

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Urban Zone, Nagpur**

Case No. CGRF(NUZ)/03/2008

Applicant : M/s. Chanvim Plastics Pvt. Ltd.,
K-43/1, MIDC, Butibori,
Dist. NAGPUR.

Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
Division-II, NUZ,
Nagpur.

Quorum Present : 1) Shri S.D. Jahagirdar,
Chairman,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.

2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.

3) Shri S.J. Bhargawa
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 30.01.2008)

The present grievance application has been filed on
07.01.2008 under Regulation 6.4 of the Maharashtra Electricity

Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of excess energy charges amounting to Rs.8,47,800.80/- billed to the applicant erroneously considering the applicant's industry to be a non-continuous process industry despite valid certification of the General Manager District Industries Center (DIC), Nagpur to the effect that the applicant's industry is a continuous process industry.

Before approaching this Forum, the applicant had filed his grievance before the Internal Grievance Redressal Cell (in short, the Cell). The Cell, upon enquiry and hearing, decided the matter on 28.08.2007. The Cell has held that the applicant should follow the prescribed process of the Company in order to get the required benefit and that he should complete the required formalities. It also observed that question of payment of interest does not arise and the same cannot be considered. It is also stated by the Cell that the MSEDCL should process the applicant's application as per guidelines of the MERC's tariff order applicable from 01.10.2006 and of departmental terms & conditions. In the Cell's decision, it is stated that the case before it is closed and dismissed.

It is against this order of the Cell that the applicant has filed this grievance application under the said Regulations.

The matter was heard on 25.01.2008.

The applicant's case was presented before this Forum by his nominated representative one Shri R.B. Goenka while the S.E. NRC

MSEDCL Nagpur presented the case on behalf of the non-applicant Company.

The applicant's representative submitted that the applicant's industry is a plastic industry having sanctioned contract demand of 600 KVA with a sanctioned load of 808 KW. The MERC (hereinafter referred to as the Commission) issued tariff order applicable from 01.10.2006 and accordingly, MSEDCL issued high tension tariff booklet applicable from 01.10.2006. According to tariff applicable from 01.10.2006 upto 30.04.2007, there were two categories in HT 1 industries tariff i.e. continuous industries & non-continuous industries. The tariff decided for continuous industry was Rs. 350/- per KVA towards demand charges and Rs.2.15 per KWH for energy charges while tariff decided for non-continuous industry was Rs.350/- per KVA for demand charges and Rs. 2.85 per KWH for energy charges.

The Commission issued an order dated 07.02.2007 in case no. 59 of 2006 in the matter of tariff petition filed by MSEDCL and held at page 12 of this order as under:

“The Commission clarifies that the Continuous and Non-continuous categories are differentiated based on the continuous or non-continuous nature of the process adopted in the industries and not based on whether the industries are connected to express feeders or non-express feeders. It is obvious that a certified continuous process industry availing of uninterrupted power supply and paying additional supply charge (ASC) of 42% can not be on a mixed non-express feeder subjected to load shedding. The Commission clarifies that the Development Commissioner of Industries (DCI) or similar authority designated by the State Government are the appropriate forum to

certify whether an industry is a continuous process industry or a non-continuous process industry. Industries need to submit required certifications from State Industrial Development Authorities to avail the tariff allocated for continuous process industries”.

He added that the District Industries Center, Nagpur has certified the applicant's industry as a continuous process industry vide his certificate dated 27.06.2007. The General Managers of DICs in the State are given the power to certify whether an industry is a continuous process industry or a non-continuous process industry. Vide Government in Industries Department's Resolution dated 04.04.2007.

He therefore, stressed that the DIC's certificate ought to have been treated as a conclusive proof to the effect that the applicant's industry is a continuous process industry by MSEDCL and energy charges of Rs.2.15 per KWH meant for continuous process industry ought to have been charged to the applicant. However, the MSEDCL has charged tariff at the rate of 2.85 per KWh instead of Rs.2.15 per KWh. This, according to him, is unjust, improper & illegal.

He further stated that because of this position, an amount of Rs.8,47,800.30 has been charged in excess by MSEDCL from 01.10.2006 till 30.04.2007.

He prayed that this excess amount may be refunded to the applicant along with interest at the Bank rate as provided in Section 62 (6) of the Electricity Act, 2003. He has produced on record a statement showing monthwise consumption from October 2006 upto April 2007 along with energy charges erroneously charged by MSEDCL and the

quantum of energy charges that ought to have been charged as per Commission's order. While referring to the Cell's order, he stated that the Cell did not allow interest on the amount of refund and in second part of the Cell's order it directed MSEDCL to process the applicant's application as per guidelines of tariff order applicable from 01.10.2006 and MSEDCL's departmental terms and conditions. But the non-applicant Company did not process the application and did not refund the excess amount charged.

The non-applicant has submitted his parawise report dated 25.01.2008 which is on record. A copy of this report has been given to the applicant.

The S.E. NRC representing the non-applicant Company has stated in this parawise report as well as in his oral submissions that the Cell gave a decision to consider the applicant's case as per Commission's order and MSEDCL's Circulars. As provided in Circular no. 52 dated 07.05.2007 issued by the Chief Engineer, (Commercial) at H.O. Mumbai, a consumer has to produce certificate from General Manager DIC and the Competent Authority has to inspect the industrial unit to verify whether the consumer's industry is a continuous process industry or not. He also referred to the H.O's letter, being letter no. 36735 dated 01.10.2007, by which decisions of the Advisory Committee constituted by the Government under the Chairmanship of Development Commissioner of Industries (DCI) taken in its meeting held on 09.08.2007 at Mumbai have been forwarded. As per the Committee's decision, plastic manufacturing industries are covered under the category of non-continuous process industries. Considering this position, the applicant's case has been referred to the

H.O. Mumbai for guidelines. Vide his letter dated 02.01.2008. He further submitted that the applicant's case will be processed upon receipt of guidelines from the H.O. He, therefore, requested that till then the applicant's industry may not be treated as a continuous process industry. He also stated that question of refund of the alleged excess amount depends upon the decision of the Committee under the Chairmanship of DCI.

In this case, the main point to be decided is whether the applicant's industry is a continuous process industry or a non-continuous process industry. It is true that the General Managers of DICs have been authorized by the State Government to certify whether a particular industry is a continuous process industry or a non-continuous process industry. It is also true that the General Manager DIC, Nagpur did issue a certificate, being certificate no. 4579 dated 27.06.2007 confirming that manufacturing of Injection Moulded Plastic Components is a continuous process industry and it requires an uninterrupted power supply. In short, the DIC Nagpur has certified the applicant's industry as a continuous process industry. This certificate is challenged by the non-applicant on the ground that similarly placed industries have been categorized as non-continuous process industries by the Committee constituted by the State Government under the Chairmanship of DCI.

While having a look at the minutes of the Second Advisory Committee meeting held on 09.08.2007 under the Chairmanship of DCI, it is seen that certain cases were referred to the Committee for taking decision whether they are continuous process industries or non-continuous process industries. The Committee after deliberations took

certain decisions. In that, in Annexure-II appended to the minutes of the meeting, it included industrial units which are categorized as non-continuous process industries. Close scrutiny of details of this Annexure-II reveals that this Annexure includes industries like plastic manufacture, plastic buckets, manufacture through Injection moulded process in plastic items as non-continuous process industries. The Technical details submitted by the applicant before the DIC, Nagpur confirm that the applicant's plastic unit is manufacturing injection moulded components. Here, the non-applicant has specifically stressed that the applicant's unit cannot be treated as a continuous process industry since it deals with injection moulded plastic components manufacturing. It is also seen that the case of the applicant is already referred to MSEDCL's H.O. Mumbai for giving a decision as to whether the applicant's unit is a continuous process industry or not.

It is pertinent to note that the DCI has addressed a letter, being letter no. 3966 dated 09.04.2007, to the Managing Director, MSEDCL, Mumbai stating that the MSEDCL may refer cases to the Advisory Committee constituted by the Govt. under Chairmanship of the Development Commissioner of Industries for taking appropriate decisions in disputed cases. The Development Commissioner of Industries has all powers to issue comprehensive guidelines in this regard. Accordingly, an Advisory Committee has been constituted under the Chairmanship of DCI and this Committee has been fully authorized to take appropriate decisions in cases referred to it by MSEDCL. In short, in cases where MSEDCL feels that certain industries are not continuous process industries, such cases can be referred to this Advisory Committee for final decision on this point. The

Advisory Committee under the Chairmanship of DCI has also taken certain decisions in respect of certain industries in its meeting held on 09.08.2007. In that, it is also seen that certain plastic manufacturing industries and injection moulded plastic process component industries have also been categorized as non-continuous process industries. Vide Annexure-II appended to the minutes of the Advisory Committee meeting held on 09.08.2007.

In view of the above position, it will be in the fitness of thing if MSEDCL obtains decision of this Advisory Committee in this case as early as possible. It is also a matter of record that the applicant's case is already forwarded to the MSEDCL H.O. Mumbai by the Superintending Engineer, NRC on 02.01.2008.

The Development Commissioner of Industries being the competent authority has all powers to take appropriate decisions in disputed cases wherein even General Managers of DICs have issued certificates certifying that a particular industry is a continuous process industry. It is well within the powers of DCI even to revoke such a certificate of General Manager DIC, if wrongly issued.

In the result, we find force in the non-applicant's contention that the applicant's industry may not be treated as a continuous process industry till the final decision of the above-referred Advisory Committee to which the MSEDCL is going to refer this case. If the Advisory Committee under the Chairmanship of DCI confirms the decision of General Manager DIC, Nagpur in this case, then the applicant will be entitled to get the refund of excess amount charged to it along with interest. However, in the event of the Advisory

Committee taking a negative decision, the applicant's grievance will not survive.

In the result, we direct the non-applicant to obtain final decision of the Advisory Committee under the Chairmanship of DCI, Mumbai in this particular case within a period of two months from the date of this order and take resultant action depending upon the decision of the Committee.

The applicant's grievance application stands disposed of accordingly.

Sd/-	Sd/-	Sd/-
(S.J. Bhargawa)	(Smt. Gauri Chandrayan)	(S.D. Jahagirdar)
Member-Secretary	MEMBER	CHAIRMAN

**CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's
NAGPUR URBAN ZONE, NAGPUR.**