



**Consumer Grievance Redressal Forum, Kalyan Zone**  
**Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West)**  
**421301**

**Ph: – 2210707 & 2328283 Ext: - 122**

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**IN THE MATTER OF GRIEVANCE NO. K/ E/ 0160/ 0182 OF 08-09**  
**OF M/S. AKASHDEEP INDUSTRIES, VASAI REGISTERED WITH**  
**CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE,**  
**KALYAN ABOUT EXCESSIVE BILLING.**

**M/s. Akashdeep Industries**  
**Gala No. 13, Kailash Sagar A,**  
**Sagar Industrial Complex**  
**Chinchpada, Village : Gokhiware,**  
**Tal : Vasai, Dist : Thane**

**(Here in after**  
**referred to**  
**as Consumer)**

**Versus**

**Maharashtra State Electricity Distribution**  
**Company Limited through its**  
**Dy. Executive Engineer**  
**Vasai (East) Sub-Division**

**(Here in after**  
**referred to**  
**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 conformed 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 20/01/2009 for Excessive Energy Bill. The details are as follows: -**

**Name of the consumer :- M/s. Akashdeep Industries**

**Address: - As given in the title**

**Consumer No : - 001590421975**

**Reason of dispute: Excessive Energy Bill.**

- 3). **The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/043 dated 20/01/2009 to Nodal Officer of licensee. They replied vide letter No. DYEE/VSIT/1094, dated 09/02/2009.**

- 4) **The consumer has raised these grievances before the Executive Engineer (O&M) Division, MSEDCL., Vasai Division, Vasai East on 18/11/2008. 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 19/01/2009.**

5). The Members of the Forum heard both the parties on 16/02/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri S. B. Hatkar, Asstt.Acctt., representative of the licensee attended hearing. Nodel Officer or any person conversant with technical matters did not attend the hearing. Shri Satish Hatkar, Assistant Accountant was not able to reply technical queries. Forum noted this with great dis-satisfaction. If such act is repeated again, forum will be constrained to report the same to higher authorities.

6). The Consumer Representative Shri Harshad Sheth submits that though he got parawise reply from Dy.EE MSEDCL Vasai Sub Division vide letter No.1094 dt.09.02.2009, the reply given by the licensee is vague and not satisfactory. He is submitting parawise reply to the licensee's letter to-day i.e. on 16.2.09. A copy of the same is also given to the licensee. The C. R. submits that he has got CPL from Jan.98 to Nov.07 and demanded CPL of balance period so that he can make further verification. The licensee agreed to provide the same.

The CR's submissions are as follows:

7). MD based tariff.: a). MERC regulations 2005 (electricity supply Code) section 12.2 on power factory reads as "Distribution Licensee may charge penalty or give incentive" in accordance with the relevant orders of the Commission" (b) MERC has not yet permitted to charge MD based tariff to LT-V category above 20 KV (c) While giving clarificatory order, MERC in case No.44

**dt.12.9.08, MSEDCL is directed to revise bills from June 08 but MSEDCL has not yet revised the same (d). This is violation of the order and we request to invoke the I.E.Act 2003 Section 142, 146**

**and 149 for abatement (e) there is no question to consider MSEDCL Circulars. The issue is being side tracked and illegal justification is given which is to be set aside and MSEDCL may be ordered to refund the excess amount along with interest.**

**In the MERC order No.44 of 2008 at the Commission's Ruling and Clarification, it is stipulated that " The power factor penalty and incentive shall be applicable to only those consumers who have MD based tariff and are provided with meters to measure their power factor."**

**The MERC vide Case No.72 of 2007 dt.20.6.08 stipulated that "in line with the commission's ruling in the MYT Order, since MSEDCL is yet to achieve 100% MD metering for LT V industrial consumers above 20 KW (around 97% completion has been indicated by MSEDCL till date), the MD tariffs for LT V industrial consumers will not be made effective. Till the MD meters are installed, MSEDCL will be allowed to charge only the earlier HP based tariffs, though the revenue has been assessed based on MD based tariffs." In the tariff highlighted by MERC it is as "Rs.60/- per HP per month for 50% nof sanctioned load, till such time MD meters are installed for all consumers"**

- Upon queries by consumer the licensee stated that on completion of 100% TOD metering and as per directives given in**

**circular No.81 Clause No.10.5, the M D. based tariff is applied to the consumer from August 08, which is correct.-**

**The Licensee Sub Division officer stated that as per CE(com)'s circulars MD tariff applied. MERC not gave permission.**

- **The consumer stated the MSEDCL vide circular No.81,88 given only guide lines how to deal such situation, but these are not rules to be applied for. In respect of PF displayed on LT MD meter, the consumer should be given 3 months notice to give a chance to regularize it. If not regularized then apply p. f. penalty may be charged.**
- 8). **Wrong bill of Oct.08 given and collected excess amount:**  
**MSEDCL has not gone through our submission wherein vide our para(f) future consumption reading of 321132 was shown in bill and excess amount collected which later on might have been refunded but CPL is not given so details may be submitted.**
  - **The licensee stated that they have issued the bills to the consumers as per M.D. tariff basis as per rules at above.**
- 9). **S.D.interest not paid: The consumer** enclosed the statement of remaining amount of interest to be paid on Rs.10,400/- by MSEDCL. Let them submit rate of interest from 1993 onwards so that they can verify the matter (A-1).
  - **In this regard licensee stated that the interest on S.D. is given by I.T.Section as per the prevailing rate which is correct. As desired CPL is given to the consumer.**

**The consumer stated that Security Deposit and interest not paid correctly. Interest on RBI rate @6% should be paid from 2005 onwards.**

- **The consumer further stated that the payment of SD of Rs. 3000/- Is not shown in SD column. Because they shown this Rs.3000/- as development charges. There are no any such**
- **charges which can be charged to the consumers. This should be shown against SD or refunded it with interest. In this respect consumer said to have enclosed decision of the Bhandup CGRF.**
- **The consumer stated that for SD refund the licensee need not to demand for any receipt. If any receipts are not readily available, they should search out in their record. If not available, they should verify the record of parallel consumers in whose case SD is recovered and interest paid regularly. On that basis refund may be affected. It is sure that the licensee will not release supply without payment of prescribed quantum of the SD. To solve this problem, this is our suggestion.**

- 10). Less refund of MD fixed charges: a) As per our submission, we have to receive Rs.11,584.13 but you have refunded Rs.8065.32 (b) MSEDCL may be directed to refund balance 3519 + interest as they charge to consumer (c) I.T.HO does not come in picture any where (d) MERC has made MSEDCL to revert back from MD tariff to HP based tariff. So amount may be refunded. The forum asked the licensee whether there is any circulars, rules to charge development charges, if so, give the copy of circular.**

- On this the licensee replied that the refund of Rs.8065.62 is given to the consumer in May 07 as per the I.T. programme. Licensee said we will go IT and HO and confirm about such circulars.

11). Amount of Rs.4,875/- to refund along with interest: We are submitting the statement of SD paid while issuing new connection since 1993 by Vasai Sub Division. It shows Rs.10400

and 4875 is collected but in bill, only 10400 is displayed so balance Rs.4875/- is to be refunded along with interest as per our statement. Decision in case No.17 dt.14.03.2006 of CGRF Bhandup is enclosed which is a trend setter decision on the subject matter. Consumer is not supposed to be asked for any document. Based on similar year deposit amount, principle and interest is to be refunded and credited in our account. The consumer submitted the statement of interest to be paid by MSEDCL on refund of amount as per I. E. Act 2003 Section 62(6).

- In this connection the licensee explained that the connection is released to the consumer on 26.06.1993 and the interest on S.D. is given to the consumer as per deposit paid by him from time to time as per prevailing rate.

12). Wrong meter readings: The consumer further stated regarding wrong meter reading and excess billing that the meters are taking advance reading and billing done according to that. When actual readings are taken after one month, the reading was not reached to the recorded unit of meter reader. In such cases No. of times, we approached the licensee. They sent

meter reader to take the reading and found that it is wrong reading and instructed the billing section to reduce the bill. So what is going on in the licensee? Nobody wants to concentrate on their work. The Oct. reading was wrong.

13). The consumer concluded by submitting as under:

a). Demand and PF penalty charged during June 2003 to Aug.08 is illegal as per MERC case-2 and reference case

Ombd.rep.No.39 of 2006. Same may be refunded along with interest at 12,15 and 18% as MSEDCL charges to consumers.

b).Apart from this if previous 6 months penalty is collected the same may also be refunded along with interest.

c).Consumer further stated that in June 2003 F.A. 2003 became operative so penalty accordingly may be calculated and refund be given. Consumer requested the forum to ask MSEDCL to resubmit the answer with all quantifying figures to CGRF and then matter may be decided to get concrete result to the consumer.

14). a).Forum asked the consumer that if the MERC already given the decision and licensee not implemented the rules, why not the consumer approached MERC directly.

On this consumer explained that consumer stated whenever we approach MERC do not entertain directly. They instruct us to use all the channels and if you failed to get the justice from all the channels, then approach us. Therefore after getting decision of CGRF on one or two cases, we will ask our Association to go to MERC and get its decision of behalf of all consumers. No any

**papers related to these irregularities are submitted by licensee to us. So we want sample decision of CGRF in any case, then we will approach the MERC for Redressal of all such consumers which will benefit to whole Maharashtra. The CR further stated that refund of amount against above points, may be adjusted in future bills.**

**The Licensee Sub Division officer stated that as per CE's circulars MD tariff applied. MERC not gave permission.**

**b).The forum asked the licensee to go to HO (CE Comm) and confirm whether any such directives are issued by MERC on all these demands of the consumers and inform the forum with copies such circulars, to take further action.**

- 15). It is seen that the licensee has not tried to properly study the points, or to collect any circulars in this regard. Simply and casually attended the hearing without work out or any papers. On each point, AA the only one non technical representative of the licensee attended, go on saying that I will verify the records and then inform. Then what he was doing for last 60 days from the date of representation of the consumer. The forum also given 15 days for pointwise reply. No point wise reply is given except saying "whatever is done is as per the circulars and the same is correct". Not quoted any circulars or given no any references under which such guidelines are given alongwith copies of circulars/guidelines.. Licensee has taken all these matters very lightly and casually.**

16). The forum also instructed the licensee to make available the circulars on the basis they have taken action and gave 15 days. The consumer has submitted copies of some MSEDCL's circulars and MERC's circulars/decision. But no information is furnished by the licensee. The consumer also submitted copy of decision of other CGRF on some grievance. If licensee failed to

submit copies of such circulars, forum will proceed with available documents submitted by the consumer.

17). (i). Excess MD charges :- (View of Mrs. V. V. Kelkar, Member) As per licensee's reply on the subject referring circular No.81, clause No.10.5, they stated that the "the MD based tariff is applied to consumer from Aug.08." Clause No.10.5 is as follows: "MSEDCL is thus allowed to charge MD based tariff immediately on completion of 100% metering. All Zonal Chief Engineers to immediately inform the IT centres under their jurisdiction about such completion in May and also send certificate immediately to that effect to Chief Engineer (Dist).

The clause clearly states that after completion of the 100% metering the Zonal Chief Engineers are required to immediately inform IT centres under their jurisdiction about such completion for the change in charges of MD based tariff.

Forum demanded the copy of 100% completion of metering certificate from the licensee. The licensee replied vide letter No. 1625 dt. 26.02.09 " that we have given assurances for reply on dt. 27.2.09, however, due to unavoidable circumstances, we are

unable to submit the same. Hence 7 days extension date for issue of suitably reply may be given in the matter.”

The licensee did not submit any letter / reply regarding above subject till to-day. Under the above circumstances I come to the conclusion that as the licensee is not able to substantiate this statement of 100% metering completion of their area, the work is not yet completed and hence they can not charge MD tariff to

the consumer for the period 5.8.08 to 5.9.08. The excess amount charged under this tariff from the consumer should be adjusted in the bills, with interest @ RBI saving account rate prevailing at the time of decision date of the forum.

(i)(a) As far as the grievance of consumer to the effect that the MSEDCL/Licensee has recovered electric charges as per M. D. based tariff for the month of August 08 illegally is concerned Shri Shivdas Member Secretary, differed from the above view taken by Sau. V. V. Kelkar, Member and therefore, the view taken and the reasons given by him for such view are separated recorded as under :

(i)(b) Para 47 of the Operative Order dt. 20/06/2008 of MERC in Case No. 72/2007, on the basis of which the licensee/MSEDCL issued Commercial Circular No. 81, dt. 7/7/08, reads as under :  
“47. In line with Commission’s ruling in the MYT order, since MSEDCL is yet to achieve 100% MD metering for LTV industrial consumers above 20 KW (around 97% completion has indicated by MSEDCL till date), the MD tariffs for LTV industrial consumers will not be made effective. Till the MD meters are

**installed, MSEDCL will be allowed to charge only the earlier HP based tariffs, though the revenue has been assessed based on MD based tariffs”.**

**It is clear from the above order that while passing the said order or giving the said directions, MERC relied on the report about completion of 97% given by MSEDCL/licensee, without insisting for proof about it. It is clear from Clause No. 10.5 in commercial**

**circular No. 81, dt. 7/7/2008 issued by the MSEDCL/licensee, reproduced in above para 18 (i) that in view of the above referred order in para 47 of order dt. 20/06/2008 of MERC in case No. 72/2007, the MSEDCL/licensee issued directives to all Zonal Engineers to immediately inform IT centres under their jurisdiction about such completion and further directed that they may also send a certificate immediately to that effect to Chief Engineer (Dist). The MSEDCL/licensee through Dy. Executive Engineer, MSEDCL Vasai Road (E) S/Dn. vide say cum letter dt. 9/2/2009, claims that on completion of 100% TOD metering and as per the directives given in circular No. 81, clause No. 10.5, the MD based tariff is applied to the consumer from August 2008. Moreover, the licensee in it's circular No. PR-3/Tariff, dt. 05/02/2009 clearly stated that the MSEDCL has completed the 100% work of installation of TOD meters to LTV industries having load more than 20 KW. MSEDCL is a public institute and therefore, the same or it's officers have no personal interest to falsely say that 100% TOD metering was completed and**

therefore MD based tariff is applied to the concerned consumers i.e. LTV Industries above 20 KW consumers. Under such circumstances, in my opinion, it would not be proper to insist for filing of documents about 100% completion of TOD metering. Therefore I accept the contention of MSEDCL that 100% TOD metering was completed by the end of July 2008.

(i)(c) It is clear from the provisions of 3.4.1 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code & other

conditions of Supply) Regulations, 2005 that MSEDCL/licensee can recover charges for the electricity supplied as per the tariffs fixed by the Commissioner (MERC) from time to time. It is clear from the order dated 20/06/2008, passed by MERC in case No. 72 of 2007 that the Commission (MERC) fixed tariffs for LT-V industries above 20 KW consumers on HP basis as well as on MD TOD basis with a direction that the TOD tariff shall be applicable after installation of MD meters. It is true that as per para 47 in the said order, the Commission (MERC) at that time allowed the licensee to charge as per earlier HP based tariffs but it was because at that time the licensee reported that the work of MD metering was completed to the extent of 97% only. It is further made clear in the said para 47 of the said order that till the MD meters are installed, MSEDCL will be allowed to charge only the earlier HP based tariffs. Moreover, the fact that the Commission (MERC) in the said order also fixed & finalized the MD tariff or TOD tariff clearly show that the licensee was

permitted to charge electricity charges as per the MD metering or TOD metering immediately after completion of 100% work of installation of MD meters, as clearly stated in the Commercial circular No. 81, dt. 07/07/2008 by the licensee. In view of this, and since in my opinion the licensee has already completed 100% installation of MD meters as discussed above, in my opinion the licensee has correctly charged the electricity charges to the consumer as per MD tariff and therefore, such charging cannot be said to be illegal as alleged by the

consumer. Moreover in my opinion, the consumer should have approached the Commission (MERC) for his such grievance instead of this forum, as the Commission (MERC) is the Competent Authority to decide as to whether the licensee has applied the tariff correctly. For all above reasons, the consumer is not entitled for refund of or adjustment of any amount on such count. Hence I hold accordingly.

18(i) Clause 8.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum) & Electricity Ombudsman) Regulations 2006, reads as under :

*"On completion of proceedings conducted under Regulation 6, except where the forum consist of a single member, the forum shall take a decision by majority of votes of the members of the forum & in the even of equality of voles, the Chairperson shall have the second & casting vote."*

It is clear from the above clause 8.1 of the Regulations 2006 that the Chairperson has been given a second or casting vote, in

**case of equality of votes, & it clearly means such equality of votes is meant to be equality of the votes of other two members.**

**(i)(a) In the instant case, there has been difference of opinion or view amongst two members, & therefore, Shri M. N. Patale, as a chairperson will have to give the second or casting vote & the view out of the different views taken by two members, seconded by Shri M. N. Patale Chairperson will become the view of the majority & hence such view will be the decision of the forum.**

**(i)(b) Shri M.N. Patale, after giving due consideration to the different views expressed by two members as above, approves or supports the view taken by Shri R. v. Shivdas to the effect that considering the tariff order issued by the Commission (MERC) & circular No. 81 issued by the licensee, read with the circular dated 05/02/2009 referred & other facts discussed by him it is clear that the licensee has completed 100% installations of meters & therefore correctly recovered the electric charges as per MD tariff or TOD tariff from the consumer & therefore the consumer is not entitled for any refund or adjustment of any amount on such ground.**

**ii). Wrong bill for Oct.08 and request for the refund of Excess amount recovered:- The applicant/consumer claims that it received a bill for Rs.53,940/- for a period 06/09/08 to 05/10/08 with a reading 321132. It's such contention is duly corroborated by the xerox copy of concerned bill (Ann.6-b) and it is clear from the said bill the as per the said bill current reading as on 06/10/08 was**

**321132 and the last reading as on 5/9/08 was 315016, and thus total consumption for the said period was 6116 units. It is, however, clear from the CPL for the said period/Oct.08 that the previous reading was 315016 and the current reading as on 6/10/08 was 319516. Obviously the current reading as on 06/10/08 given as 321132 given in bill (Annexure 6-b) according to which electric charges are recovered was incorrect. In view of this MSEDCL/Licensee is directed to impress upon its employees to prepare electric bills correctly in future.**

**As far as the request of applicant/consumer for refund of excess charges recovered by the said bill is concerned the said bill (Annexure 6 –b) is incorrect not only for the above reason but also for the reason that when the applicant/consumer got the said meter examined by competent employee of MSEDCL on 23/10/08 i.e. about 17 days after taking of current reading on 06/10/08 as per the bill (Annexure 6 –b), the meter reading was “320912” as is clear from zerox copy of Check Reading Report (Annexure 6-a) i.e. lesser than the current reading as on 6/10/08 shown in both CPL and bill (Annexure 6-b) for the said month. It, thus, appears that the concerned current reading for the said bill (Annexure 6-b) was not taken after reading the actual reading in the meter, but was recorded without reading the meter. MSEDCL/Licensee should see that such thing should not occur in future.**

**It is thus clear that MSEDCL has recovered electric charges in excess of the actual electricity consumption for the said period**

by the Consumer. However, it is clear, from CPL for the next month i.e. Nov.08, that the current reading for the said bill taken on 03/11/08 was 321635 i.e. more than the current reading as on 06/10/08 for the previous period shown in bill (Annexure 6-b) and also in the CPL for the said month and thus the excess payment recovered in the bill (Annexure 6-b) for the month Oct.08 got adjusted in the bill for the next month i.e. Dec.08. Therefore the Applicant/Consumer is not entitle for adjustment of such excess recovery made vide bill (Annexure 6-b) for the month of Oct.08.

As far as the request of Applicant/Consumer regarding checking of meter with Accucheck meter is concerned, the MSEDCL/Licensee is directed to get the concerned meter checked within a period of two months from the date of this decision, on payment of necessary charges, if required, within the period of 15 days from the date of this decision. In case the consumer fails to deposit such charges if required within above time, it's request for checking of meter shall stand rejected.

- iii) **S.D. Interest not paid:-** The licensee has produced on record CPL of the period from Jan. 1998 to Nov. 2007 It is clear from the same that the amount of Rs.10,400/- as Security Deposit is shown in the each year, & the credit to the interest on such deposit is given in June 1998, July 1999, Feb. 2003, Dec. 2004 etc. i.e. not in each year. Therefore the licensee should calculate such interest on Security Deposit for each year during the period 1993 till 2008 and give credit for such additional interest (i.e. the amount of interest in excess of the amount of interest of which

credit is already given to the consumer) to the consumer, in the bill for June 2009.

iv) **Refund of Demand Charges & P. F. Penalty** : The consumer has claimed refund of Rs. 250/- each (difference in between charged amount of Rs. 2200 and Rs. 1950 which could be changed) for the periods 05/08/2008 to 05/09/2008 and 05/07/2008 to 05/08/2008, and P. F. penalty proposed for the period 05/08/2008 to 05/09/2008, on the ground that the action of licensee in applying M.D. based tariff from 01/08/2008 is illegal. However, with a

majority view, the forum held such action of licensee as legal as per finding on Point No. 1. Therefore, the consumer is not entitle for refund of such amounts and hence it's such request is rejected.

v) As far as the prayer of the consumer for issuing warning to the licensee & payment of penalty, is concerned, considering the majority view on the point of applying M.D. based tariff to the consumer, it is clear that it cannot said that the licensee has violated any of the directions given by the Commission (MERC) or any other circulars & therefore, it is not necessary to issue any warning on such count to the licensee & hence it is not necessary to impost any penalty on the licensee as prayed by the consumer.

19) In view of findings on point No. 1 to 4 including majority view on the Point No. 1, the forum passes the following order.

**O-R-D-E-R**

- 1) Prayer of consumer for the refund of the amount of electric charges recovered by licensee as per MD based tariff or TOD based tariff, Demand Charges, P. F. Penalty, alleged excess charges recovered by bill [Ann.6-(b)] is rejected.
- 2) Licensee to follow the directives about calculation of interest on Security Deposit and giving such credit and checking of meters as directed above.
- 3) Prayer of consumer for issuing warning to & imposing penalty on the licensee, is rejected.
- 4) Compliance should be reported to the forum within 90 days from the date of this decision.
- 5) Consumer can file appeal against this decision with the Ombudsman at the following address.

*“Maharashtra Electricity Regulatory Commission,  
606/608, Keshav Building, Bandra Kurla Complex, Mumbai 51”*

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

- 6) 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 : 19/03/2009**

**(Sau V. V. Kelkar)**  
**Member**  
**CGRF Kalyan**

**(R.V.Shivdas)**  
**Member Secretary**  
**CGRF Kalyan**

**(M.N.Patale)**  
**Chairman**  
**CGRF Kalyan**