



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

IN THE MATTER OF GRIEVANCE NO. K/E/253/279 OF 2009-2010 OF
M/S. AMBICA METALS, VASAI, REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

M/s. Ambica Metals
Gala No. 14,
Ramkrishna Industrial Estate
Sativali Road, Gokhiware,
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 20/05/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. Ambica Metals

Address: - As given in the title

Consumer No : - 001590788691

Reason of dispute: Excessive Energy Bills.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/485 dated 20/05/2009 to Nodal Officer of licensee. The licensee through Dy. Executive Engineer MSEDCL Sub/Dn. Vasai Road East filed reply vide letter No. DYEE/VSIB/4541, dated 08/06/2009.
- 4) The consumer has raised these grievances before the Executive Engineer (O&M) Division, MSEDCL, Vasai Division, on 12/03/2009. 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 20/05/2009.
- 5). The Forum heard both the parties on 08/06/2009 @ 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. 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 05/03/09 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. 08/06/09 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). 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 Aug. 08 & Sept. 08 : 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. 6100/- towards the difference in between the fixed charges as per MD based tariff and HP based tariff & P. F. penalty of Rs. 6900 charged and recovered by the licensee in the bills for Aug. 08 & Feb. 08.

---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. Electricity 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 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 bill adjustment : The consumer claims that the licensee has added the debit bill adjustment charges of Rs. 436.32, in the bill for the month of Aug.07. The licensee should justify such adjustment and refund if the same is not justified. The licensee claims that

the said bill adjustment is in respect of TOSE for the period from Sept. 05 to Feb. 05 at the rate of 4 NP per unit. The CR has relied upon the order dated 24th May 2005 passed by MERC in case No. 28 of 2004 in support of his contention that the licensee has earlier refunded the TOSE charged for the above referred periods as per the above referred order, but has again charged the same as above without any further order of MERC about it. The licensee has not filed any such order of MERC passed after the above order which enabled it to recharge the TOSE. In view of the facts as discussed above, the licensee is directed to give explanation as to how it has recharged TOSE as claimed particularly in reference to the order dated 24/05/2005 passed by MERC in case No. 28 of 2004 in writing, to the consumer within a period of 30 days & on failure to do so, or in case of unsatisfactory explanation, refund the excess amount if any, recovered as above together with interest at the bank rate of RBI, by giving it's credit to the consumer in the ensuing bill after 30 days.

- 9) As to grievance No.(3) – Regarding refund of Excess SD & interest on SD :
The consumer claims that he has paid SD of Rs. 19,500/- + Rs.11,700/- = Rs.31,200/-- at the time of taking new connection on 08/01/2002. However, bills upto May 08 were not showing the said amount of SD. The licensee has also collected Rs. 21,600/- as SD. Therefore, the consumer had requested for refund of initial SD of Rs. 31,200/- and interest of Rs. 12,129. As against this, the licensee claims that the connection has been given on 08/01/2002. The Security Deposit of Rs. 19,500/- + Rs.11,700/- = Rs. 31,200/- paid at the time of taking connection is not displayed in the bill. It's office is searching for the record for exact amount of SD and in the meantime, the consumer may submit the SD receipts for quick disposal of

the case. Considering the average bills, keeping the deposit, action will be taken for refund of SD. The interest will be paid as per rules. In view of the above contentions of the parties, the licensee is directed to verify the correct amounts of SD from time to time from its record and the record with consumer, display the correct amounts of SD, calculate the proper SD at this stage & refund the excess amount of SD & the interest at Bank rate of RBI on such amounts of SD at the prevailing rate, by giving it's credit to the consumer, in the ensuing bill after a period 30 days.

- 10) As to grievance No. (4) - Regarding appropriation of Security Deposit amount : The consumer claims that the licensee collected an amount of Rs. 21,600 as Security Deposit (SD) in June 08 by appropriating amount from the amount of monthly bill for the month May 08 paid by him. The licensee has collected DPC of Rs. 620 while recovering the arrears of earlier bill resulted due to the appropriation of amount of bill of earlier month paid by the consumer and therefore, as per the order dated 23/03/09 passed by Hon. Ombudsman in representation No. 23 of 2009, licensee be directed to refund the said amount of Rs. 620 of DPC. The licensee did not give any say to the above contention of consumer in the reply dt. 08/06/09. The CPL for the month of April 2008 shows SD, SD arrears and SD demand as zero, 21600 and 21600 resp. CPL for the month April 08 shows that the said bill was issued for net amount of Rs. 12,109.26. The CPL for May 08 shows that the consumer has paid an amount of Rs. 12,110 on 23/04/08 and SD arrears of Rs. 21,600. Thus the consumer has paid the entire amount of bill for the month of April 08 and therefore there would not have been any arrears in the bill for next month i.e. June 08. However, CPL for June 08 shows arrears of Rs. 22,220.63 and thus the said amount of arrears could be of SD amount of Rs. 21,600 and DPC of Rs. 620 and the

consumer was required to pay the said DPC since an amount of Rs. 21,600 out of the total amount paid by him towards the bill for the month of May 08 was appropriated towards the SD of Rs. 21,600. Therefore, the licensee is directed to refund an amount of Rs. 620 recovered as DPC, due to appropriation of the amount of SD from the amount of regular bill for the month of June 08 as observed by Hon. Ombudsman in order dated 26/03/09 in representation No. 23 of 2009 together with interest at the Bank rate of RBI, by giving it's credit to the consumer in the ensuing bill after 30 days from the date of this decision.

- 11) As to grievance No. (5) - Regarding refund of difference of MD based charged and HP based charges from Oct.06 to March 07 : The consumer has claimed refund of an amount of Rs. 3,518.81 with interest on this count as the charges of the relevant period were reverted back to the HP based tariff from MD based fix charges, due to non completion of installation of MD meters in entire Maharashtra. The licensee claims that it has refunded an amount of Rs. 8065.32 in the month of May 07 and balance is being remitted in June 09. The licensee has not made clear as to how much such balance amount is being remitted in June 09. Therefore, the licensee is directed to verify the total amount of such difference between the MD based tariff charges recovered and HP based charges of the period Oct. 06 to March 07, the amount refunded by it and to refund the remaining amount of such difference together with interest at the bank rate of RBI to the consumer by giving its credit to the consumer in the ensuing bill after a period of 30 days, if not already refunded in June 09.
- 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 allowed.
- 2) The licensee to comply the directions given in above para Nos. 07 to 11.
- 3) The Compliance should be reported to the forum within 90 days from the date of decision.
- 4) The Consumer can file representation against this decision with the Ombudsman at the following address.

“Office of the Electricity Ombudsman, Maharashtra 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)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan