

MAHARASTRA STATE ELECTRICITY BOARD

K A L Y A N

ZONE, KALYAN

Phone 1) 2210707

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Office of the Consumer
Grievance Redressal



Behind Tejashri,
Cherwanji Road,

Ext-122.

**IN THE MATTER OF GRIEVANCE NO. K/E/004/0005 OF
2004-05 OF M/S DELUX SPRING PVT LTD REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN
ZONE, KALYAN ABOUT THE CHARGES OF RS 73224 AND RS
40500 FOR USE OF EXCESS LOAD THAN SANCTIONED LOAD
& RS 7928 AS PENALTY FOR USE OF INADEQUATE
CAPACITOR, LEVIED BY LICENSEE IN HIS BILL.**

M/s Delux Spring Pvt. Ltd.

(Here in

after

S. No. 219/4 Atgaon Ind. Complex, Atgaon, Tal-

referred to

Shahapur-421601

as consumer)

Versus

Maharashtra State Electricity Board, through its

(Here in

after

Assistant Engineer, Shahapur Sub- Division
Kalyan(R) Division.

referred to
as licensee)

1. Consumer Grievance Redressal Forum has been established under regulation of "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003" to redress the grievances of consumers. This regulation has been made by the Maharashtra Electricity Commission vide powers confirmed 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. consumer of the licensee connected to their 415-volt network. The consumer disputed the charges of Rs.73224 (Rupees Seventy three thousand two hundred twenty four only) levied by the licensee in the bill of the month of June 2004 as "Bill Adjustment" & Rs 40500 (Rupees Forty thousand five hundred only) & Rs 7928 (Rupees Seven thousand nine hundred twenty eight only) charged by licensee, vide his above grievance registered with forum on 20/1/2005. The consumer No., sanctioned load, period of dispute, and the amount of dispute are as follows: -

Consumer No. 220438202536

Sanctioned load: - 63 H.P

Period of dispute: -May 03 to October 04 (18 Months)

Amount of dispute: -Rs 73,224 & Rs 40500 & Rs 7928

- 3) The batch of papers containing above grievance of consumer was sent to the Nodal Officer by the forum vide letter no.0043 dt.24/1/05. The letter, however, remained unreplied.
- 4) Shri S.P.Parkar & Shri L.N.Shah were present on behalf of consumer during hearing on 28th February 2005. Nodal Officer of the licensee did not attend hearing on 28th February 2005 to represent case. Shri Vishe S. M., L.D.C. Shahapur S/Dn of licensee, however, was present. During hearing, Shri Vishe requisitioned on phone services of some responsible person. Shri S.T. Raut Assistant Engineer then joined hearing.
- 5) All three members of the forum were present during hearing on 28th February 2005.
- 6) Shri L.N.Shah & Shri S.P. Parkar took part in hearing. They said that: -
 - (i) Connected load of 90 H.P. found by energy audit cell (EAC) during their visit to their factory on 7/4/2004 was not correct.
 - (ii) Their connected load is 59 H.P. only.
 - (iii) The additional machineries of 34 H.P. was ideal machineries brought from their other sister concern unit of Meritro Spring Ltd Asangaon. The details are as below.
 - a) Shot Peening Machine; - 12 H.P.
 - b) Hardness Machine: - 20 H.P.
 - c) Lathe 2 H.P.

Grievance No.K/E/004/0005

These machineries are scrapped & kept in their workshop duly packed.

- iv) EAC has not obtained our signature or signature of any of our representative on inspection report prepared by them.
- v) They immediately brought to the notice of licensee

vide their letter dated 26th May 2004 that the licensee has taken their connected load as 90 H.P. as against 63 H.P.

- vi) In response to their letter mentioned above Shri Varma, Junior Engineer of licensee visited their factory on 6/7/04 & confirmed connected load of 60 H.P.

- vii) The charges of Rs 73224 & of Rs 40500 & Rs 9728 levied shall be withdrawn from their bill.

7) Shri Vishe & Shri Raut of licensee could not defend the action of licensee of levying above charges. Forum requested Shri Vishe to give details of above charges levied by licensee. A reply was received on 3/3/05. The details of charges are: -

a) 90 H.Px Rs 60 x12 Months (May 03 to April 04)= Rs 64800

27 H.Px Rs 120 x12 Months (May 03 to April 04) = Rs 38880

Charges to be levied SubTotal (i)= Rs103680

90 H.P.x Rs 30 x12 Months (May 03 to April 04) = Rs 32400

Deducting above levied charges of Rs 32400

Sub Total (ii) Rs 71280

Add electricity duty charges on fixed charges = Rs 1944

Final Total Rs 73224

b) Charges of Rs 40500 levied @ Rs 6750 per month for a period of six months from May 04 to Oct 04.

The above charges were for use of excess load than the sanctioned load & penalty on it.

d) Capacitor penalty charges levied for low power factor for a period of six months from May 04 to October 04

May 04	Rs 931/30
June 04	Rs 1581/10
July 04	Rs 1372/60
August 04	Rs 1464/40
September 04	Rs 1322/50
October 04	Rs 1255/90

Total Rs 7927.8 Say Rs 7928

8) The Nodal Officer of licensee has failed to furnish parawise comments on the grievance of consumer sent to him by forum. There was no defense by licensee during course of hearing about their action of levying above charges. As per regulation 6.8 of "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003" the forum decided to proceed in the matter on the basis of material on record.

9) At the outset Member Secretary of Consumer Grievance Redressal Forum (CGRF) expressed his view that present case is under the scope of section 126 of The Electricity Act, 2003. In support of his statement he intends to rely on circular No - / /02730 dated 29th January 2004 in Marathi of the head office of licensee. He opined that this is a case of use of unauthorized connected load i.e. unauthorized use of

electricity as contemplated in section 126 of The Electricity Act, 2003. (EA, 2003)

10) The consumer is billed as per tariff code 3 (A) i.e. LTP-G (General Motive Power) approved by Maharashtra Electricity Regulatory Commission with effect from 1st December 2003. The salient features of the said tariff applicable to this consumer for fixed charge on sanctioned load is Rs 60 per H.P. per month on 50 % of sanctioned load, provided the actual drawl is less than or equal to the sanctioned load.

11) From the material available on record the following points are worth noting.

- i) The licensee has neither classified nor pleaded in writing or orally that the case is of section 126 of EA, 2003.
- ii) The assessing officer of licensee as notified by State Government has not served provisional order of assessment of electricity charges payable by person in occupation of premises i.e. consumer in this case, as required as per provision contained in section 126 of EA, 2003. On the contrary the charges of Rs 73224 on the presumptive use of excess load was simply added in ink in the bill of the month of April 2004 & continued this practice in subsequent bills also without taking for computation in CPL for the reason best known to the licensee. This is not a good practice of accounting in a business & needs to be given attention for future billing procedure in similar cases.
- iii) The period of 18 months (12 months preceding the date of inspection & 6 months after the date of inspection (May 03

to April 04 & May 04 to October 04) taken by licensee was also not in line with the provision contained in section 126 of EA, 2003.

- iv) The charges levied are also not equal to one & half times the tariff applicable as provided in section 126 of EA, 2003.
- v) The phrase “unauthorized use of electricity” has been explained in section 126 of EA, 2003. “Unauthorized use of electricity” means the usage of electricity
 - b) by an artificial means ; or
 - c) by a means not authorized by the concerned person or authority or license; or
 - d) through a tampered meter; or
 - e) for the purpose other than for which the usage of electricity was authorized.

Let us now examine this case in the light of above explanation. The questions to be answered before us were: -

- a) Whether the use of electricity was by an artificial means?
- b) Whether the use of electricity was by a means not authorized by the concerned person or authority or license?
- c) Whether the use of electricity was through a tampered meter?
- d) Whether the use of electricity was for the purpose other than, for which the usage of electricity was authorized?

Our answers to above questions are

- a) No
- b) No
- c) No
- d) No

- 12) In view of the observations made in preceding para 11 we, the Chairperson & Member of Consumer Grievance Redressal Forum (CGRF), disagree to agree with the views of Member Secretary of CGRF mentioned in para 9 above. We, therefore, cannot endorse the opinion of Member Secretary of CGRF that the case falls under the scope of section 126 of EA, 2003.
- 13) The inspection report of EAC does not bear the signature of consumer. It is seen from records that consumer, on receipt of bill of April 2004, noticed levy of charges of Rs 73224 for use of excess connected load than sanctioned load. The consumer then immediately approached licensee on 26th May 2004 rebutting observation mentioned in inspection report of EAC of licensee about the use of excess connected load than sanctioned load. Subsequent inspection by licensee's staff on 6th July 2004 also proves that the load at consumer's premises was within sanctioned load of 63 H.P. The inspection of consumer's premises was carried out after a gap of about one & half months from the date of consumer's intimation to licensee. The delay in carrying out inspection of consumer's premises does not have any justification. The inspection report, beside observation of excess load used, also mention inadequate use of capacitor. This observation

too has been made when there was no display on meter. This observation is based on 30 minutes check by accu check meter. The inspection report is one sided without signature of consumer & as such cannot be taken as conclusive proof on observations made in the said report. The licensee's record could not reveal any documentary evidence to prove authenticity of inspection report. We are thus of the opinion that load at consumers premises was within sanctioned load of 63 H.P. & observation of inadequate use of capacitor is also devoid of merit in absence of any documentary evidence.

- 14) We are, therefore, of the opinion that action of licensee to charge Rs 73224 & Rs 40500 for use of excess load & penalty is not justified & needs to be withdrawn. Similarly the action of licensee to charge Rs 7928 as capacitor penalty for use of inadequate capacitor is also not justified & needs to be withdrawn.
- 15) After carefully going through the entire material available on record & observations made in preceding paras, we are inclined to pass the following order with two (Chairperson & Member of CGRF) in favor & one (Member Secretary of CGRF) against it.

O-R-D-E-R

1. The charges of Rupees Seventy three thousand two hundred twenty four (Rs 73224) & Rupees Forty thousand five hundred (Rs 40500) levied by licensee as fixed charges for use of excess load than the sanctioned load of 63 H.P. for the periods

from May 03 to April 04 & from May 04 to October 04 is, hereby, quashed & set aside.

2. The charges of Rupees Seven thousand nine hundred twenty eight (Rs 7928) only levied by licensee as penalty for low power factor (use of inadequate capacitor) for the period from May 04 to October 04 is also quashed & set aside.
3. The licensee should refund the amount, if any, paid by consumer against amounts shown in item 1 & 2 above & should also withdraw the DPC/interest, levied on the said amounts, within a period of 60 days from the date of this order.
4. Consumer, as per section 142 of Indian Electricity Act 2003, can approach Maharashtra Electricity Regulatory Commission at
Maharashtra Electricity Regulatory Commission,
13th floor, World Trade Centre, Cuffe Parade, Colaba,
400005.

for non-compliance, part compliance or delay in compliance of this decision issued under "MAHARASHTRA ELECTRICITY REGULATORY COMMISSION (Consumer Grievance Redressed Forum & Ombudsman) Regulation 2003"

Date:- 18/3/2005 CONSUMER

(V.M.Bhatkar)

(V.V.Kelkar)

(I.Q.Najam),

Member Secretary

Member

Chair person

CGRF Kalyan

CGRF Kalyan

CGRF Kalyan