

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

Case No. 20/2012

Date: 22/10/2012

**In the matter of
M/s.Flavex Aromats India Ltd.
A/P Ambervet Tal. Mulshi.**

- Complainant

V/S

M.S.E.D.C.L. Mulshi Division

- Opponent

Quorum

Chair Person	Shri.S.D.Madake
Member/Secretary,	Shri.B.M.Ivare
Member	Shri.Suryakant Pathak

- 1) Flavex Aromats India Ltd. Company situated at 327-4/3 Ambervet, Tal. Mulshi Dist. Pune is a consumer of MSEDCL vide Con. No 183091385501 having L.T. sanction load 66 HP (LTP-G) since 5th August- 1994
- 2) The allegations of the complainant are briefly stated as under MSEDCL issued bill of Rs.28, 980/- (Twenty eight thousand nine hundred and eighty) in Feb-2006 under the heading of "bill adjustment" without details. Consumer paid 30% amount under protest. The said amount up bill adjustment was claimed on the basis of report of inspection of flying squad in May-2004. The consumer also made a grievance regarding fixed charges and power factor penalty as well as connected load penalty billed in the bills .The consumer from time to

time demanded regarding the details, however no cognizance was taken by MSEDCL.

- 3) Consumer, moved before IGRC for redressal but the application came to be rejected on the ground of limitation as per clause 6.6 of MERC(Consumer Grievance Redressal Forum and Electricity Ombudsman) Reg.2006.
- 4) According to MSEDCL the bill of Rs. 28,980/- was claimed on the basis of flying squad inspection dated 11/05/2004 in the bill issued in Feb-2006. Again MSEDCL credited an amount of Rs.8580/- in April-2006 to consumer. The interest worked out on flying squad adjustment bill has been credited in Feb-2012 to the amount of Rs.7,949.00. The MSEDCL returned delayed payment charges (DPC) from Feb-2006 to March-2012 to the amount of Rs.16169.77 in the bill of March-2012.
- 5) In the letter dt.28/09/2012 MSEDCL submitted that utility is willing to withdraw meter cost with an interest. The MSEDCL expressed willingness to refund all the charges which were accepted due to mistake.
- 6) Application for condonation of delay- As per Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation-2006 clause No. 6.6 "The forum shall not admit any Grievance unless it is filed within two years from the date on which the cause of action has arisen". Hence limitation has given for two years. In this said matter cause of action has arisen i.e. bill of adjustment" has raised on Feb-2006.

The delay is condoned in the interest of justice on the basis of the satisfactory explanation by consumer in the application for condonation of delay in filing complaint.

7) During hearing MSEDCL representative, stated that L.T. Connection of complainant was checked by Dy. E. E. flying squad (Rural) MSEB Pune on 11/05/2004 and accordingly recovery of Rs.28,980/- debited to the consumer bill in the month of Feb-2006 which consist as below

- a) Meter cost Rs.22,400/- due to replacement of C.T. Operated meter of capacity 50/5 Amp. by 100/5 amp.
- b) Balance Rs. 6580/- as unauthorized Add. Load of 5.50 HP against sanctioned load of 66 H.P
- c) The amount of Rs.8580/- has been towards additional load penalty has already been credited in the month of April 2006 to the consumer.

8) In the matter of connected load i.e. case No. 2 of 2003 the Hon'ble Commission, MERC vide its order dt.14/07/2005 has mentioned as below.

"In case of load drawal exceeding sanctioned load, to be measured through the MD meters (Trivector or the Accu check meters as the situation demands) the consumer shall be billed based on the actual drawn demand and shall be levied penal charges for the unauthorized demand beyond the sanctioned load.

In the present case connected load was not measured by maximum demand recorded by the meter. On the basis of the documents and submission, it is noticed that connected load was measured physically. Therefore imposing of penalty on the basis of unauthorized load is not proper. Complainant was entitle for refund of the same and accordingly the said amount was refunded by MSEDCL in the month of April-2006. We have verified the CPL of the consumer vide report No. CMS/CPL run date 17/08/2012 and found that an amount of Rs.8580.00 was credited in favour of consumer.

- 9) As per MERC order in case No.26 of 2002 dt.28 June-2005 as per para 11 & 12 stated as below.

11- From the above chronology and account, the position should be clear, viz. that, with effect from 10th January-2002 (the 2nd tariff order) and upto 19th January-2005 (i.e. up till the date of the supply code). Meter cost can be recovered from the consumer upon replacement.

a) Only once during his continuance as a consumer, except in cases of burnt or lost meters (the earlier payment of meter rent is not to be treated as the cost having been paid)

b) Subject to the above, in the case of agricultural consumers with land holding less than 1 hectare, only 50% of such cost may be recovered(applicable from 5th May-2000 to 19th January-2005.)

c) In line with the Commission's ruling in order dated 19th July-2004 , where the consumer had earlier elected to purchase his own meter, as he is entitled to do under law, the cost of any replacement required by MSEB can not be recovered from him (except for lost/burnt meters)

12- Effective from 20th January-2005 , the supply code regulations provide (Regulation 14.2.4) that :

“Except in case of burnt meter or a lost meter, the Distribution Licensee shall not be authorized to recover the price of the meter more than once during the continuance of supply to the consumer”.

In the present case complaint had paid meter cost of Rs.22,650/- by ten monthly installments of Rs.2265/- w. e. f. Nov-2004 to Aug-2005. It is noticed that MSEDCL charged Rs. 22,400/- on Feb-2006 in the name of bill adjustment. Complainant is entitle to refund of

the cost of the meter, recovered in the name of bill adjustment to the amount of Rs.22,400/- with interest, as the consumer is liable to pay meter cost only once in life except in case of burnt or lost meter. The MSEDCL expressed willingness to refund the said amount vide application dated 28/09/2012.

- 10) It is seen that penalty on connected load of 660/- was charged in bill of May-2005, June-2005 and July-2005 which is demanded by complainant to be refunded since the connected load is not measured as per the M.D. recorded on meter. However it is recorded as per the connected load method by physically. Hence as per provision as above this excess connected load penalty is required to be refunded with interest.

11) Fixed Charges:

According to complainant MSEDCL claimed fixed charges of Rs.4290.00 p.m. till Oct-2006. It is submitted that different sums of amount are claimed towards fixed charges per month from period between Nov-2006 to Feb-2007. MSEDCL has not stated anything regarding fixed charges. It is submitted by complainant that, fixed charges should be levied as per the sanctioned load 66 HP instead of 71.5 HP. It is submitted that 71.5 H.P is not measured by MD of the meter and the same is measured physically, which is not allowed. We are of the opinion that MSEDCL should claim an amount on the basis of 66 H.P load and as per the tariff order dt.01/12/2003 and subsequent tariff order of the Hon'ble MERC. The MSEDCL is entitled only to claim charges as per M.D. based tariff.

12) Power factor penalty :

Complainant submitted that the observations and remarks of flying squad are without quantitative measurement and hence any penalty in lieu of the same may be quashed. The complainant has not

specifically averred that MSEDCL has wrongly calculated amount towards power factor penalty. It is obligatory for the consumer to maintain the average power factor of his load at levels prescribed by the Indian Electricity Rules 1956 and in accordance with relevant orders of the commission. The Distribution Licensee is entitled to charge penalty or provide incentives for low/high power factor.

- 13) To redress the Grievance this forum tried to find out the mutual settlement between complainant and respondent during hearing on 14 Sept 2012. According time period is given for period of week to settle the grievance mutually. However settlement has not made with each other and both submitted their revised "Say" on 22/09/2012 by complainant and on 25/09/2012 by respondent. Forum wants to settle issue mutually since pending long time.

Further after receipt of grievance on 19/07/2012 it was directed to opponent for filing reply vide notice dt.20/07/2012 within fifteen days. MSEDCL was given additional 10 days time for submission of reply as per their request vide L. No. AE/Mulashi/1495 dt.06/08/2012. According MSEDCL submitted their reply on 17/08/2012. However complainant vide letter dt. 17/08/2012 requesting not to keep hearing during 22 August 2012 to 8 Sept-2012, as he is out of station. According first hearing was scheduled on 12/09/2012. Again finally it was rescheduled on 14/09/2012 due to request of respondent, since there was a meeting of Hon.ble M.L.A.(Aamsabha) of Mulshi taluka on same date. In view of above time is required to pass the order.

In the result, we pass the following order.

ORDER

- 1) The MSEDCL is ordered to refund cost of meter i.e. 22,400/- with interest as per the rates applicable as per direction of Reserve Bank of India and be adjusted in future bill.
- 2) The MSEDCL is directed to claim an amount towards fixed charges as per the sanctioned load 66 H.P. or as per maximum demand (M.D.) based tariff as per rates applicable by tariff order dt.01/12/2003 and subsequent tariff order passed by Hon'ble MERC.
- 3) The MSEDCL is directed to refund amount of Rs. 1980/- (One thousand nine hundred and eighty only) collected against penalty on connected load with interest as above.
- 4) No order as to cost.

B.M.Ivare,
Member/Secretary

Suryakant Pathak
Member

S.D.Madake
Chair Person

Date: 22/10/2012