



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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Date of Grievance : 02/07/2012
Date of Order : 14/09/2012
Period Taken : 72 days

IN THE MATTER OF GRIEVANCE NO. K/E/625/743 OF 2012-2013 OF
SHRI DILIP M. BULCHANDANI, ULHASNAGAR REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN
ABOUT EXCESSIVE ENERGY BILL.

M/s. Dilip M. Bulchandani,
U. No. 9, Sheet No. 20,
Opp. Anil Timber Mart,
Ulhasnagar – 421 003

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer,
Ulhasnagar Sub-Division No. 3

(Here-in-after
referred
as licensee)

(Per Shri. Sadashiv S. Deshmukh, Chairperson)

- 1) This 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. The regulation has been made by the Maharashtra Electricity Regulatory Commission vide powers conferred 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 consumer of the licensee. The Consumer is billed as per industrial tariff. Consumer registered grievance with the Forum on 02/07/2012, for excessive energy bill.

The details are as follows :

Name of the consumer :- M/s. Dilip M. Bulchandani

Address: - As given in the title

Consumer No : - 021510381171

Reason of dispute : Excessive Energy Bill.

- 3) The set of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/0533 dated 02/07/2012 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/Ulh-Sub-III/CGRF/1255, dated 03/08/2012 through Dy. Executive Engineer, Ulhasnagar Sub-Division No. 3.
- 4) We heard both the sides, consumer in person and on behalf of licensee Deputy Executive Engineer, Mr. Shendge, Nodal Officer, Mr. Giradkar and Assistant Engineer, Mr. Kasal attended and made submissions.
- 5) Matter in dispute pertains to consumer's meter No. 2777321 whereby the bill is issued on 01/12/2011 for Rs. 20,330/-. The said bill is paid on 02/01/2012. But towards the said aspect though inspection was conducted on 02/07/2011 and 09/11/2011, consumer has raised a dispute on 30/08/2011. Accordingly, as his grievance is not redressed, he approached this forum on 28/06/2012. Even prior to it, he has approached Deputy

Executive Engineer on 09/04/2012 raising a dispute. Precisely, as perceived from the dispute, it is seen that consumer is having one consumer number and two meters. Meter No. 2777321 as contended by the officer of licensee is not used for industrial purpose but for commercial purpose i.e. towards embroidery and thereby load on it is considered as commercial and quantum of amount of Rs.20,330/- is worked out towards it and it is demanded. However, consumer contended that its use cannot be said to be commercial, it is part of manufacturing activity and it is industrial use.

- 6) Both sides made submissions in tune with their stand. There is no dispute about the fact that the consumer having two meters. One is using for the purpose of manufacturing of furniture. The said meter bears No. 000666 about which no dispute is surviving as per the submissions made by both the sides on the last day of submission i.e. on 28/08/2012. Dispute is now just limited to the meter No. 2777321. The said meter is also removed in February-2012. Accordingly, disputed amount is of Rs. 20,330/- which is worked out treating the consumption for commercial use rather than industrial use.
- 7) In this matter, in reply on behalf of consumer pertaining to this use, contention is raised as under -

‘(1) The connection was given for industrial use, but as per inspection report commercial use found in the premises as embroidery work.

(2) Embroidery work means decorating part of clothes. Hence it should be under commercial category.’

Accordingly, bill is issued and as stated above, it is disputed. Subsequently that amount is paid but dispute is now brought before this forum.

Consumer maintained his stand contending that connection is taken for industrial purpose, it is used for industrial purpose and doing embroidery work using the energy to a machine installed therein amounts to manufacturing activity. As the said work is done on a mass scale as per the order placed and embroidery work is done not singularly or on the personal skill of any artist, but it is done on the machine as per the sample provided and said work is done on the garment provided hence it is industry. Accordingly he submitted it is a work done on machine, which is worth more than Rs. 2.00 Lakh engaging the labourer on it. Average monthly income from it is of Rs.15,000/- to Rs.20,000/-. Accordingly, it is contended that throughout Ulhasnagar there are so many embroidery machines doing work on mass scale, not on the basis of multiple consumers. Single unit is run on the basis of piece work. It is claimed that in the garment industry when final product is prepared, on it so many different additions are done by different modes and embroidery is one of it. It may happen that patches of embroidered material may be provided as ordered or such embroidery work is done on the provided garment itself. It is contended that when any product is finalized it is going through different processes and units wherein different work is done on it. Accordingly, it is contended that work of consumer pertaining to embroidery cannot be said to be commercial one. It is not of doing any embroidery work for a person for one or two pieces, but work is done on hundreds of garments and hence it cannot be said that it is merely commercial activity and not manufacturing activity.

- 8) On behalf of licensee, it is maintained that there is no final product as such prepared by the consumer hence it is not coming within the four corners of classification of industry approved by MERC. Accordingly, licensee stucked up to its stand.

- 9) On behalf of consumer as well as licensee, it is clarified that said embroidery work is no more being done there and consumer has opted for the other manufacturing activity and there is no dispute about future period, but dispute is of previous period bill, which is to the tune of Rs.20,330/-.
- 10) On behalf of licensee an attempt is done to contend that this is an aspect covered u/s.126 of the Electricity Act and it is amenable for appeal whereby jurisdiction of this forum is barred. However, consumer contended that this is not an action coming without four corners of section 126, but it is utilizing the energy for industrial purpose only and hence mere using a word that it covers under section 126 will not oust jurisdiction of this Forum, Section 126 will not be applicable.
- 11) On close reading of inspection reports dated 02/07/2011, 09/07/2011, it is not in dispute that embroidery machine is used utilizing the energy provided for industrial use. The consumer at length stated how embroidery work amounts to industrial use and we find, there is work in mass scale that too on a machine with the help of labourer. It cannot be classified as doing a mere singular work of art at the instance of multiple customers during the day or a month.

Herein consumer is doing the said activity in mass scale as per the orders placed as per the design given and hence it has its own different status. In the garment industry there may be different parts prepared by different units and if those are bought together one full garment will be available but the other units, which are doing independent act are to be considered in a proper spirit. We may quote here the automobile industry around main unit so many minor small scale industries are developing wherein small parts are prepared and provided or on the parts already prepared work is done on it such as electroplating etc. in mass scale and all these units are one way or

the other adding to the value. Those activities in no way can be said to be a commercial activity but it is to be treated as an industrial activity. On this line, we find, this is an aspect coming within the four corners of industrial use and not commercial use. It is not an activity of selling items or purchasing in lot and selling in lot, but it is an aspect of doing something in production by way of adding value and hence we find, this is an activity of industry. No doubt, in the classification provided by the MERC industrial use is not specifically defined. But MERC clarified that for applying Industrial tariff the activity in the unit must entail manufacturing. We find said aspect is considered and elaborated by Hon. Ombudsman Mumbai in Representation No. 10 of 2010 in the Order dt. 05/03/2010 in M/s. Envicore Lab. Pvt. Ltd. V/s. MSEDCL. Said aspect at length clarified in Para 23 of the order. Interpretation of manufacturing is dealt therein which we require to accept.

Considering the aforesaid analysis, we find, in this matter use is industrial and not commercial. In no way, it can be said that it is an unauthorized use. Even there is no order of provisional assessment or final order under Section 126. Hence, we find, section 126 will not be applicable. This forum has jurisdiction. Hence liability worked out to the tune of Rs.20,330/- as per the conclusion arrived at by the officers of licensee is not correct. Hence, the said act of licensee working out the liability is not in tune with law and hence the payment done by the consumer is required to be refunded adjusting it in his other ensuing bills. In result, this grievance is to be allowed.

I agree

(Sadashiv S. Deshmukh)
Chairperson, CGRF Kalyan

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

View of Member Secretary (Shri R. V. Shivdas) :

I have gone through the above reasoning. I am not agreeing to it. The action of Licensee for charging commercial tariff instead of industrial tariff is correct. The connection was given for industrial use but as per inspection report commercial use found in the premises as Embroidery work. This matter involves under Section 126 of Electricity Act 2003. As per Clause No. 6.8 (a) of MERC Regulation (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006 this Forum has no jurisdiction to entertain the matter. Grievance application of consumer to that extent is to be dismissed.

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

Hence the order by majority :

ORDER

- 1) Grievance Application No. 743 of 2012-13 of consumer is allowed. The bill issued by the officers of licensee dated 01/12/2011 found not in tune with law and thereby payment done by complainant on 02/01/2012 to the tune of Rs.20,330/- requires to be refunded by way of adjustment in the ensuing bills.

- 2) Compliance be reported within 45 days from the date of receipt of this order.
- 3) The Consumer if not satisfied 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 : 14/09/2012

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

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan