



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/231/256 OF 2009-2010 OF
SHRI RAJESH GODIA, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

Shri Rajesh Godia
Gala No. 108, Dhuri Ind. Estate No. 11
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 23/04/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- Shri Rajesh Godia

Address: - As given in the title

Consumer No : - 001840853396

Reason of dispute: Excessive Energy Bills

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/370 dated 23/04/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/VSI/(E)/B/3810, 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 23/04/2009.
- 5). The Forum heard both the parties on 14/05/2009 @ 16.00 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 dtd. 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 to 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.3900/- towards the difference in between the fixed charges as per MD based tariff and HP based tariff and refund of PF penalty of Rs. 19,517.62 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. 61.76, and Rs. 1295.87 (i.e. total Rs. 1357.63) in the bills for the billing periods 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 No. (3) – Regarding refund of excess DPC and interest charges of Rs. 1816.62 : The consumer claims that the licensee has collected an amount of Rs. 1816.62 as DPC and interest alongwith addl. SD of Rs. 2400 in the bill for the month June 2008. The licensee be directed to refund the said amount of Rs. 1816.62. As against this, the licensee claims that the addl. SD demand was made as per one month's average bill and therefore, such demand was correct as per H.O. IT programme. It is clear from the bill for the month June 08 (Annex. 3-b) r/w CPL for the month of June 08 that the licensee has recovered an amount of Rs. 4,216.62 towards arrears and SD arrears and out of the said amount

Rs. 2,400 was the addl. SD collected by the licensee from the consumer. Thus the licensee has recovered an amount of Rs. 1816.62 towards arrears out of the said amount of Rs. 4216.62. Therefore, the licensee is directed to give explanation for charging the said arrears of Rs. 1816.62 in the bill for the month of June 08 within a period of 30 days from the date of decision in this case. and in case there is no explanation for the recovery of the said amount or excess amount if recovered, the licensee should refund such amount together with interest at the Bank rate of RBI by giving it's credit to the consumer in the ensuing bill after a period of 30 days.

11) As to grievance (4) – Regarding refund of Excess SD & interest on SD :

The consumer claims that in the bill of June 2008, licensee collected DPC & interest charges of Rs. 1816.62 alongwith additional SD Rs. 2400. Consumer further claims that he has already paid the amounts while getting new connection. Therefore, licensee be directed to refund Rs. 1816.62 to the consumer. On this licensee claims that additional SD demand is as per one month average bill and the amount of Rs. 2400 demanded is correct as per IT programme. The consumer further claims that licensee collected SD of Rs. 19,500/- + Rs. 11,700/- = Rs. 31,200/-- at the time of taking new connection in May 2001. However, bills not displayed the SD amount. Further consumer claims that at the time of change of ownership in Feb. 07 from Harsha Mehta to Rajesh Godia, in this process licensee collected Rs. 31,200 as a SD and same is displayed in bill. So licensee be directed to refund excess SD amount alongwith interest. On this licensee claims that the connection has been given on 03/05/01. The Security Deposit paid at the time of connection for Rs. 19,500/- and Rs. 11,700 not displayed on bill. It's office is searching record

for exact amount of SD and in the meantime the consumer may submit the SD receipts for quick disposal of case. Considering the average bill keeping the deposit action will be taken for refund of SD. 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.

- 12). As to grievance No. (5) - Regarding refund of IASC collected in Feb. 07 to May 07 : The consumer claims that the licensee is to refund IASC charges of Rs. 305.90 recovered during May 07, Rs. 331.98 recovered during April 07, Rs. 454.08 recovered during March 07, and Rs. 596.85 recovered during Feb. 07 i.e. total Rs. 1688.81, 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. 1688.81 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 period from Feb. 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.

- 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. 3519 out of total Rs. 11,584.13 after deducting the amount of Rs. 8065.32 which the licensee claims to have already refunded as per the say filed in the case of M/s. Crystal Industries, 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 total amount 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 : The consumer claims that the ownership of the concerned unit has changed in Feb. 07 and therefore, the said unit be treated as new unit as per MSEDCL's circular No. 62, dt. 10/09/2007 and consequently the excess ASC of Rs. 3036.88 recovered in June 07 and Rs. 6058.80

recovered in July & August 07 be refunded to the consumer. As against this, the licensee claims that the matter is referred to higher authority for directions and on receipt of reply, action will be taken.

- 15) The consumer vide rejoinder dt. 23/06/09 filed on 25/06/09 after the hearing, claims that in the year 2001, the earlier owner viz. Harsha Mehta was given supply of 20 HP. In June 06, the procedure for change of name and ownership was effected and at the same time additional load of 45 HP demanded by the consumer Rajesh Godia was granted. Therefore, the consumer Rajesh Godia be treated as new unit as per circular No. 62 of MSEDCL as claimed by the consumer in his main grievance application. The consumer has also filed a statement of the amount of which refund he has claimed and also copies of some documents with such rejoinder. The say or reply of the licensee to this rejoinder dt. 23/06/09 filed by the consumer could not be obtained since the consumer has filed the same about one month and ten days after the hearing in the case on 14/05/09.
- 16) The CPL produced on record by the licensee show that the concerned unit and the connection was standing in the name of Smt. Harsha S. Mehta, copy of the office order regarding change of name obtained from the licensee show that the Dy. E.E., Vasai Road East directed the change of name from Smt. Harsha S. Mehta to the name of present consumer Shri Rajesh T. Godia in respect of the said installation/connection vide order dt. 6th May 2008, consequent upon the approval from E.E. Vasai vide letter dt. 24/03/06. The fact that the E.E. Vasai has given approval for the said change of name vide letter dt. 24/03/06 and that the incoming consumer i.e. the present consumer Shri Rajesh Godia paid S.D. of Rs. 6000 vide M.R. No. 7128913, dt. 21/03/06 show that the consumer Shri Rajesh Godia

must have applied for such change prior to 24/03/06. However, the consumer in it's main grievance application claims that ownership changed in Feb. 07 and in pursuance to the above referred order dt. 6th May 08, the licensee started issuing electric bills and changed the CPL in the name of the present consumer Shri Rajesh Godia since the month June 08. The consumer did not file copies of the documents by which he has purchased the concerned unit and his representative admitted during hearing that the consumer is not presently having such documents. Therefore, it is not possible to find out as to since which exact time, there has been change in the ownership of the concerned unit and consequently the concerned electric connection, so that the licensee can be directed to recalculate ASC for the consumer for the period from June 07 to August 07 as per the directions given by MERC in paragraph 8 on page Nos. 20 and 21 in it's clarificatory order dt. 24/08/07 in case No. 26 of 2007 and case No. 65 of 2006, even if it is taken that the consumer is to be treated as new consumer for the purposes of calculating ASC for the relevant period from June 07 to August 07. Moreover, it is unbelievable that the consumer is not having any documents regarding purchase of the concerned unit by him from the earlier owner Smt. Harsha Mehta and it appears that the consumer is suppressing such documents in order to suppress the real date on which he has purchased the said unit from the earlier owner. Therefore, we hold that the consumer is not entitle to be treated as new consumer for calculating the ASC for the period from June 07 to August 07.

- 17) However, as far as the consumer's claim regarding increase in sanction load is concerned, though the copy of firm quotation dt. 19/06/06 regarding demand of amounts for increasing the load from 20 HP to 65 HP shows

consumer No. as 001840853395 – 2 and is issued to the consumer on the address Gala No. 108, Dattatraya Industrial Estate, Waliv, the copies of the receipts dt. 21/06/06 produced by the licensee show that the consumer has deposited various amounts as per the demand notice dt. 19/06/06 in the account of this connection with consumer No. 001840853396 – 2, and the CPL of the present connection also show that there has been increase in the contract load in this connection from 20 HP to 65 HP in the month of Aug.06. Therefore, considering the above documents together, it can be concluded that the consumer got the contract load increase from 20 HP to 65 HP in the month of Aug. 06. Therefore, the consumer is entitle to get the ASC to be charged to him for the period from June 07 to August 07 considering the said increase in the load from 20 HP to 65 HP in Aug. 06, since such increase is more than 25% of the earlier load.

- 18) The bills for the months of June 07 to Aug. 07 contain recitals to the effect that previous years average was 351 unit. Benchmark consumption (BC) or average consumption of the year 05 is not specifically mentioned in the said bills. The bills for Dec. 06, Jan. 07, Feb. 07, Mar. 07, Apr. 07 show that the average consumption of the year 05 was 351 unit. Therefore, prima facie, it appears that the licensee has charged ASC to the consumer for the months June 07 to Aug. 07 taking 351 units as BC which was the average consumption of the year 05 when the contract load was 20 HP, without taking into consideration the subsequent increase in the load to 65 HP in Aug. 06. Therefore, the licensee will have to be directed to recalculate the ASC to be charged to the consumer during the period from June 07 to Aug. 07 taking into consideration the increasing sanction load to 65 HP from 20 HP in Aug. 06 as per the directions of the MERC in

paragraph (g) on page No. 12 and (a) on page Nos. 14 and 15 in its clarificatory order dt. 24/08/07 in case Nos. 26 of 2007 and case No. 65 of 2006. Relevant extracts of the said directions reads as under :

“(g) In case of consumers whose sanctioned load/contract demand had been duly increased after the billing month of Dec. 05, the reference period may be taken as the billing period after six months of the increase in the sanctioned load/contract demand or the billing period of the month in the consumer has utilized atleast 75% of the increased sanctioned load/contract demand, whichever is earlier.” Hence this grievance is partly allowed.

- 19) As to grievance No. (8) – Regarding refund of excess ASC charged during Feb. 08 to April 08 : The consumer claims that as per licensee’s bill from Dec. 07, BC was changed to 5764. Average bill has been given for three months from Feb. 08 to Apr. 08 but cheap power unit of only two months has been deducted for calculating ASC. Therefore, the licensee is liable to refund an amount of Rs. 6,976.80 which it has recovered in excess. As against this the licensee claims that the bills issued on average basis in Feb. 08 and Mar. 08 have been credited in Apr. 08. However, ASC charged is under scrutiny and action will be taken accordingly. It is clear from the bill for Dec. 07 that the BC at that time was 5764 as claimed by the consumer. The bills for Feb. 08 to Apr. 08 shows that the bills for Feb. and Mar. 08 were issued on locked average, whereas the bill for Apr. 08 was issued for the total consumption of the said three months of the period from 02/01/08 to 04/04/08. Therefore, the licensee is directed to recalculate the ASC charges for each of the said months from Feb. 08 to Apr. 08 by finding out the exact consumption during each of the said month

from the MRI reports of the concerned meter and giving advantage of cheap power for each of such month and in case the licensee has recovered excess ASC by the bills for the concerned months earlier, refund such excess recovered amount together with interest at the Bank rate of RBI to the consumer by giving it's credit in the ensuing bill after 30 days from the date of decision in this case.

- 20) The consumer has registered the present grievance on 23/04/09. Hearing was held on 14/05/09. The licensee was directed to produce copies of the papers regarding the change in name and the licensee ultimately produced the same on 29/06/2009. Therefore, there has been delay of some days in delivering the judgment/order in this case.
- 21) 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 Nos. 1 to 6 and 8 are allowed.
- 2) The licensee to comply the directions given in above para Nos. 08 to 13 and 19.
- 3) Grievance No. 7 is partly allowed as given in above para No. 18.
- 4) The licensee is directed to recalculate the ASC to be charged to the consumer during the period from June 07 to Aug. 07 taking into consideration the increasing sanction load to 65 HP from 20 HP in Aug. 06 as per the directions of the MERC in paragraph (g) on page No. 12 and (a) on page Nos. 14 and 15 in it's clarificatory order dt. 24/08/07 in case Nos. 26 of 2007 and case No. 65 of 2006, and refund excess ASC recovered in

the bills for the said months if any, together with interest at the Bank rate of RBI to the consumer by giving it's credit in the ensuing bill after a period of 30 days from the date of decision in this case.

5) The Compliance should be reported to the forum within 90 days from the date of decision.

6) 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 Bldg, Bandra Kurla Complex, Mumbai 51"

Representation can be filed within 60 days from the date of this order.

7) 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 : 02/07/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan