



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/226/250 OF 2009-2010 OF
M/S. SAKARIYA PLASTIC INDUSTRIES, VASAI REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN
ABOUT EXCESSIVE BILLING.

M/s. Sakariya Plastic Industries
S. No. 10/11, Amber Ind. Estate
Sativali Road, 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 refund of single phase connection charges. The details are as follows: -

Name of the consumer :- M/s. Sakariya Plastic Industries

Address: - As given in the title

Consumer No : - 1)001840852519 – IP Connection

2)001840616018 – single phase

Reason of dispute: Excessive Energy Bills and refund of single phase connection charges

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/338 dated 13/04/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/VSI/(E)/B/4089, dated 21/05/2009 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 07/02/2009. 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 hearing in this grievance application was scheduled on 06/05/09 at 16.00 hrs. but on the request of consumer, the same was postponed to 21/05/09 at 15.00 hrs. The Forum heard both the parties on 21/05/2009 @ 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., 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 and the same are not reproduced 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. 21/05/09 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.1500/- towards the difference in between the fixed charges as per MD based tariff and HP based tariff and refund of PF penalty of Rs. 13,414.15 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 No. 2 - Regarding bill adjustment : The consumer claims that the licensee has added the debit bill adjustment charges of various amounts such as Rs. 1791.92, Rs. 2613.64, and Rs. 2959.10 i.e. total Rs. 7364.66 in the bills for the billing periods Sept. 07, Aug. 07 and March 07 respectively. The licensee should justify such adjustments and refund if the same are not justified. The licensee claims that all 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 recovered as above if any, together with interest at the bank rate of RBI, by giving it's credit to the consumer in the ensuing bill after 30 days.

- 10) As to grievance (3) – Refund of Excess SD & interest on SD : The consumer claims that he has paid SD of Rs. 19,500/- + Rs. 15,600/- = Rs. 35,100/-- at the time of taking new connection in Mar. 2000. However, bills show Rs. 19,500 only as a SD up to May 08. There after consumer gave letter for crediting of Rs. 15,600 in it's account in June 08. Therefore, the licensee should give the details of the credit of Rs. 15,600 which it may have given to the consumer. As against this, the licensee claims that the connection has been given on 10/03/2000. The Security Deposit of Rs. 19,500/- paid at the time of connection has been displayed in bill but Rs. 15,600 is not displayed in the bill. It will be displayed in bill. In view of the above contentions of the parties, the licensee is directed to verify the amounts of SD paid by the consumer from time to time, as to whether the consumer has been given credit of Rs. 15,600 as per it's application, calculate the correct amount of SD at this stage and refund the excess SD amount to the consumer in the ensuing bill after 30 days from the date of decision in this case.
- 11) The consumer also claims that the licensee be directed to give credit of the interest on SD to the consumer. It further claims that the interest on the SD of Rs. 15,600 comes to Rs. 7,722 as per calculations at annex. 7-a. The licensee be directed to give credit of the above interest together with compound interest on it to the consumer. It further claims that though it is written as "Interest for 2006-07" in the bill for Sept. 07, but credit of amount of any such interest is not given in the said bill. The interest at the rate of 6 % per annum on the SD amount of Rs. 19,500 comes to Rs. 1170 and therefore, the licensee be directed to refund the said amount of interest to

the consumer. As against this, the licensee claims that credit of the interest of Rs. 1170 for the year 2006-07 has been given to the consumer in Sept. 07 and the said fact can be confirmed from the CPL. The CPL for the month of Sept. 07 does show an entry regarding the credit of Rs. 1170 towards SD interest given by the licensee to the consumer. Rs.2961.92 is mentioned as the amount of TOSE adjustment in the said CPL for Sept.07. Thus the said amount of TOSE adjustment was to be recovered in the said month. If the amount of Rs.1170/- of which credit was given to the consumer is deducted from the said amount of TOSE adjustment i.e. Rs.2961.92, it comes to Rs.1791.92. Such amount of Rs.1791.92 is mentioned as the amount of bill adjustment in the bill for Sept.07. Credit of Rs.396.59 towards the prompt payment discount has been given to the consumer in the said month. If the said amount of Rs.306.59 is deducted from Rs.1791.92 (bill adjustment amount), it comes to Rs.1395.33 and such amount is duly charged to the consumer as the amount of bill adjustment. Thus the contention of licensee that it has given credit of SD interest for 2006-07 to the extent of Rs.1170/- is correct and hence the same is accepted. The consumer further claims that the interest on SD amount in Oct. 06 and Nov. 06 have been given at the rate 1% less than the then prevailing rate of 4.5% and 5% respectively. The licensee be directed to recalculate the interest in the said month correctly and give the credit of addl. Interest, if any, to the consumer. As against this the licensee claims that the rate of interest for 2003-04 was 3.5%, for 2004-05 upto 19.1.05 was 3.5% and therefore the interest given in the bill is correct. In view of the above contentions, the licensee is directed to recalculate the

interest on the SD amount of the consumer at the correct rates prevailing at the relevant time, the total amount for which the credit has so far been given to the consumer towards interest on SD and give information about it in writing to the consumer within 30 days and give credit of addl. Amount of interest if any, to the consumer in the ensuing bill after period of 30 days from the date of decision in this case.

- 12). Grievance No. 4 - Regarding refund of excess ASC recovered in Oct. 06, billed in Nov. 06 : The consumer claims that its Benchmark consumption (BC) for the consumption in the month of Oct.06 billed in Nov.06 was 10015 units and it's 9% comes to 9113 units. Its consumption for the above referred month was 9276 units. Therefore the licensee could charge ASC for 162 units only but it has charged ASC for 1113 units. Therefore the licensee is liable to refund the excess cost of 951 units recovered from the consumer and the said amount comes to $951 \text{ units} \times 1.15 = \text{Rs.}1093.65$. As against this, the licensee claims that as per tariff order for 2006-07, case No. 54 of 2005, ASC charges were 12%. The consumption for the month of Nov. 06 was 9276 units and its 12% comes to 1113 units. Hence ASC charges charged are correct and there is no question of refund.
- 13) 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. The LR could not show any other order of MERC authorizing the licensee to recover ASC charges on the 12% of the total consumption during the relevant period, and therefore the contention of licensee that during relevant period 12% of the consumption was to be charged as ASC is rejected. Therefore the licensee is directed to recalculate the ASC to be charged to the consumer for the month of 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 if not already refunded, 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.

- 14) Grievance No. 5 – Regarding ASC charges charged in June 07 to July 07:
The consumer claims that the meter is changed in June 07. The MRI report shows that June and July readings are mixed. Therefore the consumption of 5572 units shown in the bill for June 07 and 12794 units shown in the bill for July 07, together 18366 units is the total consumption of two months. 11% consumption of the said two months comes to 17826 units. Therefore, the licensee should have charged ASC on 540 units only. But the licensee has charged ASC on 3881 units. Therefore the consumer is entitle for refund of excess ASC i.e. $3341 \times 1.36 = \text{Rs.}4543.76$ charged to it. As against this, the licensee claims that the matter is under scrutiny and action will be taken to review the bill, if applicable.
- 15). It is clear from CPL for the month of May 07 that the bill for the said month was issued for 9963 units considering the consumption shown in the earlier

meter No.3124762. The CPL for the month of June 07 shows that the bill for the said month was issued for total consumption of 5572 units and the previous readings and present readings in the said month is shown as 106 in meter No.67903. The above referred fact clearly shows that the total consumption of 5572 units charged in the bill for the said month was consumption as per the reading in the old meter and thus it appears that the new meter was installed on some day in the said month June 07. None of the party has made it clear as to exactly on what date in the said month, the meter was changed. Therefore, it can be said that some portion of the consumption of 12794 units shown in the CPL for July 07 was the consumption in the earlier month. Therefore the contention of the consumer that $5572 \text{ units} + 12794 \text{ units} = \text{total } 18366 \text{ units}$ should have been taken as consumption for two months and then its average for two months should have been calculated and ASC should have been charged by taking such average consumption of each such months is correct and hence accepted. Therefore, the licensee is directed to recalculate the ASC to be charged to the consumer for the months June 07 and July 07 by taking average consumption of the total consumption of the said two months to be consumption of each such months, and refund if any excess ASC is earlier recovered, together with interest at the Bank rate of RBI to the consumer by giving its credit to the consumer in the ensuing bill after period of 30 days from the date of decision in this case.

- 16). As to grievance No. 6 - Regarding refund of IASC recovered in the bills for Mar 07, April 07 & May 07 : The consumer claims that the licensee is to refund IASC charged during the period Oct. 06 to April 07 as per order dated 17/09/2008 passed by MERC in case No. 45 of 2007. The consumer claims refund of Rs. 625.02 recovered during March. 07, Rs. 540.54 recovered during April 07, and Rs. 416.60 recovered during May. 07 on this count and therefore licensee be directed to refund the said total amount of Rs. 1582.16 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 to May 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.
- 17). As to grievance No. 7 - 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.

- 18) As to grievance No. 8 - Regarding refund of security deposit, additional security deposit and service connection charges paid in the year 2000 against single phase connection No. 001840616018 : The consumer claims that the licensee has given quotation on 21/02/2000 for single phase supply and accordingly it has paid Rs. 400 as earnest deposit, Rs. 4000 as additional earnest deposit and Rs. 1000 as service connection charges i.e. total amount of Rs. 5400. The licensee mentioned consumer number 001840616018 in the said quotation. However, the licensee did not provided electric supply and did not install meter. Since the connection was not given, the service charges deposited by consumer be treated as S.D. Thus the licensee is liable to refund the said entire amount of Rs. 5400 together with interest to the consumer. The licensee did not refund the said amount inspite of letter dt. 03/02/09 and therefore, the licensee be directed to refund the said amount together with interest to the consumer directly or the said amount may be directed to be credited to it's industrial connection with consumer No. 001840852519. As against this, the

licensee claims that the matter is referred to the Sectional Officer for investigation. On receipt of report, action will be taken. The licensee has filed copy of the quotation dt. 21/02/2000, copy of the receipts by which it has deposited Rs. 400 as SD, Rs. 4000 as ASD, Rs. 1000 as service charges on 28/03/2000. In view of such documentary evidence filed by the consumer, it's such contention regarding the licensee giving such quotation for single phase connection and accepting payment of the said amounts as above will have to be and the same is accepted. The consumer's contention that the licensee has not given any supply by such connection and did not install meter will also have to be and the same is accepted. The LR submitted that the consumer has not given test report after depositing the amounts as per quotation and therefore, no supply could be given and no meter could be installed for the said supply. The CR could not and did not refute the above contention of LR. However, the licensee is liable to refund the said amount to the consumer. Therefore, the licensee is directed to refund the amount of Rs. 4400 collected as ED and Addl. ED together with interest at the Bank rate of RBI and an amount of Rs. 1000 to the consumer by giving it's credit to the consumer in the ensuing bill after a period of 30 days from the date of decision in this case.

- 19). 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. 08 to 11, 13, and 15 to 18.
- 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 : 02/06/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan