



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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Date of Grievance : 07/05/2012

Date of Order : 25/06/2012

Period taken : 51 Days

IN THE MATTER OF GRIEVANCE NO. K/E/537/635 OF 2011-2012 OF M/S. SAVEX SEAL PVT. LTD., VASAI (EAST) REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE BILLING.

FURTHER ORDER AS PER DIRECTION OF HON. OMBUDSMAN IN REPRESENTATION NO. 135 OF 2011 DT. 31/01/2012

M/s. Savex Seal Pvt. Ltd.,
Gala No. C - 9,
Sagar Sangam Industrial Complex,
Satali, Vasai (East),
Dist. : Thane – 401 208

} (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)

- 5) This matter has its own history. Complainant initially made a grievance with the IGRC on 13/07/2011 and then filed his grievance before this Forum on 14/09/2012 which is decided on 17/10/2011 and in fact the grievance application was disposed of, since as per Section 126 Forum has no jurisdiction.

There after matter was taken to the Ombudsman by filing the representation No. 135 of 2011 on 14/12/2011 which is decided on 31/01/2012 wherein three aspects were considered, aspect pertaining to Section 126 is kept in tact . In respect of various refunds view was expressed and third one pertaining to excess connected load penalty it was stated by the Licensee as paid, but complainant claimed it is not totally paid but partly paid to the extent of Rs. 16,754/- and still balance is about Rs. 1,80,000/-. Licensee agreed to look into it . MERC directed the Licensee to look into it within one month and if not liberty given to consumer to approach this Forum for redressal of said grievance.

Accordingly as the last aspect of excess connected load penalty is not complied in 30 days or made known to the complainant its progress, complainant filed this grievance on 17/04/2012 before this Forum once again as per liberty given by Ombudsman.

This matter was taken up on the last date i.e. 04/06/2012 when licensee was given liberty to file reply and nominee of complainant submitted that he has received a reply by E-mail. He has given reply to it also. The aforesaid actual aspect we noted down on verifying the file and hearing the nominee of complainant and Nodal Officer.

In reply given by the representative of Licensee dt 07/06/2012 copy of which forwarded to the nominee of complainant through e-mail, it is contended that connected load penalty is already refunded in one stroke in

monthly bill of April 2006 and accordingly the claim of complainant is denied.

On the aforesaid aspect we have gone through the order of Ombudsman dt. 31/01/2012 in Representation No. 135 of 2011, in Para No. 08 there is observation giving liberty to the complainant to approach with a fresh grievance application to this Forum, on the count of refund towards excess demand and capacitor penalty over and above penalty to be recovered as per the Hon. Commission's Order. The Commission's order means the order passed in MERC Case No. 02 of 2003 dt. 14/07/2005 wherein Clause 33 (e) (3) and (f) reads as under :

Clause No. 33 (e).....

(3) "Period from 1st December 2003 onwards : If exceeding the sanctioned load has been measured by maximum demand recorded by meter, then two times the tariff applicable for the exceeded portion of the load (maximum demand minus sanctioned load). No penalty will be applicable if exceeding of sanctioned load is claimed on the basis of connected load method".

(f) "MSEB shall refund any amounts collected on account of invocation of Connected Load / Power Factor Penalty not in line with this dispensation, to the concerned consumers alongwith interest at the rate applied by MSEB to their consumers, from the date of collection till the date of refund, but not later than three months from this order....."

Learned nominee of the complainant made submissions that in this matter period is covered from 01/01/2004 to 30/09/2006 i.e. 33 months and during this period sanctioned load was of 65 H.P. and tariff was to be collected at the rate of Rs. 60/- per HP and for this sanction load calculation

was to be done considering half of the sanctioned load i.e. $65 / 2 \times 60$ i.e. tariff rate which comes to Rs. 1950/-. He further submitted that for the aforesaid 33 months Licensee treated 10 HP excess used by consumer which is treated as connected load and while calculating the liability calculation is done as sanctioned load of 65 HP (+) 10 HP connected load total comes to 75 HP and it is charged at the rate of Rs. 60/- per HP which comes to (75×60) Rs. 4500/-. However, the extra connected load 10 HP which is included above in 75 HP is one again calculated at the rate of Rs. 120/- per H.P. thereby worked out liability at the rate of Rs. 1200/- per month. Accordingly now it is submitted that as per sanctioned load for 65 HP liability was of Rs. 1950/- however, by calculating the amount as stated above it is worked out to the extent of Rs. 4500/- and in addition Rs. 1200/- P.M. However, he explained said amount of Rs. 1200/- is already refunded that too as per the order of MERC and now there is no dispute on that point.

Nominee of complainant submitted dispute is about Rs. 4500/- worked out using the method of connected load procedure and of sanctioned load, difference is as under :

Connected Load System	4500/-
Sanctioned Load	1950/-

Difference	2550/-

Accordingly now learned nominee of complainant submitted in the light of aforesaid findings of MERC in Clause No. 33 read with further Clause (f) that as per directions of MERC connected load cannot be charged, as there was direction by MERC for fixing the meters for working out the excess load consumed, but due to failure of MSEDCL to fix such

meters it is not entitled to use such method of connected load system and working out penalty. He submitted as per aforesaid findings of the Commission there cannot be any such working of the connected load penalty which needs to be deleted and now difference is to be worked out of the amount paid and amount to be refunded. Amount paid is at the rate of Rs. 4500/- P. M. which was to be paid at the rate of Rs. 1950/- P. M. and difference to that extent liable to be refunded is of Rs. 2550/- per month for 33 months.

Learned nominee of complainant clarified that though Licensee contended that amount of Rs. 16,754/- is refunded, but it is a refund pertaining to amount collected towards connected load penalty which is stated above i.e. 1200/- P.M. and the said refund is granted to the extent of 18 months or so. Whatever is refunded is not pertaining to the claim being raised i.e. the amount calculated and recovered by Licensee following system of connected load which was not approved by the MERC. Now the nominee of complainant has worked out approximate refund to the tune of Ts. 1,80,000/- which covers the difference as stated above at the rate of Rs. 2550/- per month plus the interest there on as directed in Clause (f) which is at the rate made applicable by MSEB and recovering amount from the consumers.

Considering the aforesaid rival submissions, it is clear that claim of consumer/complainant which is now brought before us to the limited extent i.e. connected load penalty is required to be dealt. Said claim is appropriately placed before us by the nominee of complainant, even alongwith complaint the working of dues is provided. As per the said working total amount of refund alongwith interest is worked out to the extent of Rs. 02,01,833.02 wherein an amount of Rs. 16,754/- already

credited by Licensee as per the submission has also deducted and now net refund is shown to the extent of Rs. 01,85,079.02 . This particular working though provided to the Licensee no any defect in it or correction in it is pointed out by the representatives of Licensee. However, Nodal Officer submitted whatever calculation was done was as per the existing provision available, but order of MERC in case No. 02 of 2003 declared on 14/07/2005 hence the things remained. Now he submitted to this Forum for orders. At this stage we find that on behalf of Licensee there is no any specific reply. On the amount worked out or claimed consumer / complainant said amount is not refunded. Licensee tried to contend that an amount of Rs. 16,754/- which is credited in April 2006 in the account of consumer/complainant but factual aspect needs to be perceived and as noted above, the difference which is worked out by the consumer/complainant that too with interest as per the findings and directions given by MERC in case No. 02 of 2003 dated 14/07/2005 in para No. 33 (f) amount of refund is to be granted with interest. Said amount is of 33 months which is worked out by nominee of complainant, even interest is also worked out as directed in the clause hence this grievance application is to be totally allowed and licensee is to be directed to adjust the amount to this extent in the ensuing bills and to report within 45 days after receiving this order.

Hence we pass the following order :

O-R-D-E-R

- 1) The grievance application of consumer is hereby allowed.

- 2) Towards the aspect of excess demand capacitor penalty licensee is to refund the amount Rs. 1,85,079/- which includes interest. Said amount be adjusted in ensuing bill of consumer and to report compliance within 60 days after receiving this order.
- 3) The Consumer can file representation against this decision with the Hon. Electricity 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”.

- 4) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission 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” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

Date : 25/06/2012

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan