



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/ 177 / 201 OF 2009-2010 OF M/S. MAHARASHTRA PENCIL FACTORY, VASAI REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE BILLING.

M/s. Maharashtra Pencil Factory
Plot No. 9, Vasai Tq. Co. Op.
Industrial Estate, Achole,
Sopara, Vasai (East), 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 of the licensee with C. D. 51 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 17/02/2009 for Excessive Energy Bill. The details are as follows: -

Name of the consumer : M/s. Maharashtra Pencil Factory

Address: - As given in the title

Consumer No : - 001890274621

Reason of dispute: Excessive Energy Bill.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/133 dated 17/02/2009 to Nodal Officer of licensee. They replied vide letter No. DYEE/VSI/T/2369, dated 23/03/2009.

- 4). The Members of the Forum heard both the parties on 23/03/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri D. V. Mehetre, Dy.E.E., Shri S. B. Hatkar, Asstt.Acctt., Shri M. K. Rathod, Jr. Engr. representative of the licensee attended hearing.

- 5) Illegal MD based tariff.:

The CR submits that the licensee has charged MD based tariff to the consumer without 100% metering and its such action is illegal. He relies on zerox copy of operative order dtd.20.6.08 of MERC in case No.72 of 2007, MSEDCL circular No.81 dt.7.7.08 in support of his such contention. He further submit that as per order dated 12.9.08 of

MERC in case 44 of 2008, the licensee can not impose MD based fixed charges, PF penalty and demand penalty/incentive without MD based tariff being made applicable to the concerned consumer but in the instant case, the licensee has applied the above charges or penalties without MD based tariff being applicable to it and hence such action of licensee is illegal. He further submits that the licensee has recently on 05/02/09 changed the meter of consumer & therefore it appears that the earlier meter was not M.D. meter. In view of above allegation, the LR is directed to submit the meter replacement report. The CR further submits that thus the licensee has violated the Act, rules and orders of MERC and hence is liable for action under section 142 and 146 of the Electricity Act 2003. He further submits that therefore the licensee be directed to refund the amounts of such illegally recovered charges together with interest at the rate which it applies to the defaulting consumer.

-As against above contention, the LR submits that the licensee has applied MD based tariff from Aug.08 on completion of 100% TOD metering and as per directives given in Clause 10.5 of Com. Circular No.81 dt.7.7.08. He therefore submits that whatever charges based on MD based tariff, are recovered by the licensee from the consumer are correct and legal and therefore the question of refunding the same to the consumer does not arise.

- 6) The C.R. further submitted that, the licensee has charged M.D. fixed charges of Rs.2300/- instead of Rs. 1950/- for the billing period July 08 to Oct. 08 & therefore, the licensee is directed to refund Rs. 1226.99 with interest at the rate which the licensee applies to the

defaulting consumers. The L. R. repeats his earlier argument that on completion of 100% TOD metering & as per the circular No. 81, M.D. based tariff is properly charged to the consumer & therefore, the question of any such refund does not arise.

7. Bill adjustment: - The CR stated that the licensee has collected total Rs.2445.75 against bill adjustment. Details be given alongwith reasons for levying such charges and if not justified refund the same with interest as charged to consumer on default amount. As per CPL and parawise reply Jan.07 and May 07 it contradictory and 100% wrong. There is difference in tariff and bill adjustment. The MERC order issued in March 07 and refund effected in Jan.07 this can not justify.
 - The licensee stated that after confirming the same from IT appropriate action will be taken.
8. The C. R. further submitted that Additional Supply charges (ASC) are collected excess from Oct.06 onwards. Benchmark consumption of year 2005 is taken as 6125 unit per month. Oct.06 consumption is 2647. 91% of B.C.6125 comes 5574 units. Their consumption is less than that so ASC is not to be charged. Therefore amount refunded is 318 units $(5.15-4.00) 1.15 = \text{Rs.}365.70$.
 - For billing period 4.4.08 to 5.5.08 as above, 89% of 6125 should be 5451 but they have reduced the benchmark consumption to 4060 which is illegal and wrong so amount to be refunded is 258 units $\times 1.36 (5.36 - 4.00) = 350.88$.
 - The L. R. submitted that the case is being studied and considering the Comm. Circular No.62 dt.10.9.07, necessary refund will be given,

if applicable. On this CR stated that the Com. Circular is not applicable in this regard. Licensee should confirm the Bench mark consumption is applicable or not. ?

9. The C.R. further submitted that the licensee has to refund an amount of Rs. 10,869=51 towards the difference of M.D. based charges & H.P. based charges during the period Oct. 06 to March 07. The licensee should verify, give it's details & refund remaining amount if any. As against this, the L. R. submitted that the amount of M.D. based tariff charged from Oct. 06 to March 07 has been refunded in Jan. 07 & May 07 & a message about it is clearly given in the bill for Jan. 2007.
10. The consumer has annexed a copy of letter dated 08/12/2008 by which it has made grievances to the Executive Engineer, to it's application to the Forum & licensee has also replied to the detail grievances mentioned in the said letter, & therefore, for the gravity & clarity, the grievances mentioned by consumer in the said letter are considered one after another.
11. As to grievance numbers a to f – : The consumer claims that the licensee has charged it as per MD based tariff, even though the MERC has not yet permitted the licensee to do it & even though the licensee has not completed the work of 100% metering & though MD meter was not installed in the premises of the consumer. It further claims that the electric fixed charges as per MD based tariff imposed on consumer since Aug. 08 are illegal & therefore, the licensee be directed to refund the excess charges recovered from the consumer. As against this the licensee claims that the licensee has

completed 100% metering work & the MERC has also permitted the licensee to recover the charges as per MD based tariff from August 2008 & therefore, the fixed charges recovered by it from the consumer from Aug. 08 onwards are illegal & therefore, the licensee be directed to refund the same to the consumer.

12. Apart from the question as to whether the licensee has completed 100% metering work & whether the MERC has granted permission to recover electric charges as per MD based tariff, it is clear from the operative order dated 20/06/2008 & in case No. 72 of 2007 that for the recovery of electric charges as per MD based tariff, applicability of MD based tariff & installation of MD meters, these both things are or were necessary. In the instant case it is clear from the meter replacement report, of which copy is produced by the licensee that the old meter bearing No. 136348 with the consumer was replaced by new meter No. 57504 on 05/02/2009, & the reason for such replacement/installation given in the said report is "Electro mechanical meter", thereby clearly meaning that earlier meter with the consumer was electro mechanical meter & thus was not MD meter & it appears that MD meter was installed on 05/02/2009. Therefore, the licensee could not charge the consumer as per MD based tariff till 05/02/2009. The CPL shows that the connected load with the consumer is 61 HP & therefore, fixed electric charges as per HP based tariff comes to Rs. 1830/-. The CPL further shows that the licensee has charged the consumer with fixed charges of Rs. 1830/- upto July 2008 & obviously the same were as per HP based tariff.

CPL further shows that the licensee has charged fixed charges of Rs. 2000/- to the consumer from the month Aug. 2008 till March 2009 & obviously the same are as per MD based tariff. Thus such fixed charges of Rs. 2000/- per months charged by the licensee to the consumer for the period from Aug. 08 to Feb. 09 are improper & hence the licensee to liable to refund excess charges of Rs. 170/- per month (Rs. 2000 – Rs. 1830 = Rs. 170.00) to the consumer. Therefore, the licensee to refund total amount of Rs. 1190/- (Rs. 170 x 7 = 1190) by giving it's credit to the consumer in the next ensuing bill from the date of this decision.

13. As to grievance g : The consumer claims that the licensee should explain & justify the amounts of Rs. 888=24, Rs. 1021=96, Rs. 106=00, Rs. 429=55 shown as the amounts of bill adjustments in the bills for August 07, July 07, June 07 & Feb. 07 resp. & if not justified, refund total amount of Rs. 2445=75. The licensee has claimed that the above referred amounts are that of TOSE at the rate of 4 NP per unit from March 06 to Sept. 06, TOSE at the rate of 4 NP per unit from Sept. 05 to Feb. 06, tariff adjustment & current bill adjustment resp. The licensee has not given more details of such amounts. Therefore the licensee should give such details regarding how and of which the said amounts are adjusted in writing to the consumer with copy to this forum and if any excess amount is recovered, to adjust such excess amount in the ensuing bills of the consumer within a period of 60 days from the date of decision in this case.

14. As to grievance h : The consumer claims that the licensee has collected excess Additional Supply Charges (ASC) for Oct. 06 &

for the billing period 04/04/08 to 05/05/08. The licensee has claimed that the case is being studied & if the Commercial Circular No. 62, dt. 10/09/07 is applicable, necessary refund will be given to the consumer.

15. As far as the grievance of consumer regarding charging of excess ASC for the month of October 2006 & billing period 04/04/08 to 05/05/08 is concerned, the same is based on the contention of consumer that the B.C. be taken as 6125 units as mentioned in the bills for the period 02/01/07 to 02/02/07 & 02/12/06 to 02/01/07 (Ann. 8-a & b), & that 4060 units shown as B.C. in the concerned bill for the billing period 04/04/08 to 05/05/08 (Ann. 7) is incorrect. However, 6125 units is shown as previous years average in the bills for billing period 02/08/07 to 01/09/07 & 02/07/07 to 02/08/07 (Ann. 5-a & b) & it means that the average consumption during the year 2006 was 6125 units. In view of such difference about the B.C. in different bills as above, it is necessary to direct the licensee to verify the said fact & then take necessary further action. Therefore, the licensee is directed to verify the correct B.C. for the consumer from it's record & then recalculate the ASC for the consumer for the month of Oct. 2006 and billing period 04/04/08 to 05/05/08 & refund if any excess amount is recovered from the consumer on such count, by giving credit of such amount to the consumer in the ensuing bill after a period of 30 days from the date of decision in this case.

16. As to grievance i : It is an admitted fact that the licensee was to refund difference of M. D. based charges & H. P. based charges of the period from Oct. 2006 to March 2007 . The consumer

claims that such difference comes to Rs. 10,869=51. The licensee claims that the amount of such difference has been refunded to the consumer in January 2007 & May 2007. The licensee however, did not produce on record the CPL of the said months to show such refund. The licensee has also not clarified as to what is the exact amount of such difference & how much it has refunded. Therefore, the licensee to recalculate such difference & after deducting the amount of which credit is already given to the consumer in the month of January 2007 & May 2007 if any, give credit of the excess amount if any, to the consumer in the ensuing bills after a period of 30 days from the date of this decision.

- 17). There has been number of holidays & consequently less working days during this month. There has been also sudden increase in registration of grievances by the consumers before this Forum since last two months, as a result of which this Forum is forced to hear arguments in two cases on every day & also to decide such cases at the same rate. Therefore there has been Five days delay in deciding this case.
- 18). In view of the above discussion and considering the facts and circumstances and records of this case, the forum unanimously pass the following order.

O-R-D-E-R

- 1) Licensee should refund Rs. 1190/- by giving it's credit to the consumer in the next ensuing bill as directed in para No. 12.

- 2) Licensee should follow the directions given in above para numbers 13, 15, & 16.
- 3) Compliance should be reported to the forum within 90 days from the date of this decision.
- 4) Consumer can file representation against this decision to the Ombudsman at the following address.

*“Maharashtra Electricity Regulatory Commission,
606/608, Keshav Building, Bandra Kurla Complex, Mumbai 51”*

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

- 5) Consumer can approach Maharashtra Electricity Regulatory Commission on the following address :

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

for compliance in case of non-compliance, part compliance or delay in compliance of this decision passed under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003”, under Section 142 of the Electricity Act 2003.

Date : 21/04/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan