

(A Govt. of Maharashtra Undertaking)

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

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

Date

**IN THE MATTER OF BILLING**

**Case No. 591**

Hearing Dt. 05/08/2015

**M/s. M/s. Maestros Madeline Systems Limited**

- **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. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri. Suraj Chakraborty – Consumer Representative

C - On behalf of Respondent

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

**ORDER (11/08/2015)**

1. Above named consumer filed this dispute against the respondent utility alleging that he received notice of disconnection under section 56 (1) E.A. 2003 along with demand of accumulated bill in the month of October 2012 amounting Rs. 28, 72,990/-.

2. Being aggrieved by the said notice and demand bill, this consumer filed dispute before this forum.
3. It is claimed by the consumer that the amount of Rs. 26,84,000/- mentioned in the notice issued by respondent utility under section 56 (1) of E.A.2003 is already shown as arrears in earlier bill which is under dispute u/sec 126 of E.A. 2003; which is included in running bill of Rs. 7,22,300/-. According to consumer he made payment on 21.10.2012 for Rs.13,42,000/-, which amounts to 50% of assessment amount, and appeal was filed under section 127 of E.A.
4. Therefore consumer disputed that amount which was already deposited (Rs. 13, 42,000/-) was shown in running bill which is wrong. Therefore he filed the dispute before IGRC and requested to correct the bill. The above said consumer also submitted that the respondent utility cannot be allowed to claim exorbitant bill along with running bill. Therefore disconnection notice and demand bill is illegal.
5. Dispute before IGRC was not entertained on the ground that dispute raised falls under 126 of E.A. 2003 and was decided by competent authority and appeal against the said order under section 127 is already filed. As original dispute which was initially filed by this consumer in case No. 496/2013 was decided by this forum on 29/5/2013, filing of the said dispute again by consumer not permitted. It is also submitted that against the order of appellate authority in Appeal No. 200/2012 dated 23.07.2012, Writ Petition is filed which is pending before Hon'ble High Court. Therefore this Forum cannot entertain the dispute.
6. After filing the said dispute notice was issued. After service of notice, the respondent utility filed their reply.

7. Consumer filed following documents-

- a) copy of decision of appellate authority in Appeal No. 200/2012,
- b) notice under section 56(1) IEA,
- c) letter dated 8/4/2015 issued by consumer to C.E. Bhandup
- d) copy of demand bill dated 05.11.2012 for amount Rs. 28,72,990/-

Respondent utility filed

- a) assessment of bill replied dated 09/03/2015,
- b) Bank payment voucher dated 13.12.2012
- c) copy of CPL and
- d) Details of calculations prepared by auditor account Officer of respondent utility.

8. I have perused the complaint and reply given by respondent utility.

Following point arose by consideration.

- I. Whether this Forum has Jurisdiction to entertain this Compliant No. 591/2015 during pendency of Writ Petition before Hon'ble High Court.
- II. Whether consumer is entitled for any relief.

**Reasons**

9. There cannot be any dispute that earlier Appeal No. 2001/2012 decided by appellate authority was about the recovery of amount Rs. 26,83,850/-. Also there cannot be any dispute that 50% of amount paid by Licensee (Rs. 13,42,000/-) on 18/9/2012 along with 1% fee, i.e. Rs. 10,000/- on 09/01/2013.

10. The question rose by respondent utility that the original dispute between the parties is pending before Hon'ble High Court. As per decision and direction by appellate authority, assessment dated 23.07.2013 is set aside and amount deposited (Rs. 13,42,000/-) should be refunded to appellant.

11. On perusal of record it appears that the 50% amount which is deposited by consumer (Rs. 13, 42,000/-) on 18.9.2012 is not refunded on reasons that Writ Petition before Hon'ble High Court filed by respondent utility is pending.
12. In the present dispute it is claimed by the consumer that demanding current bill along with Rs. 26,83,000/- of earlier and calculating interest there on is wrong.
13. To my view this dispute raised by consumer falls outside of the as per view of provision of section 126. Therefore complaint of this consumer cannot be thrown away merely because it is related of previous dispute u/section 126.

I found objection raised of by respondent utility is not proper.

14. In fact the consumer has rightly raised the objection that this case falls under the category of recovery of incorrect bills, disputed billing and legality; which can be challenged before this Forum. Hence I found there is ground for consumer to raise the dispute before this Forum and the Forum has jurisdiction to try and entertain the same.
15. I answer point No.2 in affirmative as to asserting accounts. I have given full and maximum opportunity to both the parties for calculation of amount including interest and penal charges on several dates. The consumer submitted his accounts of payment made by him to the respondent utility and mode of payment also verified by this Forum.
16. Respondent utility also produced copy of CPL of relevant period from January 2008 to 24.04.2015. Respondent utility also submitted extracts of audited accounts of this consumer (no.0000119024810), which are also verified by the party in person and correction was made from time to time by respondent utility.

17. To my view benefit of interest on the said amount should be shown in account separately. Instead of that the Respondent utility demanded the bill along with current bill and has shown arrears of Rs. 26,42,000/-. Interest and penalty there on shown as recoverable amount, which is absolutely wrong. Therefore disconnection notice issued to consumer showing wrong recovery is illegal.

Thus I found there is substance in the contention of consumer and therefore I hereby give direction to respondent utility to calculate the correct amount of recovery. Net current recovery should be shown separately and disputed amount which is still pending is required to be shown as non recoverable. However interest and benefit of earlier deposited amount should be given to the consumer.

18. Accordingly during the course of hearing respondent utility calculated current bill as per direction. Net recoverable amount excluding the disputed amount was calculated and shown separately. Therefore I allow the complaint and proceed to pass following order.

### **ORDER**

1. Consumer complaint No. 591/2015 is allowed.
2. The respondent utility hereby directed to recalculate the billing amount from 1<sup>st</sup> December 2011 to 24 May 2015 showing disputed amount as “not recoverable” separately and issue the correct bill as shown in the statement amounting to Rs13,00000/-(Thirteen Lacs)and issue the correct bill to the consumer.
3. The consumer shall deposit the current bill in six equal monthly installments. Interest and penalty shall not be charged by utility.

4. The liability of payment of disputed amount is subject to decision of pending Writ Petition before Hon'ble High Court
5. No order as to cost.

Both the parties should be informed accordingly.

Proceedings disposed off.

Compliance should be reported within 30 days.

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**

## **Reasons**

I disagree with opinion of member the details as given as below

it is also observed that the applicant had approached to appellant authority against the assessment charged by the utility towards unauthorized use of electricity. Appellant gives judgment in favor of applicant so then as per utility file writ petition in high court(WP/7236/2015)

In the present case MERC (CGRF & E.O.) Regulations 2006, more specifically 6.7 (d) *does not allow the Forum or empowered to deal with, where the representation by the consumer in respect of same grievance is pending in any proceeding before any Court, tribunal or arbitrator or any other authority or decree or award or final order has already been passed by any such Court tribunal or arbitrator or any other authority.*

Provisions on behalf clearly outs the jurisdiction of the Forum, hence the Appellant prayer in the representation deserve to be and hereby rejected.

The case is to be dismissed with the advice to the consumer for Judgment of Hon'ble High court.

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