

Consumer Grievance Redressal Forum, Kalyan Zone  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
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Date of Grievance : 07/09/2013  
Date of Order : 19/11/2013  
Period Taken : 73 days

**IN THE MATTER OF GRIEVANCE NO. K/E/731/866 OF 2013-14 OF MARDH-VIKS ELECTRODE (P) LTD OF PLOT NO. B-20, MIDC, MURBAD, DIST-THANE REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE ENERGY BILL**

M/s. Mardh-Viks Electrode (P) Ltd.,  
Plot No. B-20,  
MIDC, Murbad, Dist-Thane  
Consumer No. 018019053070

(Here-in-after  
referred  
as Consumer)

Versus

Maharashtra State Electricity Distribution  
Company Limited through its  
Superintending Engineer, Kalyan Circle-II, Kalyan

(Here-in-after  
referred  
as Licensee)

Appearance : - C.R. - Shri Sardar  
For Licensee - Shri A.N. Khan, Executive Engineer cum  
Nodal Officer  
Shri Kasal, Asst. Engineer  
Mrs. More, Asst. Accountant,

(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 was having Industrial supply from the Licensee. The Consumer is billed as per said tariff, i.e. H.T.-1 N. Consumer registered grievance with the Forum on 7/9/2013 for refund of amount recovered by not giving benefit of subsidized tariff.
3. The papers containing above grievance were sent by Forum vide letter No. EE/CGRF/Kalyan/0413 dated 10/09/2013 to Nodal Officer of Licensee. The Licensee filed its reply on 30/9/2013.
4. In this matter, we heard both sides at length. We have gone through the contentions of both sides placed on record in writing. On the basis of this material, following factual aspects are disclosed:-
  - a) Consumer applied on 9/3/2011 for commercial load above 80 kW enclosing with application the List of Machinery which was actually received by the Licensee's office on 11/3/2011. Consumer has sought supply for "**Power Loom Textiles**"
  - b) Proposal of Consumer was sanctioned on 21/4/2011 and in the sanction order it is sanctioned for "**Manufacturing Of Suiting, Shirting And Dress Material**".
  - c) Consumer executed Agreement on 21/5/2011 and electric supply commenced on 3/6/2011.
  - d) Consumer supply resulted in permanent disconnection on 18/3/2013.
  - e) Consumer was issued bills from time to time and those are paid but it is contended that Consumer has applied for supply to "**Power Loom Textiles**" but in sanction order it is stated as supply for "**Manufacturing Of Suiting, Shirting And Dress Material**", however, in the bills issued, it is mentioned as "**MISC. TEXTL GOODS**". It is contended that the

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purpose for which it was sought was clear, along with the application, details of the machinery were enclosed and as per the details of machinery, Consumer was having 58 “**power looms**” and compressor, Warfing Machine, Kandi Machine and Water Pump. It is contended that while giving a sanction, purpose is stated as “**Manufacturing Of Suiting, Shirting And Dress Material**” which was in fact not sought. It is claimed that for “**Power Loom Textiles**” there is a subsidized tariff from the Government and if appropriately, Licensee would have mentioned the supply as claimed by the Consumer he would have got that benefit, but due to the mistake of the Officers of Licensee, Consumer is deprived from the benefit. Now he is seeking recovery of the said sum which he could have got due to the said classification. On this count, Consumer addressed letters to the Superintending Engineer on 24/4/2013, 15/7/2013, 17/8/2013 and when there was no reply, he approached this Forum on 7/9/2013.

In this grievance Consumer sought a relief for refund of excess amount recovered which he was not liable to pay considering the subsidized tariff available and secondly, it is contended that though supply was disconnected on 18/3/2013, reading recorded on that day noted during testing by Testing Division as 368.430 kVa units whereas bill is issued covering the period up to 31/3/2013 considering readings as 377.899 kVa units which in fact would have been only for 46,000 units but bill charged for 83,972 units. Accordingly for this difference, refund is sought.

- f) Licensee in reply dated 30/9/2013 contended that in the sanction letter purpose is stated, i.e. “**Manufacturing Of Suiting, Shirting And Dress Material**” which was accepted by the Consumer, paid the charges on 4/5/2011 and as he has not raised any grievance, he has accepted it. Further, it is contended that even in the Agreement executed by the

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Consumer on 24/5/2011 the Consumer agreed for the tariff, HT-1 N, he is appropriately charged and he paid the amount.

It is contended that in the Agreement there is a mention of “**power loom textiles**” supply and he agreed for the tariff rate, paid it, never raised dispute till permanent disconnection, hence he cannot claim any refund.

Thirdly it is contended that Forum cannot admit any grievance unless it is filed within two years from the date of cause of action and cause of action was the first bill dated 23/6/2011. Accordingly it is contended that grievance before the Forum in the month of Sept. 2013, is barred. It is after two years of the cause of action.

Further it is contended that as the supply to the Consumer is permanently disconnected there is no any way available, to verify the activity of the Consumer and to decide the tariff applicable. It is contended that from time to time the Government of Maharashtra taken decision to provide subsidy which is accordingly given by the Licensee making provision in the billing system and now, as Consumer supply is permanently disconnected, it is not possible to revise the tariff of the Consumer. It is claimed that now burden of subsidy cannot be passed on the Government of Maharashtra. On all these grounds it is contended that revision of tariff is not possible and hence Grievance Application be dismissed.

5. The claim of Consumer is resisted by the Licensee contending that Consumer approached this Forum after two years of cause of action and hence, this grievance cannot be entertained and decided by this Forum. In the reply, Licensee taken the stand citing date of cause of action as first bill issued on 23/6/2011. On behalf of Consumer, said contention is challenged. Legal position is required to be just mentioned that Consumer’s supply commenced on

3/6/2011 and it resulted in P.D. on 18/3/2013, Consumer has already approached the Superintending Engineer with his complaint dated 24/4/2013. As per the provisions of MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006, it is clear that if any grievance is to be to other than CGRF, those are to be directed to the IGRC or those are to be decided by the concerned; if not, date of such grievance is to be treated as a grievance to the IGRC. If the date of communication to Superintending Engineer in this matter, i.e. 24/4/2013 is considered then it is clear that it is within two years of release of connection and even within two years of first bill issued as contended by Licensee. The grievance before this Forum, though is of 7/9/2013, it cannot be read as a grievance directly brought before the Forum crossing IGRC. It is clearly stated that matter is not dealt within prescribed time by the Officers and hence the Consumer approached this Forum. It is also a fact that there is no time frame prescribed by the Licensee framing its rules, within how much time, Consumer is to approach the Licensee or with the grievance to IGRC. No doubt, there is a provision prescribing time limit for approaching the Forum which is of two years, that too, in case of approaching the Forum directly. Matters are brought before the Forum, at times, directly due to emergency but are also brought before the Forum if there is no any action taken by the Licensee or grievance not redressed within 60 days of approaching, or even aggrieved by the order of IGRC. Accordingly, interpretation of the Licensee about the bar of limitation is totally misunderstood and it has no any force at all.

6. On the basis of aforesaid factual aspects, and arguments advanced, to the extent of application of tariff, it is clear that Consumer has applied for a supply specifying the purpose, i.e. for “**Power Loom Textiles**”, however, in the sanction letter of the Licensee purpose is stated as “**Manufacturing Of Suiting, Shirting And Dress Material**”. This is in variance with what Consumer has

sought. It is also a fact that in the Agreement prepared on which signature of the Consumer is obtained, purpose is stated as “**Textile Power Looms**”. Further it is brought to our notice that in the bills actually issued, there is a mention that supply is for the activity of “**MISC. TEXTL GOODS**”. Accordingly, thought the Consumer sought supply for “**Power Looms Textiles**” in the records of the Licensee, the Licensee not appropriately entered it but terminology entered is different. The terminology which is sought by the Consumer is supported with the machinery which he was intending to use which are already stated above. There were 58 **Power Looms** and others were the necessary required machines. Consumer contended that if his contention would have been entered in the records of the Licensee appropriately, he would have got the appropriate benefit of the Government Subsidy available. It is clarified that in case of such “**Power Looms Textiles**” supply, if there is an entry in the Licensee’s record, including the mention in the billing record, automatically, entitlement of Government Subsidy would have been shown and automatically, whenever there is such facility or concession available, it is provided. It follows that when there is a subsidy available from the Government which the Licensee is to appropriately show for the Consumer in its billing and point out the eligibility, thereby to give it as per Government directions to the Consumer. Accordingly, crux of the matter lies in the fact that appropriately the Consumer’s purpose of supply stated is not correctly written.

7. The only defence raised by the Licensee is by stating that subsequent sanction letter is not disputed by the Consumer, subsequent Agreement signed, is, also not challenged and Consumer accepting all these things paid the amount and it is nothing but conceding to the Licensee’s classification shown in the sanction letter. In other words, it is tried to be contended that once the Consumer accepted the position, paid the amount, he cannot now revert back.

No doubt, the Consumer applied for supply, and Licensee being a supplier, considered the aspect, not reported to him anything pertaining to the classification which it entered in the sanction letter. Sanction letter speaks of so many things including the testing of installation as per clause 18, giving acceptance letter by Consumer as per clause 26 and getting the installation, arrangement, drawing, approved from the Office of the Licensee and Electric Inspector, Thane. Accordingly, it is clear that though this sanction letter is to be read, in the spirit in which now the Licensee is seeking, it is necessary to show expressly that whether the Consumer has given any letter of acceptance agreeing to all the conditions. We specifically asked the Officers of Licensee to place on record such letter of acceptance, however, they expressed inability to lay hand on it, as it is not found in the record. It is a fact as noted above, change of purpose is seen in the record of the Licensee from time to time that is in the sanction letter, in the Agreement and even in the bills issued. This variance is not explained. It is a fact that as the Licensee is required to give supply for which the Consumer has applied, his application is specific all other subsequent documents prepared by the Licensee required to be in tune with the purpose of supply sought by the Consumer but such consistency not maintained or deviation is not specifically got confirmed from the Consumer. Accordingly, it is necessary to bear in mind that Consumer is at the receiving end, he has applied, his application is not properly entered for the purpose of supply and thereby, mistake continued due to negligence on the part of the Officers of Licensee. Only because for such negligence, if any amount is required to be paid, if paid, it cannot be said to be an acceptance of illegal thing or it will not condone the negligence of the Officers of Licensee. In this light we find the lame excuses by way of defence put forth, are, not acceptable. Main contention of the Consumer seeking supply in the Application is of utmost importance, it is supported with machineries available, which are clearly speaking about “**Power**

**Looms**” and before actual supply, the Officers of Licensee were to confirm the status of those machineries and it is to be presumed that there was such verification. We find that the flaw on this aspect clearly speaks about the negligence on the part of the Officers of Licensee.

8. For such negligent act, attempt is done to contend on behalf of Licensee that now, there is no scope to verify the activity of the Consumer to consider for such Government Subsidy. It is claimed that now the claim towards subsidy cannot be passed to the Government. We find that there is no question of passing the liability to the Government, it is a question of not giving to the Consumer the required benefit due to negligence of the Officers of Licensee and hence, the excuses stated are lame excuses. In result we find there is no force in the defence of the Licensee on this count.
9. It is a fact, placed on record by the Consumer relying on the various Commercial Circulars issued by the Licensee through its Chief Engineer (Commercial) right from the year 2007 to 2013 about the subsidy available to the power loom owners as per the Government Resolutions issued from 17/10/2007 onwards latest till 5/3/2013. Those Circulars are bearing No. 69 of 2007, No. 77 of 2008, 93 of 2009, 94 of 2009, 181 of 2012 and 188 of 2013. Existence of these Circulars not disputed.

Consumer even placed on record the bills of other Consumer doing activity of power loom and getting the facility of Government Subsidy, pertaining to M/s. Shrinivas Infrastructure Industries Pvt. Ltd., Murbad for the years 2011 to 2013 and compared the position to itself wherein classification is stated as “**Miscellaneous Textile Goods**” and thereby Subsidy is not provided. This aspect is clear in itself.

10. In view of the aforesaid discussion it is clear that Consumer is denied the subsidized tariff rate, driven him to pay excess amount which now he is entitled



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to refund. This particular aspect is unearthed by the Consumer resorting to R.T.I. and then approached this Forum. In this light, there is no question of Consumer approaching the Forum or Licensee with any ulterior motive.

Consumer has claimed the refund of difference of units agitated by him during the period from 18/3/2013 to 31/3/2013. In this regard, he had addressed letter to Superintending Engineer on 24/4/2013 which is neither replied nor complied. Said aspect is again reiterated before this Forum during hearing and there is no reply to it, hence that claim is also to be allowed.

11. This matter could not be decided within the time frame as the Licensee was not able to file their reply in time, there was a delay on that count.
12. In result this grievance is to be allowed.

**I agree**

**(Mrs. S. A. Jamdar)**  
**Member, CGRF, Kalyan**

**(Sadashiv S. Deshmukh)**  
**Chairperson, CGRF Kalyan**

**Member Secretary (Chandrashekhar U. Patil) :**

I have gone through the above reasoning. I respectfully agree with it except for the contents in para Nos. 6, 7 & 10 for the reasons that :

- a) Consumer has not challenged the purpose, i.e. "Manufacturing Of Suiting, Shirting And Dress Material" which was mentioned in the estimate sanction letter dated 21/04/2011.
- b) Also, from the beginning, bills were served for the activity of "MISC. TEXTL GOODS". The same was not challenged by Consumer till P.D. of his connection.
- c) Consumer, being an Industrialist, was well aware of the above proper categorization.

Hence the Grievance should be rejected.

**(Chandrashekhar U. Patil)**  
**Member Secretary**  
**CGRF Kalyan**

Hence the order by majority

**O-R-D-E-R**

- a) The grievance of the Consumer is hereby allowed.
- b) Licensee directed to work out subsidy which would have been available to the Consumer having power looms, as per Commercial Circulars issued from time to time in the light of Government Resolutions and pay the said sum to the Consumer along with interest as per the Bank Rate from the date of complaint to the Superintending Engineer dated 24/4/2013.
- c) Licensee to pay, as discussed above, the difference recovered towards the units shown after 18/3/2013 to 31/3/2013 with Interest as per Bank Rate from the date of recovery of that sum.
- d) Aforesaid compliance be done on receiving this Order within 60 days and its compliance be reported thereafter within 10 days.

Date : 19/11/2013

**I Agree**

**(Mrs. S.A. Jamdar)**  
**Member**  
**CGRF Kalyan**

**(Sadashiv S. Deshmukh)**  
**Chairperson**  
**CGRF Kalyan**

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**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”*
- c) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.