



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/352/396 OF 2010-2011 OF
M/S. KIPRIL PRODUCTS AND PACKAGINGS P. LTD., VASAI
REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM
KALYAN ZONE, KALYAN ABOUT EXCESSIVE BILLING.

M/s. Kipril Products & Packagings P. Ltd.
Gala No. 05,
Arati Ind. Estate, Chinchpada,
Waliv, 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 25/06/2010 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. Kipril Products & Packagings P. Ltd.

Address: - As given in the title

Consumer No : - 001840854082

Reason of dispute: Excessive Energy Bills.

- 3) The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/278 dated 25/06/2010 to Nodal Officer of licensee. The licensee filed reply vide letter No. IGRC/VC/CGRC-0352/0396/2010-11/5099, dated 21/07/2010.
- 4) The forum heard both the parties on 22/07/2010 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, Shri Vinit Sheth representatives of the consumer & 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) Consumer has taken electricity connection from the Distribution Licensee (DL) to the company premises situated at Aarti Industrial Estate, Chinchpada, Vasai (East) in February 2002. It is contended by the consumer that P.F. penalty data for the months August 08 and November 08 was KWH 379317 / KVAH 507313, and KWH 404967 / KVAH 543059

respectively as such PF comes 0.72 however licensee charged 0.65 so refund 7% on 175902 which comes to Rs. 12313.14. In July 2009 KVAH was wrongly recorded thereby Aug. 2009 KWH was recorded less than KVAH thereby PF comes to 0.97, in Oct. 09 KVAH was 26818 and RKVAH was 484 thereby difference comes about Rs. 8370=48. It is averred officials of the licensee as such charged excess P.F. penalty during the period shown in the enclosed chart and the same needs to be refunded with interest as per the directions of Hon. MERC / Ombudsman. It is further contended that for the month Oct. 09 and Nov. 09 TOD meter reading was not displayed consequently they deprived from power factor incentive. It is averred MD tariff and TOD meter slots are basic components of Tri-vector meter operating system, if any data is damaged by the officials, consumer should not suffer for this and as such licensee is liable to refund incentive as per the chart enclosed. In so far Additional Security Deposit (ASD) paid in 2002 according to consumer licensee collected Rs. 11,700 towards ASD however not displayed the same nor refunded though demanded with interest as stated in the chart. It is contended licensee is liable to refund the ASD if not shown in the computer, on verifying F-1 register and details thereof even if receipt not produced, in as much as correct and update CPL has not been furnished. It is further the contention of consumer that licensee collected excess connected load penalty in Sept. 2004 as per the enclosed chart, it was demanded but not refunded by the officials of the licensee is contrary to the directions of Hon. MERC in case No. 02 of 03 dt. 14/07/05 and order of Hon. Ombudsman in representation No. 39 of 06 dt. 05/09/06. According to consumer by letter dt. 21/12/09 and on perusing the CPL by letter dt. 28/05/10 requested the Dy. Ex. Engr. Vasai Sub-Division to refund the amounts with interest on the above counts but not

responded therefore they moved the IGR Cell but in vain, consequently consumer lodged the grievance with prayer to direct the licensee to refund the amount of excess P.F. and connected load penalty, power factor incentive and ASD with interest as per the directions of Hon. MERC / Ombudsman and further to direct the licensee to furnish correct and update CPL so as to enable them to put forth their grievance properly.

- 6) Licensee filed their reply on 21/07/2010. It is contended that PF penalty as per the guide lines given by Hon. MERC will be calculated. So far power factor of which incentive is claimed, it is contended consumer did not furnish details of the relevant period i. e. MR – 9 and MRI report and as the grievance did not support by documents cannot be considered. So far zero display according to licensee at times registers are not preserved therefore it is unsafe to refund the amount of SD/ASD without receipt and that change over to oracle system is the technical difficulty and on this count “Akhil Bharatiya Grahak Manch” has filed the case before the Hon. MERC bearing No. 93/08. As regards excess connected load penalty, it is the contention of licensee that this point was not agitated before the IGR Cell and that CPL has already been furnished therefore grievance does not stand before this Forum. For all these reasons according to licensee grievance since sans merits be dismissed in limine.
- 7) On perusal of the record and hearing both the parties at length following points arise for the consideration of Forum and findings thereon for the reasons recorded below :

Points	Findings
a) Whether licensee is liable to refund the amount of excess P. F. penalty as per order of Hon. MERC ?	Yes
b) Whether licensee is liable to refund the amount of P. F. incentive with interest ?	Yes
c) Whether licensee is liable to refund the amount of A.S. D. with interest to the consumer in the event of zero display / without the production of receipt as per order of Hon. MERC in case No. 93 of 08 ?	Yes
d) Whether licensee is liable to refund the amount of excess connected load penalty as per order of Hon. MERC ?	Yes
e) 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 copy of 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 copy of CPL to consumer and accordingly it was supplied. In fact, officials of the licensee are duty bound to supply correct and update copy of CPL as and when required by consumer.
- 9) Learned representative for the consumer inviting our attention to the chart enclosed as regards refund of excess connected load penalty and PF penalty submitted that MD tariff started from Aug. 08. Penalty is charged on two months consumption of July 09 and August 09, in Nov. 09 earlier month KVAH was zero therefore PF penalty wrongly charged in Nov. 08 and July/Oct. 09 and as such amount calculated as excess P.F. penalty

vide chart enclosed needs to be refunded. He urged with force that exaggerated KVAH is used to charge PF penalty instead giving 7% incentive on PF. So far connected load penalty according to the consumer it was charged in Sept. 2004 around Rs. 2490 + 1080 as per the chart enclosed and the same also needs to be refunded since collected excess as per the directions of Hon. MERC in case No. 02 of 03 dt. 14/07/05 and Hon. Ombudsman in representation No. 39 of 06, dt. 05/09/06 however due to negligence, inaction, lethargy on the part of officials of the licensee, raising irrelevant points, avoided to refund amounts on the above counts as mentioned in chart.

- 10) In contra, learned representative for the licensee submitted that excess connected load penalty has not been claimed before IGR Cell therefore this point now cannot be raised before this Forum. So far PF penalty calculation it is urged, it has been correctly made and as such no refund needs to be given to the consumer. Pointing calculation depicted by the consumer he urged with force that RKVAH is to be used as one of it's parameter and not R_KV_AH (Lag) and further submitted that R_KV_AH is not equal to R_KV_AH (Lag) only but it is the vector sum R_KV_AH (Lag) and R_KV_AH (Lead). Dy. Executive Engineer in his letter dt. 28/05/10 pointed out that power factor calculation is to be made in the light of MERC tariff order in case No. 116/08, dt. 01/08/09. We have gone through the detail order of Hon. MERC dt. 17/08/09 page No. 239 and 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. 20/08/2010 pointed out calculation as regards PF penalty and that it is their contention that no refund can be given. According to consumer as per the calculation they have prepared chart of excess P.F. penalty whereas licensee contended that applying the methodology nothing is to be refunded.

- 11) On going through the say filed by licensee dt. 20/08/2010 it seems while calculating the P.F. penalty licensee has calculated the same taking into consideration three months KWH and KVAH readings however, as per the directions of Hon. MERC it should be calculated month-wise basis since the bill is issued monthly. It is significant to note that neither the consumer nor the licensee took pains to place on record energy bill for the month of

November 2008 therefore we find proper to direct the licensee to recalculate the power factor penalty on month to month basis. If the P.F. comes below than 0.9 penalty may be imposed, and if it goes above 0.9 then incentive should be given to consumer as per directives of Hon. MERC in Case No. 116 of 2008 page No. 239 and 240. So far MR-9 and MRI report is concerned, it is the duty of the licensee to preserve the same and to provide the same to the consumer as and when required.

- 12) So far connected load penalty consumer has enclosed calculation chart. Hon. MERC in case No. 02 of 03 dt. 14/07/05 and Hon. Ombudsman in representation No. 39 of 06 dt. 05/09/06 clearly observed that the licensee is duty bound to work out the refund suo-moto instead raising lame excuses. According to consumer in the light of the chart enclosed and the recitals in the application referred to above, licensee has to make calculation. On going through the say filed by the licensee and the recitals in the applications dt. 21.12.09 and 20.05.10 it is proper to direct the licensee to calculate the connected load penalty in the light of the directions given by the Hon. MERC and the Ombudsman and to refund if excess collected to the consumer.
- 13) So far TOD meter according to consumer reading for the period Oct. 09 and Nov. 09 was not displayed therefore they deprived from P.F. incentive and this loss is running in thousands i.e. Rs. 3500 + 2700 as mentioned in the chart. Learned representative for the consumer urged with force that officials of the licensee themselves if damaged data, consumer should not suffer and that MD tariff and TOD meter slots are basic components of Tri-vector meter operating system. Licensee at this juncture pointed out that when slot data for TOD meter tariff and MRI data not available hardly incentive can be given. When licensee is the custodian of records, based

on MRI data available in the light of chart enclosed, licensee can very well work out incentive and refund the same to the consumer bearing in mind interests of the consumer as a whole are to be guarded.

- 14) So far refund of ASD amount in case of non availability of receipts and in the event of zero display due to change over to oracle system learned representative for the consumer submitted that on verifying F-1 register furnishing indemnity bond in the light of update CPL, amount as mentioned in the chart enclosed needs to be refunded. In the instant case consumer does not have receipt of ASD Rs. 11,700 as per the chart enclosed and there is problem of zero display therefore point arises whether without receipts amount with interest can be refunded on furnishing indemnity bond. Learned representative for the licensee at this juncture submitted that at times F-1 registers are not preserved therefore it is rather risky to refund such amount without receipts. He pointed out that "Akhil Bharatiya Grahak Manch" has filed case No. 93/2008 involving this vital point. Learned representative for consumer urged that F-1 Register is maintained in the office in which entry of consumer's number, name, date of release of connection, details of ASD etc. is recorded and on verifying the Firm Quotations and concerned records in the presence of consumer or his representative, amount of lost/misplaced ASD with interest can be refunded. Learned representative for the licensee all the while submitted that Case No. 93 of 2008 is pending on this count. From the website we collected the copy of order dt. 01/09/2010 passed by Hon. MERC in case No. 93 of 2008. In para 10 (v) & (vi) licensee pointed out in the context of their letter dt. 29/04/09 that on production of money receipts or any other documentary evidence in respect of ASD after due verification data regarding ASD can be updated and correct amount of ASD can be shown

in the energy bill in the event of zero display and further pointed out that consumers who do not produce money receipts or any other documentary evidence in respect of ASD paid, it will be presumed that these consumers have not paid any ASD and on this background Hon. MERC in para 19 (ii) directed the licensee to take efforts to correct error regarding zero ASD display within six months time. Considering the aspect of zero display, on production of any other documentary evidence in respect of ASD paid, the officials of the licensee have to correct the position. As regards lost/misplaced receipts of ASD, on verifying F-1 register, record of consumers in and around the locality and the amounts paid as ASD at the time of new connection, firm quotation and considering prevailing practice of collecting ASD from the respective tariff category, furnishing indemnity bond, hearing the consumers patiently needful can be done by the officials of the licensee in the light of the directions given by Hon. MERC as above without violating the consumers rights under Electricity Act 2003.

- 15) 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 we find proper to direct the licensee to work out the amount of excess P.F. penalty, TOD incentive, excess connected load penalty and if recovered excess refund with interest. It is further directed to refund the amount of ASD mentioned supra with RBI rate of interest to the consumer and supply correct and update

copy of CPL to the consumer as and when required. Consequently points are answered accordingly and grievance application will have to be allowed.

- 16) 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, therefore delay is caused in deciding the grievance. Hence the order :

O-R-D-E-R

- 1) The grievance application is allowed.
- 2) Licensee is directed to refund the amount of ASD with R.B.I. rate of interest to the consumer as per the directions given by Hon. MERC in case No. 93 of 08 dated 01/09/2010.
- 3) Licensee is directed to work out the amount of P. F. penalty and P. F. incentive in the light of observations made by us in Para No. (11) and as per the directions given by Hon. MERC and Ombudsman and refund if collected excess to the consumer with R.B.I. rate of interest within 30 days and compliance should be reported to the forum within 60 days from the date of receipt of this decision.
- 4) Licensee is further directed to calculate connected load penalty in the light of the directions given by Hon. MERC and Ombudsman and to refund if collected excess to the consumer with R.B.I. rate of interest within 30 days

and compliance should be reported to the forum within 60 days from the date of receipt of this decision.

- 5) Licensee is directed to supply correct and update copy of CPL to the consumer as and when required.
- 6) 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”.

- 7) Consumer, as per section 142 of the Electricity Act, 003, 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 : 13/10/2010

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(S.N. Saundankar)
Chairperson
CGRF Kalyan