

Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph- 2210707, Fax – 2210707, E-mail : cgrfkalyan@mahadiscom.in

IN THE MATTER OF GRIEVANCE NO. K/E/540/638 OF 2011-2012 OF
M/S. S. V. P. PACKING INDUSTRY PVT. LTD., VASAI (EAST)
REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM
KALYAN ZONE, KALYAN ABOUT EXCESSIVE BILLING.

M/s. S.V.P. Packing Industry Pvt. Ltd.,
Gala No. C - 4,
Sagar Sangam Industrial Complex,
Satali, Vasai (East),
Dist. : Thane – 401 208

(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 consumer of the licensee with 65 HP load. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 20/09/2011 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. S.V.P. Packing Industry Pvt. Ltd.

Address: - As given in the title

Consumer No : - 1)002170780097 – 65 HP

2)002170283999 – Single Phase

Reason of dispute : Excessive Energy Bills.

- 3) The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/605 dated 20/09/2011 to Nodal Officer of licensee. At the time of hearing licensee filed letter No. DYEE/VSI/T/6096, dated 17/10/2011 from Dy. Executive Engineer, Vasai Road, East Sub-Division.
- 4) The Member Secretary and Member of the Forum heard both the parties on 17/10/2011 @ 15.30 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth representative of the consumer & Shri U. M. Naik, Dy. Executive Engineer, 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.

- 5) The brief facts of the case are as under :
 - a) The complainant - Industry is a consumer of licensee having consumer No. 002170780097.
 - b) The consumer states that licensee has given 65 HP supply to it on 24th January 1999 and paid S.D. of Rs. 19,500/- and ASD of Rs. 15,600/-, however, the amounts do not reflect on the record / bill.
 - c) The consumer further contents that licensee has appropriated S.D. of Rs. 56,300/- which is displayed on the bill.
 - d) It is pleaded by the consumer that licensee has collected connected load penalty from it and violated the directives of Hon. MERC laid down in case No. 2, dated 14/07/2005.
 - e) It is also the grievance of the consumer that licensee still has not made it's single phase connection P. D. and not refunded the amount.
- 6) The consumer therefore approached Vasai Circle but in vain. The consumer approached Forum on 20/09/2011 regarding the above grievances and prayed that :
 - a) Directions be given to the licensee to refund the amount of S.D. / A.S. D., connected load penalty etc. alongwith interest.
- 7) Notice was issued to the licensee who appeared before the Forum and submitted a letter addressed to the Member Secretary Kalyan alongwith spot inspection report .
- 8) We have noticed that the letter mentioned above was submitted by the licensee on the day of hearing itself though intimated well in advance.
- 9) Licensee stated that :
 - a) On 15/10/2011 an inspection was carried out by the officials of the licensee on the premises of the consumer situated at Gala No. C – 4, Sagar Sangam Industrial Complex, Sativali, Vasai (East) and found that consumer

has changed the purpose of connection. Licensee observed that plastic injecting moulding work was in progress in the premises though the connection was given to packaging industry. Hence it is an unauthorized use of electricity supply.

- b) Licensee further states that according to the spot inspection report carried out by Sub-Engineer Sativali Section, consumer is using the supply for the purpose other than for which it is sanctioned and hence liable under 126 of Electricity Act of 2003.
 - c) Licensee further stated that consumer is not eligible to claim a legitimate right within the provisions of Hon. MERC and therefore requested to dismiss the grievance application of the consumer which comes under Section 126 of Electricity Act 2003.
- 10) We have gone through the grievance application, letter, spot inspection report , rejoinder and other documents on the record and have heard the arguments laid down by both the parties. We have observed that :
- a) Consumer did not submit anything on record to contradict the allegation of the licensee under Section 126 of Electricity Act 2003 except stating that the procedure followed by the licensee at the time of spot inspection is not as per the commercial circular No. 99 of MSEDCL dated 24/08/2009.
 - b) The consumer nowhere stated or clarified at the time of hearing that whether the plastic injecting moulding maintained in the same premises is a supporting activity to the packaging industry.
 - c) The contention of the consumer that the action taken by the licensee under Section 126 is just to harrass to the consumer and that it is mandatory for the licensee to follow detail procedure as per licensee's commercial circular No. 99, dated 24/08/2009, if action is contemplated under Section 126 of Electricity Act 2003. However, this issue does not substantiate consumer's

stand that the case does not fall within the provision of Section 126 of Electricity Act 2003.

- d) Section 126 of Electricity Act 2003 reads as follows :
- “If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use.”
- e) And explanation – for the purpose of this Section (iv) reads as follows :
- “For the purpose other than for which the usage of electricity was authorized”.
- 11) The above explanation makes it clear that electricity has to be used for the purpose for which it is sanctioned, and if it is used for the purpose other than for which it is sanctioned, it becomes unauthorized use within the meaning of this Section.
- 12) In the present case the consumer neither produced any document (except re-joinder dated 18/10/2011) to show that plastic injecting moulding activity is carried out in the premises is related to the activity of packaging industry nor argued at the time of hearing.
- 13) Moreover as per Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006, “If the Forum is prima facie of the view that any Grievance referred to it falls within the purview of any of the following provisions of the Act the same shall be excluded from the jurisdiction of the Forum.

- (a) Unauthorized use of electricity as provided under Section 126 of the Act.
- 14) Taking into consideration all the above observations, we feel that prima facie it is a case of unauthorized use of electricity, therefore as per Clause 6.8 (a) of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006 would be excluded from the jurisdiction of the Forum, hence there is no need to go into the merits of the case and pass the following order :

O-R-D-E-R

- 1) The grievance application stands disposed of since it does not come under the purview of the Forum as per Clause 6.8 (a) of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006.
- 2) The Consumer can file representation against this decision with the Hon. Electricity 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”.

Date : 15/11/2011

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

(R.V. Shivdas)
Member Secretary
CGRF Kalyan