



## CONSUMER GRIEVANCE REDRESSAL FORUM KOLHAPUR ZONE : KOLHAPUR

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No. EE/CGRF/Kolhapur/Case No.75(2016-17)/181

Date:-03-06-2017

### **ORDER CASE NO.75(2016-17)**

1. M/s. Mohite Industries Ltd,  
R.S.No.347 Ambapwadi Phata,  
Off.NH-4 P.B.No.1 Vadgaon,  
Tal.Hatkanangale, Dist. Kolhapur

**Appellant  
(Complainant)**

2. The Superintending Engineer(KC)  
M.S.E.D.C.L. O&M Circle , Kolhapur  
Vidyut Bhavan, Tarabai Park,  
Kolhapur-416 003.

**RESPONDENTS  
(MSEDCL)**

### **JUDGEMENT**

(Delivered on 26-03-2017)

1) Being aggrieved by the decision dated 06-03-2017 of the Internal Grievance Redressal Cell (IGRC for short) thereby rejecting the claim of present consumer, this Appeal is filed by the consumer before this Forum.

I V.S. Gulavani Chairperson CGRF Kolhapur Pronounce following Judgment in this matter.

The Consumer above named has come before this Forum for directing the Respondents to revise the bills for the months of April 2015 to September 2015 , to recalculate over injected units and to pay difference amount of Rs. 10,55,185/- to direct Respondents to refund the excess amount of Rs. 2,91,75,587/- wrongly recovered for temporary tariff and wheeling and transmission charges along with interest at 10% p.a.

### **CASE OF CONSUMER IN SHORT**

2) Consumer is engaged in the business of textile manufacturing and is consumer of Respondents bearing No.251599302215 .Consumer has 10 MW Small hydro power project on self-use base at Radhanagari Dam Foot. Consumer is Renewable Energy Generator (RE) .

According to the Consumer – Complainant , the wrong calculation of over injected units & illegal collection of the Temporary Tariff (TT for short) are in violation of the Regulations – 16 & 19 of the MERC ( Distribution of Open Access) Regulation 2014

;for the period from April to sept.2015 . Despite Clear Regulation, Respondents levied wheeling charges on the entire operation. Respondents were entitled to charge only penalty . No TT was applicable (Now in fact, the Respondents have already refunded 2.76 crores being excess TT to the consumer very recently. So, in this Appeal, claim regarding TT is not discussed in details.)

By certain letters, the consumer had applied for refund of TT, wheeling charges (WC for short) and transmission charges (TC for short) ; but the Respondents had failed and neglected to refund the same. The Respondents ,misread & misinterpreted the order dt. 17-05-2016 of MERC in Case No. 137 of 2015 . Respondents were liable to refund Rs. 3 Crores for the aforesaid period . Consumer had provided detail calculation to Respondents which was never disputed by the latter. The consumer thereafter had filed complaint before IGRC on 14-12-2016 which was rejected on 06-03-2017 . Hence, the consumer has approached this Forum on 29-03-2017 with present Appeal.

3) Notices were issued to Respondents on 30-03.2017 but no written Reply or written statement is submitted by Respondents. It means that, impliedly Respondents admit the contents of Complaint of Consumer.

4) This matter is heard by this Forum on 16-05-2017. On behalf of the consumer, Shri Abhay S. Bhide has advanced his submissions. On behalf of Respondents Executive Engineer Shri Sagar Marulkar put forth his submissions. We have gone through the copies of documents placed on record.

Since, the refund of Rs. 2.76 Crores as regards Temporary Tariff charges is already paid by Respondents recently, no issue and discussion thereon is required .

5) Following Issues arise for consideration:-

(1) Issue No.1 :- Does consumer prove that they are entitled to get refund of wheeling & transmission charges amounting to Rs. 10,55,189.00 as claimed?

Finding:- Yes.

(2) Issues No.2:- Whether complainant is entitled to claim interest on the bill amounts recovered by Respondents in excess? If yes, at what rate?

Finding:- Yes, but as per section 62(6) of the Electricity Act 2003.

(3) Issue No.3:- What final Order?

Finding:- As noted in the end.

### **REASONS**

6) Issue Nos. 1 to 3 :- It is not disputed that the consumer in this case has Registered office at R.S.No. 347 Ambapwadi Fata Dist. Kolhapur who are engaged in the business of Textile Manufacturing. Undisputedly, they are consumer of Respondents bearing consumer No. 251599302215. The Consumer is Renewable Energy Generator, holding 10 MW Hydro Power Project on self-use base at Radhanagari Dam.

7) According to the Consumer TT charges, wheeling & transmission charges were wrongly & illegally claimed & recovered by Respondents for the period from April 2015 till September 2015. As stated earlier, excessively recovered TT charges are recently refunded to the consumer , probably by adjusting the requisite penalty. Hence no further discussion is needed on this aspect.

8) The question that falls for consideration is in respect to WC & TC namely wheeling & Transmission charges. In this regard, on careful consideration of the matter, I am of the view that the claim of Consumer as regards WC & TC is clearly sustainable.

9) Neither in IGRC nor before this Forum, the Respondents have filed any Written statement to justify the charging of WC & TC. There is nothing brought on record by Respondents to show that WC & TC were correctly calculated & charged during the relevant period.

10) On behalf of the consumer, our attention is rightly invited to Ruls 16 & 19 of the MERC (Distribution Open Access) Regulation 2014 (Regulations for short) & to the order of the MERC dt. 17-05-2016 in case No. 137of 2015. It clearly appears that despite Regulation 16.1 , the Respondents had levied WC on the entire generation. The clear rule is that wheeling charges shall be payable on the basis of actual energy flow at the consumption end. Following observations of the MERC in para-6 of its order in Case No. 137/2015 can be referred here. –

“The 1<sup>st</sup> proviso to Regulation 16,1(a) specifies that wheeling charges are payable only on the actual energy flow at the consumption end. On the other hand, in case of sourcing of non-firm power from a RE Generator, Regulation 26.8(2) provides that the surplus (i.e. after set off with the OA consumer’s consumption ) power shall be purchased by the Distribution Licensee at the APPC rate. Thus, the relevant surplus power is that which is injected by the Generator into the Distribution Licensee’ s grid, & in respect of which wheeling, etc. charges would hence obviously not be applicable.”

11) In view of what is stated supra, We are of the view that WC & TC on over- injected units were incorrectly claimed & recovered from the present consumers for the aforesaid period. There is no satisfactory reply at the behest of Respondents justifying their claim of WC & TC.

12) A statement of detailed calculation of the charges wrongly calculated by Respondents is produced before this Forum. Such statement of calculation was duly submitted by the consumer to Respondents on 03-06-2016 . The same, as it appears, was never disputed. Nothing has been brought to our notice on behalf of Respondents indicating as how the said calculations made by consumer are wrong or incorrect. It can be said that said calculations are impliedly admitted by Respondents. We, therefore, uphold the case of consumer on the points of wheeling and Transmission charges.

13) The consumer has claimed interest at the rate of 10% p.a. on the amounts excessively & wrongly recovered by Respondents. However , we are inclined to award interest on such amounts as provided in section 62(6) of the Electricity Act 2003

14) Thus, this appeal succeeds and the same requires to be allowed. The Order dt. 06-03-2017 of the IGRC Kolhapur must be set aside.

Hence, following final order is passed:-

**ORDER**

- 1) Appeal filed by the consumer – Mohite Industries Ltd. Is allowed as under.
- 2) Respondents are hereby directed to make payment of Rs. 10,55,185.00 to the Consumer, being wrongly recovered wheeling & transmission charges for the period from April 2015 till September 2015.

- 3) Respondents are further directed to pay interest as provided on Section 62(6) of the Electricity Act 2003 on the Temporary charges, wheeling charges and Transmission charges which were recovered wrongly in excess, from the dates of recovery till the dates of payment to consumer.
- 4) If consumer is not satisfied with this judgment and order, he is at liberty to prefer appeal within Sixty days before Electricity Ombudsman.
- 5) Respondent to inform about implementation of this judgment and order, to this Forum; as per Case 8.7 of MERC (CGRF & Elect. Ombudsman ) Regulation 2006.

Sd/-  
(P.S. Burande)  
Member Consumer  
C.G.R.F.Kolhapur

Sd/-  
(P.V.Khapali)  
Member Secretary  
C.G.R.F.Kolhapur

Sd/-  
(V.S. Gulavani)  
Chairperson  
C.G.R.F.Kolhapur