



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/230/255 OF 2009-2010 OF
M/S. SHREE 99 PLASTIC, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

M/s. Shree 99 Plastics
Gala No. 109, Dattatraya Ind. Estate
Village – Waliv , 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 22/04/2009 for Excessive Energy Bills. The details are as follows: -
Name of the consumer :- M/s. Shree 99 Plastics
Address: - As given in the title
Consumer No : - 001840852683
Reason of dispute: Excessive Energy Bills
- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/363 dated 22/04/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/VSI/(E)/B/3809, dated 14/05/2009 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 17/02/2009. 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 22/04/2009.
- 5). The Forum heard both the parties on 14/05/2009 @ 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 R. G. Gharat, UDC 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 17/02/09 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 dt. 14/05/09 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) – Regarding 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.5700/- towards the difference in between the fixed charges as per MD based tariff and HP based tariff and refund of PF penalty of Rs. 50,192.47 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 motu decided to start MD based tariff for LT V consumers from April 09 in spite 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. 2738.48, Rs. 2890.52, and Rs. 3148.67 i.e. total Rs. 8777.67 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 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.
- 10) As to grievance (3) – Regarding refund of interest on SD for the year 2006-2007: The consumer claims that in the bill of Sept. 07, the SD interest for 2006-2007 is mentioned but actual credit not given in the same bill. So amount of Rs. 900 at the rate of 6% be credited to consumer's account. On this licensee claims that the SD interest of Rs. 900 has been given in the month of Sept. 07 which can be ascertained from CPL. "SD interest for 2006-07" is written in the bill for the month Sept. 07 (Ann. 6-a). CPL for the month of Sept. 2007 shows that a credit of Rs. 900 as SD interest is given. If the said amount is deducted from the amount Rs.

3638.48 of TOSE adjustment given in the CPL for Sept. 2007, it comes Rs. 2738.48 and the said amount is given as amount of bill adjustment in the bill for Sept. 07 (Annex. 6 –a). If the amount of prompt payment adjustment Rs. 527.88 mentioned in the CPL for Sept. 2007 and also in the bill for Sept. 2007 (Annex. 6-a) is deducted from the above referred amount of Rs. 2738.48 of the amount of bill adjustment given in the bill (Annex. 6-a), it comes to Rs. 2210.60 which is duly mentioned in the right hand column as the amount of adjustment in the bill (Annex. 6-a). Thus the credit for the interest of Rs. 900 of SD for the year 2006-07 has been given to the consumer in the bill for Sept. 07 (Annex. 6-a) as contended by the licensee and hence it's such say is accepted. Therefore, grievance of consumer about it is rejected.

- 11) As to grievance (4), and grievance No. (1) as per rejoinder dt. 08/04/09 made to the Nodal Officer – Regarding refund of Excess SD & interest on SD : The consumer claims that he has paid SD of Rs. 15,000/- + Rs. 12,000/- = Rs. 27,000/-- at the time of taking new connection in Mar. 2000. However, bills are showing Rs. 15,000 only as SD. So licensee be directed to refund Rs. 12,000 against SD with interest i.e. Rs. 5725 (till March 09). The consumer further claims in the rejoinder dt. 08/04/09 that it has also paid additional SD of Rs. 4500 (+) Rs. 2700 = total Rs. 7200 on 23/10/04 while extension of load from 50 to 65 HP, but the same is not displayed in the bills and therefore, the licensee should refund the said SD amount with interest of Rs. 1845 as per calculations given at Annex. (3), and that the licensee has also collected SD of Rs. 42900 by appropriating from it's main account. As against this, the licensee claims that the connection has been given on 16/03/2000. The Security Deposit paid at the

time of connection for Rs. 15,000/- has been displayed on bill but Rs. 12,000 not displayed, the amount will be refunded alongwith the interest for which receipt may be submitted. The licensee did not file any reply to the said rejoinder dt. 08/04/09 though it's copy was filed by the consumer with the grievance. 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.

- 12). As to grievance No. (5) - Regarding refund of IASC for Mar 07 : The consumer claims that the licensee is to refund IASC charges of Rs. 103.62 recovered for March. 07, 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 amount of Rs. 103.62 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 for the month of March 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). As to grievance No. (6) - 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.
- 14) As to Grievance No. (7) - Regarding refund of excess ASC recovered in Oct. 06, billed in Nov. 06 : The consumer claims that it's Benchmark consumption (BC) was 17158 units and it's 9% comes to 1055 units, whereas consumption for this month was 15712 units. However, the licensee has charged ASC for 1406 units, so refund on 351 units (Rs. 403.65) which is charged excess should be given to consumer. 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 11718 units and it's 12% comes to 1406 units. Hence ASC charges charged are correct and there is no question of refund.

- 15) It is also noted by the 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 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 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.
- 16). As to grievance No. (2) in the rejoinder dt. 08/04/09 and also in the letter dt. 17/03/09 : Regarding refund of excess TOD : The consumer claims that the meter reader has taken wrong reading for March 09 due to which excess charges have been recovered by the licensee and therefore, the licensee be directed to refund the same. The licensee did not file any reply to the rejoinder dt. 08/04/09 including this grievance. It is however clear from the bill for the month March 09 that the total consumption of 11429 units shown in it is as per the consumption, as per meter readings for the said month and the total of consumption shown as 1079 units for A zone, 3168 units for B zone, 2991 units for C zone, 4190 units for D zone comes to 11428 units. Thus there is no mistake in mentioning the total consumption and also zone

wise consumption in the said bill and therefore, the consumer is not entitled for any refund on this count. Hence grievance of consumer about it is rejected.

- 17) As to grievance No. (3) in rejoinder dt. 08/04/09 – Regarding refund of excess DPC interest charged due to appropriation of the amount of regular bill towards SD : The consumer claims that the licensee collected Rs. 42,900 as Security Deposit (SD) in June 08 by appropriating amount from the amount of monthly bill paid by it. The licensee has collected DPC and interest of Rs. 2450.79 while recovering the arrears of earlier bill resulted due to the appropriation of amount of bill of earlier month paid by the consumer and consumer also suffered loss by losing PPD (prompt payment discount) of Rs. 780 and therefore, as per the order dated 23/03/09 passed by Hon. Ombudsman in representation No. 23 of 2009, licensee be directed to refund the said amounts of DPC, interest and loss on account losing PPD i.e. total amount of Rs. 2450.79 (+) Rs. 780 with interest of Rs. 294. The licensee did not file any reply to the rejoinder dt. 08/04/09 including this grievance. However, the LR, during the hearing, submitted that the matter is referred to higher authority and on receipt of the reply, action will be taken. The CPL for the month of April 2008 shows Rs. 15000 as SD, Rs. 42900 as SD arrears and Rs. 42,900 as SD demand. CPL for the month of May 08 shows that the said bill was issued for net amount of Rs. 83,618.48, SD was Rs. 15,000, SD arrears was Rs. 42900 and SD demand was Rs. zero. The CPL for the month of June 08 shows that the net bill amount was Rs. 98,502.72, SD amount was Rs. 57,900 and SD arrears were Rs. Zero. The bill for the month of May 08 shows that the consumer was suppose to pay an amount of Rs. 82,840 if paid on or before

20/05/08. The CPL for the month of June 08 shows that the consumer has paid an amount of Rs. 29,940 of the said bill on 17/05/08 i.e. prior to 20/05/08. The said CPL further shows Rs. 57,900 as the amount of SD and it means that the licensee has recovered the SD arrears of Rs. 92,900 out of the amount, the consumer has paid in the said month. If we add Rs. 42,900 and Rs. 39,940, the same comes to Rs. 82,840. It meant that though the consumer has paid entire amount of the said bill, the licensee has appropriated an amount of Rs. 42,900 towards SD and it resulted into the arrears of Rs. 45,350.79 duly shown in the CPL for June 08. It means that due to such appropriation of the some amount paid as the amount of bill as SD, the consumer must have been required to pay the interest on the arrears, DPC and must have also lost the amount of concession on account of prompt payment of the bill. Therefore, the licensee is directed to verify as to whether it has charged Rs. 2450.79 as DPC and interest and the consumer lost PPD due to such appropriation of Rs. 42,900 as SD from the amount deposited by the consumer in pursuance to the bill for electric charges for the month May 08 and if so, refund the said amounts of DPC and interest and also the amount of prompt payment discount which the consumer may have lost due to such appropriation, to the consumer as observed by Hon. Ombudsman in order dated 26/03/09 in representation No. 23 of 2009 by giving it's credit to the consumer in the ensuing bill after 30 days from the date of this decision.

- 18) As to grievance No. (1) as per letter dt. 17/03/09 regarding excess charges recovered during Feb. 09 : The consumer claims that due to arbitrary data feeding, the licensee has charged it Rs. 6,084.65 whereas on the prorata basis, it should receive concession for working more in A zone. Therefore,

the licensee be directed to revise the bill, rectify the mistake and pass on proportionate concession of night working of A zone as per actual reading. The licensee did not file any reply to the said letter containing such grievance. It is however clear from the bill of Feb. 09 that the total consumption of 14,508.5 units shown in it is as per actual readings of the meter and the total of consumption of 5,295 units during A zone, 5,170 units in B zone, 1,680 units in C zone and 2,364 units in D zone comes to 14,508.5 units which was total consumption shown in the said bill. It is further clear from the said bill that a credit of Rs. 4,500.75 has been given for the consumption of 5295 units during A zone by the licensee. The consumer claims that credit of more amount should have been given for such night working in the unit of the consumer. Therefore, the licensee is directed to re-verify about the amount of concession or credit, the consumer is entitle for the said consumption of 5295 units during A zone as per the tariff applicable at the relevant time and in case if lesser concession or credit has been given to the consumer on this count, give the credit of excess amount if any, on this count to the consumer in the ensuing bill after 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 partly allowed.
- 2) The licensee to comply the directions given in above para Nos. 08, 09, 11 to 13, 15, 17 and 18.

- 3) Grievance No. (3) in main grievance application, Grievance No. (2) in rejoinder dated 08/04/09 and also in letter dated 17/03/09 are rejected as observed in para 10 and 16.
- 4) The Compliance should be reported to the forum within 90 days from the date of decision.
- 5) 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 : 08/06/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan