



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/318/355 OF 09-10 OF M/S TUNGABHADRA HOLDING (P) LTD. MURBAD, DIST : THANE REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT REFUND OF WRONGLY COLLECTED ASC CHARGES WITH INTEREST.

M/s. Tungabhadra Holding (P) Ltd.
Survey No. 440/441,
Village : Kakadpada, Murbad-Karjat Road,
Murbad, Dist : Thane

(Here in after
referred to
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Superintending Engineer, Kalyan Circle - II

(Here in after
referred to
as Licensee)

- 1) Consumer Grievance Redressal Forum has been established under regulation of "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 (MERC) 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 H.T. consumer of the Licensee. The Consumer is billed as per Industrial tariff. The consumer registered grievance with the Forum on 08/01/2010 regarding Refund of wrongly collected ASC charges with interest. The details are as follows: -

Name of the consumer : M/s. Tungabhadra Holding (P) Ltd.

Address: - As above

Consumer No : 018019050270

Reason for Dispute : Regarding Refund of wrongly collected
ASC charges with interest.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No. EE/CGRF/Kalyan/0013, dt. 08/01/2010 to the Nodal Officer of the Licensee, and the Licensee through Nodal Officer MSEDCL Kalyan Circle-II filed reply vide letter No. SE/KCK-II/Tech/576, dt. 09/02/2010 and 379, dt. 28/01/2010.

- 4) The Members of Forum heard both the parties at length on 01/02/2010 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri B. R. Mantry & Shri O. P. Sharma, representatives of the consumer & Shri R.V. Purohit, N.O., Shri V. D. Kale, Asstt. Engr., Shri P. M. Garg, A.A. representatives 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 the parties in respect of grievance since already recorded will be referred to avoid repetition.

- 5). By the order dt. 19/01/09 in grievance application No. 166/08-09 this Forum had directed the Dist. Licensee to adjust the additional supply charges (ASC) wrongly recovered from the consumer in the ensuing current bills together with Bank rate interest and DPC. To seek directives for non compliance, part compliance or delay in compliance of the said order consumer had preferred Representation No. 42 of 09 before the Hon. MERC and that by order dt. 16/12/09 MERC disposed off the same directing the consumer complainant to approach the Forum with detail calculation sheet of refund and seek clarification as to the percentage of refund to be granted by the licensee and about "all additional supply charges". In pursuance of the same consumer filed the instant grievance.
- 6) According to the consumer at the time of hearing of dispute No. 166/08-09 the officials of the licensee had agreed to refund the amount wrongly collected as ASC with interest but has not been refunded so far, therefore, the licensee be directed to refund all ASC wrongly collected with interest as observed in dispute No. 166/08-09. Consumer by the instant grievance contended that the licensee cannot recover ASC from them in the year 2006-2007 and 2007-2008 since their unit falls in "Other Region Category". It is contended that Licensee charged and recovered ASC from the consumer more than 9% for the year October 2006 to June 2007 as mentioned in detail, in dispute No. 166/08-09. According to

consumer this recovery of ASC is against the directives of MERC mentioned as above, therefore the licensee is liable to refund the entire amount collected towards ASC for the year 2006-2007. It is further the contention of consumer that the licensee cannot charge and recover ASC from them for the year 2007-2008 since their unit falls in "Other Region Category". Their installation connected to Rural Feeder having daily load shedding of four to five hours, hence as per MERC directives in Tariff Order dt. 27/04/2007 ASC is not to be charged, however, licensee wrongly collected the same from them in the year 2007-2008 which is running in lacs and the same is required to be refunded with interest. In short, according to consumer, licensee wrongly collected from them ASC for the period 2006-2007 and 2007-2008 therefore the licensee be directed to refund the said amount with interest at RBI rate.

- 7) In contra, it is the contention of licensee that as per the MERC directives, the consumer is liable to pay ASC since their unit falls in "Other Region Category". Consumer received the benefit of reduced load shedding hours and that the ASC is to be charged based on load shedding pattern. Saralgaon Rural Feeder having planned load shedding and unplanned load shedding. In between this tariff the consumer gets benefit of the load shedding hour, therefore the consumer is liable to pay ASC and accordingly ASC was collected from them correctly.
- 8) On perusal of the record and hearing both the parties following points arise for the consideration of Forum and findings thereon for the reasons recorded below :

Points	Findings
a)Whether licensee is liable to refund more than 9% ASC collected from consumer for the year 2006-2007with interest at RBI rate ?	Yes
b)Whether licensee is liable to refund ASC collected from the consumer for the year 2007-2008 with interest at RBI rate ?	Yes
b)What Order ?	As per Order below

Reasons

9) At the outset, it is to be noted that by order dt. 19/01/2009 in grievance No. 166/08-09 this Forum unanimously observed that the licensee wrongly collected ASC from the consumer for the year 2006-2007 and also in the year 2007-2008 and all this wrongly collected ASC will have to be refunded to the consumer with interest at RBI rate. Admittedly consumer's unit falls in "Other Region Category". Based on Hon. MERC order dt. 29/09/06 the licensee should have charged ASC from such a unit @ 9%, however in the order of Forum this 9% remained to be mentioned. According to the consumer as stated above, load shedding is more than five hours and therefore licensee should not have charged ASC for the year 2006-2007. As per the MERC directives irrespective of load shedding the consumer since falls in "Other Region Category" is liable to pay 9% ASC however, Licensee charged ASC more than 9% in the year 2006-2007. On going through the order of MERC and the fact that the consumer's unit falls in "Other Region Category", the licensee erred in charging ASC more than 9% for the year 2006-2007 and that licensee is liable to refund the amount collected more than 9% as ASC with interest at RBI rate to the consumer.

- 10) So far ASC collected from the consumer for the year 2007-2008, as per the directives of MERC dt. 27/04/2007, the ASC is not applicable to the industrial consumers having more than one day load shedding. Consumer is having daily load shedding for four to five hours, therefore obviously ASC is not applicable to the consumer - industry. It is seen from the record though consumer is not liable to pay ASC for the year 2007-2008, in contravention to the MERC directives referred to above, licensee charged and collected ASC from the consumer, consequently licensee is liable to refund the said amount with interest at RBI rate to the consumer.
- 11) Consumer vide calculation pointed out that licensee is liable to refund amounts running in lacs towards ASC collected wrongly and interest thereon. As against this by reply dt. 09/02/2010 licensee averred that the amount so calculated by the consumer is not correct. When principally licensee wrongly collected more than 9% ASC in the year 2006-2007 and in the year 2007-2008, liable to refund the same. Being a matter of calculation the licensee can very well be directed to calculate the correct amount and refund the same with interest at RBI rate to the consumer within the stipulated time. In this view of the matter grievance application will have to be disposed off. Points are answered accordingly and hence the order :

ORDER

- 1) Grievance application is disposed off.

- 2) Licensee is directed to refund ASC wrongly collected more than 9%, for the year 2006-2007 with interest at RBI rate to the consumer within 30 days from the date of this decision.
- 3) Licensee is further directed to refund ASC wrongly collected for the year 2007-2008 with interest at RBI rate to the consumer within 30 days from the date of this decision.
- 4) Compliance should be reported within 30 days from the date of this decision.
- 5) 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 Bldg, Bandra Kurla Complex, Mumbai 51”

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

- 6) 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 issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003”

Date : 16/02/2010

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(S.N. Saundankar)
Chairperson
CGRF Kalyan