ranjan for KERC

ORDER

The present appeal is against the order dated 08.01.2004 of the Karnataka Electricity Regulatory Commission by which the Commission directed the appellant Bangalore Electricity Supply Co. Ltd. to pay to the respondent M/s. Arpee Electricals Private Ltd. represented by Mr. R.P. Gupta the security deposit of Rs. 1,20,000, 45,292 and 13,000, after deducting 10 per cent of the deposits, along with the interest at the rate of 6 per cent per annum. The appellant has raised preliminary issues regarding the jurisdiction of the Commission to entertain a dispute between a consumer and utility and regarding the bar of limitation. The Respondent had deposited the amount some time in 1987 and 1989 and had asked for the refund of the deposit some time in 1992-93 and did

not take any legal step to recover the amount till it approached the Commission in 2003. On behalf of the Respondent, it is contended that the appellant had assured the payment some time for the year 2001. However, there is substantial question of limitation in this case. The question of jurisdiction of the Commission to go into the dispute between the parties is also a substantial question of law.

However, the appellant is a public body and is expected to be a model organization. Mr. M. G. Ramachandran, advocate appearing on behalf of the appellant, says that the appellant has already made a deposit of Rs. 1,78.292 in the High Court of Karnataka and that the amount is likely to have been put by the High Court of Karnataka in an interest bearing deposit. Mr. M.G. Ramachandran also fairly says that without going into the legal disputes raised in the appeal the appellant is willing to allow the respondent to withdraw the amount deposited with the Karnataka High Court along with the interest if any available on that account. The respondent represented by Mr. R.P. Gupta, Managing Director, says that he does not press his claim for interest on his deposits till this date except for whatever may have accrued on the deposit lying with the Karnataka High Court. The instructions from the appellant to the respondent No. 1 asking for deposit also does not indicate that the deposit was to bear any interest.

In view of the above, we feel it appropriate to conclude the matter here by allowing the respondent to withdraw the amount in deposit with the Karnataka High Court as offered by the appellant and accept the amount in full and final settlement of its claim in respect of the aforesaid deposits.

We add that this order will not be read as precedent in respect of the issues relating to the jurisdiction of the Commission and that relating to limitation.

The Court records appreciation for the efforts made by Mr. Amit Kapur, Advocate appearing for the Karnataka Electricity Regulatory Commission, (Resp. No. 2) for his assistance to the Tribunal in settling the matter. We also put on record, the fair stand taken by the learned counsel, Mr. M.G. Ramachandran in the interest of final adjudication of the dispute.

The appeal stands disposed of.

(Justice Manju Goel)
Judicial Member

(A. A. Khan)
Technical Member