

(A Govt. of Maharashtra Undertaking)
CIN : U40109MH2005SGC153645

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Consumer Grievance Redressal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S.Marg, Bhandup (W),
Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/

Date

Case No. 624

Hearing Dt. 29.01.2016

In the matter of refund of AEC & FAC charges wrongful recover by respondent utility

M/s. AVI Worldwide Pvt. Ltd.,

- Applicant

Vs.

M.S.E.D.C.L. Vashi Circle.

- Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.
- 2) Shri. Ravindra S. Avhad, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Archana Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri. Harshad Sheth – Consumer Representative
- 2) Shri. Vipin Khanna

C - On behalf of Respondent

- 1) Shri. S.S. Patil, Executive Engineer, Vashi Circle, Nodal Officer.

Consumer No. 000149029980

1. Above named consumer filed this complaint against respondent utility stating that his consumer of respondent utility vide consumer No. 000149029980 billing unit 4753. It is contention of consumer as per order in case No. 95/2013 dtd. 05.09.2013 allowed the recovery of AEC-1 and AEC-2 from the month of September 2013. The said order is set aside by Appellate Tribunal for Electricity in Appeal No. 295/2013 which was decided on 22.08.2014 and redirected to MERC in case No. 95 of 2013 and M.A. No. 187/2014 was decided on

26.06.2015 in which summary of ruling no 17 at page no 13 of the order rules that, MSEDCL shall review the refunds made by it so far on account of wrongful premature billing and make any remaining refunds due to the consumers in next billing cycle.

2. However, MSEDCL commercial Circular No. 209 dated. 07th Sept. 2013 at page No.3 has avoided to mention the month of implementation as order by MERC and recovered from retrospective date of August 2013 month, which is wrongful premature recovery.
3. It is further contention of consumer the charges allow by MERC order in case No. 28 of 2013 starting from the month of Oct. 2013 and AEC-4 charges was allowed by MERC order in Case No. 44/2013 starting from month of October 2013.
4. It is verified in Ombudsman Nagapur order No. 127/2014 dtd. 22.01.2014, But MSEDCL has recovered AEC -3, and AEC-4 form the month of August 2013 i.e. two month in advance which is wrongful premature recovery addl. FAC charges vide MERC orders, and MSEDCL Commercial Circular No. 209 dated 7th sept. 2015, it was allowed to recover only for 3 monthly installments from September 2013 but MSEDCL has recovered the same form the month of August 2013. Later on Govt. of Maharashtra, vide subsidy, nullified the recovery. Therefore consumer demanded refund of Addl. FAC for August 2013 and December 2013 since it recovered for 3 months i.e. September, October and November 2013 months. Consumer enclosing circular no 209 of MSEDCL. Electricity duty is recovered on above all charges by MSEDCL. MERC calculated 9.3% of duty on the said recovery to be refunded. Which is required to be needful consumer gave the amount with interest from the date of deposit to the date of refund as per section 62 (6) of E.A. 2003 i.e. RBI rate. Enclosing order of Ombudsman Nagpur order No. 127/2014 para No. 16 and 18 dated. 22.12.2014 for consumer perusal.

5. Consumer submitted this dispute on 16.9.2015 and prayer for refund of ARC charges Shri. Vipin Khanna submitted consumer complaint through Representative Shri. Harshad Sheth.
6. It is also necessary to mention the same consumer submitted grievance in Form No. 'X' immediately on 16.09.2016 before IGRC consumer enclosed details statement of refund claim AEC-1,2,3&4 amount month wise and claim total amount is along with 9% interest and electricity duty total amount 90,054.17 consumer attaché copy of all electricity bill month wise showing the payment of AEC amount deposited to the respondent utility.
7. It is pertaining to note that consumer compliant submitted in form No. 'X' before IGRC, Vashi Circal Division was submitted on 16.09.2015. But it was not decided within stipulated period in 2 month. Therefore, consumer approach to this Forum and filed complaint in schedule 'A' on dated 19.11.2015.
8. After receiving the said complaint notice was issued to respondent utility and consumer. Respondent utility appeared and filed reply along with covering letter on dtd. 05.01.2016. It is contention of respondent utility the Consumer No. 000149029980 Plot No. C- 257, MIDC TTC pawane, Navi Mumbai with contract demand load 199KVA and connected load 498KW and date of connection as 24.02.2006 under HT I industrial tariff category.
9. According to respondent utility the AEC and AFC charges are recovered as per issued by MERC Case No. Commercial Circular No. 209 dated 07.09.2013 and as per direction of Case No. 95 and 28 and 44. It is submission of respondent utility that the charges AEC and FAC are to the recovered for above said period as per direction in the Circular issued time to time amount 106.44 crore in fact as per judgment in Appeal No. 34/2012 which is recovery of 6 equal monthly installment starting from October, 2013 the recovery under recovered fuel cost in Case No. 44 of 2013 for MSPGCL i.e. 28.05.crs for infirm power supplied to

MSEDCL 3 monthly installments after the issue of this order. The energy charges of Khaparkheda - 5 Thermal Project as per the tariff approved vide order dated 04.09.2013 in Case No. 44 of 2013 for MSPGCL. Recovery of accumulated under recovery of MSPGCL of Rs. 2037.78 crs accrued in the month of August 2013 period of six months w.e.f. month of September 2013 till the month of February 2014. The recovery of monthly fixed expenses for MSEDCL of Rs. 235.39 crs. From the month of September 2013 on a monthly basis till further determination of MSEDCL tariff by MERC. The applicant consumer was charged with AEC and FAC in the energy bill from month of August 2013 to Jan. 2014. The respondent utility submitted the details of the billing month in August 2013 to Jan. 2014 as per total amount is recovered as per the direction and the way applicable at appropriate time. According to respondent utility the State Commission passed order on 05.09.2013 in Case No. 95 of 2013 allowing the Maharashtra State Electricity Distribution Co. Ltd., to recover additional charges as per prevailing tariff applicable which is decided an Appeal No. 295 of 2014 was preferred by Tata Motors Ltd. and matter is reminded to the commission for giving opportunity to the parties concerned as per the Provision of Section 64 of the Electricity Act 2003 and pass further order. The Hon'ble State Commission, using the power vested in it under Sections 61, 62 and 64 of the Electricity Act 2003, and all other powers enabling on behalf of and after taking into consideration the suggestion and objection of the public. The respondent utility gave summary of details of pass order Case No. 95/2013 and M.A. No. 187 of 2014 on 26.06.2015. Meanwhile, Government of Maharashtra issued GR No. Sankirina/2013/C.No.278 dated 29.01.2014 has declared concessional to the energy charges for residential purpose between 0 to 300 unit and also commercial, Industrial and agricultural categories effective from 1st Feb. 2014 and due to enforcement of GoM's concessional rate applicable from 1st Feb. 2014, in 6th installment of AEC (1-4) was not be recovered by MSEDCL from the consumer and on account of 6th installments billing month of Jan 2014 and in

Feb 23014 as giving financial assistance to MSEDCL in the form of subsidy. As per GR dated 18.02.2014, issued commercial circular No. 218 and duties amount Rs. 63,247/- awarded to the consumer to be recovered in energy bill for the month of Feb.2014. The respondent utility submitted commercial circular of Annexure 'E' as per the Hon'ble CGRF Nagpur Urban Zone in Case No. 100 of 2014 filed by M/s. Nice papers Ltd., for charging of AEC and FAC charges, opined that the amount of which is recovered By MSEDCL form consumer. Accordingly the similar objection raised was witness. Hence, the dispute consider by CGRF, Nagpur in the case No. 100/2014 accordingly, the charges recovered which is objected by consumer in Dec. 2013, Feb. 2014 and May 2014 as given in the table of from Dec.2013 to May 2014 as provided to be recovered as consumer as per software amendments shown and recovered therefore respondent utility submitted the grievance by consumer in deserve to be dismiss with cost.

10. After perusing the rival contentions of consumer and respondent utility, following points arose for our consideration:

1] Whether the respondent utility recovered AEC and FAC charges in violation of order pass in case of Appeal No. 295.

2] Whether consumer is entitled for any refund of amount as mention in the complaint.

3] What ordered?

Reasons

11. We have given opportunity to consumer and his Representative to submit the grievance point wise in details. The schedule and details of payment of AEC and FAC charges which is already deposited by the consumer is minutely perused. The contention of the respondent utility in reply already submitted that

the effect of earlier order pass by the Higher authority and given direction to MSEDCL respondent utility in to judgment and issued the commercial circular earlier No. 209 and 218. It is pertaining to note that the Higher authority pass the judgment at appropriate time see to have grated relief to the consumer of similar objection raised in the above sited changes under the Rule of paternity this consumer also entitled for the relief. But for the satisfaction of reply the circumstances in which the relief was granted by MERC and Appellate Authority the circumstances now appear informing the present cases are not similar the respondent utility submitted CGRF, Nagpur Urban Zone pass the judgment and order in case of 100/2014 in Nice paper Vs. MSEDCL Nagpur referring various circular issued by MSEDCL and giving the reference of order No. 95/2013 in which the recovery of AFC and AEC charges upon that a such recovery is justified considering the recent view Government of Maharashtra and the Central Government issued Government resolution which is mention as below.

12. The Appellate Terminal also gave the finding in Tata Motar case Appeal No. 295/2014 in which the details of the order exercising power of Applegate T..Section 61...of E.A.2003 on letter date. To my view a recent judgment order circular registration and amendment which are binding by the consumer. I also found that the attempt of claiming the relief as appropriate time when such relief was granted no further order was pass and therefore it is effect that when the recent judgment of order circular authorized MSEDCL to act upon allow to charge of AFC & FAC charges there is no legality even further the issue of charging and levy AFC and FAC legal policy matter in recent judgment pass by Appellate Terminal in case 6. It is being policy matter the consumer redressal Forum have no locus standing and authority to declare the recovery is bad and illegal hence there recent Circular and judgment of Higher authority shall be binding. To my view in these circumstances the Forum should not exercise the

power and to granted relief in the favor of consumer Hence, the consumer compliant dispose off.

Hence consumer complaint stands dispose off.

ORDER

1. Consumer compliant 624 of 2015 is stands dispose off.
2. No order as to the cost.

Proceedings closed.

Both the parties be informed accordingly.

The order is issued under the seal of Consumer Grievance Redressed Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

Note:

- 1) If Consumer is not satisfied with the decision, it may proceed within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman

The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051

- 2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I Agree/Disagree

I Agree/Disagree

**DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP**

**ANIL P. BHAVTHANKAR
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**