



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/222/246 OF 2009-2010 OF
M/S.BHATIA INDUSTRIES, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

M/s. Bhatia Industries
Gala No. 07 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 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 30/03/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. Bhatia Industries

Address: - As given in the title

Consumer No : - 001590448539

Reason of dispute: Excessive Energy Bills and PD of 1 phase connection.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/305 dated 30/03/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/VSI/(E)/B/3753, dated 11.05.2009 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 30/03/2009.
- 5). The Forum heard both the parties on 11/05/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of

the consumer & Shri B. D. Shidore, A.E., representative 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. 11/05/09 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. 15,600/- and Rs.4,900/- as development charges at the time of taking new connection on 24/10/95 with load of 65 HP. The amount of Rs. 6,500 is displayed on bill. Therefore, the consumer had requested for refund of excess SD of Rs. 14,000/- and credit for interest of Rs.10150/- as per the statement (Annexure 1a). As against this, the licensee claims that the connection has been given on 24/10/95. The Security Deposit of Rs.15,600/- and E.D. of Rs.4900/- i.e. total Rs. 20,500/- paid at the time of taking connection, are not displayed in the bill. An amount of Rs.6500/- only is displayed in the bill. Its office is searching record for exact amount of SD and in the meantime the consumer may submit the SD receipts for quick disposal of the case. 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 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. 1126.02, Rs.106/-, Rs.900.60, and Rs.618.72 i.e. total Rs. 2756.34 in the bills for the months 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 the above referred first amount of Rs.1126.02 and second amount of Rs.106/- are taken as per the programme prepared by HO IT as per MERC rules and regulations. It has not given any reasons for the above third and fourth amounts of adjustments. Thus in fact the licensee has not given any reasons for the said amounts of adjustments. Therefore the licensee is directed to give the proper reasons and justification for the above referred four amounts of adjustments in writing to the consumer within 30 days from the date of decision in this case 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. 11,584.13 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 entitle and the amount which is already refunded to the consumer on this count 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. 520.95 recovered during Feb. 07, Rs. 287.10 recovered during Mar 07 i.e. total Rs. 808.05, 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.808.05 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 dt.17.9.08 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 in Oct.06 in the bill for Nov. 06 : The consumer claims that for the month of Oct. 06, the ASC was to be charged to the 9% of consumption. It's BC for the year 2005 was 3914. Therefore, it could be charged for cheap power to the extent of 3562 units in the said month. It's consumption for the said month was 2576 units. Therefore, no ASC could be charged for Oct. 06 in the bill for Nov. 06. However, the licensee has charged ASC for 309 units and therefore the consumer is entitle for the refund of the amount of $Rs.309 \times 1.15 = Rs.355.35$. 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 2576 and 12% of it comes to 309 units. Hence ASC charges charged are correct and there is no question of refund.
- 12) The consumer in its next grievance claimed that the licensee has wrongly reduced its BC to 2846 from the month of Oct.07. 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. 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 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 to April 08 :

The consumer claims that the licensee has illegally reduced it's BC from 3914 to 2846 from the month of Oct.07 and charged ASC for the above mentioned period by considering such reduced BC of 2846 units and therefore, it is entitle for refund of such excess ASC charged to it together with interest. It has mentioned the details of such refund at Ann-5. The licensee claims that the benchmark consumption for the year 2005 comes to 2846 units. Hence the ASC charged in the above period is correct. 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 the above period from Oct.07 to 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 excess fix charges recovered as per MD based tariff from Aug.08 to Dec.08 - The consumer claim that MD based tariff is not yet permitted by the MERC to be recovered from LT-V consumers vide order dated 12.9.08 in case No.44. However, the licensee has recovered fixed charges of Rs.2200/- per month as per MD based tariff during the above referred period from the consumer and therefore, the licensee be directed to refund such excess charges recovered to the extent of Rs.1250/- together with interest. As against this, the licensee claim that on completion of 100% TOD metering and as per directives given in Clause No.10.5 of Circular No.81 dt.7.7.08, MD based tariff is correctly applied to the consumer from Aug.08 and therefore the consumer is not entitle for any refund on this count.
15. 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. The copies of the bills for the months Oct.08 to Dec.08 (Annexure 6 a to e) prima facie show that the licensee has charged fix charges of Rs. 2200/- per month during the above referred period and thus the said fix charges are as per MD tariff. Therefore following the above referred decision of Hon.Ombudsman, the licensee is directed to refund the amount of MD

charges collected over and above the fixed charges recoverable as per HP based tariff recovered from the consumer in the period from Aug.08 to Dec.08, together with interest at the Bank rate of RBI within 30 days from the date of this decision.

- 16) As to grievance 8 - Regarding disconnection of single phase commercial 080 KW supply with consumer No. 001590452714 : The consumer claims that it has demanded permanent 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 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 07/-3/09 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 permanently 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. 001590452714 within a period of 30 days from the date of decision in 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 10, 12,13,15 and 16.

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