



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/277/304 OF 2009-2010 OF
M/S.SKIP PACKING PVT. LTD.VASAI (E) REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

M/s. Skip Packaging Pvt.Ltd.
Gala No.33,Godavari, Tungareshwar
Industrial Complex, Village-Sativali,
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 > 20 KW consumer of the licensee with C. D.53 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 30.06.2009 for Excessive Energy Bills, to write off the arrears of the year 1994 added in 2001 and for permanent disconnection of 1 phase connection. The details are as follows: -

Name of the consumer :- M/s. Skip Packaging Pvt. Ltd.

Address: - As given in the title

Consumer No : - (i) 002170271354 – CL - 70 HP

(ii) 002170272245 – CL – 1 kW – 1 phase

Reason of dispute: Excessive Energy Bills and request for writing of arrears of the year 1994 in case of connection with consumer No. 002170271354 and to permanently disconnection with consumer No. 002170272245.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/607 dated 30/06/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/VSI/(E)/B/5649, dated 17/07/2009.
- 4) The consumer has raised these grievances before the IGRC and the Executive Engineer, Vasai(E) Division on 13/04/2009 and 29.4.09. 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 30/06/2009.

- 5). The forum heard both the parties on 17/07/2009 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri S. B. Hatkar, A.A. 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 letters dated 13/04/09, 13.4.09 & 20.4.09 respectively sent to the Executive Engineer, Vasai (E) Division, of which copies, the consumer has attached with the grievance made before this forum, arise for consideration, and considering the reply dtd. 17/07/09 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 made in the letter dtd.13.4.09 to the Executive Engineer, Vasai (E) – Regarding writing of the arrears of the year 1994 : The consumer claims that it has procured this unit with electric connection having consumer No.002170271354 from its earlier owner in the year around 1996. The consumer was receiving the bills as per monthly consumption till Oct.01. The licensee, however, added an amount of Rs.63,996.45 as the amount of bill adjustment, in the bill for the month Nov.01. The said amount was not of the period during which the consumer was owner of the said unit. Therefore the consumer protested against the

addition of the said amount in the bill for the month Nov.01, vide letter (Annexure-2). The bill for the month of Dec.01 (Annexure-3) was received with the added amount of Rs.66485.66 with remarks as "current bill accept due to Inspection Report dispute". The consumer paid the amount of current charges as per the said bill. The consumer was forced to pay the old arrears of Rs.19605.75 by making him to pay Rs.50000/-, eventhough the bill was for Rs.30,394.23. The consumer again protested about the said fact vide letter dt.17.7.03 (Annexure 4). The consumer was constantly protesting from 2001 to 2003 about the said illegal inclusion of amount of arrears of the year 1994 in its account in the year 2001. The consumer has annexed a copy of alleged letter (Annexure 5) sent by Executive Engineer, MSEB Vasai Dn.to the Dy.EE Vasai (E) Sub Division, in this behalf. The consumer further claim that inspite of the above letter (Annexure -5), the consumer is receiving the electric bills with the added amount of the said old arrears till this date and every time it is require to go the office of the licensee and to get the electric bill corrected and the consumer has to make 85 trips for the said purpose till this date. Now the concerned Accounts Officer told the consumer that he will not correct the bills to keep aside the above referred arrears which would force the consumer to pay the said old arrears to avoid the disconnection. The bill for Mar 09 shows the arrears of Rs.68470.80 and interest arrears as Rs.22,165.80. The said amount is accumulated due to compounding interest in each month since Sept.01. The consumer claims that thus the licensee has caused serious mental torture and harassment to it. It has therefore pray for directions to the licensee to write off the said old arrears of the year 1994 and pay the

compensation of Rs.10,000/- to the consumer for the above referred mental torture and harassment. The representative of consumer (CR) at the time of hearing and in the rejoinder dt.17.7.09 prayed for compensation of Rs.50,000/- for such alleged mental torture and harassment. The licensee did not give any say in its reply 17.7.09 to the above contention of the consumer and also did not file any reply to the rejoinder dt.17.7.09 filed by the consumer on the date of hearing. Its representative, however, opposed the above referred prayer of the consumer, during the hearing.

- 8). The consumer did not file any documents to show that it has acquired the concerned unit in the year 1996 as alleged by it, and therefore it can not be positively said that the consumer was not the proprietor of the said unit during the period of such arrears. The licensee also not filed CPL of the period prior to Jan.03 from which the consumer's such contention could be verified. The copy of bill for Sept.01 does not show any arrears. The copy of bill for Jan.02 shows that arrears of Rs.66485.67 have been added in the said bill. Copy of the undated letter (Annexure-2) filed by the consumer shows that the consumer has protested against the addition of arrears of Rs.63996.45 in the bill of the period from 7.12.01 to 24.12.01. It however, appears from the date 19.12.07 type written at the bottom of copy of such letter filed by the consumer with rejoinder No.2 dt. 21.7.09 sent by the consumer by courier after hearing on 17.7.09, that the said letter Annexure-5 sent by the Executive Engineer to the Dy.Ex.Engr. is dt. 19.12.07. It is also clear from the copies of bills for Sept.07,Aug.07, Mar 07, Jan.07, Nov.06, May 07, Feb.07, Dec.06, Jan.09, Dec.08, Nov.08, Oct.08, Sept.08, Aug.08, June 08, May 08, April 08, Mar 08, Feb.08, Jan.08, Dec.07,

Nov.07, Oct.07, Jul 07, Jun 07 and Apr 07 filed by the consumer that the concerned officer of the licensee directed to accept the current bill amount keeping aside the amount of arrears in each such month and such directions appears to be the result of the concerned letter dated 19.12.07 (Annexure 5) sent by the Ex.Engr. to the Dy.Ex.Engr. directing him to make proposal for writing off the arrears of the period from May 1994 to April 1997 as the same was charged to the consumer in Dec.01 and was protested by the consumer. In view of such acts of the officer of the licensee directing to keep aside the amount in arrears, the claim of the consumer to get the same arrears as written off as per the letter dated 19.12.07 (Annexure 5) still survives though the said arrears are of the period May 04 to April 07 and were charged to the consumer in Oct.01. The licensee however did not make it clear in its reply as to what action has been taken as per the said letter dated 19.12.07 (Annexure 5) and therefore the consumer has got right to avail electricity uninterrupted or without getting threaten with disconnection for the payment of said arrears until the action as per the said letter dated 19.12.07 is concluded. In view of this it would be just and proper to direct the licensee i.e. the Competent Officer, viz. Dy.Ex.Engr. Vasai Road (E) to take suitable action on the said letter dt.19.12.07 (Annexure 5) by making suitable proposal to the competent authority, if no such proposal is yet submitted and then take further action as per the decision of the competent authority on such proposal and till then keep aside such amount of arrears which is shown as Rs.68470.80 as arrears and Rs,22165.80 as interest on arrears in the bill for the month Mar 09 and further interest accrued on till this date, in the

bills from the next month i.e. Sept.09 and not to take any action for disconnection for non payment of the above referred arrears, till the action on the said letter dt.19.12.07 (Annexure 5) is completed, and it would be proper to give liberty to the consumer to file fresh grievance application regarding this grievance, if necessary, after completion of such action of the licensee on the said letter dt.19.12.07 (Annexure 5). The licensee and particularly Dy.EE, Vasai (E) Sub Dn. are directed accordingly.

- 9). It is already observed above that the consumer has not filed any document to show that it has acquired the concerned unit in the year 1996 to show that it was having no concern with the said arrears, Thus there is no sufficient material on record to show that the said recovery of arrears was illegal. Writing off any arrears is a matter of discretion and not right. However, when the Ex. Engineer has directed the Dy.Ex.Engr. to make the proposal for writing off the concerned arrears as per the instructions of the HO inspection, it was the duty of Dy.Ex.Engr. to make such proposal and the consumer has got right to get advantage of such proposal. It is true that due to either delay in making such proposal or inaction to pursue such proposal if already made by the Dy.EE, has resulted harassment to the consumer as it was require to approach the licensee to get the bill of every month corrected. However, considering the above facts and the directions which we intend to issue to the licensee as observed in earlier para, in our opinion, it is not proper case to grant compensation to the consumer at this stage. Hence consumer's request for such compensation is rejected.

- 10). As to grievance No. (1) made in the letter dated 13.4.09 to the Executive Engineer, Vasai - Regarding the amounts of bill adjustments: -

The consumer claims that the licensee has added the debit bill adjustment charges of Rs. 2548.12, Rs.2414.24, Rs.2145.91, and Rs.667.20 (credit difference) in the bills for Sept.07, Aug.07, Mar 07 and Jan.07 respectively. The licensee should justify such adjustment amounts and refund if the same are not justified. The licensee claims that the said amounts are of TOSE of the period Mar 06 to Sept.06, TOSE of the period from Sept.06 to Feb.06, IASC charges for Jan.07 and tariff difference of the Oct.06/Nov.06 respectively. 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 recharged the TOSE. In view of the facts as discussed above, the licensee is directed to give in writing an 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, 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 first two amounts together with interest at the bank rate of RBI, by giving it's credit to the consumer in the ensuing bill after 30 days.

- 11) As far as the above referred third amount is concerned, the licensee claims that the same is as that of IASC charges for Jan. 07. It is clear from the

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 claims that it has filed normal petition vide case No. 42, dt. 10/12/08 in respect of the concerned MERC's Order dt. 18/09/2008 in case No. 45. It has however, not filed copy of any such petition. Therefore, the licensee is directed to get any such petition filed by it before MERC decided within one month from the decision in this case, and on failure to do so or rejection of such Petition and in case the consumer has contributed ASC for the said month Jan. 07, refund the above referred amounts of IASC together with interest at the Bank rate of RBI to the consumer by giving credit of such amount in the ensuing bill after a period of two months from the date of decision in this case.

- 12) As far as the above referred fourth amount is concerned, the licensee claims that the said amount is of tariff difference of the months Oct. 06/Nov. 06. Thus the licensee has given proper explanation of the said amount and therefore, the consumer is not entitle for the refund of such amount. Therefore, such request of consumer is rejected.
- 13). As to grievance No. (2) as per letter dated 13.4.09 sent to the Executive Engineer, Vasai (E) – regarding refund of ASC charged in Nov.06: The consumer claims that the licensee has charged ASC of Rs.949.90 in the bill for Nov.06, eventhough the consumption in the month Oct.06 was 6880 units which was lower than the BC 12429 units, and therefore the licensee be directed to refund the said amount of ASC together with interest. As against this, the licensee has claimed that the ASC charged in Nov.06 has

been credited to the consumer in Jan.07. The copy of the bill for the month Jan.07 filed by the consumer shows that credit of Rs.3236.45 towards the tariff adjustment has been given to the consumer. Thus this grievance stands resolved.

- 14). As to grievance No. (3) as per letter dated 13.4.09 sent to the Executive Engineer, Vasai (E) - Regarding refund of difference of MD based charged and HP based charges from Oct.06 to Mar 07 : The consumer claims that the licensee was to refund an amount of Rs.11,404.48 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 however refunded an amount of Rs. 7940.64 only. Therefore the licensee be directed to refund the remaining amount of Rs.3463.84 with interest of Rs.415.66. As against this, the licensee claims that it has refunded the amount of such difference in Jan.07, May 07 and June 2009. The licensee, however, did not produce on record CPL of the month June 09 or any other document to show that it has really paid such remaining amount to the consumer in the said month. Therefore the licensee is directed to again verify as to whether it has paid such remaining amount on this count to the consumer and if not, refund such remaining amount together with interest at the bank rate of RBI to the consumer by giving its credit to the consumer in the ensuing bill after period of 30 days from the date of decision in this case.
- 15). As to grievance made in letter 20.4.09 sent to the Executive Engineer, Vasai East - Regarding RLC installments and SD in and disconnection of

single phase commercial 1 KW supply having consumer No. 002170272245 : 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 20th 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 it's letter dated 20/4/09 about it to the Executive Engineer Vasai Division. The licensee has not given any reply to the above say of consumer, in its reply Dated 17.7.09.

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 commonsense that, a person cannot be forced to continue to have particular type of supply against it's wishes. Therefore, the licensee is directed to disconnect the said supply of consumer No. 002170272245 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.002170271354 within a period of 30 days.

- 16). The consumer has registered this grievance application before this forum on 30.6.09. There has been delay of few days in finally deciding this grievance application due to large no. of grievance applications filed before this forum since last six months.
- 17) 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) The licensee to comply the directions given in above para Nos. 08, 10, 11, and 15.
- 3) Prayer of consumer for the compensation is rejected.
- 4) Consumer's prayer in respect of refund an amount of Rs.667.40 is rejected as observed in para-12.

- 5) Grievance No.2 in letter dt.13.4.09 stands resolved as observed in above para-13.
- 6) The Compliance should be reported to the forum within 90 days from the date of decision.
- 7) 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.

- 8). 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 : 31/08/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan