



Consumer Grievance Redressal Forum, Kalyan Zone  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
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No. **K/E/770/927 of 2013-14**

Date of Grievance : **18/02/2014**

Date of Order : **30/04/2014**

Total Days : **72 days**

**IN THE MATTER OF GRIEVANCE NO. K/E/770/927 OF 2013-14 IN RESPECT OF M/S. SANTOSH ICE & COLD STORAGE, AT E-68 MIDC BOISAR (R).TARAPUR INDUSTRIAL ESTATE, TAL. PALGHAR, DIST.THANE REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING EXCESSIVE ENERGY BILL.**

M/s. Santosh Ice & Cold Storage,  
E-68, MIDC, Boisar ( R ),  
Tarapur, Ind. Area, Thane (Dt) Maharashtra,  
Pin Code 401506  
(Consumer No. **003019009318-H.T**)

.... (Hereafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution  
Company Limited through its  
Nodal Officer, Exe.Engineer (Admin)  
Vasai Circle, Vasai,

.... (Hereinafter referred as Licencee)

Appearance :For Consumer- Mr.Pandey-consumer's representative &Officer of Consumer  
For Licensee - Shri Purohit-Nodal Officer and Dy. Executive Engineer.  
Shri S.P.Kohle-Asst.Engineer.

(Per Shri Sadashiv S.Deshmukh, Chairperson)

1] Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003.(36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory

Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Electricity Supply Code and other conditions of supply) Regulations 2005’. Hereinafter referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005.’ Hereinafter referred ‘SOP’ for the sake of convenience.

2] Consumer is having HT supply bearing consumer No. 003019009318-H.T. Consumer complained to the Licencee on 7/8/2008, stating that abnormal FD is recorded, meter be tested. Again letter was issued on 25/6/2008 with similar request and on 17/3/2009, prayer changing the defective meter and he is ready to pay cost. There was no any proper response. However, said meter is changed by Licencee on 5/1/2010 and at the instance of consumer, it was tested in the Licencee’s Laboratory at Bhandup on 17/4/2013 and report is issued on 25/4/2013, observing that ‘meter generally not found in order’. Consumer sought refund of amount recovered from 7/6/2008 till said meter was changed i.e. 5/1/2013. He approached IGRC for the said relief on 28/12/2011 and one more application during the pendency of it on 6/3/2012 IGRC decided the matter on 4/12/2013 directing that said meter found defective and Licencee to take action as per MERC Regulation 15.4.1 of Supply Code and to resolve the grievance within 60 days. In spite of said order there was no compliance. Hence, consumer approached this Forum on 18/2/2014.

3] On receiving the grievance of consumer, letter was issued to the Nodal Officer of Licencee vide No. EE/CGRF/Kalyan/080 dated 20/2/2014 enclosing with it copy of grievance and other accompaniments. In response Licencee appeared and filed reply on 2/4/2014.

4] In the light of reply given by Licencee and rejoinder filed by consumer on 21/4/2014, we heard both sides and on the basis of this material following factual aspects are disclosed:-

a] Consumer is having HT supply and there was no dispute up to April 2008. As per the contention of the consumer, dispute cropped up from May 2008 as MD was found abnormal. About this abnormality consumer informed the Licencee on 7/6/2008 and 25/6/2008 for testing the meter. When there was no any response, on 17/3/2009, again it requested the Licencee to change the meter and show willingness to bear meter charges.

b] Consumer's prayer and pursuance ultimately taken note by Officers of Licencee and meter was changed on 5/1/2010 by replacing old meter No. 02624334. When new meter was installed, replacing the old meter, consumer experienced that new installed meter is giving proper readings as it was seen prior to April 2008. Then the Licencee was requested to test the old meter. It is seen from order of IGRC that in the first testing in the Laboratory of Licencee meter was found OK, but consumer was not satisfied. He requested for testing the meter appropriately with appropriate situation prevalent in the factory and accordingly said meter is tested in the Licencee's Lab at Bhandup on 12/4/2013. Said Laboratory submitted report on 25/4/2013 and it is forwarded to the Licencee on 13/5/2013. In the said testing report, remark is given by said laboratory that '**meter generally not found in order**'. This aspect is dealt by IGRC, when consumer approached IGRC on 28/12/2011 on 4/12/2013 concluding that as per meter testing report of Bhandup Laboratory. It is a defect in meter and directed the Licencee to act as per 15.4.1 of Supply Code.

c] In spite of said direction of IGRC, there is no compliance, hence consumer approached this Forum on 18/2/2014 to which Nodal Officer filed reply and argued, on behalf of the consumer, consumer's Officer and representative argued.

5] In the light of above admitted facts and as disclosed from the order of IGRC that during the testing of meter at Bhandup, it was found defective and once,

it is disclosed to be a defective meter then MERC Regulation 15.4.1 (Supply Code) applies. In this regard, Nodal Officer who is also signatory to the IGRC order, came up with the contention before this Forum that as per said clause 15.4.1, benefit can be extended to the consumer only for three months. While stating so, it is contended that during testing of the meter it was not possible to point out the date from which the meter turned defective. At this stage, it is just necessary to read said Regulation 15.4.1.

“ 15.4.1: Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the consumer's bill shall be adjusted, for a **maximum period of three months prior to the month in which the dispute has arisen**, in accordance with the results of the test taken subject to furnishing the test report of the meter along with the assessed bill.”

On bare reading of this Clause, position is clear that consumer is entitled to the benefit and it is available for three months prior to the date of dispute. Consumer has raised dispute on 7/6/2008, followed by one more letter on 25/6/2008 in addition on 17/3/2009 sought new meter and shown readiness to bear charges. His cry for two years became fruitful, partially on 5/1/2010, when Officers of Licencee were pleased to change the meter. In spite of the fact that consumer was crying about defective meter, it turned to be true on 17/4/2013 when test report of Bhandup Laboratory of Licencee concluded that meter not found in order. It is a fact that consumer's request from 7/6/2008, till meter was change on 5/1/2010 with allegation of defect was subsisting. Apprehension of consumer found to be correct during meter tested in Licencee's Laboratory at Bhandup on 25/4/2013 and in this light consumer sought refund of the amount from May 2008 till 5/1/2010.

6] In reply to it, as noted above, Nodal Officer tried to say that exact period of defectiveness is not known, hence, relief can be given only for three months.

7] We find, consumer's claim about defective meter commenced from May 2008 by writing letter on 7/6/2008, though meter was changed on 5/1/2010. Consumer's plea found correct during the meter testing in Licencee's Lab Bhandup, on 25/4/2013 and there is no fault on the part of the consumer, for the period during which defect developed and continued, promptly consumer brought it to the notice of Officers of Licencee. We find consumer is at receiving end and Officers of Licencee dealt it as stated above leisurely till 25/4/2013 and fanatic reply is given that period of defectiveness is not known. We find, defect has to be traced back from May 2008, itself as consumer in the very month on receiving bill of May 2008, has complained. Hence, there is no reason to limit relief, only for three months. Three months reference in 15.4.1 of Supply Code, pertains to prior period of dispute arisen. Even that analogy is applicable only when there is any flaw noted by Licencee at its own, such as meter running slow and liability of consumer arises. But herein, the position is otherwise, hence consumer is entitled to relief from May 2008 till 5.1.2010 i.e. from the date of complaint and period shown therein till meter was replaced and hence Licencee is to work out the liability of consumer on the basis of the liability which consumer charged prior to May 2008 i.e. taking average of 12 months prior to May 2008 and said average is to be charged from May 2008 till 5/1/2010 and the difference of the amount, which consumer has already paid and actual liability now to be worked out be refunded to the consumer. In the result, this grievance is to be allowed.

8] This matter could not be decided within the prescribed time as Licencee filed reply on 19/4/2014 and consumer filed rejoinder on 21/4/2014.

Hence the order.

**ORDER**

- 1] Grievance of consumer is hereby allowed.
- 2] Meter of consumer found defective from May 2008 and said meter replaced on 5/1/2010, defect continued during that period which is confirmed by testing in Licencee's Lab at Bhandup on 25/4/2013. Hence Licencee to work out the liability on the basis of average billing of 12 months prior to May 2008 and said average is to be applied for the period from May 2008 to 5/1/2010.

Considering the said liability, Licencee to deduct from amount which consumer has already deposited and refund to the consumer the balance amount.

This particular amount be refunded within further six months by adjusting in the bills and if, anything balance remains it be paid by cheque to the consumer.

- 5] This exercise towards compliance be done within 30 days from the date of this order and compliance be reported within further 15 days.

Kalyan.

Dated:30/4/2014

I agree

I agree

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

(Chandrashekhar U.Patil)  
Member Secretary  
CGRF,Kalyan

(Sadashiv S.Deshmukh)  
Chairperson  
CGRF, Kalyan

**Note**

- a) The consumer if not satisfied, may file representation against this order before the Hon. 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”.*

- b) 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”*

- c] It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.