

Preamble

Shri Ahuja Devkumar Kamal has filed his grievance on 12/3/2010. The same was registered vide case No. 317. The dispute arises out of the order passed by Internal Grievance Redressal Cell, TPL vide letter No. Chairman /TPL /IGRC / BWD / 10-63 /58 / dt. 26/02/2010. rejecting the Appellant's prayer for waiver of penalty levied for non-maintaining of Power Factor. Accordingly the case was registered by the forum and hearing was fixed on 31/3/2010 which was postponed to 05/04/2010.

Consumer Say: -

Shri Ahuja Devkumar Kamal is having three-phase electric connection with 38 H.P. load for power loom purpose at 538, Navi Basti, Opp. Viva School Kalyan Road, Biwandi under consumer No. 13013026054. Shri Pravin Thakkar was present to represent the case before the Forum.

The Appellant stated that the TPL levied a power factor penalty for Rs. 26,325/- for the period of June 09 to Oct. 09. The TPL had neither given any intimation or information nor any notice was issued to him for maintaining the power factor prescribed under tariff order approved by MERC. If it was informed to him it would be possible for him to improve the PF, but the Utility TPL failed to do so and directly imposed the power factor penalty to him. He lodged the complaint to The TPL and MSEDCL's Nodal Officer, but they rejected prayer of the consumer. Hence he admitted the above complaint u/s. 59 of E.A.2003 and SOP under MERC regulation.

As per MSEDCL Commercial Circular No. PR 3/Tariff/No. 8864 dt. 28/3/2008, the average power factor of 80 should be maintained by the Licensee and to improve average power factor from 80 to 90 is the duty of the consumer.

To maintain this power factor in 3 phases 4 wire, the supply should be available with proper voltage of 400 volts to the consumer at his meter end. But it was noted by the consumer that the voltage on the meter RYB phase was available 340, 360 380 volts. When power factor and voltage was not maintained by utility, it is essential to undertake technical study and maintain the proper voltage and power factor at consumer end. If these levels are maintain by Utility, then only the cost of penal charges can be charged to the consumer.

The Appellant also reiterated that as per MERC Regulation, Regulation 12.2, the distribution licensee may require the consumer within a reasonable time period which shall not be less than three months to take such effective measures so as to raise average power factor or control harmonics of his installation to a value not less than such norms in accordance with the regulation 12.1.

The Appellant further stated that as per MERC Regulation, Regulation No. 15, 15.2, 15.4, Utility cannot charge any other charges like penalty etc. in the regular bill. Any other charges should be informed to the consumer separately. But TPL is not observing the above Regulation and simply adding other charges in the regular bill. As these charges in the regular bill are not acceptable

to the consumer, he cannot avail the discount available to him for prompt payment of regular bill. Not only that but also he has to face DPC and interest thereon.

The Appellant also raised the point that he had taken adequate measures to improve and maintain his power factor by replacing his previous capacitor with increase capacitor ratings. Considering these steps taken by the consumer and Regulation of MERC, Utility should waived the PF penalty.

The Appellant also demanded for spot inspection from Nodal officer of MSEDCL to take technical study for maintenance of power factor and voltage at their end.

The Appellant also state that he was harassed mentally, physically and financially by the TPL for last 6 months, hence he should be honour by awarding compensation of Rs. 10,000/-

Prayer of the Appellant :-

- 1) To waive the power factor penalty from June. 2009 to Oct. 2009 amounting to Rs. 26,325/- with DPC and Interest.
- 2) He should be awarded with a compensation of Rs. 10,000/- for mental, physical and financial harassment.

Utility Say :

On the behalf of utility Mrs. Sandhya Iyer Asstt. General Manger and Mrs. Savita Bhatiya, Acct. officer of

The TPL were present to represent the case. They stated as follows.

As per the letter Shri Ahuja Devkumar Kamal's before the Hon'ble CGRF Bhandup, the company would like to state that on going through the reading parameters of the meter installed at the consumer's premises, it is observed that the average power factor is less than 0.9 from Nov. 2009 to Jan 2010 for which power factor penalty has been charged as per the tariff orders of MERC dt. 20/06/2008 & 17/08/2009.

As per the letter of Shri Ahuja Devkumar Kamal before the Hon;ble CGRF Bhandup, we would like to state that the Commercial circular no. 78 vide letter no. PR 3/ Tariff/ 8864 dt. 28/03/2008 clearly state that ***"In view of Hon'ble Commission's prevailing tariff order, power factor of 0.80 shall be considered w.e.f 01/05/2007 onwards for LT-V Industrial consumer for determination of contract demand where the consumers have not declared their contract demand."*** The above mentioned power factor of 0.8 is to be considered only for calculating the contract demand and not to be maintained by licensee as interpreted by the consumer

Also the consumer/consumer's representative for the first time before Hon'ble Forum in his appeal had come up with the grievance for low voltage at his end. However, we would like to further clarify that on going through the reading parameters of the meter installed at the consumer's premise, it is observed that the voltage

levels are well within permissible limits as specified in the MERC slandered of performance, (Supply Code & Other Conditions of supply) 2005, Regulation 12.1 & 12.2 states that **“Distribution licensee may charge penalty or provide incentives for low/high power factor and for harmonics, in accordance with relevant Orders of the Commission”** We have charged power factor penalty from Nov.2009 to Jan 2010 and power factor incentive was awarded in the month of Feb.2010 strictly as per MERC tariff order dt. 17/08/2009

Bill Details mentioned in the bill to the consumer is in accordance with regulation 15.2.1 and 15.2.4 of the MERC (Electricity Supply Code and other conditions of Supply), 2005.

Further, there is no case for compensation for mental, physical and financial harassment. It is settled law, that for any type of compensation, be it mental harassment or for any thing, the person claiming the same has to prove the same beyond any reasonable doubt and detail proof has to be provided. In the present case, the consumer's representative has not provided any proof. The consumer's representative is under the habit of filing frivolous and vexatious complaints against the company thereby wasting precocious time of Hon'ble Forum and even the officials of the company.

It is humbly submitted that the relief and compensation as claimed in the appeal ought not to be entertained. Thus it is respectfully requested to you to

kindly pray to your Honor to kindly dismiss the said appeal with cost.

Observation :

The matter was heard on 05/04/2010. Both the parties were present proceeded by the member and member secretary as Chairperson was absent.

Documents on records and presentation during the hearing by both the rival parties it reveal that power factor penalty was charged to the consumer for the period of Nov.2009 to Jan 2010. The Appellant relied on regulation 12.2 of Electricity Supply Code Regulations, 2005 and argued that the Respondent was bound to give three months time period for improving the power factor. A separate notice should be served by the Utility to maintain power factor of his installation. This was not done by Utility. Upon this the Utility argued that as and when the tariff order was came into force, Utility served a general notice to all the consumers also. Such notice was also served to this consumer through his regular bill. When asked by the Forum, if any specific notice had been issued to the consumer by the Utility, it replied in negative. But Utility stated that such intimation was given to the consumer during monthly readings. As this Forum feels that though specific notice was not issued by the Utility, which does not mean that the consumer is not responsible to maintain the power factor at his end. It is the responsibility of the consumer to take proper measures to maintain its installation and maintain his power factor as per Regulations.

It is observed by the Forum that LT MD TOD meter was installed in the Appellant's premises and he was billed for both power factor penalty and incentive thereon. The bills for month of June.2009 to Oct.2009 were raised with PF penalty as monthly average PF for these billing months were less than 0.9. The Appellant was fixed to his opinion that the Respondent is required to give at least three months time to improve the power factor. As Utility was failed to do so, he is not responsible for PF penalty .The Respondent was agreed to the above regulation but it stressed that they had issued a general notice to the consumer and they also referred the Regulation 12.2 in this context, which reads as:-

Power factor/ Harmonics

12.1 It shall be obligatory for the consumer to maintain the average power factor of his load at levels prescribed by the Indian Electricity Rules, 1956 with such variations, if any adopted by the Distribution Licensee in accordance with Rule 27 of the Indian Electricity Rules 1956 and in accordance with the relevant orders of the commission.

Provided that it shall be obligatory for the HT consumer and the LT consumer (Industrial and Commercial only) to control harmonics of his load at levels prescribed by the IEEE STD 519-1992, and in accordance with the relevant Orders of the Commission

12.2 The Distribution Licensee may require the consumer within a reasonable time period, which shall not

be less than three months, to take such effective measures so as to raise the average power factor or control harmonics of his installation to a value not less than such norm, in accordance with relevant Orders of the commission”

Provided that the Distribution Licensee may charge penalty or provide incentives for low/high power factors and for harmonics. In accordance with relevant Orders of the commission.

Considering the above facts, the similar case was decided by Hon'ble Ombudsman in case No, 102 of 2009 the content of the case is

“The distribution licensee may require the consumer within a reasonable time period which shall not be less than three months to take such effective measures so as to raise average power factor or control harmonics of the Appellant’s installation. It is in the interest of consumer to improve power factor and save power factor penalty charges. The consumer also gets incentive in bills for improvement of power factor, as specified in the tariff approved by the Commission. It is also in the interest of reducing system losses and there by reduction in tariff by reducing Aggregate Revenue Requirement. Converse is also true that there is a disincentive (penalty) for not improving the power factor up to stipulated level. The Respondent may charge penalty or provide incentive for low/high power factor and for harmonics in accordance

with the relevant orders of the commission as stipulated in the above regulations.”

“Above provision cannot construed to mean that a period not less than three months given for improvement in power factor automatically exempts the Appellant from paying the power factor penalty charges, if otherwise applicable. Instead, the Regulation provides that the Respondent may charge penalty or provide incentive for low/high power factor in accordance with the relevant orders of the commission”.

“In the view of the aforesaid, the Appellant is required to pay the charges for penalty whenever the monthly power factor is below 0.9 or get incentive whenever the monthly power factor is above 0.9. It is not disputed that the bills are calculated in accordance with approved tariff. The Appellant’s prayer to withdraw the power factor penalty charges levied is therefore devoid of merits. The representation is, therefore liable to be and hereby rejected”.

On the analogy of the views taken by Hon’ble Electricity Ombudsman in the case of 102 of 2009, Forum takes the same views to hold that the power factor penalty levied to the consumer cannot be waived and as such the Appellant have to make the payments to the Utility.

Consumer also pointed out that it is the duty of the Licensee to maintain average power factor of 80 and voltage should be available of 400 volts on the meter of

the consumer. But in the present case the consumer was getting 340, 360 and 380 volts on his meter, hence it is very difficult for the consumer to maintain the average power factor to 0.9, which is in accordance with MERC Regulations. On query, Utility submitted MRI report and instantaneous parameters report taken while reading the meter. On going through this report, Forum was satisfied and observed that the voltage is within the permissible limits as given in the Regulations. Hence plea for this dispute hereby is rejected by the Forum.

The Appellant consumer submitted a rejoinder on dt. 20.4.2010 for waiver of his PF penalty. As per Rules and Regulation laid down by MERC a specific regulation has been laid down for the levy of PF penalty. Forum is bound to act within the ambit of the Rules and Regulations laid down by Hon'ble MERC, hence Forum is declined to give any relief.

The Appellant has not produced any document, proof or justification to show that any harassment or loss is cause to him as a direct consequence of alleged act, by the Respondent and no documentary evidence by the Appellant to sustain the harassment caused the Appellant's demand for compensation (has no basis and is therefore liable to be and) is hereby rejected.

ORDER

1) As explained above the prayer of consumer for waived of PF penalty is deserves to be and hereby rejected.

2) The Appellant's demand for compensation for harassment by the Respondent has no merit and is without any basis and hence hereby rejected.

No orders as to cost.

Both the parties be informed accordingly.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 27th March 2010.

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

**MRS. M.P. DATAR
MEMBER
CGRF, BHANDUP**

**R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP**