



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/205/229 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. 13 to 17, Inca Industrial
Estate , Chinchpada, Waliv,
Tal -Vasai (E), Dist. : Thane 401 208

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Superintending Engineer
Vasai Circle, 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 H. T. consumer of the licensee with C. D. 302 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 : - 001849025250

Reason of dispute: Excessive Energy Bills.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/238 dated 16/03/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. SE/VC/TECH/3061, dt. 16/04/09 and 5011, dated 23/04/2009.

- 4) The consumer has raised these grievances before the Superintending Engineer, MSEDCL, Vasai Circle, on 03/01/2009. 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 Member Secretary and Member of the Forum heard both the parties on 16/04/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri R. S.

Sanap, Nodal Officer, Shri P. K. Tuse, A. O. 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 03/01/2009 sent to the concerned Superintending Engineer of which copy is attached with the grievance made before this forum, arise for determination and considering the reply dtd. 16/04/09 and 23/04/09 with CPL filed by the licensee, record produced by the parties, and submissions made by the parties, the findings or resolutions on each of such grievance is given against it, for the given reasons.
- 7). **As to grievance (1) to (10) regarding BC, ASC, IASC & proportionate electricity duty** – The consumer claims that it's unit was given electric supply on 20/04/04. Charging of ASC started from the month of Oct. 06. Benchmark consumption (BC) was decided as per average consumption from Jan. 05 to Dec. 05. In case of present consumer, BC was taken initially as 115178 units/month, which was later changed to 110531 and then to 114916 units/month. It further claims that initially the CD of the consumer was 220 KVA and on it's application, it was increased to 280 KVA in June 05. Thus the said increase in CD was more than 25%. Therefore, as per the clarification given by Hon. MERC on page No. 16 in para No. 6 of it's clarificatory order dated 24/08/07 in 26 of 2007 and case No. 65 of 2006, the present consumer should be treated as new consumer

and it's BC should be calculated accordingly as per para 8 in the above referred clarificatory order and sub para (iii) on page No. 4 of the MSEDCL's commercial circular No. 62. The consumer claims and CR further submitted that accordingly since the consumer's unit commence in April 04, the average consumption from 13th to 18th month from the commencement of the operations in April 2004 i.e. in the billing month May 05 to Oct. 05 is to be taken as BC and according to him the same comes to 132098 units/month. The CR further submits that the licensee be accordingly directed to recalculate consumer's BC as above and accordingly recalculate the ASC, IASC, electricity duty etc. and to refund the excess amount recovered on such counts during the period from Oct. 06 to May 08 from the consumer.

- 8) As against the above contention of the consumer, the licensee in it's reply dt. 16/04/09 accepted that the BC of the consumer is to be calculated by applying para 8 in the Hon. MERC's clarificatory order dt. 24/08/07. It however claim that the ASC, IASC etc. charged to the consumer is as per the tariff order through IT system and therefore, the consumer is not entitle for any refund on this ground.
- 9) The licensee in it's reply dt. 23/04/09, changed it's above say to some extent and claim that since the electric supply was initially given to the consumer on 20/04/04, it's BC will have to be calculated as per clause A on page No. 21 in para 8 which reads like "(a) The dispensation will be applicable for all new consumers who have become MSEDCL's (erstwhile MSEB) consumers at any time after Jan. 1, 2005. It further claimed that the ASC and IASC is charged to the consumer as per the tariff order only.

The consumer has increased his CD from 220 KVA to 280 KVA in the month of July 05 and hence as per directives given in clarificatory order dt. 24/08/07 page No.4, Sr. No. (G), the Benchmark period is to be considered as the month of Sept. 05. Subsequently the CD was increased from 280 KVA to 302 KVA in the month of May 08 i.e. below 25% increase, hence the change of BC is not applicable. It further claims that the ASC and IASC has been charged to the consumer as per the tariff order and therefore, the consumer is not entitle for any refund on this ground.

- 10) Clause (g) in paragraph No. 6 in the Hon. MERC's clarificatory order dt. 24/08/07 in case No. 26 of 2007 and 65 of 2006, reads as under :

“(g) In case of consumers whose sanction load/contract demand had been duly increased after the billing month of Dec. 05, the reference period may be taken as the billing period after six months of the increase in the sanction load/contract demand or the billing period of the month in which the consumer has utilized atleast 75% of the increased sanctioned load/contract demand, whichever is earlier”.

It is clear from the above clause that this clause applies when there is a increase in sanction load after the billing month of Dec. 05. Admittedly in the instant case there has been such increase in load (more than 25%) in June 05/July 05 and therefore, this clause is not applicable to the instant case and therefore, the contrary contention of licensee in it's reply dt. 23/04/09 is rejected.

- 11) It is clear from the further clarification given by Hon. MERC on page No. 15 in it's above referred clarificatory order that the above referred clause (g) in respect of increase in contract demand (CD) will be applicable only when

the increase in CD is equivalent to 25% or more of the CD during the reference period from Jan. 05 to Dec. 05. Since in the instant case the first increase in CD in June or July 05 is more than 25%, the instant case will be covered by the above referred clarification. However, the BC of consumer cannot be calculated due to such application of the above clarification as per clause (g), because the CD in the instant case has not increased after the billing month of Dec. 05, but has been increased in June or July 05.

12) Further clarification on page No. 16 in the above referred Hon. MERC's clarificatory order reads as under :

"The Commission clarifies that in case the CD is increased during the first 18 months after commencement of operations, then the increase in CD clause will not be applicable and the clarification given under para 8 of this clarificatory order will prevail".

In the instant case the CD increased more than 25% in June or July 05, i.e. within 18 months after commencement of operations in April 04 and therefore, in view of the above clarificatory directions, the present consumer is to be treated as new consumer as mentioned in para 8 and it's BC will have to be calculated as per clause (b) in the said para 8 of the said clarificatory order and therefore, such contention of the consumer is accepted. Therefore, the licensee is directed to recalculate the BC for the consumer as per para 8, clause (b) in the Hon. MERC's clarificatory order dt. 24/08/07 in case No. 26 of 2007 and case No. 65 of 2006 and MSEDCL's circular No. 62 dt. 10/09/07 (clause 6 (iii) (2) and accordingly recalculate the ASC, IASC, electricity duty etc. to be charged to the consumer during the period from Oct. 06 to May 08 and refund the excess

amount if any including incremental ASC of the period from Oct. 06 to April 07 as per Hon. MERC's order dt. 18/09/08 in case No. 45 of 2007, together with interest at the Bank rate of RBI, by giving credit of such amount to the consumer in the ensuing bill after a period of 30 days from the date of decision in this case.

- 13) As to grievance 11 – Regarding Security Deposit : The consumer claims that his CD was increased from 280 KVA to 302 KVA in the month of May 08. The consumer deposited SD of Rs. 38060 vide licensee's letter No. 2962, dt. 29/04/08. Hence our total amount of SD comes to Rs. 54,310 and same is not displayed on the bill. Hence licensee be directed to give interest from May 08 to Dec. 08, that amount comes to Rs. 1522. On this query LR claims that SD collected at the time of increase in CD is already taken into account for the payment of due interest will be indicated in the energy bills. Therefore, licensee is directed to verify the actual SD amount of the said consumer and give interest for the period May 08 to Dec. 08 (if not paid earlier) within 30 days from the date of this decision.
- Further consumer claims that we are getting RLC installment monthly Rs. 29067.94 and will continue for next 49 months from April 09 onwards, hence we are not likely to give additional deposit, hence SD with interest Rs. 39,582 may be refunded. On this query licensee has not submitted any clarification. Therefore, the licensee is directed to refund remaining RLC installments i.e. 49 installments as per directives of Hon. MERC and intimation in writing may be given to the consumer. Therefore, the demand of consumer for refund of S.D. amount is rejected.

- 14) As to grievance 12 – Regarding Load Factor Incentive (LFI): The consumer claims that LF Incentive was made applicable to HT-1 category and is continued there after upto this date. Further consumer claims that the statement of LFI to be refunded as per enclosed sheet with the grievance. The licensee never displays LFI from Oct. 06 for which statement enclosed with the grievance. So the licensee be directed to give LFI and interest of Rs. 07,90,072.93 (Annexure 10-a, b + 14 bills). On this query licensee claims that directives given in Com. Circular No. 80, dt. 10/06/08, page No. 6, in case the billing demand exceeds, the CD in any particular month then the LFI will not be payable in that month. The said consumer has recorded LF in some months but in that months mentioned consumer has recorded the CD more than sanctioned CD. Hence the LFI is not applicable. Forum is noted that the licensee has not submitted the worksheet regarding the statement which was given by consumer with the grievance. On scrutiny of statement given by consumer and data (such as hours etc. as per consumer's opinion) to be taken for calculation of LFI, it is observed that in some months the consumer is liable for LFI as per calculation sheet of consumer. As per licensee's Com. Circular No. 80, dt. 10th June 08, the LF define as below :

$$\text{Load Factor} = \frac{\text{Consumption during the month in MU}}{\text{Maximum Consumption Possible during the month in MU}}$$

Maximum consumption possible = Contract Demand (KVA) x Actual Power Factor x (Total no. of hrs. during the month less planned load shedding hours*)

* Interruption/non-supply to the extent of 60 hours in a 30 day month has been built in the scheme.

In case the billing demand exceeds the CD in any particular month, then the load factor incentive will not be payable in that month. (The billing demand definition excludes the demand recorded during the non-peak hours i.e. 22.00 hrs to 06.00 hrs and therefore, even if the maximum demand exceeds the CD in that duration, load factor incentives would be applicable. However, the consumer would be subjected to the penal charges for exceeding the CD and has to pay the applicable penal charges).

The Forum have no detail data regarding calculation of LF till today. Therefore, the licensee is directed to study the LFI statement given by the consumer and provide detail worksheet of calculation of LFI to the consumer as well as to Forum within 30 days from the date of this decision. Further it is directed to licensee that to verify the statement given by the consumer regarding LFI and if found the consumer is eligible for LFI, same may be refunded together with interest at the Bank rate of RBI to the consumer within 30 days from the date of this decision.

- 15) There has been no. of holidays and consequently less working days during last month. There has also been sudden increase in registration of grievances by the consumers before this forum since last three 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 some delay in deciding this case.

- 16) 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. 07 to 14.
- 2) The Compliance should be reported to the forum within 90 days from the date of decision.
- 3) The Consumer can file representation against this decision with the Ombudsman at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Building, Bandra Kurla Complex, Mumbai 51”

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

- 4). Consumer, as per section 142 of the Electricity Act, 2003, can approach Maharashtra Electricity Regulatory Commission at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 400 005”

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 : 21/05/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan