



Consumer Grievance Redressal Forum, Kalyan Zone  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301 -  
Ph: – 2210707 & 2328283 Ext: - 122

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IN THE MATTER OF GRIEVANCE NO. K/E/0181/205 OF 09-10 OF  
M/S. K.S. INDUSTRIES, VASAI REGISTERED WITH CONSUMER  
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT  
EXCESSIVE BILLING.

M/s. K.S.Industries	}	(Here-in-after
Gala No. 13, Tirupati Industrial Estate		referred
Navghar, Manikpur		as Consumer)
Vasai (Est) Dist.: Thane- 421 203		

Versus

Maharashtra State Electricity Distribution	}	(Here-in-after
Company Limited through its		referred
Dy. Executive Engineer		as licensee)
Vasai Road (East) Sub-Dn. Vasai		

- 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. 41 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 18/02/2009 for Excessive Energy Bill. The details are as follows: -

Name of the consumer :- M/s. K.S. Industries

Address: - As given in the title

Consumer No : 001610319781

Reason of dispute: Excessive Energy Bill.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/142 dated 18/02/2009 to Nodal Officer of licensee. The licensee replied vide letter No. DYEE/VSIT/2491 dated 30/03/2009 at the time of hearing.
- 4) The consumer has raised these grievances before the IGRC on 16/12/2008. 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 18/02/2009.
- 5). The Member Secretary and Member heard both the parties on 30/03/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri S.H.Lohar, Dy.E.E.and Shri S.B.Hatkar, Asstt.Acctt., representative of the licensee attended hearing.

6). 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 submit 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.

7). The CR stated that for billing period from July 08 to Nov.08 they have charged MD fix Rs.1600 instead of Rs.1000/- . Refund  $4 \times 100 =$  Rs.400 and in Oct.08 billing. PF penalty Rs.25,526.37 alongwith

interest as charge to consumer. On this, the Licensee submits that the bills issued in Aug.08 to Nov.08 are correct. Hence question of refund does not arise.

- 8). The CR stated that against Bill adjustment they have charged in Aug.08 Rs.630.40, Jul.07 Rs.1196.04, Jun.07 Rs.106.00 and Feb.07 Rs.1542.17. Give details of the same and reasons for levying such charges and if not justified Rs.3,747.61 may be refunded alongwith interest. The licensee submits that above amounts charged against TOSE 4 NP per unit for March 06 to Sept.06, TOSE 4 NP per unit for Sept.05 to Feb.06, tariff adjustment and current adjustment respectively.
- 9). The consumer stated that in billing period of Oct.06, MSEDCL have mentioned as SD interest for 2004-05 Rs.621.83, but interest @ 5% and 6% from Jan.05 on Rs.30,600/- comes to Rs.1530/-. So diff. amount of Rs.908.17 similarly in the billing period Nov.06, 6% of Rs.30,600/- should be Rs.1836/- but they have credited Rs.936 so balance amount of Rs.908.17 may be refunded. Total comes to Rs.1808.17 alongwith interest. The licensee submits that the interest given for year 2004 and 2005 in Oct.06 for Rs.621.83 will be confirmed and if wrong the same will be refunded.
- 10). The CR submits that from Oct.06 to Mar 07 the licensee had to refund difference of MD based charges and HP based charges to Rs.8,903.68 (Oct.06 charged 4558.88 less actual 1500 = 3058.88 and Nov.06 to Feb.07 charged 2961.20 instead of actual 1500 – diff.1461.20 x 4 months = 5844.80). Verify the same and if refunded any amount give details. The licensee submits that the MD based tariff charged from Oct.06 to Mar 07 has been refunded in Jan.07

and May 07. – On this CR stated that the MERC order is came out in May 07 then how the licensee has refunded the same in Jan.07. Licensee submits that they will again verify the record and will act accordingly.

- 11). The CR stated that Addl. supply charges (ASC) in the billing period Feb. Mar and Apr.08, 02.02.08 to 05.05.08 needs to be revised. Benchmark consumption(BC) of 3563 units threshold 11% comes as 3171 units for 3 months = 9513 units. Balance from 22499 units comes 12,986 units whereas they have charged for 16158 units so difference comes 3172 units x 1.36 (5.36 less 4.00) = Rs.4313.92 is to be refunded with interest. The licensee submits that the ASC charges levied in May 08 will be revised and will be refunded .
- 12). IASC refund: The CR submits that MERC directed to refund IASC from Oct.06 to Apr.07 period who have contributed to ASC as per MERC order in case No.45 of 2007 dt.17<sup>th</sup> Sept.08. Billing period Jan.07 – Rs.719.90, Feb.07 – Rs.126.72 and Mar.07 – Rs.96.36 – refund amount total Rs.942.98.-- IASC to be refunded as per MERC order in case 45 of 2007 Rs.942.98. The consumer further submits that Interest at the rate being charged to consumer on default period i.e. 12% for first 3 months, 15% for next 3 months and 18% for period there after as per tariff booklet to paid on respective period and amounts as mentioned all above provisional refund comes to Rs.45,642.73 + interest as mentioned above. This may be refunded. The licensee submits that after confirmation from IT section regarding refund of IASC suitable reply will be given.
- 13). The consumer stated that after receipt of CPL he found some irregularities and therefore he submitted a rejoinder. As per his

rejoinder dtd. 30.3.09 he states that on the basis of connected load, excess load penalty is charged. Sanctioned load -50 hp excess load - 6 Hp. As per MERC order in case No.2 of 2003 dt.14.7.05, penalty is to be charged on SL –  $50 \times 60 = 3000$ , MSEDCL has collected Rs.3360/- . Penalty – 5 month  $\times 120 = 720$  correctly charged. Jul.03  $1 \times 90 = 30$  excess charged. This is charged for 6 months. It is to be refunded alongwith interest (Rs.4575/-). As against this, the licensee did not give any record till to day.

- 14). The CR further stated that since MD based tariff charged from Aug.08 by MSEDCL, PF was 0.92 upto Sept.08. In Oct.08 the PF is shown suddenly as 0.09 and PF penalty of Rs.25526.37 was charged. Technically this is an impossible criteria. The load is less and capacity of capacitor is more. So MSEDCL to refund the PF penalty. The licensee did not give any record till to day.
- 15). The CR added that SD since Jan.01 shows in CPL as Rs.30,600/- but interest credited by MSEDCL is almost half of the required interest rate. The rate of interest from Dec.04 upto 2008 is drawn out to Rs.7348.44, as per his statement. He demanded licensee may verify the same and refunded it with interest. The licensee did not produce any record till to day.
- 16). The consumer has registered following grievances:
  - a). Illegal MD based tariff charged to LT V above 20 KW load
  - b). Amount collected under bill adjustment (no explanation)
  - c). Oct.06 and Nov.06 bill displayed SD Rs.30,600/- . But interest is wrongly shown. It does not tally with the SD amount. Confirm the amount and interest given and refund the amount.
  - d)., Less refund of MD fixed charge during Oct.06 to Feb.07.

- e). May 08 bill shown 3 month's consumption but chief power units considered for one month and balance units are charged with ASC rate. So excess charged amount is to be refunded.
  - f). Incremental ASC collected is not refunded as per MERC case No.45.
- 17), Nature of relief sought from Forum.
- a). Illegal and excess amount collected as above to be refunded.
  - b). Interest should be given by MSEDCL as they charged to the consumer on fault amount.
  - c). SD + unpaid interest to be refunded.
  - d). MERC order is violated. Get assurance that it is not violated repeatedly or Electricity Act 2003 Sections to be evoked.
  - e). Interest on refund for default delayed period be given.
  - f). Compensation of Rs.2000/- for misleading adjustment of ASC done so as to extract amount without consumer's knowledge.
- 18). Forum observations:
- (i). 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.

19)(i) Clause 4.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum) & Electricity Ombudsman) Regulations 2006, reads as under :

*”(a)....(b).....*

*“(c) Provided also that where the Chairperson is absent from a sitting of the forum, the Technical Member, who fulfills the eligibility criteria of sub clause (b) above shall be Chairperson of such a sitting. 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 event of equality of votes, 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. In this case Chairperson is absent in sitting hence majority shall be considered on the decision of the Member Secretary.

- 20). Collected amount under debit bill adj. with no details. To be verified and if not justified, to refund:- The licensee should explain the calculation of the bill under various heads to the consumer in writing and satisfy his queries. If any excess amount collected under bill adjustment count same may be adjusted in ensuing bill within 60 days.
- 21). Oct.06 & Nov.06 bill displayed SD Rs,30,600/- but interest is wrongly shown. It does not tally with the SD amount. Confirm the amount and interest given and refund the amount:- The licensee should confirm about the interest paid to the consumer vide letter No. 2491 dated 30.3.09 and rectify the calculation mistake, if necessary, and arrange to pay the correct amount of interest to the consumer within one month from the date of this decision. As licensee did not reply to the rejoinder given by consumer dtd.30.3.09 till to day, the licensee is directed to confirm the interest given on Security Deposit of Rs.30,600/- for the period Dec.04 to July 08, if paid less interest same be refunded to the consumer after confirmation within 30 days, From the date of this decision. As per rejoinder the consumer claims for the interest difference Rs. 7348.44.
- 22). Less refund of MD fixed charge during Oct.06 to Feb.07 :- The consumer has asked for refund of MD fixed charges to which the licensee has submitted a reply that vide letter No.2491 dt. 30.3.09 that the same has been refunded in Jan.07 and May 07 bills. As per

consumer, the amount refunded under this head is not full and the amount is partially refunded. Licensee should recheck the same and refund the amount, if any, by next billing cycle from the date of this decision.

- 23). May 08 bill shown 3 month's consumption but cheap power units considered for one month and balance units are charged with ASC rate. So excess charged amount is to be refunded:- The consumer has asked for the refund of ASC charges to which the licensee has replied that the charges will be revised and will be refunded as per their letter No. 2491 dt. 30.3.09.
- The licensee should arrange to carryout the calculations for the revised ASC charges and refund should be given within one month from the date of this decision.
- 24). Incremental ASC collected is not refunded as per MERC case No.45:- The consumer has asked for the refund of IASC charges as per the MERC order 45 dt.17.09.08. The licensee should recalculate and refund the IASC charges, if any, as per MERC order 45 dt. 17.06.08, within 30 days from the date of this decision.
- 25). The licensee should recalculate the excess load penalty charged to the consumer( As per consumer's rejoinder dt.30.3.09) as per request of consumer and refund the excess amount, if any, as per MERC order No.2 of 2003 dt.14.7.05, within 30 days from the date of this decision.
- 26). The licensee should study the consumption of Oct.08 bill in which P.F. shown as 0.09. The P.F. 0.09 is not technically correct hence the licensee is directed to verify the MRI reports of this connection, and verify the KWH and KVA readings. After confirming the readings

from MRI report, P.F. should be recalculated. The licensee should refund P.F. penalty if P.F. given is wrong after confirming from MRI report within 30 days from the date of this decision.

- 27). There has been No. of holidays and consequently less working days during this month. There has also been sudden increase in registration of grievances by the consumers before this forum since last two months, as result of which this forum is forced to hear arguments in two cases on every day and also to decide such a cases at the same rate. Therefore, there has been 10 days delay in deciding this case.
- 28). After hearing both the parties, studying all available documents submitted by licensee as well as consumer, majority view on the point of charging as per M. D. based tariff, and unanimous decision on other points, the forum passes the following order.

O-R-D-E-R

- 1) Prayer of consumer for the refund of the amount of electric charges recovered by licensee as per MD based tariff or TOD based tariff, Demand Charges, P. F. Penalty, alleged excess charges recovered by licensee is rejected.
- 2) Licensee to follow the directives about (a) bill adjustment, (b) security deposit (c) Difference of MD based charges and HP based charges, (d) ASC charges (e) IASC charges (f) P.F. penalty, as described above in respective paras.
- 3) Prayer of consumer for issuing warning to & imposing penalty on the licensee, is rejected.

- 4) The compensation of Rs.2000/- as demanded by consumer, is hereby rejected.
- 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, Keshav Building, Bandra Kurla 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 : 27/04/2009

(Sau V. V. Kelkar)  
Member  
CGRF Kalyan

(R.V.Shivdas)  
Member Secretary  
CGRF Kalyan