



Consumer Grievance Redressal Forum, Kalyan Zone  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
Ph- 2210707, Fax – 2210707, E-mail : cgrfkalyan@mahadiscom.in

**K/E/802/961 OF 2014-15**

Date of Grievance : 25/05/2014  
Date of Order : 10/07/2014  
Period Taken : 49 days

**IN THE MATTER OF GRIEVANCE NO. K/E/802/961 OF 2014-15 IN RESPECT OF M/S. GURERA SYNTHETICS PVT. LTD.D.6/2 M.I.D.C. PHASE-I, DOMBIVLI (E) 421 203 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN, SUPPLEMENTARY BILL ISSUE,, RECOVERY OF DPC CHARGES.**

M/s. Gurera Synthetics Pvt. Ltd.,  
D-6/2, M.I.D.C. Phase -1  
Dombivli (E)-421 203  
Consumer No.02129002400).

..... (Hereinafter referred to as Consumer)

V/s.

Maharashtra State Electricity Distribution  
Company Limited through its  
Nodal Officer/Exe.Engineer,  
Kalyan Circle-I, Kalyan.

..... (Hereinafter referred to as Licencee)

Appearance-For Consumer- Mr. Tekchandani & Mr. Lanke consumer's Representative

For Licensee - Mr. Bharambe-Asst. Engineer  
Mr. Sapkal –Asst.Accountant.

(Per Shri Sadashiv S.Deshmukh, Chairperson)

1] Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003. (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is

referred as 'Regulation'. Further the regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission. Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005.' Hereinafter referred 'SOP' for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2005'.

2] Consumer is having Industrial supply from 22/6/1967 and is having consumer No.02129002400. Consumer herein, received letter on 2/12/2013 from Licencee, demanding dues towards DPC which is not paid from September 2011 to November 2013 to the tune of Rs.8,52,340/-. Aggrieved by it, consumer approached IGRC on 1/2/2014. IGRC, rejected the complaint on 2/5/2014.Hence, consumer approached this Forum on 27/5/2014, seeking a relief for setting aside the said demand of Licencee and further sought prompt payment which is not given by Licencee.

3] On receiving the grievance, copy of it was forwarded to the Nodal Officer, vide Letter No. EE/CGRF/Kalyan/212 dated 31/5/2014 of this Forum, along with it's accompaniments. In response to it, Licencee appeared and filed reply dated 17/6/2014 and therein contended that DPC is demanded as consumer has not deposited amount in time. Allegations of consumer are denied. Consumer too added contentions by additional plea vide written submission dated 17/6/2014 and 23/6/2014.

4] We heard both the sides and during the hearing on 25/6/2014, liberty was given to the consumer's representative to place on record the chart which he intended to place demonstrating the date when cheques for payment were handed over and the cheque honoured on particular dates, thereafter amount reflected in the account of Licencee. Accordingly, though, time was granted, consumer's representative failed to turn up, there is no communication, hence matter closed on 1/7/2014 for order.

3] Consumer herein came up with the peculiar contention basically, alleging that there was a dispute amongst consumer and Licencee, pertaining to previous period and civil suit is filed in Kalyan Court. Said factual aspect is not disputed. On the other hand, Officers of Licencee, specifically pleaded that Spl. Civil Suit No. 256/2007 filed by the consumer which is pending in the said Court, but on the pretext of said pending suit, consumer is only paying current bill for which Licencee not objected. It is contended by Licencee that towards the said current bill, DPC was chargeable (Delayed payment charges) which consumer not paid from 30/9/2011, those were shown in the bills and demanded by writing letter on 2/12/2013 due up to that date.

6] During the course of arguments, consumer's representative made submissions that as matter was subjudice in Civil Court, the amount involved in the said suit, is, shown by the Licencee in further months including the current dues. It is claimed that in fact, consumer was liable to pay only current bills and Licencee was not to show the disputed amount which is subjudice. Further, it is contended that as bills were issued by Licencee even showing the disputed amount along with current bill, all the while consumer was required to approach the Officers of Licencee and to seek an endorsement, allowing it to pay only current bill. These facts are not in dispute. Officers of Licencee submitted that such bills were issued and as and when consumer approached, endorsement was given for paying the current bills. It is the contention of consumer that legally, it was not proper to issue bill, covering the disputed amount which is subjudice.

7] Though, these arguments were advanced at length, precisely what transpired before the Civil Court, not placed on record. We asked consumer's representative Mr. Lanke about producing order passed by the Court either restraining the Licencee from recovering the dues or not showing the disputed amount in the current bill. During the course of arguments, Mr. Lanke placed before us, his file containing the copy of the injunction application filed before Civil Court and Civil Court, issued notice as to why interim relief should not be granted. It is mere a show

cause notice and there is no any stay order of injunction order. Even, the prayer clause of said application is peculiar, whereby consumer sought a relief that Licencee should not disconnect the supply for not paying the disputed amount. Accordingly, on reading these details from the file of CR, he was directed to place on record the copy of it. Though, he agreed to produce it, he did not turn up on the next date of hearing. Accordingly, consumer not produced the said documents and even not produced the chart which he as to produce, showing the details of the dates when cheques were submitted towards payment of current bill, date of it's encashment and it's entry in the record of Licencee.

From these aspects, one thing is clear that though, Civil Suit is pending amongst the parties, there is no any order from Civil Court, restraining the Licencee from recovering the amount or for showing it in the current bill . Consumer in the grievance application dated 27/5/2014, falsely stated about the injunction in following words:

*'In this case the Court of Law issued interim injunction for recovering the challenged provisional bill. \The above code commercial instructions are explicit that till the delivery of Court of Law Judgment MSEDCL should not issue bills leveled DPC and interest on challenged amount. As per condition of supply published by MSEDCL and MERC Supply Code Regulation, such bill should be issued to consumer 15 days in advance. In this case the DPC and interest waived bills were issued by MSEDCL Authroity on the due date, so naturally, the payment period left for the consumer as per Regulation is fifteen days thereafter.....*

In spite of it, both sides acted bonafidely and the consumer was allowed to deposit current bills, without insisting for paying the disputed amount. It is also

Made clear that DPC shown in the bills is only on the current bills and not on the dispute arrears. Consumer's representative referring to the provisions of Supply Code, tried to contend, how Licencee was required to issue bill, giving particular time and if not paid then applicability of DPC. In short, it is contended that as consumer was required to have an endorsement from the Officers of Licencee on the bills for allowing to pay current bills, the period available for payment is reduced and hence, consumer to pay current bills, consumer could not get time to avoid the said DPC and to claim prompt payment. This argument though found attractive, it is not sound one and it is not acceptable as the basis on which CR tried to argue, itself is based on wrong presumption of Civil Court's order. Though, there is no order of Civil Court, restraining Licencee in any manner. But contending that, Licencee ought not to have added previous arrears in current bill is, totally contradictory to the record. Hence, said contention cannot be accepted. It is a benefit which consumer has availed simply paying current bill, and keeping intact disputed portion. Hence, consumer was supposed to pay current bill in time, to avoid DPC.

It is a fact that consumer paid the current bill for issuing cheques. Those cheques are encashed by the Licencee but, amount of those cheques are not transferred or entered on the prescribed due dates in Licencee's account. In this regard, Licencee submitted that those cheques were not submitted early by consumer and if those would have been given early, payment would have been received on the due dates by Licencee. Accordingly, it is contended that as per the requirement, payment is to be treated, in case of cheques, as and when cheques are honoured and amount is transferred in the account of Licencee. In this regard, Officers of Licencee heavily relied on the order of Ombudsman in Representation No. 36/2013, dated 20/3/2013, Seems Ice Factory V/s. MSEDCL. We find legal position is dealt therein which needs to be accepted. On the other hand, consumer's representative tried to rely on the circular of Licencee dated 24/8/2011. But, we find, it is not applicable to the consumer. Therein it is made clear that '-----**At the time of deposit of the**

**chdques/DD/Pay order by the consumers at various collection centers, only acknowledgment of the receipt of payment shall be issued to the consumers, following the money receipt after ensuring realization of the amount to MSEDCL's account. The date of money receipt issued after crediting the amount to MSEDCL's account as above, shall only be considered for allowing the prompt payment discount to the consumer'.**

Secondly, consumer has referred to the Judgment of **Apex Court, Adony Jeaning Factory Vs. Secretary Andra Pardesh, AIR 1979, SC, 1511**. Said judgment is also not helpful to the consumer as Supreme Court made it clear in Para No.5 that there was no stay granted by Supreme Court. Further consumer's representative relied on the Judgment of **Jarkhand High Court, M/s.Tata Yodogawa Ltd., V/s. State of Bihar dated 2/5/2013 in CWJC No. 852 of 2000**. Said judgment pertains to the applicability of tariff and it's enforcement retrospectively, however, in the present matter facts are otherwise. Hence, this judgment is also not applicable.

7] In view of the above discussion, it is clear that there is no order of Civil Court, restraining Licencee for recovery of the disputed amount or showing it in the further current bills. Consumer already admitted that bills issued by Licencee are received in time, said admission is reflected in reply dated 23/6/2014, which reads as under:-

----i] In this respect we accept the say of MSEDCL regarding Timely delivery of monthly energy bill-----

This admission is given when Officers of Licencee came up with firm stand that bills are issued in time and acknowledgments are there. Xerox copies of said acknowledgments are placed on record by the Officers of Licencee. In this light, it is clear, that bills are issued, handed over in time. Consumer was supposed to pay the bills on the due dates, to avoid DPC and to earn prompt payment discount as cheques were issued but, payment of those cheques credited in the Licencee's account after the due dates. Hence, payment found not within due date and DPC applicable. Licencee placed on record the detailed charts showing the position when the payment is

received and date of cheques. Though an unsuccessful attempt is done by the representative of consumer, to contend that cheques were not put in the bank by Licencee in time but those details in spite of assurance, not placed on record and it is not possible to raise such inference.

8] It is the contention of the consumer that DPC of 27 months, claimed by Licencee. There is no dispute that those amounts not paid hence, Licencee has demanded. Those amounts reflected in the bills of respective months. We find that even those are shown in principle arrears and carried forward in the next bills. Accordingly, those arrears are shown continuously, hence bar of section 56(2) cannot be invoked.

9] We find, there is no question of Licencee issuing any revised bill as canvassed by consumer.

10] In the result, this grievance application is to be rejected.

Hence the order.

### **ORDER**

Grievance of the consumer is hereby rejected.

Kalyan

Dated:10/7/2014

I agree

I agree

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

**(Chandrashekhar U.Patil)**  
**Member Secretary**  
**CGRF,Kalyan**

**(Sadashiv S.Deshmukh)**  
**Chairperson**  
**CGRF, Kalyan**

### **NOTE**

- a) The consumer if not satisfied, may file representation against this order before the Hon. 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”.*

- b) 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”*

- c) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.



