**Consumer Grievance Redressal Forum, Kalyan Zone**
**Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301**
**Ph: – 2210707 & 2328283 Ext: - 122**

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**IN THE MATTER OF GRIEVANCE NO. K/E/249/275 OF 2009-2010 OF SHRI PRASHANT P. CHINCHANKAR, VASAI, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE BILLING.**

Shri Prashant P. Chinchankar
Gala No. 32,
Panchal Industrial Estate (Jivdani)
Dhumal Nagar, Waliv,
Vasai (E), Dist.Thane.

(Here-in-after referred as Consumer)

Versus

Maharashtra State Electricity Distribution Company Limited through its
Dy. Executive Engineer
Vasai Road (East) Sub-Dn.
Vasai, Dist. Thane.

(Here-in-after referred as licensee)

1) Consumer Grievance Redressal Forum has been established under "Maharashtra Electricity Regulatory Commission (Consumer Grievance

Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers. This regulation has been made by the Maharashtra Electricity Regulatory Commission vide powers conformed on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of 2003).

2) The consumer is a L.T.-V above 20 KW consumer of the licensee with C. D. 54 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 18/05/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- Shri Prashant P. Chinchankar

Address: - As given in the title

Consumer No : - 001840885727

Reason of dispute: Excessive Energy Bills.

3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/468 dated 18/05/2009 to Nodal Officer of licensee. The licensee through Dy. Executive Engineer MSEDCL Sub/Dn. Vasai Road East filed reply vide letter No. DYEE/VSI/B/4401, dated 03/06/2009.

4) The consumer has raised these grievances before the Executive Engineer (O&M) Division, MSEDCL, Vasai Division, on 04/03/2009. The said Internal Redressal Cell did not give any hearing to the consumer & also did not send any reply resolving the said grievances to the consumer. Therefore, the consumer has registered the present grievance before this forum on 18/05/2009.

5). The Forum heard both the parties on 03/06/2009 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of

the consumer & Shri S.B. Hatkar, Asstt.Acctt., representative of the licensee, attended hearing. Minutes of the hearing including the submissions made by the parties are recorded and the same are kept in the record. During the hearing, the CR consented to file separate grievance in respect of the electric connection at gala No. 34 with consumer No. 001840886235 in the name of consumer on the suggestion given by the Forum, and therefore, this judgment in this case is restricted to the electric connection at gala No. 32 with consumer No. 001840885727 only. Submissions made by each party in respect of each grievance shall be referred while deciding each of the grievances to avoid repetition.

6). The following grievances raised by the consumer in its letter dated 02/03/09 sent to the concerned Executive Engineer of which copy the consumer has attached with the grievance made before this forum, arise for consideration, and considering the reply dtd. 03/06/09 with CPL filed by the licensee, record produced by the parties, and submissions made by the parties, the finding or resolution on each of such grievance is given against it, for the given reasons.

7). <u>As to grievance No. (1) – Regarding refund of difference between MD based tariff & H. P. based tariff & P. F. penalty recovered in the bills for Oct. 08, Dec. 08, Jan. 09 & Feb. 09 :</u> The Consumer Representative (CR) submits that the licensee has charged MD based tariff to the consumer without 100% metering and its such action is illegal. He relies on operative order dtd. 20.6.08 of MERC in case No.72 of 2007, MSEDCL circular No.81 dt.7.7.08 in support of his contention. He further submit that as per order dated 12.9.08 of MERC in case 44 of 2008, the licensee can not impose MD based fixed charges, PF penalty and demand penalty/incentive without

MD based tariff being made applicable to the concerned consumer but in the instant case, the licensee has applied the above charges or penalties without MD based tariff being applicable to it and hence such action of licensee is illegal. He further submit that thus the licensee has violated the Act, rules and orders of MERC and hence is liable for action under section 142 and 146 of the Electricity Act 2003. He further submits that therefore the licensee be directed to refund the amounts of such illegally recovered charges together with interest at the rate which it applies to the defaulting consumer. The CR submits that the consumer claims refund of an amount of Rs. 1600/- towards the difference in between the fixed charges as per MD based tariff and HP based tariff in the bills for the month Oct. 08, Dec. 08, Jan. 09 and Feb. 09 and P.F. penalty of Rs. 7073.95 charged in the bill for Dec. 08, Rs. 5,443.47 charged in the bill for Jan. 09 and of Rs. 5199.83 charged in the bill for Feb. 09.

---As against above contention, the LR submits that the licensee has applied MD based tariff from Aug.08 on completion of 100% TOD metering and as per directives given in Clause 10.5 of Com. Circular No.81 dt.7.7.08. He therefore submits that whatever charges based on MD based tariff, are recovered by the licensee from the consumer are correct and legal and therefore the question of refunding the same to the consumer does not arise.

While deciding the question regarding the applicability of MD based tariff to the LT above 20 KW industrial units, the Hon. Electicity Ombudsman vide order dated 6.5.09 in representation No.33 of 2009, M/s. Crystal Industries V/S MSEDCL, relying on the MSEDCL's circulars dtd. 05.02.09 held that the MSEDCL has suo moto decided to start MD based

tariff for LT V consumers from April 09 inspite of 100% installations of MD meters completed in Aug.08 and therefore the MSEDCL is liable to refund the excess fixed charges and PF penalty recovered from such consumer. Therefore following the above referred decision, the licensee is directed to refund the amount of MD charges collected over and above the fixed charges recoverable as per HP based tariff and the PF penalty recovered from the consumer prior to the billing period of April 2009 together with interest at the Bank rate of RBI within 30 days from the date of this decision.

8) As to grievance No. (2) – Regarding arrears of Rs. 673.20 charged in the bill for Oct. 2008 : The consumer claims that the licensee has charged Rs. 673.20 in the bill for Oct. 08. The licensee should explain about the said arrears and refund if the same are not justified. As against this the LR submits that the said arrears are of the electric charges as per bill for Sept. 08 which have not been paid by the consumer and hence the same together with interest are charged as arrears in the bill for Oct. 08. He further submits that in the reply dt. 03/06/09, the licensee has wrongly written about the arrears shown in the bill for Nov. 08 due to oversight. It is true that the licensee has charged Rs. 673.20 as arrears in the bill for the month of Oct. 08. The CPL for Oct. 08 also shows the said fact. It is clear from the CPL for the month of Sept. 08 that the net bill for the said month was for Rs. 660 and CPL for Oct. 08 does not show the payment of the said bill for Sept. 08 by the consumer. Therefore, it is clear that the consumer has not paid the bill for the month of Sept. 08 and therefore, the licensee has charged Rs. 673.20 inclusive of interest towards the said arrears of the bill for Oct. 08. Thus this grievance stands resolved.

9) As to grievance No. (3) – Regarding Security Deposit : The consumer claims that while giving new connection in the said Dhumal Nagar area, during the period in which the consumer has taken this connection, the licensee has collected Rs. 11,700 as additional security deposit (ASD). However, such ASD of Rs. 11,700 is not displayed in the bills of the consumer. Therefore, the licensee be directed to display the said amount of ASD in the bills and give credit of the interest over the said amount of ASD to the consumer. As against this, the licensee claims that the connection has been given on 28/08/08. The SD paid at the time of connection is displayed. However, the ASD of Rs. 11,700 is not displayed in the bills. It will be displayed in the bills and interest will be paid as per rules. In view of such say of licensee, the licensee is directed to display the ASD of Rs. 11,700 in the bills for the months Sept. 09 onwards, and pay interest on the said amount of ASD of Rs. 11,700 at the Bank rate of RBI by giving credit of such amount in the ensuing bill after a period of 30 days from the date of decision in this case.

10) As to grievance No. (4) – Regarding refund of excess service connection charges : The consumer claims that the licensee demanded Rs. 14,000 as service connection charges in the demand notice to the consumer when the consumer has taken this electric connection and accordingly the consumer paid or deposited Rs. 14,000 towards service charges. However, the service charges for overhead connection are Rs. 6,500, as per the schedule of charges under Regulation Section 18 vide MERC order No. 70, dt. 09/09/06. Therefore, the licensee be directed to refund the difference of Rs. 7,500. As against this, the licensee claims that the electric connection or supply to the consumer was given through

underground cable and therefore, service charges for such connection are Rs. 14,000 and hence service charges of the said amount has been recovered from the consumer and therefore, the consumer is not entitle for any refund on this count. It is clear from the schedule of rates filed by consumer that the service connection charges for new underground connection were Rs. 14,000 during the said period. It is also clear from the copy of letter No. SE/VC/Tech/8523, dt. 23/10/07 sent by Superintending Engineer, Vasai Circle to Executive Engineer, Vasai Division regarding estimate for giving power supply to 35 Nos. IP, 36 Nos. IC, 1 No. Water Pump connection in respect of the consumer M/s. Prashant P. Chinchankar that the said estimate was prepared for the instalment of electric connection at the unit of consumer with L.T. underground cable net work. In view of this, the contention of licensee that L.T. underground cable was given for the electric connection at the said unit and therefore, Rs. 14,000 were recovered as service charges will have to be accepted. Therefore, the consumer is not entitle for any refund on this count. Hence his grievance about it is rejected.

11) There has been sudden increase in filing of grievances since last three months and therefore, there has been delay of two days in deciding this case.

12). In view of the findings on the grievances of the consumer as above, the forum unanimously passes the following order.

**O-R-D-E-R**

1) The grievance application is partly allowed.

2) Grievance No. (2) stands resolved as observed in Para No. 8
3) Grievance No. (4) rejected as observed in Para No. 10
4) The licensee to comply the directions given in above para Nos. 07 and 09.
5) The Compliance should be reported to the forum within 90 days from the date of decision.
6) The Consumer can file representation against this decision with the Ombudsman at the following address.

*"Office of the Electricity Ombudsman,Maharastra Electricity Regulatory Commission,606/608, Keshav Building, Bandra Kurla Complex, Mumbai 51"*

Representation can be filed within 60 days from the date of this order.

5). Consumer, as per section 142 of the Electricity Act, 003, can approach Maharashtra Electricity Regulatory Commission at the following address:-

*"Maharashtra Electricity Regulatory Commission,13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05"*

for non-compliance, part compliance or delay in compliance of this decision issued under "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003"

Date : 18/07/2009

| (Sau V. V. Kelkar) | (R.V.Shivdas) | (M.N.Patale) |
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| Member | Member Secretary | Chairman |
| CGRF Kalyan | CGRF Kalyan | CGRF Kalyan |