

## **BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM**

### **M. S. ELECTRICITY DISTRIBUTION CO.LTD.**

#### **(NAGPUR ZONE – RURAL) NAGPUR.**

Application/Case No. CGRF/NZ/Rural/ **50** of 2008

- Applicant : M/S. Jay Bajrang Agro Processing Pvt. Ltd.  
In front of 132 kv Sub-station, Pulgaon Road,  
Deoli, Dist - Wardha.  
Through Managing Director, Shri R.C.Tadas r/o Deoli.
- VS --**
- Non-applicants. : 1.Executive Engineer,C.C.O&M Dn., MSEDCL,  
Wardha.  
2.Executive Engineer/Nodal Officer  
Internal Grievance Redressed Cell,  
Circle Office, MSEDCL, Wardha.
- Present : 1.Shri N.J.Ramteke,Chairman  
2.Shri M.G.Deodhar,Member  
3.Shri S.A.Harpale,Member/Secy.
- Appearance. : 1. Shri B.G.Morghade,  
2. Shri R.C.Tadas -  
For Applicant .  
1. Shri S.M.Ghade,E.E./N.O.  
2. Shri A. P.Phadanvis,E.E.  
3. Shri M.I.Sheikh,A.E.  
4. Shri P.G.Maske, D.A..  
For Non-Applicants.

### **ORDER**

( Passed this 11<sup>th</sup> day of March,2008)  
( Per Shri N.J.Ramteke, CHAIRMAN)

1. Applicant presented an application under schedule 'A' of the MERC(CGRF&EO) Regulations,2006(hereinafter called the 'Regulations') to this Forum on 14/2/2008. Applicant also presented separate application for grant of stay as there is an oral threat to applicant to disconnect power supply at any time after due date of the bill i.e. 18/2/2008. On receipt of application, the Forum issued acknowledgement, called parawise comments of the non-applicants by providing a set of papers, issued and served notices for hearing to both the parties and heard both the parties on 10/3/2008 as required under the provisions of the Regulations. The Forum also granted the stay

on 14/2/2008 to the recovery of Rs. 21,89,175.87 and disconnection of the electricity. There was no stay to the recovery of the current bill of Rs., 4,07,185.91. The Applicant sought relief from this Forum that the arrears amount which is mentioned in the regular bill is contradictory to the law which is not liable to be recovered. The arrears bill for the period October,2005 to December,2007 to be treated as null and void, to issue direction to the respective officers of the company not to disconnect the power supply of Applicant in future. Applicant also prayed for grant of stay against the recovery of the above amount. Applicant also requested to saddle the cost of the proceedings on non-applicants and any other relief which this Forum deems fit and proper.

2. The case of the Applicant in brief is as under :

Applicant is a consumer of the M.S.E.D.C.L.(for short' DL') with the consumer No.510019005110. Applicant is a agro processing Pvt. Ltd. engaged in ginning and pressing of the cotton. The D.L. issued excessive arrears bill for the period Dec,2005 to Oct,2007 of Rs. 16,49,193.56 which was subsequently revised to Rs. 21,91,031.96. The D.L. filed a caveat in the court of Civil Judge, Senior Division, Wardha and Applicant received the caveat notice, showing the amount of Rs. 15,54,262.92 The D.L. issued letter dated 26/12/07 to demand Rs. 21,89,713.36 for the period Oct,2005 to December,2007. The D.L. also issued a bill dated 19/9/2007 showing the arrears of Rs. 1980/-. The S.E., O&M Circle, MSEDCL, Wardha invited him for discussion on two dates but no solution was arrived. On the first date, it was postponed and on the second date Applicant requested that his expert adviser was not available on that date. Applicant also received a letter dated 18/1/2008 from Electrical Inspector, Wardha, seeking information from Applicant on certain points as mentioned in this letter. Applicant also received a bill for the month of January,2008 Rs. 26,06,361.08 which is at-random and not acceptable to Applicant. The dues of Rs. 21.89 lakhs as shown in the bill to be recovered form Applicant as arrears, is not acceptable to Applicant as it is arbitrary and without support of law and Regulations.

3. The non-applicants submitted their parawise comments to this Forum on 28/2/2008. The case in brief of the non-applicants is that the correct amount to be recovered

from the Applicant is Rs. 21,89,713.36. This energy bill was issued to Applicant on 26/12/2007 towards difference of energy bills recovered for the under-billed period from Dec,05 to Oct,07. The net amount to be recovered is Rs. 21,89,713.36 as refundable amount is Rs. 1318.60. The non-applicants denied that in the meeting the S.E., Wardha has ordered to revise the bill by canceling the lumpsum bill of Rs. 21.91 lakhs. The amount quoted in the caveat notice of Rs. 15,54,262.99 was wrongly mentioned whereas the amount is Rs. 21.91 lakhs. The fact of underbilling was first pointed out during the routine testing of the Applicant's installation on 1/12/2007, that the current transformer ratio had been changed to 25/5 amp. in place of 5/5 amp w.e.f. 4/11/2005. The E.E.,O&M Dn, Wardha vide letter dated 3/12/2007 communicated to make the necessary correction in current transformer ratio i.e. 25/5 amp which was not fed to I.T. system and the energy bill for Nov,2007 was drawn as per corrected multiplying factor (M.F.) 5 and issued to Applicant on 26/12/2007. The Applicant paid the bill of Rs. 78,720/- without any protest vide T.O.M.R. dated 20/12/2007. The non-applicants admitted that it was a bonafide mistake on the part of the concerned official of the D.L. and, therefore, M.F.1 was taken into consideration in the bill instead of M.F.5. The consumption of electricity from Dec,2005 to October,2007 was charged only 1/5<sup>th</sup> of the total consumption hence the amount of Rs. 21.91 lakhs is accumulated arrears. The H.T. supply was released to consumer on 11/12/2001 with contract demand of 90 KVA as per the agreement signed on 11/12/2001. The initial connected metering C.T. ratio was 5/5 amp. and metering CT ratio was 5/5 amp and, therefore, the M.F. for units and demand one and the same was calculated by consolidating the M.F. as one as per the testing report dated 11/12/2001. The Applicant made an application to the D.L. for additional load and demand note was served on Applicant vide letter dated 3/5/2005 to change C.T. ratio from 5/5 amp to 25/5/ amp. The non-applicants have also submitted the statements showing the consumption recorded during the period of Nov,2005 to Oct,2007 and Nov,2005 to Oct,2007 by applying M.F. 1 and M.F.5 respectively as applicable for the period Nov,2005 to Oct,2007. The non-applicants have admitted that there was a mistake in application of M.F. which through error remained to be

further communicated for necessary correction in their record which lead to entries to computer billing and, therefore, this mistake. This is purely arithmetical/mathematical error in records which has been corrected and bills sent correctly to Applicant. The non-applicants further submitted that the present Application does not fall within the meaning of the definition "Grievance" as per Regulation 2(c) of the Regulations. The billing has been done as per the agreement and as per section 45 and 56 of the Electricity Act, 2003, the D.L. has right to recovery the energy charges.

4. The facts in brief in this case are that --

Applicant is ginning and pressing factory at Deoli, District-Wardha with consumer No. 510019005110. The H.T. supply was released to Applicant on 11/12/2001 with contract demand of 90 KVA . Applicant made an application for additional load from 90 KVA to 210 KVA on 18/1/2005 (Record page 123-NA Exhibit 16). The non-applicants completed the formalities to increase in load from 90KVA to 210 KVA by completing all the formalities as required under their supply conditions. The D.L. issued a bill for Dec,2007 for Rs. 16.05 lakhs. Applicant raised objection on 28/12/2007. The D.L. issued a bill on 26/12/2007 (Record page 13) for Rs. 21.89 lakhs with the endorsement, "revised energy bill for difference amount with applying M.F. 5 for the period Nov,2005 to October,2007". The caveat notice dated 20/12/2007 with caveat application was served on Applicant by the Advocate of D.L. The energy bill of Rs. 3.13 lakhs for the Dec,2007 with due date 18/1/2008 (Record page 15) was given to Applicant. This amount was paid by Applicant on 18/1/2008. The S.E.,O&M Circle,MSEDCL,Wardha issued arrears letter of Rs. 1980/- under letter dated 19/9/2007(Record page 23). The S.E.,O&M Circle,Wardha under his letter dated 7/1/2008 invited Shri Ramdasji Tadas,Chairman, for discussion on 15/1/2008. But there was no outcome of this meeting and, therefore, he again invited Shri Tadas, Chairman for discussion on 7/2/2008. Applicant requested for adjournment as his expert on the subject was not available on that date. Hence the present application.

5. The Forum admitted the present application under Regulation 6.5 of the Regulations read with Regulation 8.3. Proviso to Regulation 6.5 requires the Forum to record its reasoning for admitting the case notwithstanding Regulation 6.4 of the Regulations. The Forum recorded its reasons for admitting the present case and granted the stay on 14/2/2008. The Forum heard both the parties. on 10/3/2008. Shri B.G.Morghade and Shri R.C.Tadas reiterated the points as mentioned in statement enclosed to the application in schedule 'A' and their letter dated 28/12/2007. The sum and substance of the submission of Shri Morghade and Shri Tadas is that the bill of Rs. 21.89 is not acceptable to them as it is arbitrary, illegal and by the mistake of the officers of the D.L. The applicant should not suffer for the mistake of the non-applicants. The Applicant has not taken shelter of Section 56(2) of the Electricity Act,2003(hereinafter call 'Act') in their statement of details of grievance and also objection letter dated 28/12/2007. However, at the time of hearing they relied upon Section 56(2) of the Act. So-called arrears with bill was due in Nov,2005 whereas the revised bill with arrear of Rs. 26.06 lakhs is given in Dec,2007.From Nov,2005 to Dec,2007 there was no demand from the D.L. of this amount and, therefore it attracts provision under Section 56(2) of the Act.
6. Shri Ghade submitted at the time of hearing that this was a human error which can be rectified. It was a bonafide mistake as the M.F.5 was not recorded in I.T. The Applicant consumed electricity at the ratio of 25/5 with M.F. 5 and, therefore, D.L. is entitled to correct the mistake and demand the arrears as shown by them of Rs. 21.89 lakhs. They have also submitted additional reply to Forum and copy of the same is given to Applicant. In additional reply the non-applicants have also admitted that in the present case it was a human error while raising the bill for the energy consumption by the Applicant. The reading which was shown on the meter was not multiplied by M.F.5 which was essential to arrive the actual electricity consumption. The period for Dec,2005 to Oct,2007 while raising the bill the meter reading was not multiplied by MF.5 resulting into arrears which is to be corrected and has rightly been corrected. They have also relied upon the judgement of the Hon'ble High Court

in M/S. Vimal Oil Industries, Akot -VS- S.E., O&M Circle, MSEB, Akola in writ petition No. 2053/2003 and Bombay Law Reporter, 2000 Volume 102(2).

7. Shri M.G. Deodhar, Hon'ble Member of this Forum, is of the opinion that the D.L. can not recover the arrears for the period Dec, 2005 to Oct, 2007 in view of the mandate laid down under Section 56(2) of the Act. The Applicant should not suffer for negligence and mistake of the officials of the D.L. If the D.L. wants to recover the arrears it can recover for the month of Jan, 2008 and not for period as shown by the D.L. Section 56(2) of the Act gives sufficient support and shelter to Applicant and, therefore, this amount of Rs. 21.89 lakhs is not recoverable.
8. The above opinion of Shri M.G. Deodhar, Member, is not acceptable to the majority (Shri N.J. Ramteke, Chairman and Shri S.A. Harpale, Member-Secy). The Section 56 of the Act pertains to disconnection of supply in default of payment. Sub/section (2) of this section reads, "Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity". Any sum due from the consumer can be recovered for the last two years from the date of detection in terms of section 56(2). In this case the first bill for Nov, 2005 became due in the month of Dec, 2005. The D.L. raised the bill for the total bills of each month in the month of Nov, 2007, resulting the amount due in the month of Dec, 2007. The consumer paid the bill for the month of November, 07 for corrected M.F.5. Thus considering 24 months past period arrive in Nov, 2005 to Oct, 2007 and considering detection date past period arrives as Dec, 2005 to Nov, 2007. The D.L. revised the bill for the period Nov, 2005 to Oct, 2007 (due in Dec, 2005). Thus the period from Dec, 05 to Oct, 2007 is of 23 months. On this count also it is a period of 23 months and, therefore, Section 56(2) is not attracted in this case. The D.L. should not suffer a loss of Rs. 21.89 lakhs merely on the basis of provision under Section 56 as the same is not applicable in this case. Moreover Applicant has actually utilized the electricity for this period with C.T. 25/5 and M.F.5. The D.L. has already given

sufficient concession to the Applicant as D.P.C./Interest has not been charged in the bill under dispute.

On hearing both the parties and perusal of the record the majority come to the conclusion and passes the following order

9. This is a matter fact that the D.L. issued a bill for Dec,2007 with due date 9/1/2008 for Rs. 21.89 lakhs but at the same time there is specific endorsement on this bill ,”revised energy bill for difference amount with applying M.F. 5 for the period Nov,2005 to Oct,2007”. Shri Deodhar and Shri Morghade pointed out to the letter dated 19/12/2007 as mentioned in this bill. They are of the opinion that in the bill dated 25/9/2007 how reference is made of the letter dated 19/12/2007. They are mainly relying on the date 25/9/2007. But this argument is not acceptable to the majority as 25/9/2007 is a reference to the receipt No.0649004. Thus it is not a bill of 25/9/2007 but it is a bill of Dec,2007 issued on 26/12/2007 and, therefore, D.L. has rightly and correctly made the reference to 19/12/2007 as the bill is dated 26/12/2007. The non-applicants have specifically and correctly enclosed the statements I, II and III (Record pages 71 to 73) The statement I showing the bill be revised applying M.F. 5 gives the details of the revised bill as per M.F.5 whereas actual bill statement (statement II pertains to applying M.F.1) as per statement No.1 the total comes to Rs. 27,75,372.40 whereas as per statement No.2 the total comes to Rs. 5,84,340.44. The non-applicants noticed that Applicant was constantly increasing its contract demand beyond the permissible limit of metering current transformer incorporated posing a threat of C.T. saturation and subsequently to a great loss in revenue due to C.T. saturation. They brought this to the notice of Applicant. Applicant made an application in the prescribed proforma with covering letter dated 18/1/2005 (Record page 127- N.A. Exhibit-16).Applicant demanded to increase sanction load in the various proformas as enclosed with its application, it demanded for additional load. On perusal of the documents from record pages 128 to 143, it clearly shows and establish that the sanctioned load was enhanced to 210 KVA with C.T. ration 25/5 amp with M.F.5. The testing report dated 4/11/2005(Record page 142) clearly shows in so many words that the C.T. ratio connected was 25/5 amp and M.F.5. It has been

mentioned at various places in this testing report about C.T. ratio connected to 25/5. The D.L. followed all the formalities as required under their rules and Regulations and Supply Conditions. It is also interesting to note that recording of the statement and confirmation of C.T. ratio of CTPT unit (Record page 143) it has been clearly mentioned in this statement that C.T. ratio available 25/5 and C.T. ratio connected 25/5 amp with current measured at secondary TTB 5A with 25/5 as currently injected in the primary terminus. It means, the Applicant demanded for additional sanctioned load and it was given by the D.L. by completing all the formalities with C.T. ratio connected 25/5 and M.F.5. The Applicant can-not agitate at this time as the bill under dispute is illegal and arbitrary. The Applicant consumed the electricity and Applicant can not deny the bill of actual consumption for the period Nov,2005 to Oct,2007. The non-applicants admitted that it was a human error and it can be corrected when it came to their notice. The Forum agrees with the non-applicants.

10. Hon'ble High Court held in writ petition No. 1075/1985 decided on 17/1/2000 that the restriction is of six months period provided under section 26 of the Electricity Act as no application of demand made by the Licensee from the electricity Board or undertaking for the unpaid amount for the electricity consumed if the consumption was unbilled due to clerical mistake or human error or such like mistake. This rationing judgement is applicable in the present case though it was decided under the Electricity Act,1910. The ratio and the principles laid down in this judgement is exactly applicable in this case as it was a human error in showing M.F. 1 instead of 25/5 with M.F.5.
11. The contempt application presented by Applicant about the contempt of the order dated 14/2/2008 of this Forum can-not be accepted as there are no powers to the Forum about the contempt. As per the stay order issued by this Forum, the D.L. has not recovered the amount of Rs. 21.89 lakhs and not disconnected the electricity connection. The D.L. has merely issued a bill and rightly so.
12. In view of above position and circumstances, the Forum vacates the stay as granted earlier on 14/2/2008, w.e.f. the date of this order. The S.E.,O&M Circle,Wardha is directed to enquire into the matter how this human error remained to be detected till



October,2007. A proper vigilance and care need to be taken to safeguard financial interest of the D.L. otherwise the consumer will utilize the electricity and for the default of any official, the consumer may dare to take the shelter under Section 56(2) of the Act. The Forum passes the following order.

**-: ORDER :-**

- 1) Application is rejected.
- 2) The stay order is vacated w.e.f. the date of this order.
- 3) There is no order as to cost.

SD/ILLEGIBLE  
CHAIRMAN

SD/ILLEGIBLE  
MEMBER

SD/ILLEGIBLE  
MEMBER/SECY

CONSUMER GRIEVANCE REDRESSAL FORUM  
M.S.E.D.C.L.(NAGPUR ZONE – RURAL)NAGPUR

NO. CGRF/NZ/R/

Date::

Certified that this is the true and correct copy of the above order.

Member-Secy/ Exe.Engineer,  
C.G.R.F.(NZ-R)MSEDCL  
N A G P U R

Copy to:

1. M/S. Jay Bajrang Agro Processing Pvt.Ltd., In front of 132 KV sub/station,Pulgaon Road, Deoli District-Wardha.
2. The Chief Engineer,Nagpur Zone (Rural)MSEDCL, Vidyut Bhavan,Katol Road, Nagpur.
3. The Exe.Engineer/N.O., O&M Circle Office, MSEDCL.Wardha, --
4. The E.E.,C.C.O&M Dn., MSEDCL, Wardha for information and necessary action.

Address of the Ombudsman is given as below.

Office of - The Ombudsman,  
Maharashtra Electricity Regulatory Commission,  
606-608, Keshava Building,  
Bandra-Kurla complex,  
MUMBAI- 400 051

TEL.- 022 - 26592965 (Direct)  
022 - 26590339 (Office)

