

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

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

Date :

Case No. 275

Hearing Dt. 03/08/2009 &
07/08/2009

In the matter of bill dispute

M/s. New Empire Textiles Processors Pvt Ltd.- Appellant

Vs.

MSEDCL, (TPL) Bhiwandi - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri S.L. KulKarni, Chairman, CGRF, Bhandup.
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.

B - On behalf of Consumer

- 1) Shri G.B. Singh, Consumer Representative.

C - On behalf of Utility

- 1) Shri S.V. Kale, Ex. Engr., MSEDCL, Bhiwandi.
- 2) Shri V.K. Gulvi, U.D.C., MSEDCL, Bhiwandi.

ORDER

The Appellant is having power loom business in the name of M/s. New Empire Textiles Processors Pvt Ltd. at plot no. 1, MIDC, Saravali MIDC, Bhiwandi having H.T. connection under consumer no. 013019000286 having sanctioned load of 942 kw with contract demand of 942 kvA. In the year 2006 this consumer was billed on continuous tariff, which was misclassified & should have billed as non-continuous consumer and accordingly the utility corrected the error and charged the difference of tariff in the consumer bills which was adjusted in the refund of R.L.C.. The contention of the Appellant is that the, utility corrected the error after two years and refuse to pay the interest for the intervening period. He therefore approached ICGRC. However no cognizance was taken of his complaint and hence he filed an appeal to this C.G.R.F. which was admitted being in time. The matter was heard on 03/08/2009. The Appellant was represented by Shri G.B. Singh and the Respondent was represented by Shri S.V. Kale, Ex. Engr., Bhiwandi Circle and Shri V.K. Gulvi, U.D.C., Bhiwandi Circle, they also submitted their detailed written plea. The Appellant was provide detail calculation sheet in the course of hearing produced by the utility. On Appellants request to grant time to study the calculation sheet, the next date of hearing was fixed on 07/08/2009.

The Appellants contention is the utility should have refunded the R.L.C. amount in nine equal installments as per its own commercial circular no. 81 of 07/07/2008. However, it was delayed by 5 months for no cause. Hence he is entitle to claim the interest on the due amount from the utility at the R.B.I. rate (i.e. 6%). Appellant reiterated that even after regular follow up Respondent has not furnished the detail calculations of supplementary bill charged towards difference of continuous – Non continuous tariff, hence the recovery charged is illegal and not as per Regulation. Moreover the amount recovered is after lapse of 2 years, which

was due in Oct-06 & Nov-06 and recovered in Dec-08, hence is time barred and as per I.E. Act 2003 Section 56 (2) Respondent could not claim old recovery beyond 2 years.

Further Appellant added that he should be awarded compensation for Rs. 10,000/- towards mental and physical harassment.

The Appellant also pointed out that the utility has wrongly calculated the recovery amount from the Appellant. The Appellant has paid Rs. 644088.00 towards R.L.C. from the date of connection till Oct-06. However, the Respondent has refunded Rs. 350649/- as against R.L.C., which is incorrect & fictitious. The Respondent charge Rs. 293373/- for less billing in the month of Oct-06 & Nov-06 is also incorrect and details of the same is not given.

While countering the arguments of the Appellant the Respondent utility put their side as under:

During the period of Oct-06 & Nov-06, some of consumers who have not submitted certificate of continuous or non-continuous, were misclassified as continuous category, hence several such consumers under non-continuous category were been issued bills as per continuous category. Hence, above consumer has been informed vide this office letter no. 02036, dtd. 12/11/2008 that tariff difference adjustment has been charged & being adjusted against refund of R.L.C. charges. The said debit adjustment was charged in consumers bills by their IT to all such wrong classified consumers in the month of Dec-08. As such the recovery charged to Appellant is not fictitious.

The Respondent reiterated that, as per the decision of the MERC, RLC charges were refunded to respective consumers. The refund of RLC was also given to the respective consumers during the month of Dec-08 in which the recovery as above has been

charged. As such the amount of refund has been adjusted against recovery. As per the practice in force any amount paid by the consumer or refundable to consumer is first being adjusted against the arrears or recovery payable by the consumer. It is true that the consumer has filed dispute before IGRC Bhiwandi.

The Respondent further stated that, it is true that the no relief could be provided to consumer by IGRC, Bhiwandi due to some administrative reasons.

The Respondent further added that, the nature of relief sought by the consumer is not justifiable as the refund claim by the consumer has already been given to the consumer & same has been adjusted against payable adjustment on account of tariff difference. Thus, it is requested and prayed to kindly dismiss above case filed by the consumer before Hon'ble CGRF.

The documents on record and deliberations of both the parties revealed that the Respondent utility should have scrupulously observed the directives passed by the Hon.'ble MERC in respect of refund of R.L.C. It is also seen that Respondent utility itself did not follow in totality it's own circular no. 81, dtd. 07/07/08 and delayed in refunding the amount of R.L.C. by 5 months. Forum feels that Appellant should be awarded the interest on the late refund of amount at the R.B.I. rate (i.e. 6%).

The second pray of the consumer that he should be given the details work sheet of bill claimed for under billing in the month of Oct-06 to Nov-07 charged in the month of Nov-08 is a genuine. As such Forum feels it should be issued with the immediate effect. In the present case Forum observed that Oct-06 to Jan-07 was the transit period of handing over record from Distribution Licensee to Distribution Franchises but even such is the case, the consumer services are worth and Distribution Licensee can not put consumer aside.

In regards to the third pray of consumer that recovery charged is time barred as per I.E. Act 2003, Section 56 (2). Forum observed that the Respondent utility has conveyed to Appellant regarding under billing and adjustment of R.L.C. amount vide its own letter dtd. 12th Nov-08 but has not shown continuously in the energy bill. After laps of 2 years i.e. in the month of Nov-08-Dec-08 difference of recovery and refund is charged in Appellant's bill.

It is worth while to mentioned here Section 56 (2) of I.E. Act 2003 which reads as under :-

“Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of the electricity”.

Notes : Due date starts from the date of service of Bill.

In the present case, Forum feel that consumers claim for withdrawal of belated charged arrears is consistent with section 56 (2) of E.A. 2003. The Respondent conveyed in writing for recoverable arrears in Nov-08 for under billed in Oct & Nov-06 is after laps of 2 years, hence Electricity Act 2003 do not permit to recovery any sum beyond two years and hence the said amount (i.e. tariff difference for non-continuous to continuous beyond 25 months) is not recoverable and should be squashed. Forum does not find any substance in the Appellant claim for compensation for his harassment by the utility and hence can't consider.

As elaborated in foregoing paras the compliance should be reported of the above order within month from the date of receipt of this order

No order as to cost

The order is issued under the seal of consumer Grievance Redressal Forum, Bhandup Urban Zone, Bhandup on 5th of September 2009.

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.

**S.L. KULKARNI
CHAIRMAN
CGRF, BHANDUP**

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