

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM  
AURANGABAD ZONE AURANGABAD

Case No. CGRF/AZ/Aur/U/364/2011/44

Date of Filing 20.12.2011  
Date of Decision 18.02.2012

M/s Birla Perucchini Ltd.,  
Plot No.B-15/3/2,  
MIDC Waluj,  
Aurangabad.  
(Consumer No. 4900119009189)

Complainant

**V/s**

01) The Nodal Officer,  
O/O Superintending Engineer,  
Urban Circle, M.S.E.D.C.L.,  
Aurangabad

Respondents

02) M/s GTL Limited,  
Franchise of MSEDCL,  
Cannaught Place, CIDCO,  
Aurangabad.

CORAM

Shri V.B.Mantri

Chairperson

Shri V.S.Kabra

Member

Shri Mohd.Quamarudin

Tech.Member

Claim: - Refund of amount collected excess toward service connection charges,.

**JUDGEMENT**

01) The complainant has submitted its grievance that, the respondents have collected excess amount of service connection charges, therefore the respondents be directed to refund excess amount so collected than the approved charges by MERC.

02) The case and grievance of the complainant in brief is that, the complainant is a consumer of the respondents bearing consumer No.490019009189. The consumer had submitted application for enhancement of contract demand from 2000 KVA to 3750 KVA on 24.5.2011 to respondent No.2, which is franchise of respondent No.1

03) The respondent No.2 processed the application and issued load sanction on 4.7.2011 and thereby asked the complainant to pay charges as follows;

01.	Service connection charges	1,95,000/-
02.	Security Deposit	20,06,396/-
03.	Testing charges	2,000/-
04.	Costs of agreement Form	220/-
05.	Processing charges	1,000/-
	TOTAL :-	22,04,616/-

04) It is the grievance of the complainant that, the charges so demanded by the respondent No.2 are not in accordance with MERC and MSEDCL approved rates. The complainant has however paid such charges under protest on 22.10.2011.

05) It is submitted that, for releasing additional load, the work involved is replacement of existing CTS with new CTS of ratio 75/5A. The respondents are not required to spend any amount for releasing additional load, except carrying out supervision work, therefore demand of Rs.1,95,000/- towards service connection charges is unjustified and more over the same is not in accordance with MERC guidelines. The complainant therefore pray for refund of excess amount so charged and collected from the consumer. The respondents are entitled only for 1.3 % of Normative charges towards supervision charges and not more than that.

06) In response to the notices to respondents, the respondent No.2 GTL Ltd. submitted reply and submitted that, the charges applied by GTL Ltd. are as per approved schedule of charges, by MERC and as per Commercial Circular No.43 of MSEDCL . Service connection charges of Rs.1,95,000/- are approved by MERC irrespective of work involved and granted for costs of maintaining and strengthening the Distribution net work. It is thereby submitted that, complaint may be dismissed.

07) The respondent No.1 MSEDCL has submitted its separate reply and pleaded that, the respondent No.2 GTL Ltd. could demand charges as per approved MERC schedule charges. It is however not pleaded, whether charges so demanded or collected by GTL Ltd. from the consumer towards service charges amounting to Rs.1,95,000/- in fact are in accordance with MERC approved charges or not.

08) This Forum heard arguments Mr. Kapadiya, the representative of the consumer Mr. Deshpande, Nodal Officer argued for respondent No.1 & Dy. General Manager for GTL.

09) There is no dispute that, the complainant is a existing consumer bearing consumer No.490019009189, the consumer had taken 33KV HT connection for its factory in the year 1998. The consumer has then applied for enhancement of contract demand from 2000 KVA to 3750 KVA. The GTL Ltd. while sanctioning enhancement of contract demand asked the consumer to pay Rs.1,95,000/- towards service connection charges & other charges. The consumer paid such 1,95,000/- towards service connection charges under protest and restricted its dispute regarding such service connection charges. No grievances raised in this petition with respect to other charges, either in petition specifically or during arguments. Hence following points arise for our considerations and determinations. On going through the case of respective parties and considering submissions so made on behalf of respective parties we record our findings to those points in controversy as follows for the reasons recorded below.

Sr. No.	Points	Findings
01.	Whether service connection charges, as charged by GTL Ltd. in load sanction order dated 4.7.2011, are as per approved MERC charges or not	Service connection charges of Rs. 1,95,000/- are not as per MERC approved charges.
02.	What redressal/order	The respondent No.2 GTL Ltd. shall issue load sanction order a fresh as per the findings recorded by Hon'ble Ombudsman in representation No.17/2011 dated 23.1.2012 in M/s Aayudh Tools V/s S.E. MSEDCL & M/s GTL Ltd. <b>AND</b> subsequent there to as per the order if any passed in writ petition filed by R.No.2 in Hon'ble High Court against order of Hon'ble Ombudsman.

## REASONS

- 10) The respondents have placed reliance upon commercial circular No.43 issued on the basis of MERC/Case 70/2005/Compl./1974 dated 26.9.2006 and submitted that, service connection charges have been charged as per the said circular, more particularly as per Note ii to annexure 2, approved by MERC.
- 11) As per note ii of Annexure-2, the normative charges, in case of extension of load, will be applicable on the total load (existing as well as additional load demanded) as per the load slabs indicated in annexure-2.
- 12) Service charges, as per schedule of rates shown in Annexure-2 for H.T.supply above 500 KVA have been shown to be 1,95,000/-
- 13) It is therefore contention of respondent No.2, that, the GTL has rightly charged Rs. 1,95,000/- towards service connection charges, as per note ii of Annexure-2, of schedule of charges approved by MERC . The total load of consumer is above 500 KVA. In case of extension of load the normative charges shall be applicable on total load. The GTL Ltd. has accordingly charged on total load which is above 500 KVA. Scheduled rates for which are Rs.1,95,000/- irrespective of any other considerations, whether, GTL Ltd. was infact required to spend any amount or not for such additional load.
- 14) Mr.Kapadiya on the other hand has submitted that, for releasing additional load, the work involved is replacement of existing CTS with new CTS of ratio 75/5A for which GTL Ltd. is not required to spend any amount except carrying out supervision work as new CTS of ratio 75/5A have been procured by the consumer itself. He then placed reliance upon judgment of Hon'ble Electricity Ombudsman, Nagpur, passed in Representation No.17/2011 M/s Aayudh Tools V/s the present respondents, on 23.1.2012. He submitted that, same question was involved in the said case, therefore the present matter be decided similarly.
- 15) Mr. Borde, legal Manager for GTL Ltd. in reply to the said submission, submitted that, the judgment of Electricity Ombudsman is not binding upon this Forum and it can not be treated us case-law moreover, the GTL Ltd. has preferred writ petition against such judgment. He produced the copy of writ petition.
- 16) Mandate of judicial discipline requires this Forum to follow judgments of superior Forum or Courts. This Forum therefore unanimous on the point to follow judgment passed by the Hon'ble Electricity Ombudsman directly on the point which is involved in this case. We the

Members of this Forum therefore do not agree with the submission so made by Mr. Borde, that, the judgment of the Hon'ble Ombudsman is not binding on this Forum. The point of controversy involved in M/s Aayudh Tools V/s The Superintending Engineer(U) & others is the same which is involved in this case. The present controversy therefore is required to be decided as per the decision of Hon'ble Electricity Ombudsman given in representation No.17/2011 M/s Aayudh Tools V/s The Superintending Engineer(Urban)

17) No doubt, it reveals that, the GTL Ltd. has preferred writ petition against the judgment of Electricity Ombudsman as is submitted, but admittedly there is no stay order passed by the Hon'ble High Court as yet. Therefore it is obvious that, at present, the judgment and order of Electricity Ombudsman would prevail. In case of any change in the order of Electricity Ombudsman, in writ petition by the Hon'ble High Court, the respondent No.2 is required to be followed the said judgment and order to this case also. The load sanction order, regarding service connection charges amounting to Rs.1,95,000/- should be therefore set aside. The Respondent No.2 should be directed to issue load sanction order a fresh as per the judgment and order and findings recorded in Representation No.17/2011 M/s Aayudh Tools V/s The Superintending Engineer & M/s GTL Ltd. on dated 23.1.2012. In case of any change if made in the order of Electricity Ombudsman, in the writ petition, the said judgment of Hon'ble High Court, be followed in this case also, without making any further reference. In view of the points involved in this case, this Forum is of the opinion that the parties be directed to bear their own costs with these reasons, & findings this Forum proceed to pass following order/redressal.

### **ORDER**

- 1) The grievance of the complainant/consumer is hereby allowed, as follows:
- 2) The load sanction order dated 4.7.2011 issued by the respondent No.2 & GTL Ltd. is hereby quashed with respect to Sr. No.(a) service connection charges amounting to Rs.1,95,000/-
- 3) The respondent No.2 M/s GTL Ltd. shall issue load sanction order a fresh regarding service connection charges, as per order & findings recorded by the Hon'ble Electricity Ombudsman, Nagpur in Representation No.17/2011 M/s Aayudh Tools V/s S.E. MSEDCL (U) Aurangabad & M/s GTL Ltd. Aurangabad on 23.1.2012, with fresh period of validity within a period of two weeks from the date of receipt of this order.

- 4) In case of any change in the said order of Electricity Ombudsman, in writ petition preferred by M/s GTL .Ltd. the respondent No.2 shall follow order of Hon'ble High Court in this case also, without making any reference thereto.
- 5) Parties to bear their own costs.

Sd/  
(V.S.Kabra)  
Member

Sd/  
(Mohd.Qamaruddin)  
Member/Secretary

Sd/-  
(V.B.Mantri)  
Chairperson

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Complainant

**V/s**

01) The Nodal Officer,  
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02) M/s GTL Limited,  
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CORAM

Shri V.B.Mantri	Chairperson
Shri V.S.Kabra	Member
Shri Mohd.Quamarudin	Tech.Member

Claim: - Refund of amount collected excess toward service connection charges,.

Hear Mr.Kapadiya, representative of the consumer. Read  
the order passed by this Forum.

364/2011/44

The load sanction order dated 4.7.2011 has been quashed with respect to service connection charges. The respondent No.2 has been directed to issue load sanction order a fresh as per order and findings recorded by Hon'ble Ombudsman, Nagpur. Hence it is for the GTL Ltd. to calculate the charges as per the findings recorded by Hon'ble Ombudsman. The fresh load sanction order as such implicitly calculate recoverable charges refundable charges if any. Hence amendment in order as such is not needed.

Application is disposed of

Sd/-  
(S.V.Kabra)  
Member

Sd/-  
(Mohd.Qamaruddin)  
Member/Secretary

Sd/-  
(V.B.Mantri)  
Chairperson

364/2011/44



