

Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup

Ref. No. Member Secretary/MSEDCL/CGRF/BNDUZ/

Date :

Case No. 497

Hearing Dt. 10/06/2013,
28/06/2013, 03/07/2013.

In the matter of refund of theft amount in case of acquittal.

M/s. Vishwas Enterprises. - Complainant

Vs.

MSEDCL, Bhandup . - Respondent

Present during the hearing

A] - On behalf of CGRF, Bhandup

- 1) Shri S.K. Chaudhari, Chairman, CGRF Bhandup.
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup
- 3) Dr. Smt. Archana Sabnis, Member, CGRF, Bhandup.

B] - On behalf of Complainant

- 1) Shri Sanjay Shukla, Consumer Representative.

C] - On behalf of Respondent

- 1) Shri. V.S.Kambli. Dy. Ex. Engr., Bhandup (E) Sub Division.

M/s. Vishwas Enterprises is a industrial consumer under service No. 100000431154 at Nalini Estate, Nardas Nagar, T.P. Road, Opp. Shivdarshan Seva Mandal, Bhandup (W).

On 12.11.2010; the sub division officer of utility inspected the premises and metering unit and concluded that there is theft of electricity through the metering unit and accordingly lodged First Information Report to the Kalyan Police station vide L.A.C No. II - 3809/2010 under section 135 and 138 of Electricity Act 2003.

It was alleged that consumer Shr. Vishwas Eknath Kadam; the owner of company M/s Vishwas Enterprises has committed theft of Electricity for 30121 units caused loss of Rs. 2,71,089/- The same was paid by consumer on 13.11.2010.

The trial was conducted in Special Court, Sewree, Mumbai vide special Electricity case No. 70/2011.

During the trial, the Respondent utility failed to prove the charges framed under section 135 and 138 of Electricity Act 2003.

The Hon'ble special Court, Sewree therefore acquitted the consumer from the offence framed under 135 and 138 of E.A. 2003. The said order was passed on 03.11.2011. However the Respondent utility has not challenged the order in the higher court.

The consumer Shri. Vishwas Eknath Kadam had requested to the utility vide his letter dt.23.04.2013, for refund of paid assessed bill toward alleged theft of Electricity but consumer was not responded. Consumer thereafter approached to IGRC, Thane, but got no relief and hence he filed a grievance in this Forum which is registered under case No. 497.

The matter was heard on 10 June 2013, and subsequently on 03.July 2013. Both the parties were present. The documents on record and arguments during the hearing reveal that the Respondent utility was not able to not establish that consumer had committed the theft of Electricity and Hon,ble special Court on examination of witnesses held that consumer has not committed theft of Electricity and acquitted him from the charges framed under section 135 and 138 of E.A. 2003.

Once the consumer is acquitted from the offence either Respondent should have challenged the order or should have refunded deposited amount towards theft of electricity along with the interest to the consumer. Forum observed that neither of this is done by the utility.

As per the Respondent's submission there is no such directives for refund of amount paid against the civil liabilities in the pronounced order of Hon'ble Special Court. However Forum feels that as per the Electricity Act 2003. Section 154 clause (6) which reads as:

In the case the civil liability so determined finally by the Special Court is less the amount deposited by the consumer or the person, the excess amount so deposited by the consumer or the person, to the Board or licensee or the concerned person, as the case may be, shall be refunded by the Board or licensee or the concerned person, as the case may be, within a fortnight from the date of communication of the order of the Special Court together with interest at the prevailing Reserve Bank of India prime lending rate for the period from the date of such deposit till the date of payment.

The above section makes it clear that the excess amount paid has to be refunded. Now in the present case the consumer once acquitted from the offence it means he has not committed theft of energy and hence the amount deposited towards theft of Electricity itself is excess amount deposited and

therefore utility should refund the deposited amount along with the interest at the rate of PLR of Reserve Bank of India.

The Application is allowed.

ORDER

The Respondent utility therefore directed to refund the deposited amount of Rs. 2,71,089/- along with the interest at the PLR rate of RBI within a month through the consumers bill.

No order as to cost

Both the parties be informed accordingly.

The compliance should be reported within 60 days from the receipt of this order.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 20 July 2013.

Note : 1) If Consumer is not satisfied with the decision, he may have representation 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 go in writ before the Hon. High Court within 60 days from receipt of the order.

DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP

S. K. CHOUDHARY
CHAIRMAN
CGRF, BHANDUP

R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP