

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

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

Date :

Case No. 408

Hearing Dt. 30/11/2011

**In the matter of low voltage & lodging 126 case**

M/s. Shri Synthetic Pvt. Ltd. - Appellant

Vs.

M/s. T.P.L. Bhiwandi - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri S. D. Madake, Chairman, CGRF Bhandup.
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.
- 2) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri Shakeel Ansari –Consumer Representative
- 2) Shri Ramesh Shah–Consumer

C - On behalf of Respondent

- 1) Shri Jeevan Clark, Dy. Manager, M/s. T.P.L., Bhiwandi.

**Preamble :**

M/s. Shri Synthetic Pvt. Ltd. is a 3 phase power loom consumer under sr. no. 13010727086 at H. No. 766, nr. Shankar, Anjur Phata, Narpoli-2, Bhiwandi.

On 24/03/2011, the consumer had placed complaint to the utility, M/s. Torrent Power Ltd. for burnt meter and accordingly the officials of the utility inspected the meter and premises and found that, the consumer was using 35 HP of load as against sanction of 27 HP.

As per the MERC tariff order dtd. 12/09/2010 the consumer using load of 35 HP which comes under tariff category of LT V-B instead of LTV-A, hence utility booked the consumer under section 126 of E.A. 2003. The consumer craved that his actual load is not more than 27 HP but due to low voltage problem the load is enhanced with the higher capacity of motor as they could not work on the low voltage and hence the total connected load is increased from 27 HP to 35 HP. The consumer claimed that this increased load is just due to fall in voltage in the peak hours otherwise load below 27 HP is enough to operate the power loom process and hence it not of his fault in increasing the load and ultimately the imposition of 126 section of E.A. 2003 is no more valid and hence should be withdrawn.

The consumer lodge the complain in Internal Grievance Cell vide his application dtd. 11/07/2011 but got no relief and hence approach to this Forum which was registered vide case no. 408 and accordingly hearing was fixed on 30/11/2011.

**Consumer say :**

Shri Shakeel Ansari was present to represent the case (hereinafter will referred as to the Appellant) he stated that his requirement of power is of 25 HP which does not allow due to low voltage and has to installed high capacity electric motor and therefore his requirement goes to the extent of 35 HP.

He further requested to consider his case since the sanction and connected with maximum demand of 27 HP only, M/s. T.P.L. Bhiwandi have sent bill for ` 35,000/- dtd. 06/08/2007.

M/s. T.P.L., Bhiwandi have never issued any notice or any letter for excess load and no notice to the any individual consumer no general notice or published no news by the TPL on the above subject.

Further, he is enclosing herewith a copy of General circular (commercial) No. 375 bearing no. PR-3/cos/20823, dtd. 23/06/2003 issued by the Chief Engineer (commercial), MSEB, Bandra (E) which is self explanatory.

He pointed out that M/s. T.P.L., Bhiwandi have not been followed for physical verification of actual connected load of power loom consumers within their jurisdiction and to consider such actually determined connected load for billing purpose with effect from May, 2000 onwards.

He added that the MSEDCL Commercial letter no. PR-3/Tariff/4039, dtd. 05/02/2009, when in that the overload penalty of ` 35,000/- may kindly be refunded to him at an early date.

Further, he stated that an amount of ` 2,88,150/- as per Assessment for theft of Electricity as per memo dtd. 24/03/2011 has been shown to be paid by him but in this respect he has to invite the attention that no such payment is to be made by him.

**Penalty for exceeding Contract Demand):**

In case, a consumer (availing Demand based Tariff) exceeds his contract demand, he will be billed at the appropriate demand charges rate for demand actually recorded and will have to pay additional charges at the rate of 15% of the prevailing demand charges (only for the excess demand over the contract demand).

In case any consumer exceeds the contract demand on more than three occasions in a calendar year, the action taken in such cases would be governed by the supply code.

**Utility Say :**

On behalf of utility Shri Jeevan Clark, the Dy. Manager of M/s. T.P.L. was present to represent the case (herein after referred as to the Respondent). He stated that the company totally relies upon the order pass by IGRC, Torrent Power Ltd. on 03/09/2011. The company craves leave of the Hon'ble Forum to refer to the above mentioned letter and order as and when required.

He further stated that after receiving the grievance for service no. 13010727086 and persuing the papers it was observed that on 02/08/2007 above mentioned service was inspected by our company officials, and it was found that all the seals of the meter were tampered. Also it was observed that the load connected and in use was 35 HP as against sanctioned load of 27 HP. Hence out company officials registered a case under section 135 of Electricity Act 2003. The consumer had paid ` 35,000/- on 06/08/2007 towards the assessment amount.

He states that the above mentioned service was visited on receipt of the meter burnt complaint on 24/03/2011. During site visit, the load found connected was 35 HP as against the sanctioned load of 27 HP. This service thus, falls under LT-V B category for billing (as per MERC tariff order 12/09/2010) while the tariff applied was of LT V A category and accordingly case was registered under section 126 of the Electricity Act, 2003. Order of provision al assessment for amount of ` 2,88,150/- dtd. 28/03/2011 (under section 126 of Electricity Act 2003) has been already issued to consumer.

Thus, in this regard Respondent would also like to state that as per clause no. 6.8 of the MERC (CGRF & EO) Regulation 2006 "*If the Forum is prima facie of the view that any grievance referred to if falls within the purview of any of the following provisions of the Act the same shall be excluded from the jurisdiction of the Forum*".

- *Unauthorised use of electricity as provided under section 126 of the Act.*

- *Offence and penalties as provided under sections 135 to 139 of the Act.*

Hence it is clearly evident that grievance filed by consumer does not fall within the purview Hon'ble Forum and needs to be disposed off.

Further he stated that the consumer is claiming for refund of assessment amount paid on 06/08/2007 for ` 35,000/- based on commercial circular no. PR-3/tariff/4030, dtd. 05/02/2009. But as per clause no. 6.6 of MSERC (CGRF & EO) Regulations, 2006 which states that *"The Forum shall not admit any Grievance unless it is filed within (2) years from the date on which the cause of action has arisen"*, it is clearly evident from the above that consumer is claiming the refund of amount paid in the year 2007 which is beyond the stipulated time period of two years and hence the complainant's contention is not accepted.

Further he states that consumer has referred the circular no. 375, dtd. 23/06/2003 vide letter no. PR-3/Cos/20823 & PR-3/Tariff/4039, dtd. 05/09/2009 both these circulars are not applicable in this case.

He narrated that the consumer has also says that due to low voltage of the power supply he was using the load with higher capacity. But company would like to clarify that on going through the records of the said consumer, company had never received a complaint of the low voltage from this consumer. To the best of our knowledge the voltage levels were well within the permissible limits as specified in the MERC Standard of Performance 2005.

He further states that in the view of the above facts we request the Hon'ble CGRF to kindly dismiss the said appeal with cost.

**Observation :**

The matter was heard on 30/11/2011 both the parties were present, the documents on record and arguments during the hearing reveals that the theft case lodge on the service no. 13010727086 on dtd. 02/08/2007

against which the Appellant had paid ` 35,000/- towards its assessment on 06/08/2007 cannot be entertained being the matter is too old and MERC (CGRF & EO) Regulations 2006 therein Regulation 6.6 do not permit the Forum to admit the grievance after lapse of 24 months from the cause of action arisen. Here the cause of action arose in the year 2007 by lodging theft case under section 135 of E.A.2003.

Moreover, the MERC (CGRF & EO) Regulations 2006 there in Regulation 6.8 do not permit the Forum to entertain the matter which are dealt with theft and unauthorized use of supply, therefore, the prayer of the consumer to refund the paid amount ` 35,000/- towards theft of energy cannot be entertained.

However, as regards to the assessment charged under section 126 of E.A. 2003 for an amount of ` 2,88,150/- issued on dtd. 28/03/2011 which is caused due to dropped voltage at the consumer point of supply as contained by the Appellant. Forum feels that, as agreed during the proceeding by both the rival parties the voltage should be measured jointly at the consumer point of supply at 14.00 hrs. on dtd. 02/12/2011 and if found beyond the tolerance fixed under the Electricity Rules 2005 (Electricity Rules 1956) then in such case the Respondent should recalculate the over all capacity of the Appellant electric installations and accordingly the assessment under section 126 of E.A. 2003 should be revised or otherwise consumer has liberty to pay the 50% of the assessed amount after receipt of final bill either in cash or D.D./pay order and may approach to the Appellant authority as designated under Section 127 of E.A. 2003 i.e. the Chief Engineer (Elect) P.W.D. for necessary redressal of his grievance.

### **ORDER**

As elaborated in the above observations the Respondent utility should measure the voltage at point of supply of the consumer jointly with the Appellant and act accordingly as mentioned above.

No order as to cost.

Both the parties should be informed accordingly.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 9<sup>th</sup> of December 2011.

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.

**DR. ARCHANA SABNIS**  
**MEMBER**  
**CGRF, BHANDUP**

**S. D. Madake**  
**CHAIRMAN**  
**CGRF, BHANDUP**

**R.M. CHAVAN**  
**MEMBER SECRETARY**  
**CGRF, BHANDUP**