

Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph- 2210707, Fax - 2210707, E-mail : cgrfkalyan@mahadiscom.in

No. K/E/748/901 of 2013-14

Date of Grievance: 23/12/2013

Date of order : 29/01/2014

Period Taken : 36 days.

IN THE MATTER OF GRIEVANCE NO. K/E/751/900 OF 2013-14 IN RESPECT OF NRC LIMITED, VILLAGE MOHONE, TAL. KALYAN, DISTRICT-THANE PIN- 421 102 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING ILLEGAL AMOUNT OF PROMPT PAYMENT.

NRC Limited,

Village Mohone, Tal. Kalyan,

District-Thane.

Consumer No. 020169009628

.... (Hereafter referred as consumer)

Versus

Maharashtra State Electricity Distribution

Company Limited through its

Executive Engineer, Kalyan -Circle-1, Kalyan (Hereinafter referred as Licensee)

Appearance : For Consumer - Shri Mantri, and General Manager

Shri Killedar-Consumer's Representative

For Licensee - Shri Lahamge- Nodal Officer and Executive Engineer,

Shri A.M.Kale and Barambhe - Asst. Engineers

Shri Sakpal-Accountant.

(Per Shri Sadashiv S.Deshmukh, Chairperson)

1] Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as

‘MERC’. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/3003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Electricity Supply Code and other conditions of supply) Regulations 2005’ Hereinafter referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005.’ Hereinafter referred ‘SOP’ for the sake of convenience.

2] The applicant is a consumer, having supply of Industrial unit. Consumer filed Grievance Application on 23/12/2013, contending that illegally amount of prompt payment is being denied.

3] In this matter the papers containing above grievance were sent by Forum to the Nodal Officer of the Licencee vide letter No.EE/CGRF/Kalyan/0535 dated 24/12/2013. In response, the Officers of Licensee appeared and filed reply on 13/1//2014.

4] We heard both sides at length on 13/1/2014 and on 15/1/2014. On behalf of consumer, Mr. Mantri and Killedar made submissions, for Licencee Nodal Officer Mr.Khan with the help of his colleagues made submissions . We have gone through the grievance application, reply filed by Licencee and on its basis, following factual aspects disclosed:-

a] There is no dispute that consumer is of industrial category paying lakhs of rupees towards consumption of electricity. Till October 2012, there was no any dispute pertaining to quantum of bill. However, the dispute cropped up after

issuance of bill dated 5/1/2013, covering the period for December, 2012 and arrears of November, 2012.

b] Bill for November, 2012, issued on 6/12/2012 and as per the said bill, payment was to be done to the extent of Rs.23,20,640/- up to the due date i.e 20/12/2012 and if payment is made thereafter, it was Rs.23,67,050/-.

Said bill for the month of November 2012, was not paid in time, hence notice was issued u/s. 56(1) of Electricity Act on 21/12/2012, asking the consumer to pay dues of Rs.23,67,052/- within 15 days of receiving the notice and precisely said 15 days were to over on 6/1/2013.

Consumer in response to the above notice, paid the said amount demanded, on 5/1/2013 i.e. bil for December 2012. He actually paid an amount of Rs.23,67,052/- as shown in the notice.

c] Further bill dated 5/1/2013, issued for the dues of December 2012. In the said bill, amount was claimed to the tune of Rs.45,87,850/-, which was to be paid on or before 19/01/2013. However, consumer was given concession, if payment of Rs.45,59,810/- is made before 11/1/2013, it was of prompt payment incentive. On the said bill, quantum of prompt payment is cited as Rs.28,047/-.

d] Towards bill of December 2012, the consumer paid an amount of Rs.21,91,753/- as against the actual bill of Rs.22,20,800.55 .Said less payment was after deducting prompt payment discount of Rs.28,047/- from the actual bill of Rs.22,20,800.55. It is the contention of consumer that he has already paid the first bill in November 2011 as per the demand of Licencee and quantified as per notice dated 21/12/2012. Secondly, it is contended that bill for December 2012 is also paid on 11/1/2013 deducting the prompt payment mentioned in the bill itself. On this basis, it is contended that, there is no reason to deny the prompt payment incentive.

e] Towards the said aspect, it seems that the notice was issued by Law Officer on 21/1/2013, asking the consumer to pay the said prompt payment discount which was not permissible to the consumer in the bill of December 2012. The said letter is replied by the Consumer on 2/2/2013, Copy of it is placed on record and explained the position, as stated in the aforesaid paragraphs.

f] Thereafter Superintending Engineer of Licencee addressed letter on 20/2/2013 to the consumer, stating that consumer has deposited amount of December, bill which is short by Rs.5/- and hence prompt payment discount is disallowed and arrears are worked out on that base to the extent of Rs.28,610. Consumer replied the said letter on 27/5/2013 and explained the position that there is no short payment but

in fact payment is excesses by Rs.3/-. Said letter of Superintendent Engineer and reply are placed on record.

g] Consumer then approached IGRC on 26/9/2013, and IGRC passed order n 16/2/2013, observing that consumer has deposited amount short by Rs.5/- and hence, rejected the prayer of the consumer.

h] Consumer ultimately, approached this Forum as stated above on 23/12/2013 to which Licencee replied on 13/1/2014.

5] Considering the aforesaid rival contentions of both the parties, detail dispute, seems to be revolving around whether payment done is appropriate or is short or more.

It is seen that bill of November 2012 issued on 06/12/2013 is paid. But in the bill for December 2012 arrears of November 2011 quantified, to the tune of Rs.23,67,052.08 ps. However, figure is rounded up while showing the total bill, as Rs.45,87,850/-. Accordingly, bill of 5/1/2013 speaks about the due amount of bill which is rounded up to the tune of Rs.45,87,850/-. However, this figure includes arrears of November 2012 to the tune of Rs.23,67,053.08 and current bill of Rs.22,20,800.55 ps. The total of it comes to Rs.45,87,852.63 Ps. However, as stated above, on the due date of 19/1/2013, the said amount is specified/quantified as Rs.45,87,850/-, whereby amount of Rs.2.63 is not considered during rounding up. It is a fact, as stated above, consumer has paid bill amount of November 2012 on 5/1/2013. It is paid as demanded in the bill of November 2011 dated 6/12/2012 and notice of Licencee dated 21/12/2012. This is a peculiar aspect, as said due amount is deposited on 5/1/2013 and on the very day bill for December 2012 is generated. This word 'bill generated' is of importance, as particular bill was prepared, however, payment received on the very day is not reflected in it. Accordingly, it covered, even the bill of November 2012. This aspect, is, tried to be explained, on behalf of the Licencee that though payments are done by cheques and those are shown as encashed, date of it's payment entry, will not be directly done or will not reflect simultaneously on the very

day. Such entries are subsequently entered, within further 2 or 3 days. Accordingly, it is submitted that, it is a practical difficulty, in noting payment received on the very day. May it, be so, one thing required to be considered that in this matter payment is received, of previous dues, on 5/1/2013 and when next bill was calculated, it is not reflected in it and even there is no any attempt done to correct it, before issuing said bill to the Consumer after generating it or thereafter at any point of time. But Officers of Licencee totally sticking up to their stand that whatever is demanded, in the bill dated 5/1/2013, required to be complied. This argument is in reply to the consumer's contention, that already it had paid dues of November, 2012, which are included in the bill of December 2012 and said payment is more by Rs.2/- though said bill is rounded up quantifying by less amount.

6] Accordingly, it is seen that while issuing the bill on 5/1/2013 for the month of December, 2012, figures are quoted about quantum of amount to be paid on the due date and amount to be paid prior to that due date, include the discount of prompt payment. Accordingly, amount shown to be paid, on due date, is, more than what is to be paid prior to the due date i.e. on or before 11/1/2013. These two figures are utmost important. Those are as under:

1] Due amount is to be paid as on 19/2/2013 Rs.45,87,850/-

2] If amount paid prior to 11/1/2013 Rs.45,59,810/-

Different of the amount (1-2)

Rs.00,28,040/-

If, these two figures are considered, then if payment is prior to 11/1/2013, benefit is available to the tune of Rs.28,040/-, which is admittedly amount towards prompt payment discount. Whereas, in the bill itself, at the end, bill discount is specified as Rs.28,047/-. Accordingly, on the top of the bill less amount is shown by

Rs.7/-, it ought to have been to the extent of Rs.28,047/-, but it is shown to the tune of Rs.28,040/-, We tried to find out how this difference is cited and we are able to perceive it as under:

Total amount for November-2012	Rs.23,67,052.08 and
Bill for November 2012	Rs.22,20,800.55

Total	Rs. 45,87,852.63
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However, this figure is further shown in the bill dated 5/1/2013 as due amount to the tune of Rs.45,87,850/- herein fraction of amount of Rs.2.63 is ignored. Further prompt payment discount amount, if reduced from said figure of Rs.45,87,852.63, due amount comes to Rs.45,59,805.63. One thing cannot be lost sight that payment is done by cheque dated 3/1/2013 towards dues of bill for November, 2012, actually it is encashed on 5/1/2013 and as it is not reflected at the time of generation of bill but previous arrears continued as per the calculation set in the IT programme . But as noted above, feeding of payment received, is not possible, on the very day, but it takes reasonable time or 2 to 3 days. This aspect is considered, in the light of the fact that payment in this matter, is, on the very day, when the bill for December 2012 was issued. We perceive, in case, payment would have been received on 4/1/2013, still same question, same position would have been continued and we find, if that payment, would have been on 4/1/2013, consumer would have been put on the position as per analogy applied to the payment on 5/1/2013. In this light, payment received on 5/1/2013, for the arrears of November 2012, are to be treated as complied. No doubt, for having prompt payment discount, one is required to show that there are no arrears. Hence, as on 11/1/2013, consumer has already paid previous arrears as demanded and hence considering the calculation, said previous arrears is out of

question. Bare question will be to consider what was the amount to be paid towards the bill of December 2012 as per the bill issued on 5/1/2013. In the said bill due amount for the said month shows as Rs.22,20,800.55 Ps and as noted above, if prompt payment discount, amount is reduced therein, then payable amount will be Rs.22,20,800.55-(minus) Rs.28,047/-, it comes to Rs.21,92,753.55 Ps. Consumer has deposited amount of Rs.21,92,753/- on 11/1/2013. Accordingly, this amount is paid up the fraction of rupee i.e.55 paise is already ignored by Licencee in the bill issued on 5/1/2013. Hence, for the said fraction, no any technical view can be allowed to enter in. In the result, bills due, are paid and payment on 11/1/2013 for the bill of December 2012 is complied hence, consumer was entitled to prompt payment discount which he has deducted from the net bill, and payment is done, which we find is totally fulfilling the criteria .In this light, though different mode of calculation of rounding up is stated, it is not supported with any order of MERC or Regulation. However, rounding up hardly for Rs.1/- is quoted even by IGRC in it's order dated 16/12/2013, but said criteria is not followed. Hence, we find in this particular matter, considering the cheque issued on 3/1/2013, though encashed on 5/1/2013, benefit needs to be given to the consumer as payment can be said to be available to the Licencee on 3/1/2013 itself as thereafter consumer would not have been able to make use of that amount from that day. Though, for the sake of argument, if it is considered, it is available to the Licencee only on 5/1/2013, still we find that minutes, such as at what time amount came in the Licencee's account and at what time, bill was generated, is, a peculiar aspect. As noted above, cheque if is enashed on the very day, it will not reflect, in the account of Licencee simultaneously. It takes reasonable time to comply and upload all the payments in the section. So in this case, it could not have been done on the very day, even by Licencee. We perceive that it is procedural aspect involving some breathing time. It is necessary to consider that consumer is having connection from 1/7/1953 and is paying bills in lakhs, hence it cannot be presumed or treated that he

has deposited less as per the calculation of Licencee is of Rs.5/- and disentitled to prompt payment discount. We find that these are peculiar aspects, pertaining to the consumer. In this particular case, wherein payment is of the same date, of previous arrears and bill for next month generated on same date, wherein payment done for previous month due, on very day not reflected and further calculations are done including the arrears. In the result, we find that stand of Licencee, not to allow prompt payment discount and to seek it's recovery is not correct. We make it clear that relief being considered for this consumer, is, in peculiar circumstances on peculiar facts and it cannot be read as precedent.

Hence the order.

ORDER

- 1] Grievance of consumer is hereby upheld.
- 2] Action of Licencee, seeking recovery of prompt payment discount already deducted by the consumer, set aside it should not be recovered .
- 3] Licencee to act accordingly and not to take any coercive step in this regard and compliance about such aspect be submitted within 45 days from the date of receiving this order.

Dated:29/01/2014.

I agree

I agree

(Mrs. S.A. Janddar)
Member
CGRF Kalyan

(Chandrashekhar U. Patil)
Member Secretary
CGRF Kalyan

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan

NOTE

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission 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” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

- c) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.