



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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IN THE MATTER OF GRIEVANCE NO. K/E/345/389 OF 2010-2011 OF
M/S. VAID POLYPACK, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

M/s. Vaid Polypack
Gala No. 04,
Siddhi Ind. Estate, Gauripada,
Vasai (East), Dist. : Thane

(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 C. D. 54 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 15/06/2010 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. Vaid Polypack

Address: - As given in the title

Consumer No : - 001890453721

Reason of dispute: Excessive Energy Bills.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/245 dated 15/06/2010 to Nodal Officer of licensee. The licensee filed reply vide letter No. IGRC/VC/CGRC-0345/0389/2010-11/4655, dated 03/07/2010.
- 4) The forum heard both the parties on 07/07/2010 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, Shri Vinit Sheth representatives of the consumer & Shri S. R. Purohit Nodal Officer and Shri S. M. Bangar, Dy. Ex. Engr. representatives of the licensee, attended hearing. Minutes of the hearing including the submissions made by the parties are recorded and the same are kept in the record. Submissions made by each party in respect of each grievance shall be referred while deciding each of the grievances to avoid repetition.
- 5) The consumer has taken electricity connection from the Distribution Licensee (DL) in the industry situated at Gauri Pada, Vasai (East) in the year 1997. According to consumer at the time of new connection they paid Rs. 19,500 (+) Rs. 29,250 as six month minimum charges towards Security

Deposit (SD) but not shown the said amount in the bill. Consumer claimed the said amount and interest thereon Rs. 32,663/- however for want of receipts licensee declined to pay. It is contended that in the event of lost/misplaced receipts of SD/ASD licensee is required to refund the amount verifying the F-1 register and energy bill on receiving indemnity bond to which licensee not responding. It is further contended that officials of the licensee did not supply correct and update copy of CPL for want of which they face difficulty to put forth grievance properly. It is averred that P. F. penalty from Nov. 08 to March 09 is charged due to Y phase short calculation. Total KWH and KVAH ratio gives 0.90. P.F. penalty is to be calculated as per the formula laid down by Hon. MERC in Tariff Case No. 116 of 2008, dt. 01/08/2009 therefore licensee is liable to refund excess power factor penalty amount to the consumer. According to consumer MD meter was not reset in August 2008 therefore fix charges were wrongly levied in that month and as such licensee is liable to refund Rs. 2800/- as per the calculation given in MERC Case No. 26 of 09, dt. 05/03/10. So far CPL it is contended, correct update copy of the same was demanded however not responded. Vide letter dt. 15.02.10/28.05.10 addressed to Dy. Executive Engineer Vasai Sub-Division consumer requested to comply as above but officials of the licensee did not pay heed. Consumer therefore approached IGR Cell but in vain and hence lodged this grievance with prayers to direct licensee to supply correct and update copy of CPL, to refund amount of SD/ASD without receipt on verifying F-1 register and excess power factor penalty and M.D. charges.

- 6) Licensee placed their reply on record dt. 03/07/10 contending that refund of amount of SD/ASD without receipt is under consideration of Hon. MERC in case No. 93 of 08. It is contended at times F-1 register is not preserved

therefore unsafe to refund the amount of SD/ASD without receipt. So far power factor penalty (PF) it is averred, consumers 'Y' phase C.T. was faulty as per inspection done by Jr. Engineer Quality Control on 04/02/09 and accordingly PF calculation was correctly done in the month of October 08. By letter dt. 28/05/10 they had apprised the consumer that it was correctly assessed based on the guide lines in the order of Hon. MERC therefore refund of any amount on this count does not arise. So far maximum demand (M.D.) charges it is contended recorded MD in the month of July 2008 was 30 KVA and billed 22 KVA and in August 08 it was recorded 80 KVA and billed 50 KVA. As such MD recorded depends upon the average consumption for the time period of every 30 minutes and maximum value was stored in the memory of MD therefore there was no chance of recording MD as sum of two months MD due to non resetting of the MD counter in previous month therefore refund of MD charges also does not stand to reason. For all these reasons licensee contended that grievance being without merits be dismissed in limine.

- 7) On perusal of the record and hearing both the parties following points arise for the consideration of Forum and findings thereon for the reasons recorded below :

Points	Findings
a) Whether it is proper to refund the amount of S.D. and ASD without the production of receipts ?	No
b) Whether licensee is liable to refund M.D. based charges as per order of MERC ?	Yes
c) Whether licensee is liable to refund excess P F. penalty as per order of MERC ?	Yes
d) What Order ?	As per Order below

Reasons

- 8) At the outset learned representative for the consumer submitted that officials of the licensee have not supplied them correct and update CPL for want of which they face difficulty to putforth their grievances properly. During the course of hearing Forum directed the representative for the licensee to supply correct and update CPL to consumer and accordingly it was supplied. In fact, officials of the licensee are duty bound to supply correct and update CPL as and when required need not to be reiterated.
- 9) It is the grievance of consumer that officials of the licensee do not refund amount of SD/ASD without the production of receipts thereby their huge amounts are blocked. It is urged by the learned representative for consumer that amount of SD/ASD as depicted in the chart enclosed including the amount of interest needs to be refunded to the consumer. He submitted these amounts are mentioned in the energy bill raised by licensee, and also entry of this is recorded in F-1 register. He urged in the event of misplaced/lost receipts on verifying F-1 register couple with billing records supported by indemnity bond, officials of the licensee can refund these amounts of SD/ASD however due to lethargy and inaction refund is avoided causing harassment. At the same time learned representative for the licensee contended that at times F-1 registers are not preserved, and that it is unsafe to make payment without the receipts, therefore from revenue precedents also it is risky to refund amount without receipt. In this context he has pointed out that Akhil Bharatiya Grahak Manch has filed case No. 93/08 before Hon. MERC awaiting decision. We find force in the submission as above made by the learned representative for the licensee.

When matter pertains to this vital point is under consideration of Hon. MERC we find difficult to give any directions in this context therefore presently it can safely be said that it is not proper in the larger interest of all to refund the amount of SD/ASD without the production of receipts.

- 10) It is further the grievance of consumer that licensee charged P.F. penalty contrary to the directions given by the Hon. MERC in Tariff Case No. 116/09, dt. 01/08/2009. Learned representative for the consumer inviting our attention to the application made to Dy. Executive Engineer Vasai Sub-Division dt. 15.02.2010/28.05.10 submitted that KVAH is to be calculated using RKVAH Lag. displayed on the bill. He contended that in the month of November 2008 to March 2009 KVAH reading was short due to 'Y' phase failure therefore total KWH & KVAH ratio gives 0.90 and in this contest refund has to be given. Learned representative for the consumer further urged that taking wrong entry without considering the calculation mentioned in the order as above, licensee charged excess PF penalty and the same needs to be refunded. In contra, learned representative for the licensee pointing calculation depicted by the consumer urged with force that RKVAH is to be used as one of it's parameter and not RKVAH (Lag) and further submitted that RKVAH is not equal to RKVAH (Lag) only but it is the vector sum RKVAH (Lag) and RKVAH (Lead). In reply dt. 28/05/10 Dy. Executive Engineer Vasai Sub/Dn. pointed out that power factor calculation in the light of MERC Tariff Order mentioned supra is to be made and in this context question of refund does not arise. Needless to say Dist. Licensee has to follow the directions given by Hon. MERC. We have gone through the detail order of Hon. MERC dated 17/08/2009 page 239 and also subsequent clarificatory order dt. 12/05/10. In clarificatory order Hon. MERC on page 3/4 stated vide chart :

Power Factor Penalty (Applicable for HT-I, HT-II, HT-IV, HT-V and HT-VI categories, as well as LT-II (B), LT-II (C), LT-III and **LT-V** (B) categories). Whenever the average PF is less than 0.9, penal charges shall be levied at the rate of the following percentages of the amount of the monthly bill including energy charges, reliability charges, FAC and Fixed/Demand Charges, but excluding Taxes and Duties :

Sr.No	Range of Power Factor	P. F. Level	Penalty
1	0.895 to 0.900	0.90	0%
2	0.885 to 0.894	0.89	2%
3	0.875 to 0.884	0.88	3%
4	0.865 to 0.874	0.87	4%
5	0.855 to 0.864	0.86	5%
6	0.845 to 0.854	0.85	6%
7	0.835 to 0.844	0.84	7%
8	0.825 to 0.834	0.83	8%
9	0.815 to 0.824	0.82	9%
10	<u>0.805 to 0.814</u>	<u>0.81</u>	<u>10%</u>

Dy. Executive Engineer Vasai Sub/Dn. by reply dt. 28/05/2010 pointed out calculation on charging of PF penalty and going through the directions in the order of Hon. MERC referred to supra we find force in the submission of the learned representative for licensee. On the premise it is apt to direct the officials of the licensee in the light of the chart furnished by the licensee to calculate PF penalty as per the directions referred supra given in the MERC order and to refund the amount if found excess, to the consumer.

- 11) So far refund of Maximum Demand (MD) charges inviting our attention to the letters dt. 15.02.10 / 28.05.10 learned representative for the consumer urged with force that August 08 MD data was misleading and no activation was done therefore licensee charged fixed charges Rs. 5000/- instead Rs. 2000/- and hence licensee is liable to refund Rs. 2800/- relying on the order dt. 05/03/10 passed by Hon. MERC in case No. 26 of 10. We have carefully read relevant para No. 29 of the order. On the other hand, learned representative for the licensee contended that verification of MRI data is essential. Nothing on record to show whether in August 08 MD TOD meter was installed in the premises of company to calculate MD based tariff. Under the circumstance it is proper to direct the officials of the licensee from the records/MRI data to verify whether on the crucial day MD based meter was installed and if not, on which date it was so installed thereafter verifying the MRI data couple with documents produced by the consumer to calculate the difference between MD based tariff and HP based tariff and to refund the amount in this context if found excess with RBI rate of interest to the consumer as per the directions of Hon. MERC in the case referred to above.
- 12) It is to be noted that learned representative for the consumer alleged that officials of the licensee give anti consumer treatment, do not even peep to their documents and their attitude is recalcitrant towards the consumer. In the present scenario considering the laudable objects of the Electricity Act 2003 and the directions given by the Hon. MERC, Ombudsman it is high time for the officials to hear the consumers patiently and to decide wisely so that consumers as a whole would not put to trouble, inconvenience, harassment. In view of the discussion supra, it is apparent that presently the licensee cannot refund the amount of SD/ASD without the production of

receipts, however on productions of receipts licensee is under obligation to refund the amounts immediately. In so far excess P.F. penalty and difference of M.D. based tariff if collected has to be refunded as per the directions of the Hon. MERC and as regards CPL licensee to supply the same correct and update as and when required. Points are therefore answered accordingly. Grievance application will have to be partly allowed.

- 13) While parting to the matter it is to be noted that this grievance was submitted by the consumer before the Forum and was registered on 15/06/2010. Vide para 6.18 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 Forum has to decide the grievance within a period of two months from the date of receipt. Learned representative for the licensee sought time to file written argument and submitted the same on 20/08/2010, therefore delay is caused in deciding the grievance. Hence the order :

O-R-D-E-R

- 1) The grievance application is partly allowed.
- 2) Licensee is directed to refund the amount of PF penalty / M.D. based tariff if collected excess to the consumer as per the directions of Hon. MERC.
- 3) Licensee to furnish update and correct copy of CPL to consumer as and when required.
- 4) The Compliance should be reported to the forum within 60 days from the date of receipt of this decision.

- 5) 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”.

- 6) 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 : 15/09/2010

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(S.N. Saundankar)
Chairperson
CGRF Kalyan