



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/217/241 OF 2009-2010 OF
M/S. DHRUV INTERNATIONAL, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

M/s. Dhruv International
Gala No. 10 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 conformed 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. Dhruv International

Address: - As given in the title

Consumer No : - 001840506670

Reason of dispute: Excessive Energy Bills.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/276 dated 20/03/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/VSI/(E)/B/3339, dated 27/04/2009 in the form of letter addressed to the consumer with a copy to this Forum.
- 4) The consumer has raised these grievances before the Executive Engineer (O&M) Division, MSEDCL, Vasai Division, on 15/01/2009. The said Internal Redressal Cell did not give any hearing to the consumer & also did not send any reply resolving the said grievances to the consumer. Therefore, the consumer has registered the present grievance before this forum on 20/03/2009.
- 5). The Member Secretary & Member of the Forum heard both the parties on 27/04/2009 @ 16.00 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 (d) in the rejoinder dt. 27/04/09 – Refund of Excess SD & interest on SD : The consumer claims that it has paid SD of Rs. 19,500/- + Rs.13,650/- = Rs.33,150/-- at the time of taking new connection on 26/12/95. However, bills do not show the said amount of SD. The licensee has also collected Rs. 62,000/- 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 in it's main grievance application. It further claims in the rejoinder dt. 27/04/09 that it's monthly average bill for the financial year 2008-2009 is Rs. 23,411. Therefore, the licensee may retain Rs. 20,000 as SD and refund the remaining amount out of the present SD of Rs. 62,000. As against this, the licensee claims that the connection has been given on 26/12/95. 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 and (a) in rejoinder dt. 27/04/09 regarding bill adjustment : The consumer claims that the licensee has added the debit bill adjustment charges of various amounts such as Rs. 3615.74, Rs. 106, Rs. 1335.84 and Rs. 3308.48 i.e. total Rs. 8366.06 in the bills for the billing periods March 07, July 07, 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. 3615.74 and second amount of Rs. 106 is sought from higher authority and on receipt of the same, the consumer will be informed accordingly, and the above third and fourth amounts are of TOSE @ of 4 np p/u from Sept.05 to Feb.06 and TOSE @ of 4 NP p/u from Mar. 06 to Sept.06 respectively. Thus the license has given justification regarding last two amounts but not given such details regarding first two amounts. 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 to 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 two amounts 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, and 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.

The consumer in it's rejoinder dt. 27/04/09 claims that the licensee has shown less credit of Rs. 1557.28 in the month Jan. 07, and bill of adjustment of Rs. 4,027.38 in the month of Feb. 08. The licensee be directed to refund the above referred amount of less credit, to justify the amount of adjustment of Rs. 4,027.38 and to refund the same, if not properly justified. The licensee did not file say to the rejoinder including this grievance even though it's representative undertook to do so, till this date. Therefore, the licensee is directed to give explanation i.e. justification in respect of above amounts to the consumer in writing and refund the excess amount if any, to the consumer 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 to which the consumer is entitled and inform about it in writing to the consumer within 30 days and refund excess amount if any, together with interest at the Bank rate of RBI, to the consumer by giving it's credit to the consumer in the ensuing bill after 30 days from the date of decision in this case.

- 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 of Rs. 487.60 recovered during Feb. 07 and Rs. 561 recovered during March 07 as per order dated 15.9.08 passed by MERC in case No.45 of 2005, and therefore licensee be directed to refund the said total amount of Rs. 1048.60 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 passed by MERC in case No.45 dt.17.9.08 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 in Oct.06: The consumer claims that for the month of Oct. 06, the ASC was to be charged to the 9% consumption/month. The consumption for the said month was

17528 units and it's 9% comes to 1577 units but licensee has charged ASC on 2103 units, so Rs. 604.90 to be refunded with interest. On this, the licensee claims that as per tariff order 2006-07 case No. 54 of 2005 ASC charges were 12%, the consumption for the month of Nov. 06 was 17528 and 12% of it comes to 2103 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. Therefore, the contention of licensee that 12% of the consumption was to be charged as ASC is incorrect and hence is rejected. Therefore licensee is directed to charge ASC on the 9% of consumption of 21404 units in Oct. 06 (as per CPL) and refund excess amount recovered if any together with interest at the Bank rate of RBI to the consumer by giving it's credit to the consumer in the ensuing bill after 30 days from the date of this decision in this case.

12) Grievance No. 6 – Regarding ASC charges charged in January 08 :

Consumer claims that in the bill for Dec. 07, the licensee charged the electric charges on locked average basis and then in Jan. 08 bill, the licensee billed for two months consumption readings but while calculating ASC, BC relief is given only for one month. Therefore, the licensee be directed to refund excess ASC of 7659 units charged to the consumer. 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 from 01/11/07 to 02/01/08 i.e. bill is prepared for the consumption of two months but the advantage cheap power for one month only appears to have been given. Therefore, licensee is directed to

recalculate the ASC chargeable to the consumer by taking the total consumption shown in the bill for the month of Jan. 08 as the consumption of two months i.e. Dec. 07 and Jan. 08 and in case the ASC recovered earlier was in excess, refund such excess amount of ASC, together with interest at the Bank rate of RBI to the consumer by giving it's credit to the consumer in the ensuing bill after 30 days from the date of this decision.

- 13) As to grievance (b) in rejoinder dt. 27/04/09 – The consumer claims that the licensee has recovered MD based fixed charges for Sept. 06 and therefore, the consumer is entitle for refund of Rs. 397.53 on this count. The consumer has not filed bill of the concerned month. The CPL for the month of Sept. 06 shows that the licensee has charged Rs. 1950 as the fixed charges for the said month and the same are obviously fixed charges as per HP based tariff. Therefore, the contention of consumer that the licensee has charged MD based fixed charges for Sept. 06 and hence it is entitle for refund, is rejected.

- 14) As to grievance No. (c) in Rejoinder dt. 27/04/09 - Regarding appropriation of Security Deposit amount : The consumer claims that the licensee collected Rs. 62,000 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 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. The licensee did not file say to the rejoinder including this grievance, even though it's representative undertook to do so

at the time of hearing on 27/04/09. 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. 67,222.95, SD was zero, SD arrears was Rs. 62,000 and SD demand was Rs. 62,000. The CPL for the month of May 08 shows that the net bill amount was Rs. 69,328.03, SD arrears were Rs. 62,000, SD demand was zero and the amount lastly paid by the consumer was Rs. 66,580 on 19/04/08. The CPL for the month June 08 shows that the SD was Rs. 62,000 and other amount received was Rs. 8,720 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. 01,34,412.96 shown in the CPL for June 08 clearly show that the said amount was inclusive of the SD demand or arrears of Rs. 62,000. 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. 8,720 and Rs. 62,000 as paid of the regular charges and SD in the CPL for the months June 08, makes the total Rs. 70,720 i.e. more than the amount of regular bill for the month of May 08 which was Rs. 69,328.03. 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 towards SD, 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 and the consumer lost PPD

due to such appropriation of Rs. 62,000 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.

- 15) As to grievance (e) in the rejoinder dt. 27/04/09 - Regarding disconnection of single phase commercial 0.50 KW supply with consumer No. 001840506319 : The consumer claims that it has demanded disconnection of the said single phase commercial supply vide letter dated 17/01/09 sent to Dy. E.E. Vasai (East), 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. 001840506319 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. 001840506670 within a period of 30 days from the date of decision in this case.

- 16) 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.
- 17). 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 12, 14 and 15.
- 3) The grievance No. (b) in rejoinder dated 27/04/09 is rejected as observed in para 13.
- 4) The Compliance should be reported to the forum within 90 days from the date of decision.
- 5) The Consumer can file representation against this decision with the Ombudsman at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Building, Bandra Kurla Complex, Mumbai 51”

Representation can be filed within 60 days from the date of this order.

- 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