

**Grievance Nos. K / E /858/1052/2015-16 to
K / E /862/1056/2015-16**



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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K / E /858/1052/2015-16 to	Dates of Grievance	: 18/04/2015
<u>K / E /862/1056/2015-16</u>	Date of Order	: 25/08/2015
	Period Taken	: 130 days

COMMON ORDER IN THE MATTERS OF GRIEVANCE OF THE FOLLOWING CONSUMERS WHO REGISTERED THEIR GRIEVANCE WITH THIS CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT NON IMPLEMENTATION OF CGRF ORDER IN GRIEVANCE NOS. 715 /845, 716 / 846, 718 /848, 719 / 849 AND 720 / 850 – DATED 31/7/2013 REGARDING THE ILLEGAL RECOVERY OF ELECTRICITY DUTY FOR THE PERIOD FROM 14/2/2010 TO 31/1/2010.

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Consumer:	<u>Technocraft Industries (I) Ltd., Drum Division,Plot No.C-5, C-2/1,C-2/2, MIDC, Murbad, Dist-Thane</u>	v/s	Licensee	Maharashtra State Electricity Distribution Company Limited through its Nodal Officer, MSEDCL, Kalyan Circle-II, Kalyan
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GRIEVANCE NO. K / E /859/1053/2015-16

Consumer:	Technocraft Industries (I) Ltd., Drum Division,Plot No.C-5, C-2/1,C-2/2, MIDC, Murbad, Dist-Thane.	v/s	Licensee	Maharashtra State Electricity Distribution Company Limited through its Nodal Officer, MSEDCL, Kalyan Circle-II, Kalyan
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GRIEVANCE NO. K / E / 860/1054/2015-16

Consumer:	Technocraft Industries (I) Ltd., Yarn Division, Dhanivli, MIDC, Murbad, Dist-Thane	v/s	Licensee	Maharashtra State Electricity Distribution Company Limited through its Nodal Officer, MSEDCL, Kalyan Circle-II, Kalyan
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GRIEVANCE NO. K / E / 861/1055/2015-16

Consumer:	Technocraft Industries (I) Ltd., Yarn Division, Dhanivli, MIDC,Murbad,Dist-Thane	v/s	Licensee	Maharashtra State Electricity Distribution Company Limited through its Nodal Officer, MSEDCL, Kalyan Circle-II, Kalyan
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GRIEVANCE NO. K / E / 862/1056/2015-16

Consumer: Technocraft Industries (I) v/s Licensee	Maharashtra State Electricity
Ltd.,	Distribution Company Limited
Tube Division, Dhanivli,	through its Nodal Officer,
MIDC,	MSEDCL, Kalyan Circle-II,
Murbad, Dist-Thane	Kalyan

(Per C.U.Patil-Executive Engineer – cum- Member Secretary)

1] Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as ‘MERC’. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum Ombudsman) Regulation 2006” to redress the grievance of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission. Hereinafter referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014.’ Hereinafter referred ‘SOP’ for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014’.

The consumers had filed grievance applications No. K/E/715/845, K/E/716/846, K/E/718/848, K/E/719/849, K/E/720/850, K/E/721/851 for refund of additional tax collected from them by the Licensee for the period prior to 1/2/2010. CGRF vide it’s common order dated 31/7/2013

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directed Licensee to refund the said amount with interest as per Bank Rate from 14/2/2013. Licensee was directed to comply with this order within 45 days from the date of receipt of the order. However, the said order was not complied by Licensee till 18/4/2015. Hence, the consumer has filed grievance Applications bearing Nos.1052 to 1056 for non compliance of the CGRF orders passed in grievance applications No. K/E/715/845, K/E/716/846, K/E/718/848, K/E/719/849, K/E/720/850, K/E/721/851 dated 31/7/2013.

In this regard, paper pertaining to these grievances were sent to Nodal Officer vide Letter No. EE/CGRF/Kalyan /088 dated 21/4/2015. Accordingly, this matter was taken up. Licensee filed reply dated 2/5/15, contending that the above matters are sub-judice before the Hon'ble High Court in Writ Petition No.26072/2013 and Hon'ble High Court has granted conditional ad-interim relief dated 8/5/2015.

Accordingly, Licensee deposited 50% of amount. The copy of the said order of Hon'ble High Court is kept on record. After going through the record kept before us and the arguments advanced by the parties, we are of the opinion that this Forum has no jurisdiction to entertain the above grievance applications bearing No. 1052 to 1056, as per the provisions of Law, since Writ Petition is pending against the order of CGRF Kalyan dated 31/7/2013 before the Hon'ble High Court.

The consumer representative relied on the Commission's order dated 16/7/2015 in case No.183/2014, wherein in Para 29 Commission has laid down **“It is a settled the principle that unless there is a specific stay from the Higher Court, the implementation of an order cannot be avoided”**. However, in the present case Licensee has approached to the Hon'ble High Court and the Hon'ble High Court has granted the ad-interim stay. Hence this Forum has no jurisdiction to entertain the above grievance applications at present.

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This matter could not be decided within prescribed time, as both sides wanted to verify the legal position and they concluded their arguments on 23/7/2015.

Hence the order.

ORDER

Considering the ad-interim stay passed by Hon'ble High Court, the Forum allows the consumer to approach it afresh either to Hon'ble MERC or to this Forum after the final disposal of the matter by the Hon'ble High Court.

Therefore, the grievance applications bearing Nos. 1052 to 1056 stand disposed off.

Dated: 25/08/2015.

I agree

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

**(Chandrashekhar U.Patil)
Chairperson-cum- Member Secretary
CGRF,Kalyan**

**** (In the sitting of Forum, the Chairperson is not available. As per MERC Regulations (2006), Clause 4, the technical member shall be the Chairperson of such sitting in which Chairperson is not available and hence in the present case, the technical member performed the role of Chairperson of the Forum).**

NOTE: -

- a) The consumer if not satisfied, may file representation against this order before the Hon. 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”.
- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or
- c) 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”
- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.

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