



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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Date of Grievance : 26/11/2012
Date of Order : 19/08/2013
Period Taken : 266 days

**IN THE MATTER OF GRIEVANCE NO. K/E/664/783 OF 2012-13 OF
M/S.K.T. VISION & SONS OF MANIKPUR, VASAI (WEST) REGISTERED
WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE,
KALYAN ABOUT EXCESSIVE ENERGY BILL**

M/s. K.T. Vision & Sons,
New Lawrence Trade Centre,
Manikpur, Vasai (West),
Dist : Thane : 401 506
Consumer No. 006115500454

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Exe.Engineer, Vasai S/dn, Vasai (W)

(Here-in-after
referred
as Licensee)

Appearance : - C.R. - Shri Harshad Sheth
For Licensee - Shri S.S. Bakshi, Exe. Engineer
Mr. V.C. Patil, Executive Engineer, Vasai Division
Shri Jadhav, Dy. Exe.Engineer, Vasai [West] S/dn
Shri S.D. Gaikwad, Exe. Engineer, Vasai Division
Sau. Ovhal, Jr. Engineer, Vasai [West] S/dn
Mr. V.R. Patil, Engineer, Vasai [West] S/dn

(Per Shri. Sadashiv S. Deshmukh, Chairperson)

1. This 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. The 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 having L.T.-II supply from the Licensee. The Consumer is billed as per said tariff. Consumer registered grievance with the Forum on 26/11/2012 for Excessive Bill towards P.F. penalty and forcible change of Category and other reliefs.
3. The papers containing above grievance were sent by Forum vide letter No. EE/CGRF/Kalyan/0810 dated 26/11/2012 to Nodal Officer of Licensee. The Licensee filed its reply on 4/3/2013.
4. The Consumer is having supply from Licensee from 14/1/2005 bearing Consumer no. 006115500454. It is of LT-II-b category. Sanctioned load is of 45 KW and sanctioned demand is of 60 KVA.
5. Dispute in the present matter commenced due to inspection of Licensee conducted on 11/11/2011 and issuing bills for the supply towards LT-II(c). On this count the Consumer has complained to the Officers of Licensee on 29/3/2012.
6. Further, Consumer had approached IGRC on 21/9/2012. IGRC passed an order on 4/3/2013 rejecting the prayer of Consumer. The Consumer had approached this Forum by filing grievance on 26/11/2012 and during pendency of this matter, IGRC has passed the order on 4/3/2013 rejecting the prayer of Consumer. It is also now challenged. Licensee filed reply on 12/4/2013. Consumer had added rejoinders during period

from 26/12/2012 to 4/6/2013. Totally eight rejoinders are filed. Licensee replied to some of the rejoinders.

7. Dispute of Consumer now is on different counts. First dispute pertains to the wrong calculation of Power Factor (P.F.) and issuing bills adding P.F. penalty charges. Though before IGRC when application was filed on 18/10/2012 disputing the bill issued for Oct.'12 wherein P.F. penalty was added. It is seen that though IGRC not decided the matter, but in the meantime said bill for Oct.2012 is revised and corrected. However, prior to that aspect, Consumer has already approached this Forum on 26/11/2012. In spite of the bill for Oct. 2012, corrected on the point of P.F. penalty, same is continued for further months and hence the Consumer in this proceeding, from time to time, in rejoinders referred to the month of Nov. 2012 & Dec. 2012. Dispute pertaining to this period, is raised in the light of the stand taken by the Licensee. No doubt, Licensee replied the rejoinders filed by the Consumer. It is necessary to note that as IGRC not decided the matter within the stipulated period, matter travelled up to this Forum and when this Forum pursued the Nodal Officer, for providing the copy of Order deciding the application pending in IGRC, then on 4/3/2013 such Order is passed. However, said Order is not covering the aspect of P.F. penalty. Needless to say, that aspect was raised by the Consumer before IGRC on 18/10/2012 but as clarified by the Consumer, said bill was corrected due to the observations of IGRC. We find that as matter travelled to this Forum with other disputed aspects and this development about the P.F. penalty is continued illegally by the Licensee, ground is added by Consumer to it and in reply as well as during arguments both sides made submissions.

8. In this matter, C.R. attended regularly but for the Licensee different officers attended the matter who were posted from time to time.
9. We find initially this particular aspect of P.F. penalty is to be dealt as under:

I. **POWER FACTOR PENALTY:**

- (a) It seems to be the factual aspect that Licensee worked out the aspects of P.F. penalty and while dealing it Licensee relied heavily on the internal circular issued by Chief General Manager (IT) dated 20/7/2012. Even the Officers of Licensee in this matter sought reply from said IT Section and IT Section replied vide its letter dated 4/1/2013 about P.F., how to be calculated, is stated in that particular letter. It is in consonance with the letter of Chief General Manager (IT), communicating to the Dy. General Manager (IT) at various places in Maharashtra and System Analysts (IT). The Chief General Manager (IT) has forwarded the details and stated the purpose of amendment.
- (b) In this matter, we heard both sides time and again as they were concentrating on interpretation of mode of working out P.F. The Officers of Licensee claimed that calculation for the disputed months is done as per the above letter of Chief General Manager (IT) and hence calculation is correct. On behalf of Consumer reliance was placed on the order of Hon'ble Ombudsman passed in Representation No.10 of 2013 dated 6/3/2013 in the matter of Supreme Industries Ltd. v/s Maharashtra State Electricity Distribution Co. Ltd. The Hon'ble Ombudsman in Para 2 of the

order dealt the facts therein and aspect of working out P.F. and observed as under:

“Gist of Representation is that up to Nov. ’11, Respondent calculated average P.F. by one method : $kWh \div kVAh$ and from Dec.’11 by another method: $kWh \div \text{SQRT} (kWh^2 + RkVAh^2)$. Ideally the average P.F. calculated by both the methods should be the same but the bill of Dec.’11 shows average P.F. calculated by the first method is 0.999 and by second method as 0.986. ...”

Thereafter the Hon’ble Ombudsman considered the clause 2.1 (d) of MERC (Supply Code) Regulations pertaining to average P.F. in Para 8, referred to Annexure I of the appropriate tariff schedule of MERC Tariff order dated 12/9/2010 in Case no.111 of 2009 which speaks about P.F. calculation. Two modes are given, one after another and in Para no. 9 of the Hon’ble Ombudsman’s order, it is observed as under:

“Plain reading of above provisions make it abundantly clear that whenever average measurement is not possible through the installed meter, the $kVAh$ shall be calculated as $= \text{SQRT} (kWh^2 + RkVAh^2)$ and average P.F. shall be calculated as $= kWh \div kVAh$. In this case, measurement of $kVAh$ is possible from the reading of the installed meter. Therefore, average P.F. shall be calculated as $= kWh \div kVAh$ for giving P.F. incentive in the bills. Accordingly to the values of kWh and $kVAh$, taken from the meter readings, average P.F. for the month of Dec.’11 is $4994500 \div 499500 = 0.999$ and the average P.F. for the

month of Jan '12 is $5203000 \div 5218500 = 0.997$. The Appellant is therefore entitled for 7% incentive by taking into consideration the Power Factor level of 1.00 as shown in the above table for the month of Dec. '11 as well as Jan.'12. The Respondent is, therefore, hereby directed to work out P.F. incentive in terms of the above tariff order and give necessary credit, in the Appellant's ensuing bills, towards rectification of errors in the said two bills of Dec.'11 & Jan '12, accordingly.”

- (c) Though it is contended by the Licensee that the above order of Hon'ble Ombudsman is not applicable to the present matter, the C.R. submitted that by all means this order is applicable to the present case. We find question before Hon'ble Ombudsman was pertaining to two modes stated for working out average P.F. and while stating so, in Para 4 the Hon'ble Ombudsman noted that there was an error in the measurement of RkVAh for the month of Dec.'11 & Jan.'12 and thereby observed that P.F. needs to be re-calculated correctly. Accordingly, error in recording measurement of RkVAh is dealt therein. Similarly in the matter before this Forum, it is demonstrated by the C.R. that already two factors are visible from the readings available in the meter of Consumer pertaining to kWh and kVAh. However, the figures in RkVAh are not tallying. This aspect is for disputed months of Oct., Nov. and Dec. of 2012 which is now conceded by the Officers of Licensee. As per following chart, the Consumer has worked out the said aspect and sought incentive. Those details are as under:

Month	KWH			KVAH			RKVAH			P.F.	KVAH BY	P.F. BY	RECEIVED INC.	CHARGED PENALTY TO WAIVE	INCEN. TO RECEIVE
	Prev. Reading	Current reading	Total kwh	Prev. Reading	Current reading	Total kwh	Prev. Reading	Current reading	Total kwh	kvh / kvah	Sq. Root	Sq. RT formula			
Oct '12	788539	797251	8712	844299	853627	9328	522760	573010	50250	0.934	51000	0.1708		87,649.94	
Nov '12	797251	806361	9110	853627	862890	9263	573010	580309	7299	0.983	11673	0.7804		16,418.21	3,788.81
Dec '12	806361	815031	8670	862890	871660	8770	580309	588963	8654	0.989	12250	0.7079		22,652.25	5,663.04

(d) From the above chart, total kWh and total kVAh is displayed in the meter and bill, hence, the power factor can be calculated by applying straight way formula, i.e. total kWh ÷ total kVAh. However, the RkVAh readings seen for the relevant period, are not tallying. Those are now found not taken properly, which is conceded by representative of Licensee. We find as the Officers of Licensee conceded to the error apparent in showing RkVAh, now this claim is to be allowed. Accordingly, the Licensee is required to refund the P.F. penalty, DPC and interest recovered and pay the P.F. incentive admissible after verifying the figure worked out by the Consumer.

(e) As per the judgment of Hon'ble Ombudsman no more comments are required on the circular issued by the Chief General Manager (IT) of the Licensee dated 20/7/2012. The judgment of Hon'ble Ombudsman referred above speaks itself. Accordingly this grievance is to be allowed.

II. CHANGE OF FORCIBLE CATEOGRY:

(a) Consumer herein has come up with the second grievance contending that wrongly and forcibly category of tariff is changed from LT-II-b to LT-II-c and towards it, an amount of Rs.2,53,998/- is collected during the period from Nov.'11 to Aug.'12 and that same calculation is continued further. Secondly, it is contended that even in the LT-II-b category, it is necessary on the part of the Licensee, to install M.D. meter which is not installed. However, the Consumer is charged fixed / demand charges with M.D. tariff instead of HP based tariff. This particular amount is also sought to be refunded. Thirdly, it is contended that the Consumer had approached for increase of sanctioned load by 35 KW and contract demand by 20 KVA. Considering existing load of 45 KW, connected load and maximum demand of 60 KVA total comes to sanctioned load of 80 KW and maximum demand of 80 KVA. Accordingly, letter was given to that effect. On 10/9/2009 Licensee issued sanction letter along with firm quotation and as per said firm quotation an amount of Rs.23,320/- was to be deposited. Ultimately the said amount is deposited on 15/9/2009. It is the contention of Consumer that this amount is not reflected in his bills but the previous deposit of Rs.63,140/- is shown on bills till Aug. 2012 and actually though he sought such extension of load, he has not complied further required aspects and was not intending to use it. In result, this amount deposited towards extension of load is now sought back. It is the contention of the Consumer that inspection was conducted by the Licensee and basing on it, heavy bill was issued and under the threat of disconnection he was made to pay an amount of Rs.6,06,618/- in the month of

Jan'12. The said amount is also sought back. These are the three aspects revolving around the prayer for enhancement of load, amount deposited towards it and that though in-compliance, required after sanction letter is not done, the Consumer is heavily burdened with the charges treating that it is also sanctioned and connected.

(b) The Consumer in respect of change of this category had heavily relied on the order of Hon'ble Ombudsman in Representation No.21 of 2012 dated 29/3/2012, Harish Savla v/s BEST Undertaking wherein the Hon'ble Ombudsman dealt the fact that Appellant therein had sanctioned load of 7.04 KW as against which he is using 14.4 KW. Upon query and upon perusal of section 126 of Electricity Act, 2003, the respondent conceded that 'unauthorized use of electricity' is clearly defined in five categories; under Ssn.6, Explanation (b) (i), (iii), (iv) & (v), exceeding sanctioned load does not fall in any of the five categories. The Respondent conceded that 'exceeding load is to be dealt with as per provisions of tariff order passed by the Commission'. Thereafter in the end at para 8 the Hon'ble Ombudsman observed as under:-

'As regards exceeding of sanctioned load, the Respondent is directed to revise bill considering LT-II-(b) tariff for the month, in which the load exceeding 20 KW during the period from June 2010 to June 2011'.

(c) Accordingly the sum and substance of this provision speaks that if, in any month the consumption exceeds the load sanctioned,

then for that month only, to the extent of exceeding, the Consumer is to be charged taking him in the other category, may be from (a) to (b), or (b) to (c).

(d) Consumer has made grievance about the bill issued covering the period from October 2009 to November 2011 which is based on the inspection report conducted on 11/11/2011. In this regard he contended bill is issued changing category from LT-II-b to LT-II-c. It is claimed that change of the category is not at all legal and proper. On this basis he claimed that amount recovered on the basis of the said conversion, be refunded and the continued categorization of LT-II-c be set aside and he be charged as per LT-II-b.

(e) As against it, on behalf of Licensee, it is contended that on 11/11/2011 inspection was done during the drive to find out theft aspect and at that time, in the Consumer's unit, it disclosed that Consumer has utilized load which recorded M.D. to the extent of 69 kVA as against the contract demand of 60 kVA. This aspect was noted by the said inspecting authority with following remark:-

‘Sanctioned load is 45 kW whereas M.D. recorded is 69 kVA that is unauthorized load extension’.

(f) In this regard action seems to have been initiated by Licensee issuing letter dated 30/11/2011 and Consumer brought to the notice by reply letter dated 02/12/2011 enclosing letter of sanction of additional load and bills for last twelve months. Thereafter, Licensee treated it as extension of sanction load from

45 kW to total 80 kW with limit of contract demand from 60 kVA to 80 kVA on the basis of sanction letter dated 10/09/2009. Accordingly it is contended that right from 10/09/2009 itself, the Consumer ought to have been categorized and was required to be charged under the category LT-II-c. however, categorization of LT-II-b continued as it is till 11/11/2011 and when the aforesaid inspection report disclosed that aspect it is cured by treating the said connection for tariff as LT-II-c from 10/09/2009, i.e. load sanction order. It is contended that Consumer had paid the amount demanded as per Quotation on 28/01/2012 and categorization is totally correct.

(g) In reply to the said contention, Consumer came up with the plea that though, as per his application, on 10/9/2009, addition of load was granted, he had paid amount as per the Quotation but he has not complied the things required, as set out in the sanction order, towards availing the additional load as he had postponed the intended installation of A/C. Accordingly it is contended that though addition of load was sanctioned, it was not connected by the Licensee as per the requirement of rules and regulations. It is clarified that as per requirement, the Consumer was to submit the certificate from Licensed Electrical Contractor, then installation was to be verified by the Officers of Licensee and thereafter confirming it, as per the certificate, additional load was to be released. It is contended, that at no point of time, any such certificate was submitted by Consumer or no any load was released from Licensee side. Accordingly it is contended that there is no any release of sanctioned load. The

requirements are clearly set out in Conditions of Supply based on MERC (Electricity Supply Code & Other Conditions of Supply) Regulations, 2005 issued by Licensee, and letter of sanction which are to be complied by the concerned Engineers, after submitting required certificate and compliances by the Consumer. It is further contended that though Security Deposit was paid at that time towards the intended extension of load, it is not reflected in the bills till October 2012. Now he has sought its refund.

- (h) It is contended by Consumer why this deposit is not reflected in bills. It is contended that if the extended load would have been released, then definitely the amount deposited as per the quotation, would have been reflected in the bills along with the sanctioned load limit of 80 kW. Accordingly it is contended that in fact there is no release of additional load and hence changing the category of tariff for Consumer from the date of sanction letter, i.e. 1/9/2009 is not correct.
- (i) In this regard, on behalf of Licensee, precisely the grounds are stated as under in their reply dated 4/5/2013.

‘All the charges above are collected because of implementation of sanctioned load of 80 kW. Grounds on which sanctioned load is implemented in billing are given below:-

- i. There was extra load shown by meter. It means extra load (> 45 kW) was already in the circuit as per MRI report. Maximum Demand on meter is as given below:-

Date	Time Hrs	MD Type	Value
28.05.2006	19.00	Kva Abs	72.12
30.04.2007	14.00	Kva Abs	75.32
02.04.2008	12.30	Kva Abs	69.00
02.04.2009	17.00	Kw Abs	62.24
30.09.2011	10.30	Kva Abs	67.88

MRI report is enclosed for your reference.

- ii. Additional load was sanctioned by Division office vide letter No.EE/Vasai/Tech/DDF/09-10/247 Dt.10.09.2009.
 - iii. Consumer paid the Quotation amount of Rs.23,320/- vide receipt Nos. 2258037 and 2258038 (i.e. he paid within one month).
 - iv. 100/5 A TOD meter was already installed at the premises. Same meter is at the premises from 2005. CPL is enclosed.
 - v. Consumer has not informed MSEDCL office about dropping of the project. If Consumer has decided to drop the project he could have informed which of the load from the list submitted by himself while sanctioning the load extension is dropped.'
 - vi. From Sep. 2009 to December 2011 (28 months) Consumer had not applied for load reduction...'
- (j) These above grounds are speaking about the stand taken by Licensee. It is a fact that even IGRC in its order dated 4/4/2013, the same grounds reiterated and in the following words, the

IGRC recorded the reason for confirming the action of Licensee:

‘Since load is 69 kVA, i.e. > 56 kVA the tariff changed from LT-II-b to LT-II-c. Also the load as per MRI history of meter on 30/9/2011 was 67.88 kVA. Hence the applied tariff as per the MERC Tariff Circular no.175 is correct.’

(k) Now, on the basis of these rival contentions, question comes up whether additional load sanctioned was in fact released, and whether so called inspection taken on 11/11/2011 speaks about the existing correct quantum of total connected load.

(l) In this regard, on reading the said inspection report dated 11/11/2011, it is clearly seen that total connected load on that day was 22.37 kW only, as against the sanctioned load of 45 kW. This aspect is even highlighted by the Consumer in its contentions. Even it is seen that though in inspection report there is an observation 69 kVA M.D. recorded, it finds no support in the MRI report which is subsequently taken on 18/10/2012 and thereafter. In fact M.D. was noted 69 kVA on 11/11/2011, which is not reflected in the MRI report. Though M.D. is noted as 69 kVA in the inspection report, the connected load was only 22.37 kW and it is not found more than previous sanctioned load which is 45 kW. This shows that inspection report is not correct and cannot be relied on. Charging Consumer as per LT-II-c from 10/09/2009 is tried to be explained by the Licensee by their letter dated 25/11/2011 and it is claimed that in fact, though additional load was sanctioned, it was not entered in

the system and bills were issued, continuing previous load. Licensee further contended that bill for Rs. 6,03,302.60 was issued considering that Consumer was utilizing total load of 80 kW as per sanction letter dated 10/09/2009 and with effect from the sanction date. Accordingly it is seen that Consumer is relying heavily on the factual position, saying that he had an intention to have an additional load, applied for it and on receiving sanction letter, deposited the amount as per Quotation, not pursued it hence not submitted papers required for further releasing of load, i.e. a certificate from Licensed Electric Contractor and even there is no any action from the Licensee side to inspect, confirm the correctness of certificate and release the additional load.

- (m) As against it, as noted above on behalf of Licensee it is contended that extra load was already in the circuit as per MRI report and hence as per the sanction letter, load was got connected and utilized, hence Consumer cannot now deny. Still question comes up whether actually load is released. Consumer contended that if it would have been released, then definitely there would have been entry in the relevant record, would have been reflected in the bills. Consumer was having a supply of LT-II-b for which M.D. meter was required to be activated which was not activated from August 2008 till Oct.2012.

Upto Oct. 2012, Consumer was receiving normal type of bill instead of bill containing all type of M.D. / TOD tariff data. If these would have been provided, then definitely he would have learnt about the sanctioned additional load and in case at

any point, if the MD exceeded, he would have known about it. But this aspect was not available to the Consumer as things were not taken care of, in time, by the Licensee by not implementing M.D. / TOD tariff billing from Aug.2008. Accordingly now we find that question comes up why M.D. meter was not activated. As per MERC Tariff Order in Case No.72 of 2007, observations are there, towards applying TOD Tariff which reads as under in clause no. 6.5:

‘...TOD Tariff in addition to based tariff, after installation of M.D. meter, compulsory applicable for LT-II above 20 kW, LT-III, and LT-V above 20 kW as well as optionally available to LT-II category up to 20 kW and LT-V up to 20 kW.’

We find merely keeping the meter is not sufficient, it is to be activated in such a manner that it computes and displays the required reading data which is to be further applied for TOD Tariff billing of particular Consumers. Secondly we find why there was no any action of releasing the sanctioned load, that too verifying the existing position of load therein at the relevant time. These were the requirements which were to be verified by the Officers of Licensee. The Licensee have not taken care and now contending that inference is required to be drawn, as at no point of time, Consumer has prayed for reduction of load which is already sanctioned. We find, if there is no any valid release of supply, as per the rules and regulations, there is no question of seeking any reduction as such. Question of reduction comes up

only when there is an additional load already sanctioned and released / connected.

(n) In this matter, though on the basis of the sanction letter of additional load dated 10/09/2009, action is resorted to, by charging Consumer from that date, it is now noted that there is no any release of additional load. Though the inference is tried to be drawn that M.D. exceeded the limit even on prior occasions, as seen from the MRI report, this itself will not demonstrate that Consumer was utilizing total load of 80 kW including additional sanctioned load and Consumer is liable to pay from 10/09/2009. There is no automatic change of category though at times the Consumer has exceeded the contract demand, then for that particular month he can be billed as per MERC Order of Tariff and as per the precedent of Hon'ble Ombudsman relied on by the Consumer, i.e. Representation No.21 of 2012, Harish Savla v/s BEST Undertaking dated 27/3/2012 which is already referred above.

(o) In this regard, the Hon'ble MERC in case No.111 of 2009 observed as under on page no.263:

Penalty for exceeding Contract Demand

In case, a consumer (availing Demand based Tariff) exceeds his Contract Demand, he will be billed at the appropriate Demand Charge rate for the Demand actually recorded and will be additionally charged at the rate of 150% of the prevailing Demand Charges (only for the excess Demand over the Contract Demand).

In case any consumer exceeds the Contract Demand on more than three occasions in a calendar year, the action taken in such cases would be governed by the Supply Code.’

(p) Accordingly this is one of the modes available to the Licensee, if, Consumer exceeds contract demand. In this case as noted above, though MRI report speaks about the M.D. exceeded, once in the years 2005, 2007, 2008, 2009 & 2011, action taken in the present matter is not on the basis of measurement of contract demand, but it is taken on the basis of additional load sanctioned and presuming that said additional load was released, connected and utilized by the Consumer. However, the stray instances shown above are not speaking for the aforesaid consumption, not speaking about such load used, even it not exceeded three instances in a year. Further there is a merit in the contention of the Consumer that there is no any M.D. meter activated up to Oct.’2012 which was mandatory as per the order of MERC and that M.D. meter or M.D. tariff is implemented from August 2008. But it is only in case of Meters which were installed and activated. Mere reflection of exceeding contract demand once in a year as per MRI report, if at all it is to be considered, then activation of M.D. meter is necessary for implementation of TOD tariff and issue of bills in which all the data of TOD tariff details are reflected, which could have made aware the Consumer in case demand for any particular month is exceeding the CD, but such opportunity was not available to the present Consumer.

- (q) In view of the aforesaid discussion, we are clear that the assumption of connected load, as per sanction letter released by the Licensee, is, found without any merit and charging of Consumer treating that additional load is released, is, not correct. Hence charging the consumer on that basis from Oct. 2009 onwards is not at all correct. Consumer cannot be transferred to LT-II-c tariff from LT-II-b and hence charges recovered on this basis are not legal and proper. These are required to be refunded to the extent recovered.
- (r) Already we have noted above that there is no any valid release of additional sanctioned load. Consumer claimed that he deposited the amounts as per quotation but had not provided the required certificates or compliances. The amount of deposit for extension of load is not reflected in the bills at any time. Hence as the load itself is not released and as the Consumer has not actually used it, the Consumer is entitled to refund of said Security Deposit
- (s) The inspection report dated 11/11/2011 itself speaks that connected load in the premises was only 22.37 KW. This is the proof for not availing the additional load and hence application of LT-II-c tariff which is generally applied for the Consumers having connected load / sanction load above 50 kW, is totally wrong and unjustified in this case.
- (t) In view of the above, the grievance of Consumer towards forcible change of tariff category is to be upheld, and amount recovered due to such forcible conversion is required to be

refunded to the Consumer by the Licensee correcting the relevant bills.

III. **FIXED / DEMAND CHARGES:**

(a) In this matter, Consumer has sought one more relief seeking refund of difference between M.D. tariff and HP based tariff, contending that for LT-II-b category, Meter was mandatory as per the MERC direction in Case No. 26 of 2009 decided on 5/3/2010. He heavily relied on the last part of para no. 29 of the said Order wherein MERC observed as under:

‘.. Hence the Commission rules that the levy of MD based tariff on MSEDCL’s Consumers with effect from 1st August 2008 is in accordance with the Commission’s directions in this regard. However, it is clarified that the M.D. tariff can be implemented for any Consumer only after installation of the appropriate tri-vector meter for that Consumer, and hence, for all such individual cases, where the M.D. meter was not installed, before Aug. 1, 2008 the MSEDCL will refund the amount collected through M.D. charges for the period from Aug. 2008 till such time as M.D. meters were installed for that respective Consumer, and charge these Consumers on the basis of earlier approved HP based tariff. The refund should be given to the respective Consumers along with the first monthly bill after issue of this Order...’

(b) On this basis, Consumer claimed that though, MD meter was not activated, but he is charged MD tariff, which is not correct. He

claimed that fixed / demand charges ought to have been charged on the basis of HP based tariff.

(c) We find the aforesaid aspect is clear in itself as per the Order of MERC. The installation and activation of MD Meter was must which is not done till Oct. 2012 and hence the charges levied on and recovered from the Consumer on that basis is not correct. He ought to have been charged on the basis of HP based tariff. Accordingly he is entitled to the relief of refund of MD Tariff minus HP based tariff. Licensee is required to work out the said difference of fixed / demand charges applying HP based tariff for the period from Aug. 2008 to Sept. 2012.

10. As per the aforesaid discussion, reliefs claimed by the Consumer are to be granted towards Power Factor Penalty and forcible conversion of tariff category and the amount recovered on those counts needs to be refunded. Consequently the amount of Security Deposit paid as per the Quotation dated 10/09/2009 needs to be refunded.
11. In this matter the Forum was required to deal the aspect, along with other bunch of matters of similar nature including Grievance No.K/E/693/819 of 2013-14 Shri Rakesh Shah, hearing both parties time and again. These parties added from time to time their contentions, precedents, supplemented their arguments. Matter before the IGRC was dealt in the said Group during pendency of this matter. As matter was of importance due to technical aspect, both parties were given time to make their submissions.

Hence the Order

O-R-D-E-R

The grievance of the Consumer is hereby allowed and reliefs are granted as under:-

- a) The bills issued for the months of October, November & December of 2012, charging of P.F. penalty are set aside. Licensee directed to work out afresh correctly the Average Power Factor, i.e. P.F. as discussed above for the month of Oct., Nov. & Dec. of 2012 considering the kWh, kVAh which is visible from the meter and reading available. No DPC and interest be added in the revised bill. Thereafter refund the P.F. penalty, DPC and interest imposed and recovered from the Consumer and provide incentive if found payable. This be done within 45 days from the date of receipt of this order and amount so found due be paid to the Consumer or be adjusted in the ensuing bills. Interest be paid on the amount recovered, as per Bank Rate, from the date of deposit by Consumer.
- b) The action of Licensee for recovery applying category LT-II-c from Oct. 2009 onwards, is hereby set aside. Amount charged and recovered, if any, as per said category be refunded to the Consumer. Licensee to prepare afresh bills applying category of LT-II-b. Amount which is recovered to be refunded on this count be refunded with interest as per the Bank Rate from the date of deposit.
- c) The Consumer's prayer for seeking refund of difference between the MD Tariff and HP based tariff is allowed. Licensee to work out the said difference of fixed / demand

charges as per HP based tariff along with interest on such due amount from 26/11/2012, i.e. date of this Consumer's grievance application as per Bank Rate.

- d) The Security Deposit which Consumer has deposited as per sanction letter dated 10/09/2009 be returned with interest as per Bank Rate from the date of deposit.
- e) Compliance of all above said aspects be done within 45 days and compliance be reported within 60 days from the date of the receipt of this Order

Date : 19/08/2013

I Agree

I Agree

(Mrs. S.A. Jamdar)	(Chandrashekhar U. Patil)	(Sadashiv S. Deshmukh)
Member	Member Secretary	Chairperson
CGRF Kalyan	CGRF Kalyan	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”