



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/236/261 OF 2009-2010 OF
M/S. SUCHETA PLASTIC INDUSTRIES, VASAI REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN
ABOUT EXCESSIVE BILLING.

M/s. Sucheta Plastic Industries
Gala No. G-16, Shailesh 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 27/04/2009 for Excessive Energy Bills. The details are as follows: -
Name of the consumer :- M/s. Sucheta Plastic Industries
Address: - As given in the title
Consumer No : - 001840502917
Reason of dispute: Excessive Energy Bills
- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/387 dated 27/04/2009 to Nodal Officer of licensee. The licensee through Dy.Executive Engineer, MSEDCL Vasai Road (E) Sub Divn. filed reply vide letter No. DYEE/VSI/(E)/B/4022, dated 18/05/2009 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 27/04/2009.

- 5). The Forum heard both the parties on 18/05/2009 @ 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., and Shri S.B.Hatkar, Asstt.Acctt. 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. 18/05/09 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.2100/- towards the difference in between the fixed charges as per MD based tariff and HP based tariff and refund of PF penalty of Rs. 30,417.56 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. 2453.80, Rs. 2194.84, and Rs. 3046.52 i.e. total Rs. 7695.16 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.390/- be credited into the account of consumer. As

against this, the licensee claims that credit of Rs.390/-towards the interest on SD 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. 390/- against SD interest is given. If the said amount is deducted from the amount Rs. 2843.80 of TOSE adjustment given in the CPL for Sept. 2007, it comes Rs. 2453.80 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. 506.69 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. 2453.80 of the amount of bill adjustment given in the bill (Annex. 6-a), it comes to Rs.1947.11 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. 390/- 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), – Regarding refund of Excess SD & interest on SD**

The consumer claim that the licensee gave the connection to it on 19.1.95. The licensee collected SD of Rs.15600/- and Rs.6500/- from industrial consumers to whom it gave connections during the said period. Therefore, the consumer takes that the licensee must have collected similar amounts as SD from it. However, the bills displayed SD Rs.6500/- only. Therefore the licensee to refund Rs.15600/- together with an amount of Rs. 11876/- towards the interest till Mar 09. It further claims that the

supply to the consumer was permanently disconnected in Feb.01. Thereafter the supply reconnected in Sept.01. Addl. SD of R.10000/- was paid on 19.9.01 and addl. SD of Rs.28665/- was collected in the name of minimum charges on 13.9.01. Therefore the licensee should credit the said amount of Rs.28665/- with interest of Rs.15,418/- with the account of the consumer. As against this, the licensee claim that the connection has been on 19.1.95. Out of the amount of Rs.15,600/- and Rs.6500/- paid at the time of connection as claimed by the consumer, amount of Rs.6500/- only is displayed in the bill. It is office is searching its record for exact amount of SD. In the meantime, the consumer may submit SD receipt for quick disposal of the case. The interest will be paid as per rules. The PD was reconnected. At that time, an amount of Rs.10,000/- was collected as ASD vide MR No.3628775 dt. 18.9.01. The same will be displayed in bill and interest will be paid as per rules. The amount of Rs.28,665/- paid by the consumer was the amount of minimum charges bill for the period Mar 01 to Sept.01 and not as ASD. Therefore the question of refunding the same does not arise. The licensee has not filed any order of MERC permitting it to collect minimum charges of six months and the LR also could not specify any such order about it during the hearing. Therefore the said amount of Rs.28,665/- will have to be treated as SD. Therefore, the licensee is directed to verify the correct amounts of SD deposited by the consumer including amount of minimum charges of six months from time to time from its record and the record with consumer, display the correct amounts of SD, calculate the correct amount of SD at this stage and refund the excess SD together with interest at the Bank rate of RBI on such amounts of SD at

the prevailing rate to the consumer, by giving its credit to the consumer in the ensuing bill after a period 30 days.

- 12). As to grievance No. (5) – Regarding refund of difference of MD based charges and HP based charges from Oct.06 to Mar 07 : The consumer has claimed refund of balance amount after deducting the amount of Rs.8065.32 claimed to have been refunded by the licensee as per its say in the case of M/s. Crystal Industries out of the total 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.

- 13). As to Grievance No. (6) - Regarding refund of excess ASC recovered in Oct. 06, billed in Nov. 06 : The consumer claims that its Benchmark consumption (BC) is 15886 units per month. Its consumption for the above referred month i.e. Oct. 06 was 7238 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 869 units recovered from the consumer and the said amount comes to 869 units x 1.15 = Rs.999.35. 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 7238 units and its 12% comes to 869 units. Hence ASC charges charged are correct and there is no question of refund.

14). It is clear from the bill for the month of Dec.06 that the benchmark consumption for the consumer at that time was 15886 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 7238 units as claimed by the consumer and hence its such contention is accepted. 91% of the BC i.e.15886 units come to 14456 units. Thus the consumption of the consumer for Oct.06 billed in Nov.06 was 7238 units and it 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.

15). **As to grievance No. (7) – regarding refund of ASC charges billed in May 08 :-** The Consumer claims that in billing month of April 08, licensee charged on locked average basis and then in May 08 bill, licensee billed for two months consumption reading but ASC BC relief is given only for one

month. Therefore licensee be directed to refund an amount of Rs.11,489.28 as the amount of excess ASC charges recovered to the consumer. On this, licensee claims that the average bill charged in April 08 has been credited in May 08. Hence ASC charged in May 08 is under scrutiny and action will be taken accordingly. It is noted by Forum that for May 08 bill, the billing period is considered 3.3.08 to 5.5.08 i.e. bill is prepared for two months but licensee appears to have given advantage of cheap power of one month only Therefore, the licensee is directed to recalculate the ASC charges for the billing month of May 08 by considering the total consumption shown in the bill for the month of May 08 as the consumption of two months i.e. April 08 and May 08 after taking into consideration the bill of the month of April 08 and refund ASC charges recovered in excess in the month of May 08, if any, together with interest at the Bank rate of RBI within 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 partly allowed.
- 2) The licensee to comply the directions given in above para Nos. 08, 09, 11, 12, 14 and 15.
- 3) Grievance No. (3) is rejected as observed in para 10.
- 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 : 12/06/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan