

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
AURANGABAD ZONE AURANGABAD

Case No. CGRF/AZ/Aur/U/373/2012/06

Date of Filing 07.02.2012
Date of Decision 13.07.2012

M/s Cosmo Films Ltd.,
B-14-9, MIDC, Waluj,
Aurangabad,
(Consumer No. 490019004195)

Complainant

V/s
The Superintending Engineer,
Nodal Office , Urban Circle,
M.S.E.D.C.L., Mill Corner,
Aurangabad.

Respondent

Sub: Non refund of Rs.58,57,826.02 paisa wrongly claimed towards
ASC charges and paid by the complainant, irrespective of repeated
requests made in this behalf.

CORAM

Shri V.B. Mantri

Chairperson

Shri V.S. Kabra

Member

Shri S.K.Narwade,

Tech. Member.

DECISION

- 01)** The complainant is a electricity consumer bearing consumer No.4901904195. He put forth his grievance before this Forum that, the respondent has erroneously issued bill of Rs.1,27,25,260 including the sum of Rs.58,57,826.02 paisa towards A.S.C. adjustment charges, in the month of Sept.2009. The complainant has paid such bill as ASC adjustment charges were included in monthly bill, in order to avoid possible disconnection. The A.S.C. adjustment charges so claimed and paid are not in accordance with the rules. The complainant made requests to the respondents to refund the same amount but the respondent has neglected the repeated requests. Hence prayed for redressal of his grievance for

refund of Rs.58,57,826.02 paisa wrongly received by the respondent.

- 02) The case of the complainant in brief is that, the complainant had taken 33kv supply for its factory situated at Waluj Aurangabad. The connection was released in the month of Feb.1988 with contract demand of 280 KVA. The complainant applied for enhancement of contract demand on three occasions as follows:-

Contract demand	Date of Release	Details
2800	Feb.1988	Fresh connection
2800 to 4900	Oct.2005	Enhancement
4900 to 7000	Oct.2008	Enhancement
7000 to 9500	Jan.2012	Enhancement.

- 03) It is the complainant and grievance of the complainant that, in the month of Sept.2009, the complainant received monthly electricity bill of Rs.1,27,25,260 issued by the respondent. The bill was for regular consumption and for Rs.58,57,826/- claimed towards A.S.C. adjustment charges. The ASC charges are not acceptable and therefore, the complainant made representation before Superintending Engineer on 24.09.209 and also submitted letter of request to refund the ASC adjustment charges. The respondent did not take cognizance of requests of the complainant. He therefore filed complaint before this Forum. This Forum directed IGRC to reconduct enquiry & hearing. The complainant filed fresh grievance before IGRC on 09.08.2011. The IGRC passed order on 08.12.1011, but the grievance was not redressed. Hence the grievance before this Forum.
- 04) The respondent MSEDCL has submitted reply to the grievance petition on 15.05.2012, and thereby submitted that, modified clause No.7.4(G) is applicable to the complainant. The reply so submitted on behalf of the respondent is not specific regarding the contents of the grievance petition. It is not stated as to whether ASC adjustment charges are levied as per rules if any or order, or in accordance with any circular or otherwise. On pointing out these aspect, the Nodal Officer sought time to study the matter, and then to make submissions. Time was thereby granted on 13.07.2012 & posted the matter for submissions on 17.07.2012. The Nodal Officer then filed details along with annexures on 17.07.2012.
- 05) This Forum heard submissions of Mr. Kapadiya, the representative of the complainant. The Nodal Officer argued for respondent.

- 06)** Mr.Kapadiya for the complainant argued that, in case consumers load contract demand has been increased after billing period of Dec.2005, then reference period should be taken as billing period after six months of the increase in the sanction load demand. Accordingly to him there are two criteria to accept the reference period, the first is increase of contract demand after Dec.2005 and secondly the consumer has utilized at least 75% of the increased contract-demand. The billing period in former case is after six month of the increase in contract demand, whereas the billing period in latter case is for the month in which consumer has utilized at least 75 % of the increased contract demand. Mr. Kapadiya submitted that ,the complainant has changed contract demand in the month of Oct.2005, which is prior to Dec.2005 and therefore directives given in APTEL order are not applicable to the present case. The order passed by MERC in respect of consumers, who have increased their contract demand prior to Dec.2005 would be applicable to the present case. He pointed out that there is no change in contract demand for the period Oct.2005 to Oct.2008. He therefore submitted that, levying of ASC charges as per APTEL order for the period Oct.2005 to Oct.2008 are not in accordance with any provision and as such the complainant is entitled for refund of such charges so paid by the complainant in order to avoid disconnection. Mr. Kapadiya pointed out that, the complainant has made representation before the S.E. and also filed grievance petition before IGRC, but the grievance is not redressed. He placed reliance upon order passed by Electricity Ombudsman Mumbai in representation No.57/2008, which is according to him is similar case, and cited the order passed by CGRF Nasik Zone in the matter of M/s Mahindra & Mahindra Ltd. V/s MSEDCL in which also according to him similar issue was involved. It is thereby submitted that the sum of Rs.58,57,826.02 paisa may be directed to be refunded along-with 14 % interest.
- 07)** The Nodal Officer has submitted that, the MERC has specified method of levy of ASC as per “ ASC matrix”. He submitted that, the period for comparison should be the twelve-month billing period from January to December 2005. The Nodal officer has pointed out that, in October 2005, contract demand increased by more than 25 % and as such as per MERC order, the respondent has considered bench mark in April 2006. The ASC charges are thereby correctly levied in the bill of Sept.2009. He placed reliance upon unit consumption abstract filed along with additional reply.
- 08)** We have perused unit consumption abstract. The contents of such abstract are not in dispute. It is found that, average consumption of the complainant from Jan.2005 to Sept.2005 is about 1121407 unit

consumption KWH. The average consumption from Jan.2005 to Dec.2005 is 1301845 unit consumption KWH. The average consumption from Oct.205 to Dec.2005 is 1843160 unit consumption KWH.

- 09) On careful perusal of such average consumption of the complainant ,and on perusing month-wise unit consumption of the year 2005, it is noticed that, consumption of the consumer has been increased for more than 25 % in the month of Oct.2005.
- 10) Clause 7 of tariff order passed by MERC in case of 65/2006 dated 18 May 2007 speak about determination of Additional supply charges. The Cl.7.4 of the said tariff order is regarding Additional supply charges(ASC) Matrix. For the purpose of reference period, which is the subject matter in issue in the present case cl.7.4(g) is relevant clause which speaks as follows:

Clause 7.4(g)

“ In case of consumers whose sanctioned load/contract demand had been duly increased after the billing month of December 2005, the reference period may be taken as the billing period after six months of the increase in the sanctioned load/ contract demand **OR** the billing period of the month in which the consumer has utilized at least 75% of the increased sanctioned load/contract demand, which ever is earlier”.

- 11) There is no dispute that, the MERC has then issued clarification order on 24.08.2007. It is thereby clarified that clause (g) of the order will be made applicable only in cases, where the increase in Contract Demand is equivalent to 25 % or more of the Contract Demand during during the reference period from January 2005 to December 205. The MERC has further clarified that, the billing period of the month in which the consumer utilizing at least 75% of the increased sanctioned load/contract demand is recorded, whichever is earlier. The said clarification order has come in effect from 01.05.2007. The said clarification lay down the criterion for calculation of ASC units based on energy consumption. The reference period sis based on reaching 75 % of the Contract Demand. Hence in another words, reference period for calculation of bench mark units for determining A.S.C. shall be either (a) billing period after six months of the increase in the sanctioned load/Contract Demand or (b) the billing period of the month in which, the consumer has utilized at least 75 % of the increased sanctioned load/Contract Demand, achieved earlier. It

reveals that, the IGRC has thereby taken the right decision while passing its order on 08.12.2011.

- 12) We have gone through the order passed by the Hon'ble Electricity Ombudsman, in Representation No.57/2008 on which the complainant has placed reliance. It is seen that, the issue that was emerged in the representation for decision, was as to whether the respondent was right in fixing bench mark consumption of 1,32,795 units and revising it is 86,254 units w.e.f. Sept. 2007. The said is not the issue in the present case thereby we are of the opinion that, the said order of Electricity Ombudsman is not applicable to the present case.
- 13) The complainant during its written arguments has submitted that, the Hon'ble APTEL has modified cl.No.7.4(g) of MERC order and further submitted that, Hon'ble CGRF Nasik in M/s Mahendra & Mahendra Ltd., has passed orders after the judgment of APTEL on Dated 12.05.2008. The copy of Decision of CGRF Nasik is filed, at Page No.58 to 61. The pages 1 of 7, 3 of 7, 5 of 7, & 7/7, are filed and not all the pages and as such we could not go through the entire decision. Hence considering all the aspects, documents, and submissions so made on behalf of the consumer, we the members of this Forum are of the opinion that the respondent did commit no error or mistake in charging ASC Adjustment charges. The clarification of the commission is applicable for determination of reference period. This Forum is therefore of the view that, the complainant is not entitled for refund of amount as claimed. We found no substance in the grievance so submitted by the complainant. Hence in nut-shell the complaint is required to be dismissed with no order as to costs. Hence we proceed to pass following order.

ORDER

- 01) The complaint is hereby dismissed.
02) No order as to costs.

Sd/-
(V.S.Kabra)

Sd/-
(S.K.Narwade)

Sd/-
(V.B.Mantri)

