



Consumer Grievance Redressal Forum, Kalyan Zone  
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No.EE/CGRF/Kalyan Zone/

Date of Grievance : 01/04/2017

Date of Order : 05/05/2017

Total days : 35

**IN THE MATTER CASE OF GRIEVANCE NO. K/E/1177/1399 of 2015-16 IN RESPECT OF M/S. SIYARAM SILK MILLS LTD., PLOT NO. E-125, MIDC, BOISAR, TARAPUR, TAL. & DIST. PALGHAR – PIN - 401 506 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING BILLING DISPUTE.**

M/s. Siyaram silk Mills Ltd.,  
Plot No. E-125,  
MIDC, Boisar, Tarapur,  
Tal. & Dist. Palghar,  
Pin Code 401 506.

(Consumer No. 003019009172)

... (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution  
Company Limited  
through its Ex. Engineer ( O & M )  
Palghar Circle,

... (Hereinafter referred as Licensee)

Appearance : - For Consumer :Shri Pratap Hogade & Javid Momin –C.Rs’.

For Licensee :- Shri Sharad Rinke –Nodal Officer & EE ( O & M )

[Coram- Shri A.M.Garde-Chirperson, Shri L.N.Bade-Member Secretary and  
Mrs.S.A.Jamdar- Member (CPO)].

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 grievances 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 & Determination of Compensation) Regulations, 2014.’ Hereinafter referred ‘SOP’ for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014’.

2] The case in brief is that, the consumer herein being H.T. and bearing No. 003019031170, received a bill as usual on 5/7/16 for the month of June, 2016. There were prompt payment discount and load factor incentive provided in case the bill was paid by 11/7/16. As usual on 11/7/16, consumer paid the bill through RTGS within the stipulated period as mentioned in the energy bill. But due to system error i.e. beneficiary name was not matched due to server error which was beyond control of any body the payment was not effected. The said fact came to the notice of the consumer’s Officers in Account’s department on 24/7/16 while reconciling and checking the bank statements. Immediately on the next day i.e. on 25/7/16 consumer paid the said amount through RTGS and then the said amount was credited to the account of MSEDCL on the same day.

3] Consumer relies on the MSEDCL Circular No. Dir (F)/MSEDCL / 03437 dated 7/2/12 and contends that as per the said circular in such case of error consumer is eligible for the load factor incentive and discount. In spite of this, MSEDCL in the bill of July 2016 has shown the arrears and dues amounting to Rs.8,37,621.41 . Further on the ground of these arrears the Licensee MSEDCL also denied the load factor incentive for the billing month of July 2016 amounting to Rs,8,89,705.65. Consumer , therefore, claims both these amount as per details given in Para 5A & B of the grievance sheet stated as below:

A] Refundable amount which is rejected & excess amount recovered from consumer against the billing month June 2016 is as below:

1	Prompt payment discount (PPD)	Rs. 63,726.00
2	Load Factor Incentive (LFI)	Rs.6,18,491.00
3	Delay payment charges (DPC)	Rs.1,55,406.94
	Total excess charged	Rs.8,37,623.94
	Interest charged on said amount (Charged in July 2016 E.Bill)	Rs. 279.21
	<b>Total Refundable amount</b>	<b>Rs.8,37,903.15</b>

B] Refundable amount against the eligible Load Factor Incentive for billing month of July 2016 is as below:

Load Factor - 89%

Eligible LFI – 11.5% of Net Energy Charges paid.

= 11/5% of (E.C. 71,06,896.5 ToD Rs. 2,39,890.70)Rs.68,67,005.70 only.

= Rs.7,89,705.65 only.

Total refundable amount A + B is Rs. 16,27,608.80 + interest.

The relevant provision from the Circular relied on by the consumer Annexure – A S. No.11, which runs thus,

“Any universal problem faced during RTGS payment mechanism, e.g.internet server problem, beneficiary name not matching etc where consumer is not at fault.”

The proposal is to be duly scrutinized with respect to specific issue of each case and documentary evidence produced thereof in support of this. Recommendation will be on merit ( This is to be done for waiver of DPC creding of promptpayment discount and load factor incentive for RTGS payment.”

“In partial modification to this, the Superintending Engineer of the repective circle Office only as per guidelines indicated in Annexture –A”

4] Consumer contended that in this case RTGS payment was bounced due to the reason “beneficiary name not matching” Bank also accepted it and gave a letter to MSEDCL accordingly.

5] Licensee-MSEDCL filed reply cotending interalia that this Forum has no jurisdiction to entertain the matter as the cause does not fall within the definition of the term “Grievance: as defines in Section 2(i) ( c ) of the MERC ( CGRF & Ombudsman) Regulation 2006 Sec. 2(i)( c ) which runs thus:

“Grievance means any fault, imperfection, shortcoming or inadequacy in quality , nature and manner of performance which has been undertaken to be performed by a Distribution Licensee in pursuance of a License, contract, agreement or under the Electricity Supply Code or in relation to standards of Performance of Distribution Licensee as specifried by the Commission and includes inter alia ( a ) safety of distribution system, having potential of endangering of life or property and (b) grievance in respect of non compliance of any order of the Commission or any action to be takn in pu rsuance

thereof which are within the jurisdiction of the Forum or Ombudsman, as case may be.”

6] In the present case, in fact consumer was negligent and banker of the consumer was at fault, not the Licensee. Payment of the consumer was not received in MSEDCL's account within the prompt Payment date so as to be eligible for the incentives. Consumer's bankers have failed to render proper service to its customers as such consumer has to take appropriate action against the banker for compensation for loss of prompt payment discount from MSEDCL and levy of DPC.

6] The Licensee sought to put forth unadulterated basic facts, that they issued bills to Siyaram Silk Mills HT-I consumer against which connection bearing Nos. 003019009172 and 003019031170 for the billing month of June 2016 respectively in the sum of Rs.19,04,730/- and 79,25,750/-. The prompt payment discount date was 11/7/16 and due date for payment was 19/7/16. The payment of both the bills were not received to the MSEDCL accounts on due date i.e. on 19/7/16 and hence MSEDCL issued notice of disconnection U/s. 56(1) of I.E. Act , 2003 on 22/7/16 . For non payment of Rs.79,25,750/- ( Con . No. 003019031170) and amount of Rs.19,04,730/- ( cons. No. 003019009172 ) inclusive of DPC. The consumer on 25/7/16 paid through RTGS Rs.70,88,130/- Cons. No. 003019031170 and Rs.18,50,580/- (Cons. No. 003019009172). Consumer is, therefore, not entitled for prompt payment incentive.

7] MSEDCL further contends that as per MERC direction in Tariff order dated 3/11/16 and MSEDCL Circular No.275 the consumer is entitled for grant of prompt payment discount if the payment is received within 7<sup>th</sup> day from bill date and DPC is liable to be levied if payment is received to

MSEDCL after due date i.e. after 15 days from the bill date. The direction of the MERC is in regulatory form having legal force whereas the circular issued by MSEDCL to consider grant of prompt payment discount and waiver of DPC is in nature of guidelines and cannot override the regulatory directions. MSEDCL guidelines are issued to consider cases where some universal problem arises and is beyond the control of the consumer or its bank or there is default on the part of the MSEDCL banker to accept the payment. Here, there is no such situation, where either the consumer or its bank after initiating failed to get or give update of bounce RTGS till 25/7/16 when notice of disconnection was received. The RTGS was bounced back on the very next date and amount was reverted by its bankers in consumer's account and hence for negligence of consumer or his banker it will not be justifiable or legal to allow prompt payment of consumer.

8] We have heard both sides. Reply has been filed by MSEDCL in respect of two consumer Numbers. However, this grievance concerns only one of them bearing Nos. 003019031170. It is not in dispute that though RTGS payment was made by the consumer on 11/7/16, it was bounced on 12/7/16. There was notice of disconnection issued on 22/7/16 which was served on the consumer on 26/7/16. The consumer paid the bill on 25/7/16. Contention of the MSEDCL is that payment was made after the disconnection notice. There appears some probability in it, though consumer tries to say that it is on 24/7/16 while reconciling the statements they realized that the RTGS payment to MSEDCL was bounced. It is not known then why not on the same day the payment was not made again. Be that as it may, according to the circular some universal difficulties have been covered for consideration for extending the incentives and withdrawal of DPC etc.

Further it is required to be seen whether consumer was not at fault. In the present case there is merely a bank's letter produced wherein it is mentioned inter-alia that the payment was not completed with MSEDCL due to lapse on the part of the Bank . The question is whether such a certificate from the bank which is party to delay would suffice to extend the incentive benefits to the consumer. There is one judgment cited by consumer in the case of M/s. Spentex Industries, passed by Hon'ble Ombudsman Nagpur which we have gone through. In the case cited, the prompt payment date was 23/10/12. Consumer therein paid the bill by RTGS on the same day i.e. on 23/10/12. The amount was transferred to Licensee's ICICI Bank account on the same day. ICICI bank on the same day refunded the amount to consumer's State Bank of India, because the Code Number mentioned was R.42 instead of correct , Code No.R.41. State Bank of India corrected the mistake on 25/10/12 . Thus payment was made by the consumer there is on 23/10/12 before prompt payment due date, but due to some mistake on the part of the SBI persons, payment was received in the account of the Licensee on 25/10/12 after the prompt payment date. The Hon'ble Ombudsman therein granted relief to the consumer. I am at a loss how those facts , can be equated with those in the present case. Herein, there is inordinate delay till issuance of notice of disconnection. Consumer has not cared to see the bouncing of the RTGS payment which occurred on the next day itself. Further even according to consumer's own contention they realized the fact of bouncing on 24/7/16 but did not make payment immediately but on 25/7/16. Further herein, the consumer had to make payment again on 25/7/16, and it cannot fall in the category of instances where payment was made before prompt payment date but amount was received in the

Licensee's account after that date due to lapse on the part of the bankers. There was also inordinate delay. Further, even according to consumer, they realized the bouncing on 24/7/16 but made payment on 25/7/16.

9] What is of importance in the present matter, is the question raised by the Licensee, whether consumer makes out a "grievance" as defined in Regulation 2 (i)(c) of the MERC (CGRF & Ombudsman) Regulation 2006, so as to invoke jurisdiction of the Forum. Admittedly, consumer has delayed the payment even beyond the normal due date of 15/7/16 and till notice of disconnection was issued. The delay may not be intentional as was sought to be made out but even then there was some amount of negligence. MSEDCL has exercised its discretion to not to apply the circular in the given facts. How can such discretion exercised by the Competent Authority on the above stated facts be interfered with where there is no caprice seen. It is in this view of the matter there is substance in the contention of the Licensee that there is no "grievance" made out as defined by Regulation 2(i) (c) of MERC (CGRF & Ombudsman) Regulation, 2006. Grievance fails.

Hence the order.

### **ORDER**

Consumer's grievance application is hereby dismissed.

Date: 05/05/2017.

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

(L.N.Bade)  
Member Secretary  
CGRF, Kalyan.

(A.M.Garde)  
Chairperson  
CGRF, Kalyan.



**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

- d) on (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”

- e) 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.