



**Consumer Grievance Redressal Forum, Kalyan Zone**  
**Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301**  
**Ph: – 2210707 & 2328283 Ext: - 122**

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**IN THE MATTER OF GRIEVANCE NO. K/E/221/245 OF 2009-2010 OF**  
**M/S. SAGAR ENTERPRISES, VASAI REGISTERED WITH CONSUMER**  
**GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT**  
**EXCESSIVE BILLING.**

M/s. Sagar Enterprises  
Gala No. 09 Kailash Sagar 'A'  
Chinchpada, Tal : 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. 80 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 26/03/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. Sagar Enterprises

Address: - As given in the title

Consumer No : - (1)Spl. LT - 001849032230

(old consumer No. 00159042068)

(2)Single Ph - 001590431733

Reason of dispute: Excessive Energy Bills and PD of 1 ph connection

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/299 dated 26/03/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/VSI/(E)/B/3468, dated 29/04/2009 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 22/01/2009. 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 26/03/2009.
- 5). The Forum heard both the parties on 29/04/2009 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri B. D. Shidore, A.E., Shri R. G. Gharat, UDC.,

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 15/01/09 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. 29/04/09 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) – Refund of Excess SD & interest on SD : The consumer claims that it has paid Earnest Deposit (ED) of Rs. 6,400/- and Rs.3,000/- as development charges at the time of taking new connection on 02/10/93 with load of 40 HP. The amount of ED of Rs. 6,400 is displayed on bill. On 01/08/05, load was extended by 24.84 HP to make the total load as 64.84 HP. At that time, the licensee collected Rs. 6,000 and Rs. 1,900 as Earnest Money and development charges resp. However, the said amounts are not displayed in the bill. In Jan. 2008, the load was again extended to 107 HP. Additional supply was regularized in April 2008. The consumer Rs. 24,000 as SD for the said purpose and the said SD is displayed in the bill with new consumer No. However, the earlier amount of SD of Rs. 6,400 has disappeared on the bills. Therefore, the consumer had requested for refund of excess SD of Rs. 17,300/- and interest of Rs. 9325. As against this, the licensee claims that the connection for 40 HP load has been given on 02/10/93. The Security Deposit of Rs. 6,400/- and

development charges of Rs.3,000/- i.e. total Rs. 9,400/- were paid at the time of taking connection, out of which amount of Rs. 6,400 is reflected in the bill. The load was extended by 24.84 HP for which SD of Rs. 6000 and development charges of Rs. 1900 were paid vide MR No. 7948112 and 7948113 dt. 07/08/95 and the said amounts are displayed in the bill. The load was again extended to 107 HP which made the connection as special LT in April 08 and at that time amount of Rs. 6400 disappeared from CPL. The interest will be paid on Rs. 10,900 as per rules. Interest on Rs. 6,400 is paid upto 20/06/07. The interest for the years 2007-2008 and 2008-2009 will be paid in due course of time. 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 in the bills, 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. 2328.82, Rs. 1045.60, Rs. 678 .48 i.e. total Rs. 4052.42 in the bills for the billing periods March 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. 2328.82 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 Mar. 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 24<sup>th</sup> 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 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, 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.

- 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. 11,549.46 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.8039.04 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 entitle 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 Oct. 06 to April 07 : The consumer claims that the licensee is to refund IASC charges of Rs. 821.10 recovered during Feb. 07, Rs. 75 recovered during April 07 and Rs. 487.20 recovered during May 07 i.e. total Rs. 1383.20, 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. 1383.20 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, Nov. 06 : The consumer claims that for the month of Oct. 06, the ASC was to be charged to the 9% of consumption/month. It's BC for the year 2005 was 5978. Therefore, it could be charged for cheap power to the extent of 5440 units in the said month. It's consumption for the said month was 3260 units. Therefore, no ASC could be charged for Oct. 06 in the bill for Nov. 06. However, the licensee has charged ASC of Rs. 449.65 and therefore

the consumer is entitled for the refund of the said amount. The consumer has annexed annexure-5 mentioning the details of refund claimed by it. As against 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 3260 and 12% of it comes to 391 units. Hence ASC charges charged are correct and there is no question of refund.

- 12) It is a matter of fact that normally the BC remains the same as usually it is a monthly consumption during the period Jan. 05 to Dec. 05. The licensee has not explained as to how the BC of consumer has changed. It is also noted by Forum that it is clear from the MERC's order dt. 20<sup>th</sup> 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 is incorrect and hence is rejected. Therefore licensee is directed to verify the BC for the consumer in the month of Oct. 06 (billing month Nov. 06) and redecide as to whether ASC could be charged to the consumer and refund the unnecessarily charged or excess charged ASC 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.
- 13) Grievance No. 6 – Regarding ASC charges charged in Oct. 07, Dec. 07, Jan. 08, March 08 & April 08 : The consumer claims that the licensee has illegally reduced it's BC to 3882 and charged ASC for the above mentioned period and therefore, it is entitled for refund of such excess ASC charged to it. It has mentioned the details of such refund at ann-5. The licensee r claims that as far as the ASC charged in above other months is

concerned, IT programme is prepared as per MERC guidelines and accordingly ASC charges are correctly recovered and therefore, there is no question of any refund on this count. Considering the fact that the licensee has changed the BC in the bills for these months and there is no explanation on the side of licensee for such change. The licensee is directed to verify the BC for these months i.e. Oct. 07, Dec. 07, Jan. 08, March 08 and April 08 and recalculate the ASC chargeable to the consumer in these months within a period of 30 days from the date of decision in this case and refund any excess amount recovered on this count 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.

- 14) As to Grievance No. 7 – Regarding refund of RLC amount : The consumer claims that the licensee has to refund the RLC amount paid from Dec. 03 to Sept. 06, in 58 installments out of which 09 installments are due in the year 2008-2009. The consumer No. of the consumer was changed in May 08 while the load of 64.84 HP was extended to 107 HP. However, the installments of the RLC have not been paid or credited in this new consumer No. since then. It further claims that such RLC amount for the consumer comes to Rs. 01,01,626 and the same is to be refunded in monthly installments of Rs. 1693.77. The licensee is also liable to pay interest at 6% if the refund had not started by July 08, as per the directives by the MERC. It further claims that such amount together with interest for the consumer comes to Rs. 12,093.52. As against this, the licensee claims that the question regarding the refund of RLC of consumer No. 0015422068 PC – 0 to new consumer No. 001849032230, is referred to the higher authority for directions and on receipt of the reply, action will be



taken accordingly. It is an admitted fact that after enhancement of the load, earlier consumer No. 001590422068 of the consumer is changed to consumer No. 001849032230. CPL corroborates such contention of consumer and the licensee also does not deny such fact. Therefore, the licensee is directed to credit all the due installments of RLC from the old consumer No. 001590422068 into the new consumer No. 001849032230 of the consumer in the ensuing bill after 30 days from the decision in this case and go on crediting the remaining installments of RLC of the consumer into the said new consumer number, as per directions of MERC.

- 15) As to grievance 8 - Regarding disconnection of single phase commercial 3.60 KW supply with consumer No. 001590431733 : The consumer claims that it has demanded disconnection of the said single phase commercial supply vide letter dated 07/03/09 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 20<sup>th</sup> 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. 001590431733 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. 001849032230 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 allowed.
- 2) The licensee to comply the directions given in above para Nos. 07 to 13, 14 and 15.
- 3) The Compliance should be reported to the forum within 90 days from the date of decision.
- 4) 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

(M.N.Patale )  
Chairman  
CGRF Kalyan