



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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Date of Grievance : 09/05/2012

Date of Order : 21/08/2012

Period Taken : 103 days

IN THE MATTER OF GRIEVANCE NO. K/E/596/705 OF 2012-2013 OF
M/S. EXCEL INDUSTRIES, SHAHAPUR, REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE ENERGY BILL.

M/s. Excel Industries,
Gala No. 13/14, A-Block, Near Mundewadi,
Apurva Industrial Estate,
Shahapur.

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Asst. Engineer, Shahapur Sub-Division.

(Here-in-after
referred
as licensee)

Per Sadashiv S. Deshmukh, Chairperson

- 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.--VA consumer of the licensee. The Consumer is billed as per industrial tariff. Consumer registered grievance with the Forum on 09/05/2012, for excessive energy bill.
The details are as follows :
Name of the consumer :- M/s. Excel Industries
Address: - As given in the title
Consumer No : - 02100110456560
Reason of dispute : Excessive Energy Bill.
- 3) The set of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/0313 dated 09/05/2012 to Nodal Officer of licensee. The licensee filed reply vide letter No. SE/KC-II/Tech/2533 dated 04/06/2012 through Nodal Officer, Kalyan Circle-II.
- 4) We members of the Forum heard both sides in the meeting hall of the Forum’s office on 04/12/2012, 21/06/2012. Licensee represented by Nodal Officer Shri Viradkar, Shri V.H. Kasal, Asst. Engineer and Consumer Shri Sanjeej Tejwani as present. But on 10/06/2012 and 18/06/2012 only representative of licensee attended.
- 5) Consumer is aggrieved by the supplementary bill issued by licensee for Rs.6,87,570/- towards consumption of 119507 units of electricity. Said bill is issued asking the consumer to pay it before 27/01/2012. Consumer

rejected it on 22/02/2012 by writing letter to concerned Executive Engineer of licensee. Then, he approached IGRC on 01/03/2012 enclosing the letter addressed to Executive Engineer dated 22/02/2012. Further, consumer gave letter to Executive Engineer to waive the said amount or give instalments of Rs.10,000/- contending that he had approached IGRC, matter is pending due to recession he is not able to pay the amount. He made ground that even Bank which financed the unit is also insisting for repayment of loan. IGRC decided the matter on 30/04/2012, rejected this dispute but granted instalments for payment of said amount at the rate of Rs.57,297/- per month.

- 6) Now said order of IGRC is challenged along with bill for Rs.6,87,570/-. It is the claim of the licensee in reply to this grievance application that on 04/01/2012 consumers installation was checked and it was found that the meter is having 50/5 AMP capacity and connected CT's is 105/6 AMP which actually could have been billed with multiplying factor (MF) but actually billed with 01 MF. Even it is contended that from the date of connection i.e. from 01/03/2008 till the date of inspection of CT was not changed. In this light, it is claimed that as MF by mistake is considered as 01 MF instead of 02 MF and hence by applying correct multiplying factor i.e. 02 MF dues are worked out to the tune of Rs.6,87,570/- by issuing bill on 27/01/2012 which cannot be said to be illegal.
- 7) In this respect, it is claimed on behalf of the consumer that there is no fault on the part of the consumer, hence consumer cannot be fastened with such a heavy liability. Abruptly it is claimed that for the said mistake and negligence licensee is to suffer.
- 8) When this matter was taken up, at the beginning it was discussed in the light of section 56 (2) of Electricity Act and liability whether it is limited for

only 2 years. So main aspect of discussion is recovery was on ground of mistake in applying multiplying factor., therefore in the meantime, out attention was drawn to Division Bench judgement of High Court in AVDESH PANDE VS. TATA POWER HOUSE COMPANY, AIR 2007 BOMBAY 52, hence, we again called both the sides, made them aware of this precedent and other precedents. On this count, consumer sought 10 days time to react. Matter was taken out on 10/07/2012 but consumer conveyed his difficulty and sought time, it was granted and matter was adjourned to 18/07/2012. On 18/07/2012, none attended for consumer hence on hearing the representative of licensee, matter was closed for order.

- 9) As noted above, the dispute revolves around mistake in applying MF 01 instead of 02. No doubt, mistake is factual aspect. Actually electricity is consumed but in the bill by mistake said charges are not applied by applying MF 02, thereby dues are worked out of Rs.6,87,570/-. Accordingly, it is seen that there is use of electricity but by mistake the legitimate charges are not applied and recovered and hence its recovery is to be done as permissible in the law.
- 10) Legal aspect on this count is set out in section 56 of Electricity Act. It speaks about disconnection of supply in default of payment, sub-section 1 of section 56 speaks about issuing bill demanding dues and if those are not paid within 15 days then cut off the supply. This is one more legal remedy available without prejudice to the recovery of dues by way of suit. Sub-section 2 of section 56 that such action under section 56 can be taken within 2 years from the date of amount becoming due and is shown in the bills continuously. This section i.e. section 56 is dealt by Delhi High Court

in AIR 1987 DELHI 219 AND JHARKHAND HIGH COURT IN AIR 2008 Jharkhand 99.

- 11) Our High Court also dealt it in the case of BRAHMANMUMBAI MUNICIPAL CORPORATION VS. YATISH AIR 2007 BOMBAY 73. Our High Court has held that under section 56 amount becomes due only after the bill on account of the electricity consumed is served upon the consumer. In other words, if the amount demanded is covering period of more than 2 years still it can be dealt under section 56 if the demand is done by issuing and serving bill. Accordingly, it becomes due only when it is demanded by licensee. Their Lordships in this regard observed in para 8 as under:-

“ Though liability of consumer arises or is occasioned by consumption of electricity, payment falls dues only upon the service of bill. Thus, for the purpose of section (1) and section (2) of section 56, same can be recorded as due from the consumer only after bill on account of electricity charges is served upon him ”.

- 12) Their Lordships further relied on the judgement of the Hon'ble Delhi High Court i.e. AIR 1997 DELHI, 219 (H.D. SHAURI VS. MUNICIPAL CORPORATION, DELHI).
- 13) Aforesaid view of High Court is further noted by the Hon'ble Division Bench of High Court in AIR 2009 BOMBAY 148, 210 BCR (4) 456. In this judgement, our Lordships considered the mistake in applying Multiplier Factor which is even a similar factual aspect before us. Their Lordships dealt with the amount demanded of the differences by applying correct Multiplier Factor for the period of more than 2 years. Their Lordships upheld that under section 56 though demand is for the period more than 2 years, it is valid and becomes due only on service of bill. Their Lordships in the said judgement considered previous judgement of the Division Bench of

our High Court i.e. M/S. BHARAT MANUFACTURING COMPANY PVT. LTD. VS. MUNICIPAL CORPORATION OF GREATER MUMBAI, AIR 1978 BOMBAY 369 wherein word “due” under section 24 of Electricity Act 9 of 1910 is dealt with and it is held therein that it includes time barred claim also.

- 14) Accordingly, we find the aforesaid judgement of our High Court in AIR 2009 BOMBAY 148 is receding time. It refers to previous judgement of High Court in AIR 1978 BOMBAY 369 and further accepted view of our High Court noted above in AIR 2007 BOMBAY 73 (BRIHANMUMBAI MUNICIPAL CORPORATION VS. YATISH SHARMA). At this stage, we find that AIR 2007 BOMBAY 52 (AVDESH PANDE VS. TATA POWER COMPANY) is decided by the Division Bench of High Court therein AIR 1978 BOMBAY, 369 is not referred but said previous judgement of High Court is noted in AIR 2009 BOMBAY 148. Accordingly, we find on the basis of the recent judgement of AIR 2009 BOMBAY 148 legal position is clear. In light of the aforesaid legal position, we find that in this matter wrong Multiplier Meter was taken into consideration as 01 instead of 02 and when this mistake was noted, it is set right by doing calculation and working out dues to the tune of Rs.6,87,570/-. It covers period from the date of connection till to the date of bill i.e. 01/03/2008 to 27/01/2012 and hence, bill issued on 27/01/2012 cannot be said to be barred one or that it cannot be claimed for a period more than 2 years. The reference of consumer to precedents of Ombudsman found not useful in the light of High Court judgement.
- 15) We find no defect in the demand of dues raised by licensee as it is a mistake noted and rectified, thereby demand is raised for the energy already consumed. Though consumer claimed his difficulty of running in

losses, Bank is taking action but utilization of energy is there and hence that is not a ground for reducing quantum of dues in any way. IGRC considered the aspect of consumers difficulty and granted instalment at the rate of Rs.57,297/- per month which we find is appropriate. There are no reasons for us to interfere in it. In result, grievance application of the consumer is to be rejected.

ORDER

Grievance application of consumer is rejected.

The consumer may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606/608, Keshav Bldg, Bandra Kurla Complex,Mumbai 51”.

Date :

(Mrs. S.A. Jamdar)
Member
CGRF, Kalyan

(R.V.Shivdas)
Member Secretary
CGRF, Kalyan

(Sadashiv S. Deshmukh)
Chairperson
CGRF, Kalyan