



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/204/228 OF 2009-2010 OF
M/S. J. D. EXPORTS VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

M/s. J. D. Exports
Gala No.12,Bitu Industrial Estate
Waliv,Taluka-Vasai (E)
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 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. 54 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 16/03/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. J.D. Exports

Address: - As given in the title

Consumer No : - 001840506386

Reason of dispute: Excessive Energy Bills.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/235 dated 16/03/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/VSI/(E)/B/2965, dated 15//03/2009.

- 4) The consumer has raised these grievances before the Executive Engineer (O&M) Division, MSEDCL, Vasai Division, on 30/12/2008. 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 16/03/2009.

- 5). The Members of the Forum heard both the parties on 15/04/2009 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri Sidore, A.E., Shri S.B.Hatkar, Asstt.Acctt., representatives of the licensee attended hearing. Minutes of

the hearing including the submissions made by the parties are recorded and same are kept in the record. Submissions made by each party in respect of each grievance shall be referred while deciding each of the grievance to avoid repetition.

- 6). The following grievances raised by the consumer in its letter dated 29.12.08 sent to the concerned Executive Engineer and of which copy the consumer has attached with the grievance made before this forum, and considering the reply dtd. 15/4/09 with CPL filed by the licensee, record produced by the parties, and submissions made by the parties, the finding or resolutions on each of such grievance is given against it, for the given reasons.
- 7). As to grievance No.1 regarding excessive bills- The consumer claims that earlier meter was replaced by new meter No.60052-82046 on 22/05/06. The same meter started giving faulty readings and jumping of meter reading took place in July 06 i.e. bill of Aug.06 month. It informed about it to the licensee immediately and after making all the tests, the meter was found faulty. Therefore the said meter was replaced by another meter bearing No.6002275710 on 26.10.06. The consumer further claims that due to such faulty readings and jumping of readings, bills for excessive charges for the months July 06, Aug.06 ,Sept.06 and Oct.06 came to be issued. The consumer protested with the licensee in respect of each of the said bills and partly paid said bills by paying Rs.57,690/-, Rs.80,000/-, Rs.75,000/- and some amount out of said bills respectively. The consumer further claims that inspite of its complaints, the licensee did not resolve the dispute and went on issuing excessive bills showing heavy arrears for about 28 months. The licensee also issued average bills even after the change of

meter. It further claims that considering the average monthly consumption during the period from Nov.06 to Oct.07, the licensee should consider or take average consumption of 4236 units for each of the month of July 06 to Sept.06, and in that case the charges for said three months comes to Rs.59614/-, whereas the consumer has so far paid Rs.2,12,690/- and therefore the consumer is entitle for refund of Rs.1,53,076/- on this count. The consumer is entitle for interest on the said amount @ 6% per annum from Set.06 to Dec.08 which comes to Rs.21,430/-. The consumer is also entitle for Rs.3,002/- which it lost as discount of 1% of excessive duty and tax as a prompt payment, due to issue of excessive bills by the licensee. The consumer further claims in the bill for Dec.08, the licensee has shown arrears as Rs.1,76,858.70 as interest on arrears. The licensee should adjust the consumer's excess amount with licensee as discussed above, from the above referred arrears and should regularize the matter. The consumer further claim that since the licensee has not resolve the above referred dispute since last 28 months, after each monthly bill, its representative has to visit the licensee's office, get the amount of bill reduced and then pay such amount and therefore licensee be directed to pay compensation of Rs.10,000/- to the consumer for such physical and mental torture. The CR repeats the above contention in his oral submission before the forum.

8. As against the above contention, the licensee claims that the concerned bills are under revision and the proposal about the same is already submitted to the competent authority for approval. On receiving the approval of the higher authority, necessary entry will be taken in the

system and matter will be regularized. The LR submits that the same say in his oral submissions before the forum.

9. In view of the above grievance and the say of licensee as above, the licensee is directed to get the final orders of the higher officer passed on the proposal regarding revision of the concerned bills submitted by the concerned officer within a period of 60 days from the date of this decision and issue bills of actual consumption and other charges of each month mentioning the arrears separately and accept the amount of such actual consumption and other charges of each month and not to take action of disconnection against the consumer for non payment of the above arrears, till the final orders of the higher officers on the proposal of revision of bills as above. The consumer will have liberty to make fresh representation to IGRC and then this forum, if necessary, against the order which the higher authority may pass on the proposal of revision of the said bills submitted by the lower officer as discussed above, in case he feels aggrieved with it, as per the provisions of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006".
10. As far as the prayer of compensation of the consumer regarding this is concerned, in our opinion, ends of justice would be adequately met through the relief granted to the consumer as above and in view of this, there appears no case for considering any compensation as prayed by the consumer. Prayer in this behalf, therefore, deserves to be and is hereby rejected.
11. **As grievance No.2 - Refund of excess amount recovered by applying MD based tariff, PF penalty etc.** - The Consumer Representative (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. The CR submits that the consumer claims refund of an amount of Rs.1250/- towards the difference in between the fixed charges as per MD based tariff and HP based tariff and refund of PF penalty of Rs.3213.69 on this count.

-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.

12. While deciding the question regarding the applicability of MD based tariff to the LT above 20 KW industrial units, the Hon. Electricity Ombudsman vide order dated 6.5.09 in representation No.33 of 2009, M/s. Crystal Industries V/S MSEDCL, relying on the MSEDCL's circulars dtd. 05.02.09 held that the MSEDCL has suo moto decided to start MD based tariff for LT V consumers from April 09 inspite of 100% installations of MD meters completed in Aug.08 and therefore the MSEDCL is liable to refund the excess fixed charges and PF penalty recovered from such consumer. Therefore following the above referred decision, the licensee is directed to refund the amount of MD charges collected over and above the fixed charges recoverable as per HP based tariff and the PF penalty recovered from the consumer in the period prior to April 09, together with interest at the Bank rate of RBI within 30 days from the date of this decision.

13. As to grievance No.3 regarding bill adjustment:

The consumer claims that the licensee has added the debit bill adjustment charges of various amounts such as Rs.787.03, Rs,106.00, Rs,3518.24, Rs.5091.12 in the bills for the billing periods March 07, July 07, Aug.07 and Sept.07 respectively. The licensee should justify such adjustments and refund if the same are not justified. The licensee has claimed that the above mentioned 3rd and 4th amounts of debit adjustments are concerned, the same are of TOSE @ of 4 np p/u from Spet.05 to Feb.06 and TOSE @ of 4 NP p/u from Mar 06 to Sept.06. The licensee further claims that as far as the above referred 1st two amounts of bill adjustments are concerned, detail clarification is sought from higher authority and on receipt of information, the licensee shall be informed accordingly. The CR has relied upon the order dated 24th May 2005 passed

by MERC in case No. 28 of 2004 in support of his contention that the licensee has earlier refunded the TOSE charged for the above referred periods as per the above referred order, but has again charged the same as above without any further order of MERC about it. The licensee has not filed any such order of MERC passed after the above order which enabled it recharge the TOSE. In view of the facts as discussed above, the licensee to obtain necessary information in respect of above referred 1st two amounts from the higher authority and give the same in writing together with explanation as to how it has recharged TOSE as claimed particularly in reference to the order dated 24/05/2005 passed by MERC in case No. 28 of 2004, to the consumer within a period of 30 days & on failure to do so, or in case of unsatisfactory explanation, refund the excess amount if any, recovered as above together with interest at the bank rate of RBI, by giving it's credit to the consumer in the ensuing bill after 30 days.

14. As to grievance No.4 regarding Security Deposit. - The consumer claims that the consumer has paid SD of Rs.19,500/- and Rs.13,650/- total Rs.33,150/- at the time of taking new connection 23.10.95 but the bills were showing SD as nil. As per licensee's SD arrears demand Rs.30,510/- was paid in June 2008. The said amount is displayed in the bill. The licensee should check the total amount of SD and should refund the SD of Rs.33,150/- paid in 1995 and should give credit of compound interest on it, i.e. total Rs.23,537/- to the consumer. - As against this, the licensee claims that the connection has been given to the consumer 23.10.95. The SD of Rs.19,500/- + ED Rs.13,650/- i.e. Total Rs.33,150/- was paid at the time of giving connection. Its office is searching its record to find out the exact amount of SD. In the meantime, the consumer may submit the SD receipt

for quick disposal of the case. Considering average bills, keeping the deposit balance, action will be taken for refund of SD. The interest will be paid as per rules. Considering the above contentions of the parties, the licensee is directed to verify the correct amounts of SD from time to time from its record and the record with consumer, display the correct amounts of SD, find out the correct amount of SD at this stage and refund excess SD amount and also give the credit of the interest at Bank rate of RBI on such amounts of SD at the prevailing rate to the consumer, in the ensuing bill after a period 30 days. `

15. As to grievance No.4 regarding refund of difference of MD based charged and HP based charges from Oct.06 to Mar 07. - The consumer has claimed refund of an amount of Rs.11,584.13 on this count as the charges being relevant period were reverted back to the HP based tariff from MD based fix charges, due to non completion of installation of MD meters in entire Maharashtra. The licensee claims that it has refunded an amount of Rs.8065.32 in the month of May 07 and some amount in other month which will be intimated after confirmation from the higher authority. However, CPL for May 07 does not show adjustment of giving credit of any such amount as claimed by the licensee. Therefore, the licensee should again verify as to whether any credit of such amount and other amount has been given to the consumer and then give credit of such remaining amount, if any, to the consumer in the ensuing bills after a period of 30 days.

- 16.As to grievance No.5 – regarding ASC recovered in the month of Oct.06 and Jan.08: - The consumer claims that Benchmark consumption (BC) for consumer is 14413 units and therefore 89% cheap power units comes

to 13116 units. The MSEDCL's circulars says that whatever percentage of consumption is reduced below threshold consumption, proportionate ASC units are only to be considered. Therefore, the consumer's claims refund of Rs.2686.40 from the total ASC charged for the month Oct.06 and Rs.1780.80 from the total ASC charged for the month Jan.08, on this count. The licensee claims that the case is under scrutiny and action will be taken, if applicable. The consumption of consumer in a bill for the month Nov.06 was 920 units and therefore no ASC could be charged in the said bill. However, the licensee has charged ASC in the said month. Therefore the licensee be directed to refund Rs.126.50 recovered in excess due to the charging of ASC. The LR though at the time of hearing stated that he would file reply to the said rejoinder, did not do so till this date. The bill for the month of Nov.06 which is for the consumption during the period 16.10.06 to 31.10.06 shows charging of Rs.566.30 as ASC, and that consumption of the billing period for which the said bill was issued, was 920 units. The bills for the month Sept.07, Aug.07, July 07 shows that the average consumption during previous year (i.e. 2006) was 1411 units whereas the bills for Mar 07, Feb,07, May 08, July 08 show the average consumption for the year 2005 or BC was 1411 units. Thus there is some difference in such recitals in the said bills, and hence it is necessary to give an opportunity to the licensee to verify the BC. However, there is substance in the contention of the consumer. Therefore the licensee is directed to verify the BC for the consumer and give explanation in writing to the consumer regarding charging of ASC in the bill for the month of Nov.06 within a period of 30 days from the date of this decision, and on failure to give such explanation in writing or in absence justifiable ground

for charging ASC in the said bill, refund an amount of Rs.126.50 or any amount which is found to have been recovered in excess, by giving its credit to the consumer in the ensuing bill after completion of 30 days from the date of this decision.

17.As to grievance No.6 – Refund of RLC charges. The consumer claims that the licensee was directed to refund the RLC by the MERC in operative order in case No.72 of 2007. The licensee has so far refunded 9 installments of RLC and is yet to refund remaining 49 installments of RLC of which amount comes to Rs.1,68,862.33. The licensee be directed to refund the said amount of 49 installments of RLC to the consumer in lump sum. The licensee claim that for the refund of balance of RLC, its Head office will take the decision in the matter and then after necessary action will be taken. Considering the above contentions of the parties, the licensee is directed to refund the remaining amount of RLC in installments as may be directed by MERC in case No.72 of 2007.

18. In view of the findings on the grievances of the consumer as above, the forum unanimously passes the following order.

O-R-D-E-R

- 1) The licensee to comply the directions given in above para Nos.12 to 17.
- 2) The prayer of consumer for the compensation of Rs.10,000/- is rejected.

- 3) The Compliance should be reported to the forum within 90 days from the date of decision.
- 4) The Consumer can file representation against this decision with the Ombudsman at the following address.

*“Maharashtra Electricity Regulatory Commission,
606/608,KeshavBuilding,BandraKurlaComplex,Mumbai 51”*

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

- 5). 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 : 11/05/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan