



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/289/318 OF 2009-2010 OF
M/S. POLY PRODUCTS, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

M/s. Poly Products,
Plot No.34,Sector-II ,
The Vasai Taluka Ind.Co.Op.Est.Ltd.
Gauraipada, Vasai (E), Dist. Thane

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Superintending Engineer,
Vasai Circle,
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 HT consumer of the licensee with Contract Demand of 100 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 11/08/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. Poly Products

Address: - As given in the title

Consumer No : HT consumer - CD 100 KVA - 001849020800

Reason of dispute: Excessive collection of bills.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/718 dated 11/08/2009 to Nodal Officer of licensee. The licensee filed reply through Nodal officer, Vasai Circle, vide letter No. SE/VSI/9535 dt.24.08.09 & SE/VC/A/c/ 9571 dated 26/08/2009 in the form of letter addressed to the consumer with a copy to this Forum.
- 4) The consumer has raised these grievances before the IGRC Vasai Circle, on 06/06/2009. 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 11/08/2009.
- 5). The Member Secretary and Member heard both the parties on 04/09/2009 @ 15.00 Hrs. in the meeting hall of the Forum’s office. Shri Harshad

Sheth, and Shri Vinith Sheth, representatives of the consumer & Shri N.C. Sankhe, Nodal Officer, Shri P.K. Tuse, Accounts Officer, representatives of the licensee and Dr. P.K.Chopade, as a third person attended hearing.

- 6). The CR claims that the M/s. Poly Products should be treated as new unit on the grounds - a).M/s. Shah investment Corpn. has sold this unit to M/s. Poly Products in Feb.06 vide his letter dt.23.02.06 - b). Letter from SE Vasai circle, vide No.1285 dt.22.3.06 confirming the transfer of unit and fresh agreement execution in the name of Poly Products. All the liabilities of earlier owner are cleared by them - c).Change of Company's name, change of owner and management. There is no connection between Poly Products and Shah Investment Corpn. d).Change of product activity to plastic injection moulding which is different from the product of the earstwhile consumer. e). District Industries Centre NOC, PMT SSI registration, Pollution control Board certificate and all other relevant permissions in the name of M/s. Poly Product. - f).Old T/F of 500 KVA is replaced by 160 KVA and inspection carried out by Electrical Inspector. g).Average consumption of earlier owner was 1400 units per month which went more than 35000 units per month.
- 7). As against this the Nodal Officer claims that all the above formalities are completed by the consumer as per MSEDCL's requirements. The change of name is effected as per the prescribed application form submitted by the consumer. This is done by the MSEDCL only to identify the incoming consumer. However all the other issues such as meter, consumer number, sanctioned load, location and liability against each other remains the same.

- The incoming consumer accepts this fact through the change of name procedure and the fresh agreement made with the incoming consumer.
- 8). The C.R. also referred their series of representations made to C.E.(com) dt.13.7.07 - about exorbitant bill for Nov.06, letter dt.5.7.07- about ASC/ IASC exorbitant bill, for June 07, letter dt.12.7.07 - about ASC & IASC bill for Jun 07, and letter dt.11.2.08 - about reference period of year 2005, but no reply is received. So they treated that their stand as new consumer is considered.
 - 9). As against this the Nodal Officer submits that any substantial change in the consumption cannot be a reason to consider that incoming consumer is a new consumer as demanded by the consumer. MSEDCL has followed and implemented all the MERC clarificatory orders and there is no deviation in any case. However the above points do not alter the ASC change.
 - 10). The CR submits that they approached IGRC with a request to refund various claims with respect to ASC refund from Oct.06 to April 07, May 07 to May 08 as per MSEDCL circular Njo.62, incremental ASC refund for Oct.06 to April 07 as MERC Order No. in case No.45 of 2007, Sept.08 E. Duty refund on the proportionate amount of refund and interest unpaid for respective months as per E. Act 2003 Section 62/6.
 - 11). As against the LR submits that most the points are replied under Sr.No.1 & 2 (L.No.9571 dt.26.8.09) for ASC refund. The IASC Rs.23516.00 will be refunded to the consumer through feeding B-80 in the month of Sept.09 energy bill.
 - 12). The CR vide his rejoinder dt.1.9.09 further submits that while framing the guidelines for ASC from May 07 MERC had very clear objective of

collection of extra cost on account of costly purchase made by licensee. As against earlier 25% of consumption, MERC reduced contribution to 11 % for HT non continuous units. The MERC Clarificatory order dt.24.8.07 page 10, para-6 states that “ASC will now be levied on 24% of the consumption for continuous industries and Railways, as compared to 42% earlier and on 11% of the consumption for industries facing one day staggering as compared to 28% earlier respective of the location in the State. The basic premise of objective MSEDCL can bill ASC only to the extent of costly purchase of power (Page 21 first para) . The diff. between actual power purchase quantum and ASC units billed (11% in their case) has to be refunded to consumer in the same proportion as the levy of ASC. The MSEDCL is restricted and not to allow to recover ASC on additional units on account of unintended consequences of application of formula prescribed in the order. The that MERC ruling says that due to above application and impact consumers received bills with 80 to 90% consumption by ASC rate which was not the intention while stipulating the clause (page 20). Any excess billing has to be returned to the consumer (para 21). MERC prescribed the method by which consumer should be charged ASC but unfortunately MSEDCL has taken the physical and meaning profitable to them due to which the present grievance is arisen. Such unintended meaning is prohibited by MERC but MSEDCL is stuck to it. It is not the definition of new unit or old unit to be considered but how to collect 11% of ASC is the basic objective. MSEDCL has gone far away from truth spelled by MERC so basic meaning must be taken and revise the bills accordingly.

- 13). The CR stated that it is clear from above MERC guidelines that high court or subject of consideration as per new unit is out of question now. In the case No.139 of 2008 the Commission stated that the commission is of the view that MSEDCL has indicated its willingness to refund the ASC and has filed a Petition in Case No.144 of 2008 seeking directives from the Commission for the same. Thus, the present application does not attract section 141 of the Electricity Act 2003 and the issue regarding refund of ASC and interest on it shall be decided by the Commission in case No.144 of 2008. The licensee has to charge 11% towards costly power.
- 14). After detailed discussions, interpretations and arguments on the MERC clarificatory order No.26 of 2007 and 65 of 2006 dt.24.8.07 and MERC case No.139 of 2008 regarding refund of Adl.SC and BC consideration, Shri N.C. Sankhe, Nodal Officer, Shri P.K.Tuse, Accounts Officer, agreed that the excess amount of Adl.ASC beyond 11% recovered from the consumer is required to be refunded. Thus the Nodal Officer, given his letter of commitment dt.4.9.09 in writing to the forum stating that “as per directives from MERC in respect of case No.139 of 2008 dt.17.8.09 whatever excess amount of addl. ASC recovered (more than 11%) will be refunded to the consumer in next billing cycle i.e. in the month of Oct.09”. The CR also given his letter of acceptance dt.4.9.09 in writing to the forum. Both the commitment and acceptance were countersigned each other for token of having settled the issue and exchanged the zerox copies of the same to each other.
- 15). In view of above the Member Secretary and Member passed the following order.

O-R-D-E-R

- 1) The Licensee should refund the excess amount of additional ASC recovered more than 11%, to the consumer in the next billing cycle from the date of decision in this case as agreed by the Nodal Officer on dt. 04/09/2009 (as per para 10 above).
- 2) The Compliance should be reported to the forum within 60 days from the date of decision.
- 3).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 given under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006”

Date : 08/09/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan