

Before Maharashtra State Electricity Distribution Co. Limited Consumer Grievances Redressal Forum, Pune Zone, 925, Kasabapeth Building, IIInd flr. Pune-11

Case No. 20/2013

Date:- 31/01/2014

In the matter of

M/s.Shriniwas Engineering Auto Component Pvt.Ltd., S.No.492, Near Talegaon MIDC Village, Navalakh Umbre, Tal.Maval, Dist.Pune

- Complainant

V/S

The Supdt. Engineer,
M.S.E.D.C.L.
Pune Rural Circle,
Pune.

- Opponent

Quorum

Chair Person	Shri.S.D.Madake
Member/Secretary,	Shri.N.S.Prasad
Member	Shri.Suryakant Pathak

- 1) The Consumer Grievance Redressal Forum has been established under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) Regulation 2006 to redress the grievances of consumers. The grievance application is filed on 24.10.2013 under regulation 6.4 of the regulation.
- 2) The grievance of the applicant is in respect of charging 2% voltage surcharge from the date of connection without approval of Maharashtra Electricity Regulatory Commission. It is averred in application 'A' form that M.S.E.D.C.L. has charged 2% voltage surcharge without consideration of dedicated feeder. M.S.E.D.C.L. was required to consider

both sides metering and to be charged amount which is higher. Consumer made grievance before M.S.E.D.C.L. authorities from time to time however, no cognizance was taken for Redressal of the grievance.

- 3) Before filing application before this forum the applicant moved application before Internal Grievance Redressal Cell on 1.10.2013 with a request to direct M.S.E.D.C.L. to refund the 2% voltage charges with interest. The Chairman (IGRC) Shri.J.K.Bhamre, decided the application. He observed that necessary process of stopping of 2% voltage surcharge is completed and the same is effected in Aug.2013 bill. He further observed that the charging on the meter reading whichever is higher between meter installed at EHV S/stn. and meter at consumer premises is started from bill of Aug.2013. IGRC Chairman ordered that (i) consumer will install the 0.2 S class metering at his premises as well as EHV S/stn. end as per specifications of SE (TQA). (ii) Regarding the refund of 2% additional units charged Pune Rural Circle will immediately take action as per Rules and will submit the proposal to the Competent Authority.
- 4) The applicant being aggrieved by the decision, preferred this application. The M/s.Shriniwas Engineering Auto Com.Pvt.Ltd. is HT consumer No.181029042400 under Talegaon Sub/division of Pune Rural Circle. The consumer is released on 7.2.2008 on load MW/9 MVA. Subsequently additional load sanction and release of 14.125 MW/24 was given on 22KV vide letter dated 1.6.11 with conditions. SE (Pune Rural Circle) released load of 14.625 MW/24 MVA by letter dated 9.11.12.
- 5) On perusal of the documents it is evident that as per sanction letter dated 12.12.2007 & special condition was that consumer will be charged for additional 2% extra units on the energy units, and shall complete the work of upgradation of lines etc. The consumer executed a bond on stamp paper agreeing to abide by the conditions. The M.S.E.D.C.L. recovered the amount since date of connection till July-2013. Consumer claimed the refund of the amount with interest.
- 6) M.S.E.D.C.L. filed written statement and denied the contents of the application.

It is alleged that levy of 2% voltage surcharge to consumer is correct as per agreement. Hon'ble MERC agreed levying of 2% voltage surcharge for power supply to Non SOP consumers. It is averred that as per application dt.25.7.13, 2% voltage surcharge is withdrawn from Aug.2013, It is stated that it is confirmed now that accuracy class of meter is still 0.5 hence levying of 2% voltage charges is necessary till replacement of meter.

7) The Supdt. Engineer, strongly submitted that applicant voluntarily with free consent agreed to comply the condition as per sanction letter, consumer failed to raise any objection to the imposition of condition at the time of connection in 2007 as well as getting enhanced power supply there is no fairness in act of consumer.

8) The following points arise for our determination.

- (i) Whether the M.S.E.D.C.L. is liable to refund the voltage surcharge of 2% levied on the consumer in the present case?
- (ii) If yes, to what period?
- (iii) What order?

9) Our findings are as under :

- i) In the affirmative
- ii) Amount recovered during 2008 to 5th March 2010 & amount recovered during dedicated feeder.
- iii) As per final order

REASONS

10) We have heard Shri.B.R.Mantri for the consumer as well as Shri.D.A.Koli for M.S.E.D.C.L. We have perused the contents of complaint, written statement, other documents as well as precedents of Hon'ble Ombudsman, Hon'ble High court, Hon'ble MERC and copies of order passed by CGRF Kalyan & CGRF Nagpur.

11) The main issue in the present case is the power of M.S.E.D.C.L. to levy 2% Additional units in the energy bills of the consumer.

Shri.B.R.Mantri relied on written notes filed on record on 20.12.13 & 23.12.13 as well as 30.01.14. He submitted that M.S.E.D.C.L. is authorized to recover charges for electricity supplied in accordance with tariff as may be fixed

from time to time by the commission. He submitted that voltage surcharge is a tariff related matter, so approval of MERC is mandatory before recovery of the same.

- 12) Section 45 of Electricity Act-2003 states that prices to be charged by a distribution licensee for supply of electricity shall be in accordance with such tariffs fixed time to time, Section 45 indicates that the charges fixed by the licensee shall be in accordance with the provisions of the Electricity Act-2003 and the regulations made in this behalf by the concerned state commission.
- 13) Mr.B.R.Mantri submitted MERC has not authorized MSEDCL to charge such excess unit consumption exceeding the tariff determined by commission under Section-62 of E.A.Act-2003. We have perused MERC tariff orders since 2006 May-2007, June-2008 etc. till this date. On perusal of the MERC order from the date of initial supply in pursuance of sanction letter Dec.2007, we found that M.S.E.D.C.L. was not permitted by specific order permitting to levy 2% surcharge from consumer.
- 14) It is very important to note that M.S.E.D.C.L.had applied to MERC for levy of surcharge of 15% on the consumers on the non express feeder line in case No.71 of 2009. Hon'ble MERC passed interim order which is reproduced for the sake of convenience.

“At the same time it cannot be denied that the distribution losses including transportation losses will increase on account of supply to consumers at voltages lower than that specified in the SOP Regulations. Accordingly, till such time as the detailed technical study is undertaken and the commission approves the levy of voltage surcharge based on detailed deliberation in this regard, the commission approves M.S.E.D.C.L. 's request for interim relief seeking permission to levy voltage surcharge of 2% additional units to be billed for supply of consumers at voltage lower than that specified in the SOP regulations. It is clarified that this voltage surcharge shall apply from the date of issue of this order till such time as the commission issues, further orders”.
- 15) We have noticed that M.S.E.D.C.L. has charged 2% voltage charges from

the date of commencement of electricity supply. As per the law M.S.E.D.C.L. is not entitled to recover 2% voltage surcharge till 5th March 2010. In our considered view though M.S.E.D.C.L. and consumer entered into an agreement for paying 2% voltage charges, the said amount is not legal & valid.

- 16) The Hon'ble Ombudsman in M/s. Unijules Ltd. Science Ltd VS M.S.E.D.C.L. representation No.46/2008 dated 27.8.2008 held that obtaining of consumer's consent for imposition of any condition not in conformity with the law would be impermissible to be enforced.
- 17) In the present case obtaining consent of consumer in Dec.2007 for imposition of condition to levy 2% voltage surcharge is not in conformity with law. It is clear that M.S.E.D.C.L. has recovered 2% voltage surcharge without approval of the commission during Feb.2008 to March-2010.
- 18) In the present case, we hold that MSEDCL is entitled to recover amount in view of the decision of MERC dated 5.3.10, 2% voltage surcharge during the period between 5.3.10 till the date of providing the dedicated feeder.
- 19) Shri.D.A.Koli pointed out regarding line losses being incurred in view of sanction of power supply at lower voltage other than standard of performance regulations. This aspect can be considered while submitting proposal of annual revenue requirement and tariff determination.
- 20) In the result, we are of the opinion that M.S.E.D.C.L. is under an obligation to refund the excess amount charged. It is very important to note that M.S.E.D.C.L. has stopped levying of 2% voltage charges since Aug.2013. IGRC has very correctly directed M.S.E.D.C.L. to take immediate action for refund of 2% voltage charges. We only clarify that M.S.E.D.C.L. is entitled to recover 2% voltage charge from 5th March 2010 till the date of providing the dedicated feeder after verifying the fact. M.S.E.D.C.L. has on its own already stopped levying of 2% voltage charge from Aug.2013.
- 21) The other issue is direction of IGRC to consumer for installing the 0.2 S class metering at his premises as well as EHV S/stn.end as per specification of SE (TQA). As per the decision of Hon'ble Ombudsman while considering liability for provision of meters in the Electricity Act-2003, Electricity supply code Regulation-2005 as Central Electricity Authority (Installation &

operation of meters) Reg.2006 in representation No.46 of 2008 dated 27.8.2008 held.

33 "Plain reading of various provisions referred to above leaves no doubt to conclude that the meters have to be provided by the distribution licensee unless the consumer specifically elects to purchase it". Hence the said direction is not legal.

22) The following order would meet the ends of justice.

ORDER

1. M.S.E.D.C.L.is directed to refund the excess amount for 2% extra units from date of connection till 5th March 2010 alongwith interest at bank rate as provided in section 62(6) of the Electricity Act-2003 till the date of refund.
2. M.S.E.D.C.L. is permitted to charge 2% voltage charges during period between 5.3.2010 till the date of providing dedicated feeder.
3. M.S.E.D.C.L. is directed to calculate the charges towards 2% voltage surcharge recovered form the date of providing dedicated feeder till July-2013 and refund the said amount alongwith interest at bank rate as provided in section 62(6) of the Electricity Act-2003.
4. M.S.E.D.C.L. shall carry out the order within a period of 60 days and report compliance.
5. No order as to cost.

Suryakant Pathak
Member

S.D.Madake
Chair Person

Member Secretary (N.S.Prasad)

I have gone through the above reasoning and order. I respectfully disagree with it for the following reasons.

- 1) M/s.Shriniwas Engineering Auto Component Pvt.Ltd., is a consumer vide No.181029042400 released on 7.2.2008 with a Contract demand of 9 MVA on 22KV. However as per SOP of MERC the loads more than 5 MVA should be released on EHV to avoid heavy line losses.
- 2) The supply of M/s.Shriniwas Engineering Auto Component Pvt.Ltd.,was released on 7.2.2008from a 22KV non express feeder. When the consumer is supplied from a non express feeder it is not possible to measure the line loss incurred by the consumer, hence 2% voltage surcharge is levied from the date of connection.
- 3) Subsequently MSEDCL had applied to MERC for levy of 15% voltage surcharge for the consumers on non express feeders. Hon'ble MERC passed interium order on 5-3-10 which is reproduced below :

“At the same time it cannot be denied that the distribution losses including transportation losses will increase on account of supply to consumers at voltages lower than that specified in the SOP Regulations. Accordingly, till such time as the detailed technical study is undertaken and the commission approves the levy of voltage surcharge based on detailed deliberation in this regard, the commission approves M.S.E.D.C.L. 's request for interium relief seeking permission to levy voltage surcharge of 2% additional units to be billed for supply of consumers at voltage lower than that specified in the SOP regulations. It is clarified that this voltage surcharge shall apply from the date of issue of this order till such time as the commission issues. Further orders”.
- 4) In the order dated 5.3.10 Hon'ble MERC has given permission to levy 2% voltage surcharge for the consumers supplied at voltages lower than that specified in the SOP regulations. This voltage surcharge shall apply from the date of issue of order. However no where in the order it is mentioned that the voltage surcharge which is already collected should be refunded.
- 5) Further Hon'ble MERC in its order dated 12.9.10 clarified that

“ In case only one connection exists on the dedicated feeder, the tariff should be charged on the basis of consumption recorded by the meter

installed at the source of supply (EHV level) and at the consumer end whichever is higher without any levy of voltage surcharge”.

- 6) M/s. Shrinivas Engineering Auto Component sanctioned additional load of 1500 KVA total 2400 KVA on 22KV express feeder and released on 17.11.2012.
- 7) The relief claimed by the consumer in the application 'A' dated 22.9.13 is for refund of the excess collected amount against voltage surcharge from the date of additional load released till date with interest as per Electricity Act-2003.

ORDER

1. The billing should be done on the basis of meter reading whichever is higher between meter installed at EHV Sub/stn. and meter at consumer premises after 12.11.12 i.e. date of release of additional load.
2. M.S.E.D.C.L.is directed to refund to consumer the amount charged after shifting of consumer on dedicated feeder i.e. on 12.11.12 towards 2% voltage surcharge with interest equivalent to bank rate within one month.
3. No order as to cost.

N.S.Prasad,
Member/Secretary