



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/216/240 OF 2009-2010 OF
M/S. S.S.F. PLASTICS, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

M/s. S. S. F. Plastics
Gala No. 8 Bitu Ind.Estate,
Waliv , Vasai
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. 54 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 20/03/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. S. S. F. Plastics

Address: - As given in the title

Consumer No : - 001840506378

Reason of dispute: Excessive Energy Bills.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/273 dated 20/03/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/VSI/ (E)/B/3338, dated 27/04/2009.
- 4) The consumer has raised these grievances before the Executive Engineer (O&M) Division, MSEDCL, Vasai Division, on 12/01/2009. 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 20/03/2009.
- 5). The Member Secretary & Member of the Forum heard both the parties on 27/04/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri A. R. Thote, J.E.,

Shri S.B.Hatkar, Asstt.Acctt., 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.

- 6). The following grievances raised by the consumer in its letter dated 12/01/09 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. 27/04/09 with CPL filed by the licensee, record produced by the parties, and submissions made by the parties, the finding or resolution on each of such grievance is given against it, for the given reasons.
- 7). As to grievance (1) and (e) in the rejoinder – Refund of Excess SD & interest on SD : The consumer claims that he has paid SD of Rs. 19,500/- + Rs.13,650/- = Rs.33,150/-- at the time of taking new connection on 23/10/95. However, bills do not show the said amount of SD. The licensee has also collected Rs. 90,800/- as SD in June 08,. Therefore, the consumer had requested for refund of excess SD of Rs. 33,150/- paid in Oct. 95 and interest. As against this, the licensee claims that the connection has been given on 23/10/95. The Security Deposit of Rs. 19,500/- + Rs.13,650/- = Rs.33,150/- paid at the time of taking connection is not displayed in the bill. It's office is searching for the record for exact amount of SD and in the meantime, the consumer may submit the SD receipts for quick disposal of the case. Considering the average bills, keeping the deposit, action will be taken for refund of SD. The interest will be paid as per rules. In view of 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 30 days.

- 8). As to grievance No. 2 regarding bill adjustment : The consumer claims that the licensee has added the debit bill adjustment charges of various amounts such as Rs. 4186.77, Rs.2776.48 and Rs. 3650.80 in the bills for the billing periods March 07 and Aug.07 and Sept. 07 respectively. The licensee should justify such adjustments and refund if the same are not justified. The licensee claims that detail clarification in respect of first amount of Rs. 4186.77 is sought from higher authority and on receipt of the same, the consumer will be informed accordingly, and the above second and third amounts are of TOSE @ of 4 np p/u from Sept.05 to Feb.06 and TOSE @ of 4 NP p/u from Feb 06 to Sept.06 respectively. Thus the license has given justification regarding last two amounts but not given such details regarding first amount. The CR has relied upon the order dated 24th May 2005 passed by MERC in case No. 28 of 2004 in support of his contention that the licensee has earlier refunded the TOSE charged for the above referred periods as per the above referred order, but has again charged the same as above without any further order of MERC about it. The licensee has not filed any such order of MERC passed after the above order which enabled it recharge the TOSE. In view of the facts as discussed above, the licensee is directed to obtain necessary

information in respect of above referred first amount from the higher authority and give the same in writing together with explanation as to how it has recharged TOSE as claimed particularly in reference to the order dated 24/05/2005 passed by MERC in case No. 28 of 2004, to the consumer within a period of 30 days & on failure to do so, or in case of unsatisfactory explanation, refund the excess amount if any, recovered as above together with interest at the bank rate of RBI, by giving it's credit to the consumer in the ensuing bill after 30 days.

- 9). As to grievance No. 3 - 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.11,584.13 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 it has refunded an amount of Rs.8065.32 in the month of May 07 and some amount in other month which will be intimated after confirmation from the higher authority. The licensee has also not made clear as to in which other month it has given credit of any other amount on this count to the consumer. Therefore, the licensee is directed to verify the total amount of such difference between the MD based tariff charges recovered and HP based charges of the period Oct. 06 to March 07, the amount refunded by it and to refund the remaining 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.

- 10). As to grievance No.4 - Regarding refund of IASC during the period Feb. 07 to May 07. The consumer claims that the licensee is to refund IASC charges recovered during Feb. 07 to May 07 as per order dated 15.9.08 passed by MERC in case No.45 of 2005, and such amount is Rs. 4098.78 (Rs. 1573.20 - Feb 07, Rs. 913.44 – Mar. 07 , Rs. 738.54 – Apr. 07, and Rs. 873.60 – May 07 i.e. total Rs. 4098.78) and therefore licensee be directed to refund the said amount to the consumer. The licensee claims that the matter is referred to higher authority for directions regarding refund of IASC charges and decision will be taken accordingly. It is clear from the above referred order dated 17.09.08 passed by MERC in case No.45 that the MERC directed the licensee to refund the incremental ASC for the period Oct.06 to Apr 07 to all the consumers who have contributed towards ASC. Therefore licensee is directed to refund the IASC if collected during the period from Oct.06 to Apr 07 from the consumer as per directions given in the above referred order of MERC to the consumer, by giving credit of such amount together with interest at the Bank rate of RBI to the consumer in the ensuing bill after 30 days from the date of this decision.
- 11). Grievance No. 5 regarding refund of excess ASC recovered for Oct.06 billed in Nov. 06 : The consumer claims that for the month of Oct. 06 the 9% consumption was to be considered for ASC. The consumption for the said month was 17209 units and it's 9% comes to 1549 units but licensee charged ASC on 2065 units due to which excess ASC has been recovered and therefore, licensee should refund Rs. 593.40 with interest on this count. As against this, licensee claims that as per tariff order 2006-07 case No. 54 of 2005, ASC charges were 12%, the consumption for the month of Oct. 06 was 17209 and it's 12% comes to 2065 units. Hence

ASC charges charged are correct and there is no question of refund. It is noted by Forum that it is clear from the MERC's order dt. 20th Oct. 06 in case No. 54 of 2005, that 9% of the consumption was to be charged as additional supply charges in the other regions in respect of LT-V general motive power category industry during the period from Oct. 06 to April 07. Therefore, the contention of licensee that 12% of the consumption was to be charged as ASC for the month Oct. 06 billed in Nov. 06 is incorrect and hence is rejected. Therefore licensee is directed to charge ASC at 9% of the total consumption of the month Oct. 06 billed in Nov. 06 and refund the excess amount recovered on this count if any, to the consumer together with interest at the Bank rate of RBI in the ensuing bill after 30 days from the date of this decision in this case.

- 12) Grievance No. 6 – Regarding ASC charges from January 08 : Consumer claims that in billing month Dec. 07, licensee charged on locked average basis and then in Jan. 08 bill, licensee billed for two months consumption reading but ASC BC relief is given only for one month, so refund of 9017 units ASC difference is to be refunded. On this licensee claims that the matter is under scrutiny and action will be taken if applicable. It is noted by Forum that for January 08 bill, the billing period is considered 01/11/07 to 02/01/08 i.e. bill is prepared for two months but licensee appears to have given advantage of cheap power of one month only. Therefore, the licensee is directed to recalculate the ASC charges for the billing month Jan. 08 by considering the total consumption shown in the bill for the month Jan. 08 as the consumption of two months i.e. Dec. 06 and Jan. 07 after taking into consideration the bill of the month of Dec. 06 and refund ASC charges recovered in excess in the month of Jan. 08 if any together with

interest at the Bank rate of RBI within 30 days from the date of this decision.

- 13) As to grievance No. 7 in main application and (d) in Rejoinder dt. 27/04/09 - Regarding appropriation of Security Deposit amount : The consumer claims that the licensee collected Rs. 90,800 as Security Deposit (SD) in June 08 by appropriating amount from the amount of monthly bill paid by him. The licensee has collected DPC and interest of Rs. 32.75 while recovering the arrears of earlier bill resulted due to the appropriation of amount of bill of earlier month paid by the consumer and consumer also suffered loss by loosing PPD (prompt payment discount) and therefore, as per the order dated 23/03/09 passed by Hon. Ombudsman in representation No. 23 of 2009, licensee be directed to refund the said amounts of DPC, interest and loss on account loosing PPD i.e. total amount of Rs. 3,112.18. The licensee claims that the matter is referred to higher authority for direction regarding refund of DPC and interest. It however, did not file any reply to similar grievance made in the rejoinder though it's representative undertook to file reply at the time of hearing. The CPL for the month of March 2008 shows SD, SD arrears and SD demand as zero. CPL for the month April 08 shows that the said bill was issued for net amount of Rs. 01,46,025.87, SD was zero, SD arrears was Rs. 90,800 and SD demand was Rs. 90,800. The CPL for the month of May 08 shows that the net bill amount was Rs. 01,26,079.19, SD arrears were Rs. 90,800, SD demand was zero and the amount lastly paid by the consumer was Rs. 01,45,420 on 19/04/08. The CPL for the month June 08 shows that the SD was Rs. 90,800 and other amount received was Rs. 37,800 on 20/05/08.

The licensee does not claim that the consumer has paid the said amount of SD separately. Moreover, the net bill amount of Rs. 02,47,320.28 shown in the CPL for June 08 clearly show that the said amount was inclusive of the SD demand or arrears of Rs. 90,800. It is thus clear from the CPL of the above referred months that the licensee has earlier included the demand of SD into it's regular bill and there after appropriated amount of SD from the amount of regular bill for the month of May 08 paid by the consumer on 20/05/08, which it could not do and it was inappropriate to do so as per the above referred decision of Hon. Ombudsman. The total of the amount of Rs. 37,800 and Rs. 90,800 as paid of the regular charges and SD in the CPL for the months June 08, makes the total Rs. 01,28,600 i.e. more than the amount of regular bill for the month of May 08 which was Rs. 01,26,079.19. Thus though the consumer has paid the full amount of the bill of the month May 08, due to appropriation of some amount out of the said amount of bill paid by the consumer, the consumer has been treated as defaulter and therefore, DPC and interest must have been charged to it and it may have also lost the benefit of PPD. Therefore, the licensee is directed to verify as to whether it has charged DPC and interest of Rs. 32.75 and the consumer lost PPD due to such appropriation of Rs. 90,800 as SD from the amount deposited by the consumer in pursuance to the bill for electric charges for the month May 08 and if so, refund the said amounts of DPC and interest and also the amount of prompt payment discount which the consumer may have lost due to such appropriation, to the consumer as observed by Hon. Ombudsman in order dated 26/03/09 in representation No. 23 of 2009 by giving it's credit to the consumer in the ensuing bill after 30 days from the date of this decision.

- 14) As to grievance 8 – Regarding charging as per MD based tariff from Aug. 08 to Dec. 08 : The Consumer Representative (CR) submits that the licensee has charged MD based tariff to the consumer without 100% metering and its such action is illegal. He relies on zero copy of operative order dtd.20.6.08 of MERC in case No.72 of 2007, MSEDCL circular No.81 dt.7.7.08 in support of his contention. He further submit that as per order dated 12.9.08 of MERC in case 44 of 2008, the licensee can not impose MD based fixed charges, PF penalty and demand penalty/incentive without MD based tariff being made applicable to the concerned consumer but in the instant case, the licensee has applied the above charges or penalties without MD based tariff being applicable to it and hence such action of licensee is illegal. He further submit that thus the licensee has violated the Act, rules and orders of MERC and hence is liable for action under section 142 and 146 of the Electricity Act 2003. He further submits that therefore the licensee be directed to refund the amounts of such illegally recovered charges together with interest at the rate which it applies to the defaulting consumer. The CR submits that the consumer claims refund of an amount of Rs. 4750/- towards the difference in between the fixed charges as per MD based tariff and HP based tariff of the period July 08 to Nov. 08.
- As against above contention, the LR submits that the licensee has applied MD based tariff from Aug.08 on completion of 100% TOD metering and as per directives given in Clause 10.5 of Com. Circular No.81 dt.7.7.08. He therefore submits that whatever charges based on MD based tariff, are recovered by the licensee from the consumer are correct and legal and therefore the question of refunding the same to the consumer does not arise.

While deciding the question regarding the applicability of MD based tariff to the LT above 20 KW industrial units, the Hon. Electricity Ombudsman vide order dated 6.5.09 in representation No.33 of 2009, M/s. Crystal Industries V/S MSEDCL, relying on the MSEDCL's circulars dtd. 05.02.09 held that the MSEDCL has suo moto decided to start MD based tariff for LT V consumers from April 09 inspite of 100% installations of MD meters completed in Aug.08 and therefore the MSEDCL is liable to refund the excess fixed charges and PF penalty recovered from such consumer. Therefore following the above referred decision, the licensee is directed to refund the amount of MD charges collected over and above the fixed charges recoverable as per HP based tariff and the PF penalty recovered from the consumer in the period prior to April 09, together with interest at the Bank rate of RBI within 30 days from the date of this decision.

- 15) As to grievance 9 – Regarding refund of Rs. 8133 collected in excess in Aug. 07 : The consumer claims that the consumer has paid an amount of Rs. 68,340 towards the bill for the month July 07, but while giving credit of the said amount in Aug. 07, the licensee has given credit of Rs. 58,257 only. The chargeable amount is Rs. 1950. Therefore, the consumer is entitle for refund of Rs. 8,133 of the actual difference which has been collected in excess by the licensee. The licensee claims that the bill for July 07 has been issued on average basis and subsequently the credit is given in Aug. 07 for Rs. 58,257.36 and the same is correct. Hence the question of refund does not arise. The CPL for the month of Aug. 07 shows that the consumer has deposited Rs. 68,340 on 23/07/07 as per the bill of earlier month and the consumer has been given credit of Rs. 58,257.36 in the said month. Therefore, the licensee is directed to explain the difference

in between the said amount deposited by the consumer on 23/07/07 and the amount of which credit has been given by the licensee to the consumer in the CPL for Aug. 07 in writing within 30 days and in case of any less credit given to the consumer, pay such amount by giving it's credit to the consumer in the ensuing bill after 30 days.

- 16) As to grievance (a) in the rejoinder dt. 27/04/09 – Regarding amount of bill adjustment : The consumer claims that the licensee has given credit of Rs. 1024.36 instead of Rs. 2406.72 in the bill for the month Jan. 07 and therefore, the licensee be directed to refund an amount of Rs. 1382.36 towards the credit difference. The licensee did not file any reply to the rejoinder containing this grievance even though it's LR undertook to file the same. Therefore, the licensee is directed to verify about the correctness of the amount of credit of Rs. 1024.36 in the bill for the month Jan. 07 to the consumer in writing within 30 days from the date of decision in this case and in case some less credit is given, refund the amount of difference to the consumer 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.
- 17) As to grievance (b) in the rejoinder dt. 27/04/09 – Regarding refund of MD based fixed charges for Sept. 06 : The consumer claims that the licensee has recovered MD based fixed charges for Sept. 06 for Rs. 397.53 and therefore, the licensee be directed to refund the same. The licensee did not file reply to the rejoinder containing this grievance though it's representative undertook to do so at the time of hearing. However, the CPL for the month of Sept. 06 shows that the licensee charged fixed charges as Rs. 1950 i.e. as per HP based tariff. Therefore, the above

contention of the consumer is not correct and therefore, it's request for refund on such ground is rejected.

- 18) As to grievance © in the rejoinder dt. 27/04/09 – Regarding refund on account of difference of BC : The consumer claims that the licensee has considered 10132 units as it's BC whereas the consumer's actual BC comes to 10444 units and therefore, the licensee be directed to refund the excess mount recovered on account of such consideration of BC of lesser units by the licensee. The licensee did not file reply to the rejoinder containing this grievance though it's representative undertook to do so at the time of hearing. The consumer has not mentioned the exact period of which he is claiming refund on this ground. Moreover, consumer has not raised this grievance before IGRC and also in his grievance application in prescribed proforma filed before this Forum, and raised this grievance in the rejoinder. Therefore, for the proper resolution of this grievance, the same is not considered by this Forum and the consumer is given liberty to raise this grievance before IGRC within 30 days from the date of decision in this case.
- 19) As to grievance regarding disconnection of single phase commercial 0.5 KW supply with consumer No. 001840506301 as per separate letter dt. 17/01/09 to the Dy. EE : The consumer claims that it has demanded disconnection of the said single phase commercial supply since according to it in view of the clause 19.1 of MERC (ESC & OCS) Regulation 2005 implemented from 20th Jan. 2005, all irrational circulars & orders of MSEDCL are invalid, & tariff booklet definition & MERC operative order says that supply at low voltage except use of agricultural pump is allowed

under LT-V & therefore, it does not need separate single phase commercial supply. It has also mentioned the same reason in support of his request/demand for disconnection in it's letter dated 17/01/09 about it to the Dy. Executive Engineer. The LR opposed the above request of the consumer during hearing, but did not subsequently submitted any reply as promised at the time of hearing.

Clause 19.1 of above referred Regulations 2005, on which the consumer relies, reads as under :

“19.1 : Any terms or conditions of the Distribution Licensee, whether contained in the terms & conditions of supply & / or in any circular, order, notification or any other document or communication, which are inconsistent with these regulations shall be deemed to be invalid from the date on which these regulations come into force.”

The consumer has not made clear in his grievance as to exactly what type of activities it is carrying on in the premises for which it has earlier taken the said supply for commercial purpose. The CR also could not show any recent circular or order by which at present the supply given for Industrial purposes can also be used for commercial purpose also. Therefore, earlier restrictions if any, about it, cannot be said to be invalid on the basis of above referred Clause 19.1. However, it is a matter of common understanding that, a person cannot be forced to continue to have particular type of supply against it's wishes. Therefore, the licensee is directed to disconnect the said supply with consumer No. 001840506301 to the consumer at the risk of consumer within 30 days from the date of decision in this case, & there after transfer the SD amount together with interest till the date of such PD & all other credits including the amount of

RLC as per MERC operative order 77 of 2007 if any, of the consumer in the said connection, to it's other industrial connection with consumer No. 001840506378 within a period of 30 days from the date of decision in this case.

- 20) There has been sudden increase in registration of grievances by the consumers before this forum since last two months, as result of which this forum is forced to hear arguments in two cases on every day and also to decide such a cases at the same rate. Therefore, there has been some delay in deciding this case.
- 21). 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 grievance application is partly allowed.
- 2) The licensee to comply the directions given in above para Nos. 07 to 16 and 19.
- 3) The grievance No. 11 is rejected as observed in para 17.
- 4) The grievance No. 12 is not considered and the consumer is given liberty to approach the IGRC for such grievance within 30 days from the date of decision in this case as observed in para 18.
- 5) The Compliance should be reported to the forum within 90 days from the date of decision.

6) 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.

5). Consumer, as per section 142 of the Electricity Act, 003, 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 : 29/05/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan