

Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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Date of Grievance : 07/05/2012
Date of Order : 25/06/2012
Period taken : 51 Days

IN THE MATTER OF GRIEVANCE NO. K/E/540/638 OF 2011-2012 OF M/S. S. V. P. PACKING INDUSTRY PVT. LTD., VASAI (EAST) REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE BILLING.

FURTHER ORDER AS PER DIRECTION OF HON. OMBUDSMAN IN REPRESENTATION NO. 07 OF 2012 DT. 03/02/2012

M/s. S.V.P. Packing Industry Pvt. Ltd.,
Gala No. C - 4,
Sagar Sangam Industrial Complex,
Sativali, Vasai (East),
Dist. : Thane – 401 208

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer
Vasai Road (East) Sub-Dn.
Vasai, Dist. Thane.

(Here-in-after
referred
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 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 with 65 HP load. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 20/09/2011 (original case) for Excessive Energy Bills. The details are as follows: -
Name of the consumer :- M/s. S.V.P. Packing Industry Pvt. Ltd.
Address: - As given in the title
Consumer No : - 1)002170780097 – 65 HP
2)002170283999 – Single Phase
Reason of dispute : Excessive Energy Bills.
- 3) The set of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/311, dated 09/05/2012 to Nodal Officer of licensee. Licensee filed letter No. DYEE/VS/I/T/03895, dated 07/06/2012 from Dy. Executive Engineer, Vasai Road, East Sub-Division.
- 4) This matter is taken up for hearing on 08/06/2012 alongwith other group of matters i.e. grievance No. 635, 637 and 639. We the Members of the Forum heard both sides, Shri Harshad Sheth nominee of consumer made submissions and on behalf of licensee Shri S. R. Purohit Nodal Officer assisted by Shri Naik Dy. Executive Engineer made submissions. Though they argued at length in grievance No. 635 of 2011-2012 which is taken up

again as per the order of Hon. Ombudsman in Representation No. 135 of 2011 in this matter they adopted the same legal aspect herein. Even the previous order in said grievance 635 of 2011-2012 was before the Hon. Ombudsman in Representation No. 135 of 2011 decided on 31/01/2012.

- 5) Precisely this grievance is brought before us in a second round that too as per the order of Hon. Ombudsman in Representation No. 07 of 2012 decided on 03/02/2012. Before the Hon. Ombudsman the consumer has raised the grievance pertaining to refund of Security Deposit, Additional Security Deposit and even claimed refund towards excess demand and capacitor penalty. Hon. Ombudsman decided the aspect pertaining to refund of Security Deposit, Additional Security Deposit as per the decision in other matter i.e. Representation No. 135 of 2011 decided on 31/01/2012. Representation No. 07 of 2012 is decided with Representation No. 135 of 2011 as the matter was same, arguments were same from both sides. However, one aspect is dealt separately in Para No. 06 of the order dt. 03/02/2012 pertaining to the refund of excess demand and capacitor penalty in this matter. Precisely said aspect dealt by Hon. Ombudsman, reads as under :

“As regards refund of excess demand and capacitor penalty, records show that an amount of Rs. 96,122/- was refunded by the Respondent in April 2006, in compliance of Commission’s order dated 14th July 2005. There is nothing on record to show whether the Appellant pointed out any error or infirmity in compliance of the Commission’s order by the Respondent, for over 5 years, until it submitted a letter to the Respondent on 7th July 2011. The Respondent is directed to look into the same and take appropriate action in this regard, in a period of thirty days hereof, with liberty to

the Appellant to file fresh grievance thereafter, if any, in this regard, before the Forum.”

In this regard learned nominee of consumer submitted after the order of Hon. Ombudsman the concerned were moved but there was no any compliance as such and hence present grievance is placed before this Forum on 17/04/2012 and after complying the necessary details, proper application in Schedule 'A' dated 26/04/2012 is filed which is received in this Forum on 07/05/2012.

Learned nominee of consumer brought to our notice that aspect pertaining to refund of excess demand and capacitor penalty is dealt long back by Hon. MERC in Case No. 02 of 2003 decided on 14/07/2005 and accordingly when this aspect was brought to the notice of Hon. Ombudsman aforesaid directions are given and now this grievance is filed. He submitted admittedly an amount of Rs. 96,122/- is credited by the Licensee in April 2006, however the total claim towards refund of excess demand and capacitor penalty alongwith interest as provided therein is of Rs. 09,06,462.94, from it deducting an amount credited in April 2006 i.e. Rs. 96,122/- balance still remains to the extent of Rs. 08,10,340.94. He referred to the statement relied on by him calculating the figure with interest that too as per the directions of the Hon. Commission. Accordingly he submitted now this grievance is limited to this extent and on behalf of Licensee there is no any compliance as such to this extent this complaint be allowed and directions be given for refund of said amount.

On behalf of Licensee the Nodal Officer made submissions and reply is placed on record dt. 07/06/2012 received on 12/06/2012 wherein it is contended whatever penalty against connected load collected from consumer is already refunded in one stroke in the monthly bill of April 2006.

In addition Shri Purohit submitted that the actual working is done as per the prevailing system but order of Hon. Commission in case No. 02 of 2003 is declared on 14/07/2005 and hence no any malafide can be attributed towards it and now appropriately this Forum is to decide the matter.

It is seen sanction of load for the consumer was 65 HP, however during the disputed period excess load was of 44.5 HP. Accordingly calculation is done by the Licensee including both those loads i.e.

$65 + 44.5 = 109.5 \text{ HP} \times 60 = 6570$ and in addition again amount is calculated on the excess consumption i.e. $44.5 \times 120 = 5340$ and it is collected to the tune of 11910, however it was to be collected only to the extent of $65/2 \times 60 = 1950$. Accordingly as submitted by the nominee of consumer additional amount is collected to the extent of Rs. 9960/- per month for 33 months from January 2004 to September 2006 and on this basis he submitted calculations are done by him and already whatever refund is given in April 2006 is deducted and balance is worked out to the extent of Rs. 8,10,340.94 which he has sought refund and directions to the Licensee.

We find the contention raised by representative of Licensee is of denial in the first instance but there is no any support as such for not paying the balance amount. The order of Hon. Commission is passed long back and its compliance in proper sprit is not demonstrated. Consumer has already brought it to the notice of Hon. Ombudsman wherein liberty is given to the Licensee to consider it and if not considered consumer is directed to this Forum. Accordingly though non compliance is denied, there is no any specific dispute raised in the quantum and calculations done by nominee of consumer for the due amount of Rs. 8,10,340.94, hence we find the claim is in consonance with the order of Hon. MERC Case No. 02

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of 2003, d. 14/07/2003 and directions of the Hon. Ombudsman, accordingly
this complaint is to be allowed.

Hence we pass the following order :

O-R-D-E-R

- 1) The grievance application is hereby allowed.
- 2) The Licensee is directed to refund the amount of Rs. 08,10,340.94 by adjusting it in the ensuing bill of consumer and report compliance within 60 days from the date of receipt of this order.
- 3) The Consumer 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, 003, 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 : 25/06/2012

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan