

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

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

Date :

Case No. 276

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

In the matte of bill dispute

M/s. Avani Textiles & Mills 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 at plot no. 4/5, Plorani Compound, Kalyan Road, Saravali, MIDC area, Bhiwandi having H.T. connection under consumer no. 013019002310 having sanctioned load of 408 kw with contract demand of 408 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. 480294.58 towards R.L.C. from the date of connection till Oct-06. However, the Respondent has refunded Rs. 74446/- as against R.L.C., which is incorrect & fictitious. The Respondent charge Rs. 204364/- for less billing in the month of Oct-06 & Nov-06 is also incorrect and details of the same is not given, hence Appellant claimed for refund of Rs. 106545/- with interest thereon.

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

The Appellant failed to produce from Competent Authority the certificate about his status of the Industry of continuous or non-continuous nature and hence he was charged the energy bill according to the tariff of continuous industry. However it was subsequently revealed that it is not but a non-continuous type and hence the Appellant was informed by a written a letter dtd. 12/11/2008 was informed that the corrective action is being initiated and the difference of tariff is being adjusted against the refund of R.L.C. dues. The Respondent further added that as per the MERC decision the R.L.C. charges were refunded to respective consumers. The refund of R.L.C. was also given to the respective

consumers during the month of Dec-08 in which the recovery of tariff difference is been charged. As such the amount of refund has been adjusted.

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 though 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**