

**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Secretary/MSEDCL/CGRF/BNDUZ/

Date :

Case No. 117

Hearing Dt. 20/04/2007

M/s. Grow Well Mercantile Pvt. Ltd.

- Appellant

Vs.

MSEDCL

- Respondent

Present during the hearing

A - On the behalf of CGRF, Bhandup

- 1) Shri S.L. Kulkarni, Chairman, CGRF, Bhandup.
- 2) Shri S.B. Wahane, Member Secretary, CGRF, Bhandup.
- 3) Mrs. Manik P. Datar, Member, CGRF, Bhandup.

B - On the behalf of Appellant

- 1) Shri Wilham Saldanha
- 2) Shri Parkar (Consultant)

C - On the behalf of Respondent

- 1) S.K. Jain, E.E. (Adm.), Nodal Officer, Vashi.
- 2) N.B. Wadekar, E.E., MSEDCL, Panvel.

Preamble:

M/s. Grow Well Mercantile Pvt. Ltd. (the appellant) had purchased a plot No. 12, MIDC, Taloja Industrial area, dist Raigad, through a public auction proclaimed by the Debt. Recovery Tribunal in July 2005. According to the appellant the Hon' D.R. Tribunal never informed them about other financial liabilities (like that of MSEB/MSEDCL) at the time of completion of all the formalities of the auction. This auction was proclaimed specifically at the instance of four major financial Banking institutions for the recovery of their loan dues against the erstwhile owner, a steel manufacturing company M/s. Sanghvi Steels Ltd. and their six other partners and perhaps a co-sharer Standard Chartered Gridleys Bank.

The Tribunal under Central Govt. Finance Ministry finally proclaimed auction order on 17/07/2006 under their number MDRT-I/O/A 149/2003/358/2006, dated 17/06/2006.

The auctioning authorities vide their above mentioned verdict/order confirmed the sale of the entire property at Rs. 6.51 cr. It is the strong contention of the appellant that they (Growell) got the exclusive possessions of the property without any encumbrances. They have accordingly taken possession of the property got by them through Debt. Recovery Tribunal. In support of their say they have produced final order (certificate of auction) issued by the Tribunal on 17/07/2006.

The appellant further stated that they have to start Steel Industries in the same premises purchased by them in the same auction.

They further stated that they were not knowing who was the premises owner/s/co. of the property so purchased by them.

An appellant states that the erstwhile owner/co. M/s. Sanghavi Steel Ltd. is yet to pay to MSEB/MSEDCL an amount of about Rs. 13,07,63,203/- for two H.T. connections since closure of his industrial activity from April 1994.

For non payment by the erstwhile owner M/s. Sanghavi Steels Ltd. the MSEDCL now has shown unwillingness to make supply of required electricity to the Appellant- the new purchaser M/s. Growell.

The hearing was held before the Forum at Bhandup office on 20/04/2007 at 11.30 am. The appellant (authorized signatory) with the consultant Shri Parkar were present. From the respondent's side Shri Jain and Shri Wadekar (both the Executive Engineers) concerned within the area of the Appellant's property also pleaded their say.

Deliberations :

The appellant pleaded that their company, which purchased the property in an open auction through Govt. of India's Statutory authority never made them aware of the huge electricity dues defaulted by the earlier owner. They further stated that as per Regulation 10.5 M.E.R.C. (Electricity supply code and other conditions of supply) Regulation 2005 as prescribed they will have to pay maximum amount before release of connection after following due legal procedure.

Conclusion :

Both the appellant and respondent agree to adhere to MERC Regulation 10.5 provision which reads as under :

10.5 : *Any charge for electricity or nay sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased consumer or the erstwhile owner/occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives / successors-in-law or transferred to the new owner / occupier of the premises, as the case may be, and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner/ occupier of the premises, as the case may be :*

Provided that, except in the case of transfer of connection to a legal heir, the liabilities transferred under this Regulation 10.5 shall be restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises.

The respondent utility could not produce any evidence from any agreement that the present owner is entitled to repay whole arrears of power dues of the erstwhile owner. The regulation specifies the transfer of dues to the legal heir/successor in Law or transferred to new owner/occupier of the premises. In the present case, the transfer of electricity connection is not to the legal heir. Therefore in terms of the provision under Regulation 10.5 the liability so transferred is restricted to a maximum period of six months of unpaid charges for electricity supplied to such (defaulter-erstwhile) consumer.

Thus, the respondent is entitled to recover the charges of electricity which remained unpaid by the erstwhile occupier M/s. Sanghavi Steels Pvt. Ltd. and other but limited to a maximum period of six months of unpaid dues.

Regarding, a civil suit filed by the utility for recovery of entire dues it is always at liberty to persue the case for recovery and does not have bearing on the present matter except that the utility respondent may have to reduce the claim sought through the suit pleaded that their investment of Rs. 6.5 crs. (Rs. Six crore fifty one lakhs) has been wastefully blocked despite having possession of the property. They are unable to start their own steel Industry in the same premises for want of electricity connection (high tension).

The say of the utility :

The electric supply of the erstwhile owner M/s. Sanghvi Steels Pvt.Ltd. was permanently disconnected on 31/03/1994. The factory is closed little before that since the owner co. decided to wind up the business. The dues recoverable from M/s. Sanghavi Steels Ltd. are Rs. 13,07,63,203/-

The utility first approached immediately the BIFR. However, the latter advised the utility to approach Civil Court for the recovery of defaulted power bill. Accordingly the utility has filed a civil suit bearing No. 480/3 for 113323118.59 which will come up for next hearing on 30/06/2007.

ARGUMENT:

Appellant : As per MERC statutory provision contained in Regulation 10.5 he is prepared to pay that much prescribed amount.

Utility : They will persue the Civil Court matter for recovery. But payment of dues under Regulation 10.5 must be paid.

O R D E R

- 1) The respondent (MSEDC Ltd) shall intimate the appellant, the charges of electricity, which remained unpaid by M/s. Sanghavi Steels Ltd. to a maximum period of six months of unpaid charges which the appellant is liable to pay before getting electricity connection in the referred premises.
- 2) On payment of the above charges, by the appellant, the respondent shall process the application for supply of electricity and supply within the period as specified in the Regulation.
- 3) The appeal is disposed off with above observations. Compliance of order should be reported within 30 days from the date of issue of this order.
- 4) After receipt of the amount as mentioned above, from appellant Grow Well, it should be treated as new consumer and be granted required power connection as per rules and regulations.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 30th of April 2007.

Note : 1) If Consumer is not satisfied with the decision, he may go in appeal within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman
The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051.

2) If utility is not satisfied with order, it may go in appeal before the Hon. High Court within 60 days from receipt of the order.

MRS. M.P. DATAR
MEMBER
CGRF, BHANDUP

S.B. WAHANE
MEMBER SECRETARY
CGRF, BHANDUP

S.L. KULKARNI
CHAIRMAN
CGRF, BHANDUP

**CONSUMER GRIEVANCE REDRESAL FOURM
MAHARASHTRA STATE DISTRIBUTION COMPANY LTD**

Ph. No. 25624315
25624316
25624322

Consumer Grievance Redresal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S. Marg, Bhandup (W),
MUMBAI - 400 078

R.P.A.D.

REF.NO. Secretary/CGRF/MSDCL/BNDUZ/Case No. 117/

Date :

To

M/s. Grow Well Mercantile Pvt. Ltd.,
Plot No. 12, MIDC,
Taloja Ind. Estate,
TALOJA.

SUB : Decision issued in respect of case No. 117.

Dear Sir,

In response to the grievance put up by you with the Forum vide case No. 117 dt. 15/03/2007 hearing is completed on dated 20/04/2007 & the order passed on vide this office order No. 00051 dtd. 30/04/2007 is enclosed herewith for your information please.

Thanking you,

Yours faithfully

Encl : As above

SECRETARY
CGRF, MSEDCL,
BHANDUP

c.s.w.r. to :

- 1) Chief Engineer (L.M.),
M.S.E.D.C.Ltd., H.O.,
Prakashgad, Bandra (E),
MUMBAI – 400 051.
- 2) The Chief Engineer, MSEDCL, BNDUZ, Bhandup.

Copy f.w.cs. to :

1. The Executive Engineer (Office) & Nodal Officer,
Consumer Grievance Internal Redressal Cell,
Office of the Superintending Engineer,
O&M Circle, MSEDCL, Vashi.
2. The Executive Engineer, O&M Division, MSEDCL, Panvel

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REF.NO. Secretary/CGRF/MSDCL/BNDUZ/Case No. 117/

Date

R.P.A.D.

To

M/s. Grow Well Mercantile Pvt. Ltd.,
Plot No. 12, MIDC,
Taloja Ind. Estate,
TALOJA.

SUB : Registration of your grievances dtd. 15/03/2007.

Dear Sir,

The grievance submitted by you is registered to this Forum vide Sr. No. 117, dtd. 15/03/2007 & hearing date is fixed on 20/04/2007 at 11.30 am. at the office of the Consumer Grievance Redressal Forum, Vidyut, Ground Floor, LBS Marg, Bhandup, Mumbai -78.

Therefore, it is requested to attend the hearing on the above date alongwith documents in support of your grievance. In case of failure to attend the hearing on the above date, this Forum shall decide the Grievance Ex-parte on merit which may please be noted.

Thanking you,

Yours faithfully

**SECRETARY
CGRF, MSEDCL,
BHANDUP**

c.f.w.cs. to :

1. **The Executive Engineer (Office) i.e. Nodal Officer,**
C.G.I.R.C., Office of the Suptd. Engr.,
O&M Circle, **Vashi**.
2. **The Executive Engineer,**
O&M Divn., MSEDCL.,
Vashi.

-- He is requested to attend the hearing on the above date alongwith the concerned authority & the details of report related with the grievance of the consumer.

CONSUMER GRIEVANCE REDRESAL FOURM MAHARASHTRA STATE DISTRIBUTION COMPANY LTD

**Ph. No. 25624315
25624316
25624322**

**Consumer Grievance Redresal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S. Marg, Bhandup (W),
MUMBAI - 400 078.□**

REF.NO. Secretary/CGRF/MSDCL/BNDUZ/Case No. 117/

Date

To

The Nodal Officer & Executive Engineer (Office)
Consumer Grievance Internal Redressal Unit,

Office of the Superintending Engineer,
MSEDCL., **Vashi**.

SUB : Submission of point wise compliance
in respect of case No. 117.

As per MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulation 2006 vide clause No. 6.12, the copy of grievance registered at Sr. No. 117 is being forwarded to your office for submission of issue wise compliance. The hearing date of the case is fixed on dated 20/04/2007 at 11.30 am. However, the Nodal Officer shall act as the co-ordinator for filing the reply, making submission, providing issue wise comments on the grievance, submitting compliance status / reports etc. Therefore it is requested to submit point wise compliance to this Forum in respect of the case in consultation with concerned authority within 15 days from the date of issue of this letter or one week before the date of hearing which ever is earlier.

The copy of compliance should also be provided by you to the consumer before hearing.

**SECRETARY
CGRF, MSEDCL,
BHANDUP**

c.f.w.cs. to :

The Executive Engineer, O&M Dn. MSEDCL, **Vashi**.

-- for needful action for submission of issue wise compliance & at attend the hearing along all the relevant documents related with the grievance.