



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/212/236 OF 2009-2010 OF
M/S. PREMIER CANS, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

M/s. Premier Cans
Plot No. 22, Sector – 1.
Vasai Tal Co.Op. Industrial Area,
Gauripada, Tal : 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 above 20 KW consumer of the licensee with C. D. 97 HP. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 18/3/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. Premier Cans

Address: - As given in the title

Consumer No : -IP-74-001890274923, PC-0, SP.LT. 001849025810

Reason of dispute: Excessive Energy Bills.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/259 dated 18/03/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. SE/VC/A/c/5349, dated 06/05/2009.
- 4) The consumer has raised these grievances before the Executive Engineer (O&M) Division, MSEDCL, Vasai Division, on 15/01/2009. 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 18/03/2009.
- 5). The hearing in this case was fixed on 22/04/09 at 16.00 hrs. However, on the application filed by the CR on 01/04/09, the said hearing on

22/04/09 was postponed to 05/05/09 at 15.00 hrs. On 05/05/09, at about 15.00 hrs. the CR remained present. However, the representatives of the licensee did not remain present and sent a telephonic message at about 15.00 hrs. that it is not possible for them to attend the hearing and hence the hearing be adjourned and that they are sending application for the same. However, no such application was received from the LR though waited till 16.30 hrs. Therefore, the submissions made by CR were heard with a understanding that the written reply which the licensee may file afterwards shall be considered by the Forum while deciding the grievance application filed by the consumer. Minutes of the hearing including the submissions made by the CR are recorded and the same are kept in the record. Submissions made by CR in respect of each grievance shall be referred while deciding each of the grievance and the same are not separately mentioned in the judgement to avoid repetition.

- 6). The following grievances raised by the consumer in its letter dated 10/01/09 sent to the concerned Executive Engineer of which copy the consumer has attached with the grievance made before this forum, arise for consideration, and considering the reply dtd. 06/05/09 with CPL filed by the licensee, record produced by the parties, and submissions made by the CR, the finding or resolution on each of such grievance is given against it, for the given reasons.
- 7). As to grievance 1 – Regarding Security Deposit : The consumer claims that the consumer has paid Rs. 990/- at the time of getting connection on 09/09/1985. Further the consumer has paid SD of Rs. 40,000/- in April 04 at the time of increase in load by 41 HP. The said amount is displayed in

the bill but the earlier SD of Rs. 990/- is not shown in the bills till the said time. The licensee should verify the total amount of SD and should give credit of compound interest of Rs. 271/- as per the statement on it, to the consumer. The consumer also claims refund of excess SD of Rs. 15,000/- claiming that it's monthly electric bill during the year 2007-2008 was about Rs. 23,615/- per month and therefore, the licensee may return Rs. 25,000/- as SD. As against this, the licensee claims that Rs. 990/- was paid by consumer as SD in 09/09/85 for 66 HP load. The SD paid at the time of connection was displayed in bills till Oct. 04. The SD of Rs. 40,000/- was paid at the time of extension of load of 41 HP (special LT). Considering the average bills, keeping the deposit balance, action will be taken for refund of SD for which SD receipts may be submitted for quick disposal. 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, calculate the proper SD at this stage & refund the excess amount of SD & the interest at Bank rate of RBI on such amounts of SD at the prevailing rate, by giving it's credit to the consumer, in the ensuing bill after a period of 30 days.

- 8). As to grievance No. 2 - 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.17,127/- on this count as the charges of the 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 the matter is

referred to the higher authority for directions and on receipt of reply, action will be taken accordingly. In view of the above say, the licensee is directed to verify as to whether it has refunded any amount on account of such difference in between the MD based charges and HP based tariff charges during the period Oct. 2006 to March 2007, and refund, in case of non payment of the entire amount of such difference, and in case of part payment, the balance of the amount of such difference, together with interest at the bank rate of RBI to the consumer by giving its credit to the consumer in the ensuing bill after a period of 30 days.

- 9) As to grievance No. 3 – Regarding refund of Rs. 02,40,619/- as per the directions given by MERC in order dt. 14/07/05 in case No. 2 of 2003 and SLC recovered for extension of load :

The consumer claims that it has become mandatory i.e. compulsory for the erstwhile MSEB to measure load by MD meter only and not by physical connected load method since 1st Dec. 2003. However, on 8th Dec. 03, the officers of the licensee visited consumer's units on 8th Dec. 03 and measured load by connected load method 126 HP and charged excess fix charge and penalty for previous period which is illegal. Penalty was continued till April 04 wherein the consumer was forced to extend load to 97 HP and SLC amount was collected forcibly which may be refunded. The consumer claims refund of total amount of Rs. 02,40,619/- charged by the licensee as excess fixed charges and penalty recovered by the licensee from it during the period from Jan. 04 to April 04 on account of such additional load used by it and interest on such amount. The consumer

relies on directions given by MERC vide order dt. 14th July 05 in case No. 2 of 2003 in this behalf, in support of it's such contention. Consumer further claims that it's such claim cannot be said to be time barred in view of the observations made by Hon. Electricity Ombudsman in order dt. 5th Sept. 06 in representation No. 39 of 2006.

- 10) The licensee claims that the above referred claim of the consumer is time barred. It further claims that the matter is referred to the Higher Authority for directions and on receiving such directions, action will be taken accordingly.
- 11) It is clear from the xerox copy of spot inspection report dt. 08/12/03 at page No. 21 and 22 that the officers of licensee inspected the unit of the consumer and measured the load by connected load system to 126 HP. It is also clear from the xerox copies of bill for Jan. 04. Letter dt. 13/01/04 sent by licensee to the consumer, copy of the bill for Feb. 04, copies of bills for Feb. 04 and April 04 at pages 23 to 28 that the licensee did charge penalty and fix charges for such additional load used by the consumer. The licensee has also not denied such contention of the consumer. Therefore, such contention of the consumer is accepted.
- 12) The MERC in it's order dt. 14/07/05 in case No. 2 of 2003 (Annexure-3), issued various directions and relevant direction reads as under :
"33. In view of the above, and keeping the circumstances of the case in mind, the Commission directs as follows.
a to d
e : Assessment for violations would differ depending of the period of occurrence and it's corresponding tariff and loads, as follows.
(1 and 2)

(3) : The period from 1st Dec. 2003 onwards : If exceeding the sanctioned load has been measured by maximum demand recorded by meter, then two times the tariff applicable for exceeded portion of the load (maximum demand minus sanctioned load). No penalty will be applicable if exceeding of sanctioned load is claimed on the basis of connected load method”.

It is thus clear from the above referred directions of MERC that no excess charges can be charged and recovered and no penalty can be imposed for exceeding sanction load if such allegation regarding exceeding sanction load is made on the basis of connected load method. In the instant case also the licensee has alleged such exceeding of load on the basis of connected load method and therefore, the licensee could not have charged excess charges in connection with excess connected load and penalty for the same and therefore, the consumer is entitle for refund of such excess charges and penalty charged by the licensee.

- 13) It is true that the consumer is claiming refund of such penalty for using additional load charged by the licensee during the period from Jan. 04 to April 04 i.e. beyond the period of two year prior to filing of grievance before IGRC and this Forum. However, as observed by the Hon. Electricity Ombudsman in the above referred case, the licensee was supposed to refund the amount of penalty imposed or charged to the consumer for using additional load as per the directions given by MERC vide order dt. 14/07/05 in case No. 2 of 2003 and therefore, the limitation of two years would not apply to such claim of refund based on the said directions given by MERC. Therefore, the contention of licensee regarding such limitation is rejected.

- 14) In view of the above discussion and relying upon the directions given by MERC and observations made by Hon. Electricity Ombudsman as discussed above, the licensee is directed to refund the excess charges recovered in connection with excess connected load and penalty for using additional load charged and recovered from the consumer in the bills for the months from Jan. 04 to April 04, together with interest at the Bank rate of RBI at the prevailing time, 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.
- 15) As far as the prayer of consumer for the refund of SLC for extension of load is concerned, admittedly the licensee has extended the load of consumer after recovering SLC from the consumer and therefore, the consumer is not entitle for refund of SLC and hence prayer of consumer for the same is rejected.
- 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 consumer's grievance application is partly allowed.
- 2) The licensee to comply the directions given in above para Nos. 07, 08 and 14.
- 3) Prayer of consumer for refund of SLC is rejected.
- 4) The Compliance should be reported to the forum within 90 days from the date of decision.

5) 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.

6). 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 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 : 18/05/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan