



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/ 0171/ 0194 OF 09-10
OF M/S. PANKAJ PACKAGING, VASAI REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE,
KALYAN ABOUT EXCESSIVE BILLING.

M/s. Pankaj Packaging
Unit No. 04, Agarwal Ind. Estate,
Sativali, Waliv,
Tal : Vasai, Dist : Thane

(Here in after
referred to
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer
Vasai (East) Sub-Division

(Here in after
referred to
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 above 20 KW consumer with C. D. 54 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 05/02/2009 for Excessive Energy Bill. The details are as follows:
Name of the consumer : M/s. Pankaj Packaging
Address : - As given in the title
Consumer No : - 001840507081
Reason of dispute : Excessive Energy Bill.**
- 3). **The batch of papers containing above grievance were sent by Forum vide letter No EE/CGRF/Kalyan/095 dated 05/02/2009 to Nodal Officer of licensee. The licensee vide it's reply vide letter No. DYEE/VSI/B/2195, dated 17/03/2009 & annexed CPL to it.**
- 4). **The consumer raised his grievances before Executive Engineer, (O&M) Division, MSEDCL., Vasai Division, Vasai (East) vide letter dated 29/11/2008. However, the said authority did not resolve his grievances & not replied to it's letter. Therefore, the consumer has filed the present grievance before this forum & the same was registered on 05/02/2009.**
- 5). **The Members of the Forum heard both the parties on 17/03/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri D.V. Mehtre, Dy.E.E. and Shri S. B. Hatkar, Asstt. Acctt., representatives of the licensee attended hearing.**

6). The representative of licensee has sought further time to produce certificate regarding completion of the 100% work of M. D. metering & on that he is directed to produce the same by 18/03/09 as sufficient time has already been granted. The licensee in it's pointwise reply dated 2195 dt. 17.03.09 claims that on completion of 100% TOD metering and as per directives given in Com. Circular No.81 dt. 07/07/08 Clause No.10.5 the MD based tariff is applied to consumer from Aug.08 & the same is correct. As against this the C. R. submits that it is not the case of Vasai Circle, this is the case of whole Maharashtra. All the nine zones should give 100% completion report to its IT section and then Head office should give information to MERC for verification and finally date of effect will be given by MERC. The MSEDCL has no authority to give such certificate. The MSEDCL circular No.81 dt.7.7.08 para 10.3 to 10.5 reads that 100% metering is not done and respective information of metering of express feeders, DTC meters and consumer data of sanctioned load and contract demand to be submitted to IT section, then to MSEDCL HO to be given ultimately to MERC for verification and finally date of effect to be given by MERC.

7). The C. R. further submits that on the clarification sought by MSEDCL, the MERC issued directions regarding power factor / incentives vide order dated 12/09/2008 in case No. 44 of 2008. In present case, MERC has not yet permitted to charge MD based tariff. So MSEDCL can not charge MD based fixed charge, P.F. penalty / incentive. Para 4 page 1 of order in case No. 44 of 2008

reads as “The commission hereby directs MSEDCL to ensure that clarifications given in this order are implemented with effect from June 1, 2008 and the consumers bills are revised accordingly. As per this, the bills are to be revised from Aug.08 and refunded the same to the consumer. However, the licensee has not done so till this date for the reasons best known to it. As against this, the L. R. submits that as per directives given in circular No.81 dt.7.7.08 clause No.10.5 the bills are issued as per MD based tariff as well as MD fixed charges. The MD tariff based bills are issued to the consumer from Aug.08. Hence the question of refund from June 2008 does not arise.

- 8). The CR submits that on the basis of above MERC order, MSEDCL has issued circular No. 88 dt. 26.9.08 vide para No.4 on applicability of PF penalty and incentive which clearly reads as its applicability only to those consumer who have both i.e. MD meters and MD based tariff. As such MD based tariff is not yet approved by MERC for LT V industries so it is illegal to charge Demand based charges, demand and PF penalty to consumers who have HP based tariff at present.

- As against this, the L. R. submits that on completion of 100% TOD metering and as per directives given in Comm.Circular No.81 dt.7.7.08 Clause No.10.5 the MD based tariff applied to consumer from Aug.08 which is correct.

- 9). The C. R. submits that inspite of such clear order from MERC and MSEDCL HO, if the licensee does not revise bills, it will be a

clear violation of Act, rules and orders of MERC which will attract sections 142, 146 of I.E.Act 2003.

- **In this regard, the L. R. submits that on completion of 100% TOD metering and as per directives given in Comm.Circular No.81 dt.7.7.08 Clause No.10.5 the MD based tariff applied to consumer from Aug.08 which is correct. Hence there is no violation of Act, rules and Order of MERC.**

10). The C. R. submits that the debit bill adjustment charges are added in bill period 5.9.08 to 6.10.08 to Rs.7366.79, bill period 5.7.08 to 5.8.08 to Rs.3911.12, bill period 2.7.07 to Rs.335.36, bill period 2.6.07 to 2.7.07 to Rs.106.00, and bill period 2.2.07 to 2.3.07 to Rs.240.20 = total Rs.11,959.47. The said total amount should be refunded or adjusted.

- **The L.R. gives the details of adjustments of Rs. 7366.79 as Energy bill arrears for Sept.08, Rs. 3911.12 as E.B. arrears for Jul.08, Rs.355.36 as TOSE @ 4% Sept.05 to Feb.06, Rs.106.00 as Tariff adjustment and Rs.290.20 as Current bill adjustment. The CR submits that he does not understand what current bill adjustment is.**

11). The CR submits that for billing period 2.8.07 to 1.9.07, the licensee has shown bill adjustment as Rs.49.95 probably as interest on the SD of year 2006-07 but MSEDCL has to give 6% interest on the SD which comes to Rs.464.40. Same is reflected in the bill for period 3.11.06 to 2.12.06 which displays 343.05 but at 6% as per RBI rate from 20th Jan.05 based on MERC directives, amount comes to Rs.464.40. The C. R. demanded to

credit the said interest in consumer's account alongwith interest on the default period as per I.E.Act 2003 Section 62.2. Same may be compounded on yearly basis and after adding in principle, respective year interest may be calculated and refunded. The C.R. demanded copy of CPL to verify the amounts.

- As regarding submission of SD original receipts, the CR attached a copy of CGRF Bhandup's order Case No.17 of 2004 dt.14.03.05 in which it has been observed that "If the record of security deposit paid earlier by previous owner is not available, record may be obtained from MSEDCL shown on bills and interest paid on that security deposit from beginning. In general practice MSEDCL does not give electric connection/supply unless all payments including SLC and SD charges are paid by the consumer. Hence it is certain that consumer has paid SD and licensee has not shown it in the bills, nor paid interest on SD". Also licensee can match the payment of SD paid /recovered from other consumer in an around this consumer and consider the same as SD. On these lines, the payment of interest on SD may be refunded.
 - The licensee stated that the consumer has been given the CPL which is self explanatory. In respect of payment of interest on SD, the licensee has agreed to take action on the payment received by them and to give effect from April 09.
- 12). Forum observations: The consumer mentioned its grievances in detail in its letter dt.24.11.08 to Executive Engineer, O&M Division MSEDCL, Vasai Division, Vasai (East) and annexed copy of the said letter and copy of covering letter

send with its such letter to the application for redressal of grievance made to this forum, and the licensee also in its reply dated 17.3.09 replied to the said grievances mentioned in the above referred letter dated 24.11.08, and therefore for the purposes of clarity, the consumer's geievances mentioned in the said letter dated 24.11.08 are accordingly discussed one after another with reasons and directions as under:

- (i). As to grievances a), b), c), & d) Excess MD charges :-
(View of Mrs. V. V. Kelkar, Member) As per licensee's reply on the subject referring circular No.81, clause No.10.5, they stated that the "the MD based tariff is applied to consumer from Aug.08." Clause No.10.5 is as follows:

"MSEDCL is thus allowed to charge MD based tariff immediately on completion of 100% metering. All Zonal Chief Engineers to immediately inform the IT centre under their jurisdiction about such completion and may also send certificate immediately to that effect to Chief Engineer (Dist).

The clause clearly states that after completion of the 100% metering the Zonal Chief Engineers are required to immediately inform IT centres under their jurisdiction about such completion for the change in charges of MD based tariff.

The licensee did not submit any letter / reply regarding above subject till to-day. Under the above circumstances I come to the conclusion that as the licensee is not able to substantiate this statement of 100% metering completion of their area, I also have a meter replacement report submitted by the licensee in another similar case No. K/E/177/201 M/s. Maharashtra Pencil

Factory, which indicates that the Electro Mechanical meter was replaced by static meter (Secure make) on 05/02/09. The date of replacement of meter is much later as compared to the period of grievance, in the present case. This confirms that the licensee has not installed the meter 100% (As per circular dated 5.2.09). Therefore the work is not yet completed and hence they can not charge MD tariff to the consumer from 05.07.08 to 05.08.08. The excess amount charged under this tariff from the consumer should be adjusted in the bills, with interest @ RBI Bank rate at rate prevailing at the date of decision of the forum.

(i) (a) As far as the grievance of consumer to the effect that the Licensee has recovered electric charges as per M. D. based tariff for the month of August 08 illegally is concerned Shri Shivdas, Member Secretary, differed from the above view taken by Sau. V. V. Kelkar, Member and therefore, the view taken and the reasons given by him for such view are separated recorded as under.

(i) (b) Para 47 of the Operative Order dt. 20/06/2008 of MERC in Case No. 72/2007, on the basis of which the licensee/MSEDCL issued Commercial Circular No. 81, dt. 07/07/08, reads as under “47. In line with Commission’s ruling in the MYT order, since MSEDCL is yet to achieve 100% MD metering for LTV industrial consumers above 20 KW (around 97% completion has indicated by MSEDCL till date), the MD tariffs for LTV industrial consumers will not be made effective. Till the MD meters are installed, MSEDCL will be allowed to charge only the earlier HP

based tariffs, though the revenue has been assessed based on MD based tariffs”.

It is clear from the above order that while passing the said order or giving the said directions, MERC relied on the report about completion of 97% given by MSEDCL/licensee, without insisting for proof about it. It is clear from Clause No. 10.5 in commercial circular No. 81, dt. 07/07/2008 issued by the MSEDCL/licensee, reproduced in above para 18 (i) that in view of the above referred order in para 47 of order dt. 20/06/2008 of MERC in case No. 72/2007, the MSEDCL/licensee issued directives to all Zonal Engineers to immediately inform IT centres under their jurisdiction about such completion and further directed that they may also send a certificate immediately to that effect to Chief Engineer (Dist). The MSEDCL/licensee through Dy. Executive Engineer, MSEDCL Vasai Road (E) S/Dn. vide say cum letter dt. 9/2/2009, claims that on completion of 100% TOD metering and as per the directives given in circular No. 81, clause No. 10.5, the MD based tariff is applied to the consumer from August 2008. Moreover, the licensee in it's circular No. PR-3/Tariff, dt. 05/02/2009 clearly stated that the MSEDCL has completed the 100% work of installation of TOD meters to LTV industries having load more than 20 KW. MSEDCL is a public institute and therefore, the same or it's officers have no personal interest to falsely say that 100% TOD metering was completed and therefore MD based tariff is applied to the concerned consumers i.e. LTV Industries above 20 KW consumers. Under such circumstances, in my

opinion, it would not be proper to insist for filing of documents about 100% completion of TOD metering. Therefore I accept the contention of MSEDCL that 100% TOD metering was completed by the end of July 2008.

(i) (c) It is clear from the provisions of 3.4.1 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code & other conditions of Supply) Regulations, 2005 that MSEDCL/licensee can recover charges for the electricity supplied as per the tariffs fixed by the Commissioner (MERC) from time to time. It is clear from the order dated 20/06/2008, passed by MERC in case No. 72 of 2007 that the Commission (MERC) fixed tariffs for LT-V industries above 20 KW consumers on HP basis as well as on MD TOD basis with a direction that the TOD tariff shall be applicable after installation of MD meters. It is true that as per para 47 in the said order, the Commission (MERC) at that time allowed the licensee to charge as per earlier HP based tariffs but it was because at that time the licensee reported that the work of MD metering was completed to the extent of 97% only. It is further made clear in the said para 47 of the said order that till the MD meters are installed, MSEDCL will be allowed to charge only the earlier HP based tariffs. Moreover, the fact that the Commission (MERC) in the said order also fixed & finalized the MD tariff or TOD tariff clearly show that the licensee was permitted to charge electricity charges as per the MD metering or TOD metering immediately after completion of 100% work of installation of MD meters, as clearly stated in the Commercial circular No. 81, dt. 07/07/2008 by the licensee. In

view of this, and since in my opinion the licensee has already completed 100% installation of MD meters as discussed above, in my opinion the licensee has correctly charged the electricity charges to the consumer as per MD tariff and therefore, such charging cannot be said to be illegal as alleged by the Consumer. Moreover in my opinion, the consumer should have approached the Commission (MERC) for his such grievance instead of this forum, as the Commission (MERC) is the Competent Authority to decide as to whether the licensee has applied the tariff correctly. For all above reasons, the consumer is not entitled for refund of or adjustment of any amount on such count. Hence I hold accordingly.

13)(i) Clause 8.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum) & Electricity Ombudsman) Regulations 2006, reads as under :

"On completion of proceedings conducted under Regulation 6, except where the forum consist of a single member, the forum shall take a decision by majority of votes of the members of the forum & in the even of equality of voles, the Chairperson shall have the second & casting vote."

It is clear from the above clause 8.1 of the Regulations 2006 that the Chairperson has been given a second or casting vote, in case of equality of votes, & it clearly means such equality of votes is meant to be equality of the votes of other two members.

(i)(a) In the instant case, there has been difference of opinion or view amongst two members, & therefore, Shri M. N. Patale, as

a chairperson will have to give the second or casting vote & the view out of the different views taken by two members, seconded by Shri M. N. Patale Chairperson will become the view of the majority & hence such view will be the decision of the forum.

(i)(b) Shri M.N. Patale, after giving due consideration to the different views expressed by two members as above, approves or supports the view taken by Shri R. v. Shivdas to the effect that considering the tariff order issued by the Commission (MERC) & circular No. 81 issued by the licensee, read with the circular dated 05/02/2009 referred & other facts discussed by him it is clear that the licensee has completed 100% installations of meters & therefore correctly recovered the electric charges as per MD tariff or TOD tariff from the consumer & therefore the consumer is not entitled for any refund or adjustment of any amount on such ground.

14). As to grievance (e) – The consumer has sought information regarding various amounts shown as adjustment amounts such as Rs.7366.79 in a bill for the period 5.9.08 to 6.2.08 (Annexure-1 (b), Rs.3911.12 in a bill for a period 5.7.08 to 5.8.08 (annexure 1(a), Rs.335.36 in a bill for the period 2.7.07 to 2.8.07 (Annexure 5 (c) , Rs.106.00 in a bill for the period 2.6.07 to 2.7.07 (annexure 5(b), Rs.240.20 in the bill for the period 2.2.07 to 2.3.07 (annexure 5(c), and further requested to refund of the said amounts if not justified. The licensee in it's reply dated 17/03/08, gave information regarding the said amounts as the amounts of E.B. arrears for Sept. 08. E.B. arrears for July 08, TO S.E. at the rate

of 4% of the period Sept. 05 to Feb. 06, tariff adjustment, current adjustments resp. The licensee further claims that the said amounts charged in the said respective bills are correct & therefore, no question of refund of the said amounts arise. On verification from CPL, the concerned amounts are shown to have of the concerned categories as claimed by the licensee. However, the licensee should further verify about the said amounts & give credit of excess amount if any, to the consumer, in the ensuing bills within 60 days from the date of this decision.

15). As to Grievance (i) – The consumer claims that the amount of Rs. 49.95 shown as bill adjustment for a billing period of 2807 to 1907 which probably is towards interest of the S.D. of the year 2006 to 2007, & the amount of Rs. 343.05 shown in the bill for the billing period 3.11.06 to 2.12.06, are infact lower than the actual interest on S.D. during relevant periods & hence claim that the licensee has not calculated such interest at the rate of 6% as per bank rate from 20th Jan. 2005 based on MERC's directions. The licensee merely filed CPL for verification. Therefore, the licensee should recalculate the interest on S.D. at the bank rate of R.B.I. prevailing at the relevant time, as per the provisions of Clause 11.11 of MERC (Electric Supply Code & other conditions of Supply) Regulations 2005 & adjust the excess interest if any, & display correct amount of S.D. in the ensuing bills within 60 days from the date of this decision.

16). As to grievance (j) : The consumer claims that the difference between MD based fixed charges & HP based fixed charges

during Oct. 06 & next four months, to be refunded, comes to Rs. 11,586=13 & the licensee should refund that much amount to the consumer. As against this, the licensee claims that such amount of difference from Oct. 06 to March 07 is Rs. 8,065=32 & the same is refunded to the consumer in May 2007 as per I.T. program me. In view of such difference in the amount of difference, calculated by the consumer & the licensee, the licensee is directed to recalculate such amount of difference & give the credit of excess amount if any, to the consumer in the ensuing bills in 60 days from the date of this decision.

- 17). In view of the findings on the grievances of consumer as above, considering the majority view on the point of MD based tariff, & unanimously on the other points, the forum passes the following order :

O-R-D-E-R

- 1) Request of consumer for the refund on the ground of applicability of MD based tariff is rejected.
- 2) The licensee should verify various amounts shown as amounts of adjustments in various bills, & give credit of excess amount if any, to the consumer, in the ensuing bills within 60 days from the date of this decision as observed in Para No. 14.
- 3) The licensee should recalculate the interest on Security Deposit at the bank rate of R.B.I. prevailing at the relevant time on the amount of correct S.D. as per Para 11.11 of MERC (E.S.C. & O.C. of Supply) Regulations 2005, & adjust the excess interest if any, & display correct amount of S.D. in the ensuing bills within 60 days from the date of this decision as observed in Para No. 15.

- 4) **The licensee should recalculate the correct amount of difference in between M.D. based fixed charges & H. P. based fixed charges & refund the amount of such excess difference if any, to the consumer & adjust the same in it's ensuing bills within 60 days from the date of this decision as observed in Para No. 16.**
- 5) **Compliance should be reported to the forum within 90 days from the date of this decision.**
- 6) **Consumer can file appeal against this decision with the Ombudsman at the following address.**

***“Maharashtra Electricity Regulatory Commission,
606/608, KeshavBuilding, BandraKurla Complex, Mumbai 51”***

Appeal can be filed within 60 days from the date of this order.

- 7) **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 : 04/04/2009

**(Sau V. V. Kelkar)
Member
CGRF Kalyan**

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

**(M.N.Patale)
Chairman
CGRF Kalyan**