



**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/261/287 OF 2009-2010 OF RASHIN J. PATEL, VASAI, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE BILLING.**

Rashin J. Patel  
Gala No. 01,  
M. L. K. 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 conferred 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 09/06/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. Rashin J. Patel

Address: - As given in the title

Consumer No : - 1)001590791161 – LT-V

2)001590791179 – Single Phase Commercial

Reason of dispute: Excessive Energy Bills and P.D. of single phase connection with consumer No. 001590791179.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/539 dated 09/06/2009 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/5064, dated 29/06/2009 addressed to the consumer with copy to the Forum.
- 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 09/06/2009.

- 5). The Member Secretary and Member of the Forum heard both the parties on 29/06/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri R. G. Gharat, U.D. Clerk, 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 07/03/09 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. 29/06/09 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 to Feb. 09 : 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. 1260/- towards the difference in between the fixed charges as per MD based tariff and HP based tariff & P. F. penalty of Rs. 3736.97 charged and recovered by the licensee in the bills for Aug. 08 to Feb. 09.

---As against above contention, the LR submits that the licensee has applied MD based tariff @ Rs. 11 per KVA per month for 65% of maximum demand or 40% of contract demand whichever is higher from Oct. 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 and the P.F. penalty recovered from the consumer prior to the billing period of April 2009 together with interest 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 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. 849.68, Rs. 850.16, Rs. 21.34, Rs. 1361.74 in the bills for Sept.07, Aug. 07, July 07 and March 07 respectively. The licensee should justify such adjustment and refund if the same is not justified. The licensee claims that the above first amount of bill adjustment is in respect of TOSE for the period from March 06 to Sept. 06, the above second amount is in respect of TOSE for the period from Sept. 05 to Feb. 06, the above third amount is in respect of tariff difference for May 07 as per MERC Order No. 65 of 2006, dt. 18/05/07, and the above fourth amount is that of FAC- 2 and IASC charges for Jan. 07. The CR has relied upon the order dated 24<sup>th</sup> 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 the said connection was given to the consumer on 23/01/04. The licensee collected Security Deposit (SD) of Rs. 16,500 + Rs. 9,900, while giving connections to the industrial consumers with 5 HP load during the said period. Therefore, the consumer takes that it has also paid SDs of the said amounts. However, bills are not showing the said amount of SD. The licensee has also collected Rs. 3600/- + Rs. 2160 = Rs. 5760 in Nov. 06 while extending the load to 67 HP. The said amount of SD is displayed in the bill for Sept. 07. The licensee thereafter collected additional SD (ASD) making the total SD as Rs. 22,000 which is now displayed in the bill. Therefore, the consumer has requested for refund of SD of Rs. 26,400/- and interest of Rs. 8204. As against this, the licensee claims that the connection has been given on 23/01/2004. The Security Deposit of Rs. 16,500/- is displayed in the bill. However, SD of Rs. 19,900 is not displayed in the bill. The interest will be paid as per rules. Considering the average bill, excess SD amount will be refunded but for the said purpose the consumer should produce original receipts. 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 refund of difference of MD based charged and HP based charges from Oct.06 to March 07 : The consumer has claimed refund of remaining amount of Rs. 2893.47 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 as according to it the licensee refunded Rs. 8305.28 out of total amount of Rs. 11,198.75 on this count. The licensee claims that it has refunded an amount of Rs. 8305.28 in the month of May 07 and the balance amount in June 09. The licensee has not made clear as to how much such balance amount is refunded by it in June 09. It has also not produced on record the CPL for June 09 or any other document to show that it has really refunded such remaining amount to the consumer. 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.
- 11) As to grievance No. (5) - Regarding refund of IASC during the period Feb. 07 to May 07 : The consumer claims that the licensee is to refund IASC charges recovered during Feb. 07 to May 07 as per order dated 15.9.08 passed by MERC in case No.45 of 2005, and such amount is Rs. 1574.27

(Rs. 622.15 - Feb 07, Rs. 301.62 – Mar. 07 , Rs. 297.00 – Apr. 07, and Rs. 353.50 – May 07 i.e. total Rs. 1574.27) and therefore licensee be directed to refund the said amount to the consumer. The licensee claims that regarding refund of IASC charges as per MERC Order dt. 18/09/08 in case No. 45, normal petition is made to MERC vide case No. 42 on 10/12/08.

It is clear from the above referred order dated 17.09.08 passed by MERC in case No.45 that the MERC directed the licensee to refund the incremental ASC for the period Oct.06 to Apr 07 to all the consumers who have contributed towards ASC. The licensee has not filed copy of any such petition filed before MERC. Moreover, until the MERC passes any different order on any such petition, the earlier order of MERC will have to be followed. Therefore licensee is directed to refund the IASC if collected during the period from Oct.06 to Apr 07 from the consumer as per directions given in the above referred order of MERC to the consumer, by giving credit of such amount together with interest at the Bank rate of RBI to the consumer in the ensuing bill after 30 days from the date of this decision.

- 12) As to grievance No. (6) – Regarding refund of excess load penalty charged in the bills for May 05 and June 05 : The consumer vide rejoinder dt. 29/06/09, claims that the CPL discloses charging of excess load penalty of Rs. 1764 and charged excess fixed charges of Rs. 4182 in each of the months of May 05 and June 05. The licensee is liable to refund the above referred excess load penalty and excess fixed charges amount to Rs. 5064 of both the said months, as per order dt. 14/07/05 passed by MERC in case of 2 of 2003. Since this grievance was disclosed to the consumer from the CPL supplied to it on the date of hearing on 29/06/09, the Forum has



considered the same on its request for the same. The licensee, however did not file any say to the said grievance though its representative undertook to file say to it at the time of hearing. The contention of the consumer in respect of charging of excess load penalty, and the fixed charges in excess, is supported by the CPL for the said months. Therefore, the licensee is directed to follow the directions given by MERC vide order dt. 14/07/05 in case No. 2 of 2003 regarding such excess load penalty and excess fixed charges charged in May 05 and June 05 and refund the amount on such account together with interest to the consumer by giving its credit in the ensuing bill after a period of 30 days from the date of decision in this case.

- 13) As to grievance No. (7) – Regarding permanent disconnection of single phase commercial connection with consumer No. 001590791179 : The consumer claims that it has demanded disconnection of the said single phase commercial supply since according to it in view of the clause 19.1 of MERC (ESC & OCS) Regulation 2005 implemented from 20<sup>th</sup> Jan. 2005, all irrational circulars & orders of MSEDCL are invalid, & tariff booklet definition & MERC operative order says that supply at low voltage except use of agricultural pump is allowed under LT-V & therefore, it does not need separate single phase commercial supply. It has also mentioned the same reason in support of his request/demand for disconnection in its letter dated 07/03/09 about it to the Dy. Executive Engineer. The LR opposed the above request of the consumer during hearing, but did not subsequently submitted any reply as promised at the time of hearing.

Clause 19.1 of above referred Regulations 2005, on which the consumer relies, reads as under :

“19.1 : Any terms or conditions of the Distribution Licensee, whether contained in the terms & conditions of supply & / or in any circular, order, notification or any other document or communication, which are inconsistent with these regulations shall be deemed to be invalid from the date on which these regulations come into force.”

The consumer has not made clear in his grievance as to exactly what type of activities it is carrying on in the premises for which it has earlier taken the said supply for commercial purpose. The CR also could not show any recent circular or order by which at present the supply given for Industrial purposes can also be used for commercial purpose also. Therefore, earlier restrictions if any, about it, cannot be said to be invalid on the basis of above referred Clause 19.1. However, it is a matter of common understanding that, a person cannot be forced to continue to have particular type of supply against it's wishes. Therefore, the licensee is directed to permanently disconnect the said supply with consumer No. 001590791179 to the consumer at the risk of consumer within 30 days from the date of decision in this case, & there after transfer the SD amount together with interest till the date of such PD & all other credits including the amount of RLC as per MERC operative order 77 of 2007 if any, of the consumer in the said connection, to it's other industrial connection with consumer No. 001590791161 within a period of 30 days from the date of permanent disconnection.

- 14) 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 13.
- 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, 2003, 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 : 23/07/2009

(Sau V. V. Kelkar)  
Member  
CGRF Kalyan

(R.V.Shivdas)  
Member Secretary  
CGRF Kalyan