



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/225/249 OF 2009-2010 OF
M/S. MARUTI PLASTIC COMPANY, VASAI REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN
ABOUT EXCESSIVE BILLING.

M/s. Maruti Plastic Company
Gala No. 29, Suryakiri Ind. Estate
Village – Gokhiware, 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 13/04/2009 for Excessive Energy Bills and P. D. of single phase connection. The details are as follows: -
Name of the consumer :- M/s. Maruti Plastic Company
Address: - As given in the title
Consumer No : - (1)001590468262 IP Connection.
(2)001590471913 – 0.6 KW single phase commercial connection
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/335 dated 13/04/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/VSI/(E)/B/4076, dated 20/05/2009 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 05/02/2009. 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 13/04/2009.

- 5). The Forum heard both the parties on 20/05/2009 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri S. B. Hatkar, A.A. 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 05/02/09 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. 20/05/09 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 grievance No.1 - Refund of excess amount recovered by applying MD based tariff, PF penalty etc.** - 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 zerox 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 such 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.1250/- towards the difference in between the fixed charges as per MD based tariff and HP based tariff and refund of PF penalty of Rs. 32404.57 on this count.

---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.

- 8). 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.

- 9) As to grievance (2) – 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 in Feb. 97. However, bills do not show the said amount of SD. The licensee has also collected Rs. 8,400/- in the month of June 08 as SD. Therefore, the consumer had requested for refund of excess SD and interest. As against this, the licensee claims that the connection has been given on 15/02/97. The Security Deposit of Rs. 19,500/- + Rs. 09,750/- = Rs. 29,250/- were paid at the time of taking connection. 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.

- 10). As to grievance No. 3 - regarding refund of difference of MD based charges 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 if any refunded by it to the consumer 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.
- 11) As to grievance No. 4 - Regarding bill adjustment : The consumer claims that the licensee has added the debit bill adjustment charges of various amounts such as Rs. 85.27, Rs. 69.32, Rs. 115.20 and Rs. 237.86 i.e. total Rs. 507.65 in the bills for the billing periods July 07, Aug.07, Sept. 07 and March 07 respectively. The licensee should justify such adjustments and refund if the same are not justified. The licensee claims that the said

bill adjustments are taken as per the programme prepared by H. O. IT as per MERC rules and regulations. In view of the facts as discussed above, the licensee is directed to obtain necessary information in respect of above all bill adjustment amounts from the H. O. IT and other record and give the same in writing together with explanation 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.

- 12). As to grievance No. 5 - Regarding refund of IASC during March 07, April 07 and Feb.07 : The consumer claims that the licensee is to refund IASC charges of Rs. 8.58 recovered during March. 07, Rs. 98.34 recovered during April 07, and Rs. 14.95 recovered during Feb. 07 i.e. total Rs. 121.87, 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. 121.87 to the consumer. The licensee claims that the matter is referred to higher authority for directions regarding refund of IASC charges and action 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 recovered during 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 month March 07, Apr 07 and Feb. 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.

- 13). Grievance No. 6 - Regarding refund of excess ASC recovered in Oct.06, billed in Nov. 06 : The consumer claims that for the month of Oct. 06, the consumption was 680 units only which is less than Benchmark consumption (BC) i.e. 1358 units. Hence the ASC is not applicable because our consumption is less than the BC. So difference cost for 74 units of Rs. 85.10 should be refunded to us. 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 620 and 12% of it comes to 74 units. Hence ASC charges charged are correct and there is no question of refund.
- 14) It is also noted by Forum that it is clear from the chart on page No. 158 of 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 if consumption is more than BC., and from the example given on page No. 159 of the said order, it appears that in case the concerned unit reduces the consumption by 5% than the BC, then the ASC is to be charged on 4% of the total consumption of the said month. Therefore the licensee is directed to recalculate the ASC to be charged to the consumer for the month Oct. 06 billed in Nov. 06 as per MERC's order dt. 20/10/06 in case No. 54 of 2005 and keeping in mind the above principal or manner of calculating ASC and refund the excess charged 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 in this case.

- 15) As to grievance No. 7 - Regarding disconnection of single phase commercial 0.6 KW supply with consumer No. 001590471913 : The consumer claims that it has demanded disconnection of the said single phase commercial supply vide letter dated 05/02/09 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 05/02/09 about it to the Dy. Executive Engineer. The licensee claims that disconnection of single phase supply action will be taken for P. D.

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. 001590471913 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. 001590468262 within a period of 30 days from the date of decision in this case.

- 16). 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 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, 2003, 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