



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/234/259 OF 2009-2010 OF
M/S. PUSHI PLAST, VASAI REGISTERED WITH CONSUMER GRIEVANCE
REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE
BILLING.

M/s. Pushi Plast
Gala No.9, Shailesh Industrial Estate
Village Waliv, Sativali Road,
Vasai (E), 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 24/04/2009 for Excessive Energy Bills and permanent disconnection of single phase connection. The details are as follows: -

Name of the consumer :- M/s. Pushi Plast

Address: - As given in the title

Consumer No : - 1). 001840499975 – IP Connection

2). 001840498600 – Single phase connection

Reason of dispute: Excessive Energy Bills and permanent disconnection of single phase connection.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/380 dated 24/04/2009 to Nodal Officer of licensee. The licensee filed reply through Dy.Executive Engineer, MSEDCL Vasai Road Sub Dvn. Vasai, vide letter No. DYEE/VSI/(E)/B/4018, dated 16/05/2009 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 21/02/2009. 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 24/04/2009.

- 5). The Member Secretary and Member heard both the parties on 16/05/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, and Shri Vinith Sheth, representatives of the consumer & Shri B. D. Shidore, A. E., Shri Apankar, LDC, 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 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. 16/05/09 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. 33.38 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. 2958.64, Rs. 2472.28, and Rs. 2574.06 i.e. total Rs. 8004.98 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 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 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 from the date of decision in this case.

- 10) As to grievance (3) – Refund of Excess SD & interest on SD : The consumer claims that it has paid SD of Rs. 15600/- + Rs. 4900/- = Rs. 20500/-- at the time of taking new connection in May 94. However, bills shows zero SD. Therefore, the licensee should give the refund of Rs.20500/- and interest Rs.18500.18 till March 09. As against this, the licensee claims that the connection has been given on 14/05/1994. The Security Deposit of Rs. 15,600/- and Rs.4900/- paid at the time of connection are not displayed in the bill. The interest will be paid as per rule. The consumer should produce SD receipts for quick disposal. 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, calculate the correct amount of SD at this stage and refund the excess SD amount together with interest at the Bank rate of RBI to the consumer by giving its 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 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 the total amount of Rs. 11,584.13 of such difference after deducting the amount of Rs.8065.32 which the licensee claimed to have refunded earlier 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.8069.33 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 entitled 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.

12). Grievance No.5 - Regarding refund of excess ASC recovered in Oct. 06, billed in Nov. 06 : The consumer claims that its Benchmark consumption (BC) is 17617 units per month. Its consumption for the above referred month i.e. Oct. 06 was 8714 units which is less than benchmark consumption. Hence no ASC could be recovered from it. Therefore the licensee is liable to refund the excess cost of 1046 units recovered from the consumer and the said amount comes to $1046 \text{ units} \times 1.15 = \text{Rs.}1202.90$. 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 8714 units and its 12% comes to 1046 units. Hence ASC charges charged are correct and there is no question of refund.

13). It is clear from the bill for the month of Dec.06 that the benchmark consumption for the consumer at that time was 17617 units as claimed by the consumer and hence its such contention is accepted. The bill for the month of Nov.06 shows that the consumption of the period from 3.10.06 to 3.11.06 was 8714 units as claimed by the consumer and hence its such

contention is accepted. 91% of the BC i.e. 17617 units comes to 16031 units. Thus the consumption of the consumer for Oct.06 billed in Nov.06 i.e. 8714 units was lesser than the said 91% of the B.C. Therefore the licensee could not charge ASC to the consumer for the consumption in Oct.06 billed in Nov.06. Therefore the licensee is directed to refund the excess amount of ASC recovered from the consumer for the consumption of the month of Oct.06 billed in Nov.06 together with interest at the bank rate of RBI by giving its credit to the consumer in the ensuing bill after 30 days from the date of decision in this case.

- 14). As to the grievance in the rejoinder 16.5.09 regarding refund of DPC and interest due to appropriation of the amount of regular bill towards SD:-

The consumer has raised this grievance by filing rejoinder on the basis of the CPL of which copy was supplied to the consumer at the time of hearing in the case. The consumer claims that the licensee collected Rs. 41,000/- 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 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 loosing PPD (prompt payment discount) of Rs.535/- 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 Rs.535/- on account PPD. The licensee did not file any reply to this rejoinder including this grievance since it came to be filed after the hearing in the case. The consumer has filed the present grievance on the basis of the CPL which was provided to it

on the date of hearing and therefore this forum is considering the same.

- 15). The CPL for the month of March 2008 shows SD., SD arrears and SD demand as zero. CPL for the month April 08 shows that the said bill was issued for net amount of Rs.44,513.39, SD was zero, SD arrears were Rs. 41,000/- and SD demand was Rs. 41,000/-. The CPL for the month of May 08 shows that the net bill amount was Rs. 73,155.15, SD was zero, SD arrears were Rs.41,000/-, and SD demand was zero. The CPL for the month of June shows that SD amount was Rs.41,000/-, SD demand and SD arrears were zero. Thus it apparently appears that the licensee has collected Rs.41,000/- towards SD from the consumer in June 08. The consumer has not filed receipt of the amount of bill for June 08 or copy of the receipt of the amount it has paid in pursuance to the said bill, and therefore without looking in to the said receipt, it can not be certainly said that the licensee has appropriated the amount of bill towards the SD of Rs.41,000/-. Therefore the licensee is directed to verify as to whether it has collected the amount of Rs.41,000/- as SD from the amount of bill for the month of June 08 paid by the consumer and if so, refund the amount of DPC and interest if recovered 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.
- 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. 08 to 11, 13, and 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, 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 : 10/6/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan