



**Consumer Grievance Redressal Forum, Kalyan Zone**  
**Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301**  
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**IN THE MATTER OF GRIEVANCE NO. K/E/587/695 OF 2012-2013 OF**  
**M/S. BHAGWANDAS ISPAT PVT. LTD. VILLAGE – KUNDAVALI, MURBAD**  
**REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM**  
**KALYAN ZONE, KALYAN ABOUT EXCESSIVE ENERGY BILL .**

M/s. Bhagwandas Ispat Pvt. Ltd.  
H – 20, M.I.D.C., Addl. Murbad,  
Village – Kundavali, Murbad  
Dist : Thane

(Here-in-after  
referred  
as Consumer)

Versus

Maharashtra State Electricity Distribution  
Company Limited through its  
Superintending Engineer  
Kalyan Circle - II

(Here-in-after  
referred  
as licensee)

- 1) Consumer Grievance Redressal Forum has been established under "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers. This regulation has been made by the Maharashtra Electricity Regulatory Commission vide powers conferred on it

by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of 2003).

- 2) The consumer is a H.T. consumer of the licensee. The Consumer is billed as per H. T. Industrial tariff. Consumer registered grievance with the Forum on 02/03/2012 for Excessive Energy Bill.

The details are as follows :

Name of the consumer :- M/s. Bhagwandas Ispat Pvt. Ltd.

Address: - As given in the title

Consumer No : - 018019021150

Reason of dispute : Excessive Energy Bill

- 3) The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/0177, dated 02/03/2012 to Nodal Officer of licensee. The licensee filed reply vide letter No. SE/KCK-II/Acctts/1231, dated 19/03/2012.
- 4) Hearing was held on 19/03/2012 @ 15.30 hrs. and on 23/04/2012 @ 15.00 hrs. The Members of the Forum heard both the parties in the meeting hall of the Forum's office. Shri B. R. Mantri Consumer Representative & Shri Kale Nodal Officer, Shri V. H. Kasal, Asstt. Engr., Mrs. A. C. Shinde, Asstt. Acctt. representatives of the licensee attended hearing. Minutes of the hearing including the submissions made by the parties are recorded and the same are kept in the record.

**OPINION OF CHAIRPERSON AND MEMBER :**

- 5) In exercise of the powers conferred by Sub-Section (3) of Section 3 read with parts A, B, C, F and G of the schedule to the Bombay Electricity Duty Act, 1958 and of all other powers enabling it in that behalf and in supersession of the Government Notification, Industries, Energy and

Labour Department No. ELD.2008/CR-52/NRG-2, dated the 31<sup>st</sup> March 2008, the Government of Maharashtra hereby specifies with effect from the billing of the month of February 2010, the rates mentioned in column No. (3) of the Table Appended hereto, to be the rates at which the electricity duty shall be levied and paid in respect of consumption of energy mentioned in column No. (2) of the said Table.

- 6) So that the facts of the present case are concerned, we are concerned with part 'F' of the said Notification by which electricity duty is raised to 9% instead of 6% electricity duty prevailing to issuing of the Notification referred above.
- 7) It appears from the record though this Notification was issued on 30<sup>th</sup> Jan. 2010 and published in the Gazette, Government of Maharashtra vide it's letter No. Nil, dated 4<sup>th</sup> February 2010 circulated the copies of the Notification to the various establishments concerned with for implementation and to charge the electricity duty with 9% of the consumption of the electricity.
- 8) On the basis of the said circulation given by Government of Maharashtra, MSEDCL on 25<sup>th</sup> February 2010 issued Circular No. 117 to the concerned department to implement the electricity duty accordingly with 9% of consumption of electricity w.e.f. 01/02/2010.
- 9) It also appears MSEDCL on 15<sup>th</sup> March 2010 effected amendment accordingly for collection of 9% electricity duty giving the reference of letter No. CE/Comm/Acctt/ED-7/215, dt. 20/02/2010 as well as giving the reference of Government Notification referred above. It appears this amendment was to be effected by the System Analyst of the various stations as given in this amendment.

- 10) So the actual charging of 9% electricity duty appears to have taken place in the month of March 2010. Coming to the facts of the present case we have on record two electricity bills, the copies of which have been submitted by the complainant in support of his grievance. The first bill is of month January 2010. Here the period of the electricity consumption is from 15/12/2009 to 14/01/2010. In this bill the electricity duty was charged with 6%. The charging of 6% electricity duty for this billing month and for the period of electricity consumption is not disputed.
- 11) The second bill is for the month of March 2010. The period is 15/02/2010 to 15/03/2010. At this stage we specifically want to insist regarding the issuing bill date, we will discuss the reason later on as to why it is necessary. The bill date on this bill is shown as 16/03/2010. After issuing this bill on 16/03/2010 somewhere later on the bill was received by the complainant and it appears the bill was discharged before the due date as shown in the bill. Now here in this bill against the column of debit, bill adjustment amount of Rs. 3,30,422.76 is shown. This amount is regarding the claim of 9% electricity duty of the previous billing month.
- 12) In this bill for the first time the electricity duty is claimed with 9%, the reason is obvious. The amendment to the System Analyst is dated 15/03/2010. This bill was issued on 16/03/2010.
- 13) Complainant in addition to those two bills relied on one decision given by CGRF Nasik dt. 07/02/2012. According to the Forum the excess electricity duty charged for the month of January 2010 is to be adjusted in the subsequent bill. In short CGRF Nasik came to the conclusion that the electricity duty shown in debit bill adjustment column in the bill for March 2010 is incorrect and accordingly issued the decision.

- 14) Notice was issued to Licensee regarding the grievance made by the complainant. Licensee appeared and submitted its say on 19<sup>th</sup> March 2012. As per say given by Licensee the bill of February 2010 for the period 14/01/2010 to 15/02/2010 was issued. In that bill electricity duty was charged with 6%. However in view of the Notification issued by the Government of Maharashtra meanwhile as the electricity duty is enhanced by 3% w.e.from 01/02/2010 as per Circular issued dated 04/02/2010 this excess 3% electricity duty for the period 01/02/2010 to 15/02/2010 is claimed in the bill for the month of March 2010. Licensee in support its defense submitted the copy of the bill for the month of February 2010, copy of circular dt. 25<sup>th</sup> February 2010 and copy of CPL.
- 15) The record shows that on 11/08/2010 complainant approached to the Superintending Engineer Kalyan Circle – II with a request to refund collected 3% electricity duty as per bill for the month of March 2010 of the period 15/01/2010 to 31/01/2010.
- 16) There was no response by the department and accordingly ultimately complainant approached to this Forum for the redressal. As per his claim in prescribed proforma he has simply claimed refund of the excess duty charged for the period 15/01/2010 to 31/01/2010.
- 17) On the last date of hearing Licensee representatives were present. However complainant was absent. During the hearing to come to the correct conclusion, various queries were raised by this Forum to get satisfied regarding is there any substance in the grievance raised by complainant. Being technical issue we also have deep discussion regarding Notification, bill submitted, circular issued, CPL and lastly about the decision given by CGRF Nasik.

- 18) What we found after discussion that first it is to be interpreted as to what is the meaning of billing month. We have told in various sections, for the convenience of the licensee and for the convenience of the consumer there are different billing months for different period with the consumption of electricity in the previous days. For example, so far our present case is concerned, the billing month is 15<sup>th</sup> day of the previous month upto 15<sup>th</sup> day of the subsequent month. The direct definition of the billing month appears to be not given in Regulation 2005. Our mind was attracted towards Section (2) Sub-Section (1) Clause 'r' of the Regulation 2005. We may reproduce as to what includes in the definition of month as given in Sub-Clause 'r'.

“Month”, in relation to billing of charges, means the English Calendar month or any period of thirty days.”

- 19) So it is clear that the references which were meaning regarding the billing month from the middle of the earlier month upto the middle month of the next month is a billing month. It means there may be case where the billing month starts from the first day of the English calendar upto 30<sup>th</sup> day of that month. There may be other period regarding the billing month but we are concerned with the billing month which starts from the middle of the earlier month till the middle of the next month. The reason is obvious, in this case the billing month is from 15<sup>th</sup> day of the earlier month and it continues upto the middle of the next month. However, the Notification was issued by Government of Maharashtra at the end of the January 2010 i.e. 30<sup>th</sup> January 2010. The electricity duty was to be charged with the increase of 9% instead of 6% from the electricity consumption since 01/02/2010. So that the billing month of January 2010 this notification was not in existence

so naturally the electricity duty was collected at 6%. When the complaint was filed by the complainant we found that the bill for the billing month of February 2010 was not on record but the bill of the billing month of March 2010 was on record. The dates which we have given earlier regarding the Notification issued by the Government of Maharashtra regarding the circular issued by MSEDCL dt. 25/02/2010 and amendment effect from 15/03/2010. The reason is this, the bill for the month of Feb. 2010 which we got subsequently from Licensee was issued on 16/02/2010 that was for the period 15/01/2010 to 14/02/2010. The day on which the bill was issued i.e. on 16/02/2010 the circular issued by MSEDCL was not in existence. So naturally for the period referred above, the electricity duty was charged with 6%. Now here this period is most important. The 6% electricity duty is to be applied for the period 15/01/2010 to 31/01/2010. But the 6% duty was charged even for the period 01/02/2010 to 14/02/2010. We have already stated the reason as to why the 6% duty was charged for the period was that the Licensee was not knowing regarding the notification issued by Government of Maharashtra till the circular was issued dt. 25/02/2010. The bill was already dispatched. The electricity duty with 6% is also paid by the complainant. Now once this circular was issued dt. 25/02/2010 the subsequent billing month was already started. Now for subsequent billing month for the March 2010 the period was 15/02/2010 to 14/03/2010 that bill was issued on 16/03/2010. Now in this month the Licensee was aware that excess 3% electricity duty of the period 01/02/2010 to 14/02/2010 is required to be collected from the complainant. But it appears the Licensee has collected excess 3% electricity duty for the period 15/01/2010 to 14/02/2010. What Licensee has done initially for the

said period electricity duty was recovered with 6% total amount of Rs. 6,60,845.52. So to claim more 3% Licensee has divided this amount and collected Rs. 3,30,422.76 as the amount shown to be collected with 9% electricity duty of the billing month. To our mind if this excess 3% is collected by Licensee that appears to be even for the period 15/01/2010 to 14/02/2010. What is calculated by the Licensee on the face appears to be incorrect. If the amount of Rs. 6,60,845 is 6% of the entire billing month, then it's 50% i.e. Rs. 3,30,422 is calculated by Licensee for the entire period 15/01/2010 to 14/02/2010. In our opinion if the billing month is from 15/01/2010 to 14/02/2010 and in case if the Notification is issued between the period of billing month, then rise of 3% electricity duty should be collected for the period 01/02/2010 to 14/02/2010. Therefore, in our view Licensee ought to have been collected only Rs. 1,65,211.38 for the period 01/02/2010 to 14/02/2010 the date from which the electricity duty was enhanced from 6% to 9%. In our view the interpretation made by Licensee considering the entire period 15/01/2010 to 14/02/2010 as billing month is incorrect. The calculation of entire 50% of Rs. 6,60,845.52 is incorrect. We say this because this amount Rs. 6,60,845.52 is calculated as 6% for entire billing month, therefore to our mind complainant is entitled to claim the arrears of Rs. 1,65,211.38 the amount which is in excess collected by Licensee of the period 15/01/2010 to 31/01/2010.

20) We conclude accordingly and pass the following order :



**OPERATIVE ORDER**

- 1) The grievance application is partly allowed.
- 2) It is declared that the Licensee has collected more Rs. 1,65,211.38 for the period 15/01/2010 to 31/01/2010.
- 3) Licensee is hereby directed to adjust the said amount in the subsequent bill and in case if it is not adjusted in the subsequent bill, complainant will be entitled to claim interest with R.B.I. rate of interest on the said amount till the date of it's adjustment in the bill.
- 4) Compliance be reported to the Forum within 45 days from the date of receipt of this order.
- 5) The Consumer can file representation against this decision with the Hon. Electricity Ombudsman within 60 days from the date of this order at the following address.

*“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.*

6) Consumer, as per section 142 of the Electricity Act, 003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or delay in compliance of this decision issued under "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003" at the following address:-

*"Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05"*

Date : 30/04/2012

(Mrs. S.A. Jamdar)  
Member  
CGRF Kalyan

(S.K. Chaudhari)  
Chairperson  
CGRF Kalyan

Regulation 8.4 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulation, 2006 reads as below :

“Every order made by the Forum shall be a reasoned order either in Marathi or English and signed by the members conducting the proceedings.

**Provided that where the members differ on any point or points, the opinion of the majority shall be the order of the Forum. The opinion of the minority shall however be recorded and shall form part of the order.**

Provided further that, along with every order, the Forum shall intimate the consumer of the contact details of the Electricity Ombudsman appointed or designated by the Commission under Regulation 10.”

### **OPINION OF THE MEMBER SECRETARY SHRI R. V. SHIVDAS**

I am not agreed with the above mentioned Operative Order as per Regulation 6.6 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulation, 2006 which reads as below :

**“The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.”**

In this case the cause of action period is 15/01/2010 to 31/01/2010 i.e. in the month of January 2010. If we calculate two years from January 2010, the period of two years is already lapsed because the consumer has lodged his grievance with the Forum in the month of March 2012 which is after two years from the cause of action took place i.e. cause of action month is January 2010. So considering the above explanation the case is time barred as per Regulation mentioned above.

It means this Forum has no any right to admit this case hence this grievance is not in purview of the Forum.

Date : 30/04/2012

( R. V. Shivdas )  
Member Secretary  
CGRF Kalyan