



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/243/268 OF 2009-2010
OF M/S. R.P. INDUSTRIES, VASAI, REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN
ABOUT EXCESSIVE BILLING.

M/s. R. P. Industries
Gala No. 3,4,5 D
Prasad Industrial Estate
Sativali, Tal. Vasai (E), Dist.Thane.

} (Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Superintending Engineer, MSEDCL
Vasai Circle, 2/3 Deepashree, Navghar
Vasai(E), Dist. Thane. 401202

} (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 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 H.T. consumer of the licensee with CD. 164 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 05/05/2009 for Excessive Energy Bills. The details are as follows: -
Name of the consumer :- M/s. R. P. Industries
Address: - As given in the title
Consumer No : - HT-001849022950(Old LT – 001849030050)
Reason of dispute: Excessive Energy Bills
- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/419 dated 05/05/2009 to Nodal Officer of licensee. The licensee through Nodal officer/Executive Engineer (Administration) Vasai Circle, filed reply vide letter No. SE/VC/A/c/5680 dt. 20.05.09.
- 4) The consumer has raised these grievances before the Superintending Engineer, Vasai Circle, Vasai(E) vide letter dated 2/3/2009. The Superintending Engineer 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 05/05/2009.
- 5). The Forum heard both the parties on 22/05/09 @ 15.00 Hrs. in the meeting hall of the Forum’s office. Shri Harshad Sheth,

representative of the consumer, Shri R.S. Sanap, Nodal Officer and Shri P.K. Tuse, Acctt. officer, both 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 02/03/09 sent to the Superintending Engineer, Vasai Circle, Vasai (E), of which copy, the consumer has attached with the grievance made before this forum, arise for consideration, and considering the reply dtd. 20/05/09 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 IASC collected during Jan.07 to May 07: The consumer claims that the licensee is to refund IASC charges recovered during Jan.07 to May 07 as per order dated **17.9.08** passed by MERC in case No.45 of 2007, and such total amount together with interest comes to Rs. 29128/- and therefore licensee be directed to refund the said amount 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 dated **17.09.08** passed by MERC in case No.45 of 2007 that the MERC directed the licensee to refund the incremental ASC for 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 Jan.07 to April 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.

- 8). As to grievance No.(2) – Regarding refund of penalty for exceeding contract demand: The consumer claims that the C.D. of its unit was 164 KVA during the initial period. MERC Regulations 2005, Electric Supply Code O.C.S.) came into effect from 20th Jan.2005. MERC approved the tariff from 1st June 08 and as per the clause regarding penalty for exceeding contract demand in the said tariff, in case the consumer exceeds its contract demand, he will be billed at the appropriate demand charge rate for the demand actually recorded and will be additionally charged at the rate of 150% of the prevailing demand charges (only for the excess demand for the contract demand), and in case any consumer exceeds the contract demand on more than three occasions in a calendar year, the action taken in such cases would be govern by the Supply Code. The consumer further claims that the C.D. of its unit exceeded for the third time in April 07. Therefore the licensee was supposed to take action thereafter and regularize the matter as per supply code. However, licensee did not take such action and did not regularize the said exceeded CD and collected penalty upto April 08. Therefore the licensee is liable to refund the said penalty which together with

interest comes to Rs.2,65,500/- as per Annexure-4 and therefore the licensee be directed to refund the said amount to the consumer. As against the above contention of consumer, the licensee claims that the contract demand of consumer exceeds in every month and therefore the charges applied are appropriate and justified.

- 9). The concerned provision regarding penalty for exceeding contract demand in the Appendix-1 i.e. approved tariff schedule of MSEDCL w.e.f. 1st June 08 reads as under:

“Penalty for exceeding Contract Demand:-

In case, a consumer (availing Demand based Tariff) exceeds his Contract Demand, he will be billed at the appropriate Demand charge rate for the Demand actually recorded and will be additionally charged at the rate of 150% of the prevailing Demand Charges (only for the excess Demand over the Contract Demand). In case any consumer exceeds the Contract Demand on more than three occasions in a calendar year, the action taken in such cases would be governed by the Supply Code. “

It is clear from the concerned Appendix-1 to the approved tariff schedule Annex.-3 containing the above referred clause, relied upon by the consumer, that the same was effective since 1st June 2008 and therefore, the consumer cannot rely on it for the refund of penalty for exceeding contract demand imposed by the licensee during the period prior to 1st June 2008. It is however, true that there was similar clause regarding penalty for exceeding contract demand in the tariff for the period from 01/10/06 to 31/03/07 and the said clause reads as under :

“Penalty for exceeding contract demand (CD) : (1)In case a high tension consumer exceeds his CD, he will be billed at the appropriate demand charges for the demand actually recorded and will be charged at the rate of 150% of the prevailing demand charges for the excess demand over the CD. (2)For such three occasions of exceeding the CD in a calendar year, the treatment will be governed by the Supply Code”.

The consumer did not file copy of the tariff order which was in effect from 31/03/07 to 01/06/08 and the same also could not be found in the office record of this Forum. However, in view of the similar provisions regarding the penalty for exceeding CD in force, during the period from 01/10/06 to 31/03/07 and from 1st June 08 onwards as quoted above, similar provision must have been there in effect during the intervening period from 31/03/07 to 01/06/08. However, even if it is taken that similar provision regarding penalty for exceeding CD with further clause was in force during the intervening period, it is clear from the above relevant provision that in case the consumer exceeds contract demand on more than three occasions in a calendar year, the action taken in such cases would be governed by the supply code. As per Regulation 4.1 of the MERC (Electric supply code and other conditions of supply) Regulations, 2005, the concerned consumer has to make an application for additional load. There is no provision in the above referred Regulations of 2005, making it a duty of the licensee to inform the consumer such consumer to make an application for additional load, and therefore the contention of consumer to the effect that the licensee should have

warned and intimated it to file application for additional load can not be accepted. Thus it was for the consumer to make such an application for additional load after noting that it was exceeding contract load for no. of times, and if he failed to do so, he can not now complain about the penalty for exceeding contract demand imposed by the licensee on it or him. When confronted with the fact as to whether the consumer has made such application for additional load during the hearing, the CR replied that the consumer might have written letters to the licensee but he is not having copies of such letters with him and he will verify the position and file copies of such letters, if he get the same. The consumer, however, did not file copies of any such letters in the case till this date. The only inference from the fact that the consumer has not filed copies of any such letters, which can be drawn is that the consumer must not have written any such letters about additional load to the licensee. The consumer claims as per Annex. 4 and the copies of the bills for the period from May 07 to April 08 filed by the consumer show that the consumer has exceeded load in each of such months from May 07 to April 08 after the third occasion of exceeding load in April 07 and penalty for exceeding load was imposed on it in each of such months and therefore, it is most improbable that the consumer did not notice such fact of exceeding load in each such month for 12 months. Thus the consumer has not made any application as contemplated by Regulation 4.1 of Regulation 2005, for additional load and therefore the licensee could legally impose penalty for exceeding contract load, during the period April 07 to April 08 and therefore the consumer is

not entitle for refund of amount of such penalty imposed by the licensee with interest as claimed by the consumer.

- 10) Moreover, the above referred relevant clauses do not specify that the licensee would not be able to impose penalty for exceeding CD for the forth time in a calendar year. At the most, from the clause “In case any consumer exceeds the CD on more than three occasions in a calendar year, the action taken in such cases would be governed by the Supply Code.” would mean that the licensee would be obliged to grant request of the consumer for grant of additional CD in case the concerned consumer has exceeded CD for more than three occasions in a calendar year, naturally if he applies for the same as per the provisions of Clause 4.1 of the MERC (Supply Code and other conditions of supply), Regulations 2005. The consumer in this case does not claim that it has made any such application for grant of additional CD and therefore, now it cannot complain about the penalty for exceeding load imposed by the licensee after April 2007 when it allegedly exceeded such load for third occasion.
- 11) In view of the above discussion and for the above reasons, in our opinion, the consumer is not entitle for the refund of such penalty for exceeding load imposed by the licensee as claimed by it and therefore, it's request for the same is rejected.
- 12). As to grievance No.(3) – Regarding giving credit of the S.D. amount of M/s. Toto Packaging Pvt. Ltd. Vasai (East) : The consumer claims that SD amount of Rs. 05,95,800 with interest thereon of it's other unit M/s. Toto Packaging Pvt. Ltd. Vasai (East) was to be credited into the account of this connection. It is however, not finding any

such credit given by the licensee, in the bills. Therefore, the licensee be directed to give credit of such amount to it. As against this, the licensee vide reply dt. 20th May 09 claimed that after recovery of final bill of M/s. Toto Packaging Pvt. Ltd. Vasai (East), the balance deposit amount Rs. 02,80, 698 has been adjusted in the bill of this consumer for the month Nov. 07. The consumer in it's rejoinder dt. 22/05/09 claims that CPL for Nov. 07 shows that credit of Rs. 02,84,355 has been given as against the amount Rs. 02,80,698 claimed by the licensee. Moreover, the consumer has claimed details of SD amount of Rs. 05,95,800 of M/s. Toto Packaging Pvt. Ltd. Vasai (East), but the licensee in it's reply did not give detail calculations about the said amount and therefore, the licensee be directed to give the same and give the credit of balance amount to the consumer.

- 13) The consumer claims that credit of the SD amount of Rs. 05,95,800 with interest thereon of M/s. Toto Packaging Pvt. Ltd. Vasai (East) should have been given to it. Copies of letter dt. 19/11/07 and undertaking dt. 19/11/07 filed by the consumer show that the said letter and undertaking have been sent by Shri Haresh Shah, M.D. of M/s. Toto Packaging Pvt. Ltd. Vasai (East) requesting the Accounts Officer of MSEDCL, Vasai Circle to give credit of total SD amount of Rs. 05,95,800 of it's connection with consumer No. 001849019844 to the account of present consumer with consumer No. 001849022950 as it's connection has been disconnected permanently. He has also given the receipt Nos. and it's dates by which different amounts of SD were deposited by him in the said connection. He has also mentioned in the said undertaking that the original receipts of the said

SD amounts have been misplaced and therefore, he was giving the said undertaking. CPL of this consumer for the month of Nov. 07 shows that Rs. 02,84,355 is written in the column of adjustment of arrears and an amount – Rs. 04,38,934.84 is written in the column of closing arrears. Amount of Rs. 02,80,698 of which the licensee claims to have given credit to the consumer in the said month, is not mentioned in any of the columns of the said CPL for the said month. The licensee has also not given detail account of the amount of SD with credit with the said consumer. Therefore, the licensee is directed to verify the total amount of SD in credit with M/s. Toto Packaging Pvt. Ltd. Vasai (East) with consumer No. 001849019844, total amount of arrears against the said consumer at the time of such transfer of the said amount from the account of the said consumer to the account of this consumer, details as to how credit of balance amount from the said account has been given to the account of present consumer, give the said details in writing to the consumer within a period of one month from the date of decision in this case and give the credit of excess amount if any, to this consumer in the ensuing bill after the period of one month from the date of decision in this case.

- 14) As to grievance No. (4) – Regarding crediting RLC refund amount of M/s. Toto Packaging Pvt. Ltd. Vasai (East) : The consumer in it's rejoinder dt. 22/05/09 claimed that the licensee has not credited the amount of RLC of M/s. Toto Packaging Pvt. Ltd. Vasai (East) in it's account and therefore, it be directed to do so and credit the said amount with interest. The licensee did not file reply to this rejoinder

even though LR was directed to do so at the time of hearing. It is however clear from the copies of letter and undertaking dt. 19/11/07 sent by Shri Haresh Shah, M.D. of M/s. Toto Packaging Pvt. Ltd. Vasai (East) to the licensee (Annex. 6-a & 6-b) filed by the consumer, that Shri Hresh Shah has requested the licensee for transfer of SD amount only. He has not referred RLC amount in it. Therefore, the licensee cannot be directed to refund the RLC of M/s. Toto Packaging Pvt. Ltd. Vasai (East) to the consumer. Therefore, such request of consumer is rejected. However, the consumer can file application for the same with consent letter of M/s. Toto Packaging Pvt. Ltd. Vasai (East) to the licensee for the said purpose.

- 15) As to grievance No. (5) – Regarding credit of Rs. 06,762 to the account of HT consumer No. 001849030050 : Shri Arjun Raheja also holds another HT connection in his own name with HT consumer No. 001849030050. The licensee in the account of the said connection has given credit of Rs. 3,00,597 in the bill of Nov. 08. The consumer did not pay the amount of the said bill due to such credit. The bill amount was Rs. 37,593 (+) prompt discount applicable. In the next month i.e. in Dec. 08, the consumer received the bill with arrears as Rs. 44,355.29. The consumer has prayed for explanation of such anomaly from the licensee and further prayed that the licensee be directed to credit the amount of difference of Rs. 6,762 alongwith interest in the next billing cycle. As against this, though the licensee did not say anything about it in it's reply dt. 20/05/09, probably because the consumer has not mentioned about such grievance in it's main grievance application, but filed a copy of letter dt. 02/03/09

sent by it to the Superintending Engineer, Vasai Circle, for resolving it's such grievance, but filed it's say through Nodal Officer vide letter dt. 20/05/09, claiming that credit of Rs. 3 Lakhs was given to the consumer i.e. M/s. Arjun L. Raheja with above referred consumer No. due to oversight and that the consumer has paid actual bill of Nov. 08 and Dec. 08 alongwith DPC in the month of Dec. 08 and that the excess amount of Rs. 06,762 paid by the consumer will be adjusted in the month of May 09. It has also filed CPL of the said concerned unit. The CPL for the months of Nov. 08 and Dec. 08 of the said connection, corroborates the above contention of the licensee regarding cancellation of credit of Rs. 03,00,519.97 in the month of Dec. 08 after giving the same in Nov. 08. The consumer has not claimed that the said credit of Rs. 03,00,519.97 was given to it for any particular reason. Therefore, the above explanation of licensee to the effect that credit of the said amount in Nov. 08 was given due to oversight and hence the same was cancelled in Nov. 08 will have to be accepted. In view of this and as the licensee has undertaken to give credit of balance amount, licensee is directed to give the credit of balance amount of Rs. 06,762 together with interest at the Bank rate of RBI in the ensuing bill after a period of 30 days from the date of decision in this case, if such credit is not already given in May 2009.

- 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. 07, 13 and 15.
- 3) The Grievance Nos. 2. and 4 are rejected as observed in above para Nos. 11 and 15.
- 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.

- 6) 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 : 03/07/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan