

CONSUMER GRIEVANCES REDRESSAL FORUM;
MSEDCL NAGPUR (RURAL) ZONE NAGPUR

1) Case No.75A/2015
M/s.Gimatex Industies Pvt.Ltd.
Ram mandir ward, Hinganghat
District - Wardha.
Cons.No.510019000085

2) Case No.76/2015
M/s.Gimatex Industies Pvt.Ltd.
Ram mandir ward, Hinganghat
District - Wardha.
Cons.No.510019000140

3) Case No.77/2015
M/s.Gimatex Industies Pvt.Ltd.
Ram mandir ward, Hinganghat
District - Wardha.
Cons.No.510019000107

4) Case No.78/2015
M/s.Gimatex Industies Pvt.Ltd.
Ram mandir ward, Hinganghat
District - Wardha.
Cons.No.510019001146

5) Case No.79/2015
M/s.Gimatex Industies Pvt.Ltd.
Ram mandir ward, Hinganghat
District - Wardha.
Cons.No.510019000077

6) Case No.80/2015
M/s.Gimatex Industies Pvt.Ltd.
Ram mandir ward, Hinganghat
District - Wardha.
Cons.No.510019005920

„VS..

Complainants

1. Superintending Engineer,
MSEDCL,O&M Circle,
Wardha.

2. Executive Engineer/Nodal Officer,
I. G. R. C., Circle Office,
MSEDCL, Wardha.

Respondents

Applicant represented by 1) Nobody present for the applicant
Respondents represented by 1) Shri L.W.Sadawarti, EE, (Adm.) Wardha
2) Shri P.M.Thakare, Manager(F&A), Wardha

CORAM:

Shri Vishnu S. Bute, Chairman.
Adv. Gauri D. Chandrayan, Member
Smt.D.D.Madelwar, Member-Secretary.

JUDGEMENT

(Delivered on this 24th day of September, 2015)

2. Above named applicants are HT consumers. Feeling aggrieved by the orders passed in their respective cases by IGRC Wardha they presented these six grievance applications under the provisions contained in Regulation 6.4 of the MERC (CGRF & EO) Regulations 2006 on 12-08-2015. All these applications are being decided together because they involve common facts and circumstances and therefore they are being disposed of by this common judgment and order.

The copies of the applications were given to the respondent. The respondent submitted a reply. The case was fixed for personal hearing on 22-09-2015. Neither the applicants nor their representative were present. So presuming that the applicants have nothing to say except the documents already submitted by them we decide the cases on merit. Shri L.W.Sadawarti, Executive Engineer (Adm.), Shri P.M.Thakare, Manager(F&A) were present for the respondent. They submitted the additional reply. They were heard.

3. In the written applications the applicant submitted that they are the bonafied consumers of the respondent. They are HT consumers. As per the provisions of

section 45 of the Electricity Act 2003, the respondent has to recover charges for supply of electricity in accordance with the tariff fixed by the Commission. As per clause 3.4 of the supply code Regulations, the respondent has to recover charges of electricity supplied which specifies that, " the Distribution licensee is authorize to recover charges for electricity supplied in accordance with such tariff as may be fixed from time to time by the Commission". As per Commission's order in case no.95 of 2013 the Commission allowed to recover an amount of Rs.2037.78 Crores from the consumers in six monthly installments starting from the month of September 2013. But the MSEDCL charged this charges as AEC1 from the month of August only which is in violation of Commissions order and the excess recovery by MSEDCL in the billing of August 2013. The Commission did not authorize MSEDCL to collect AEC1, AEC2, AEC3, AEC4 charges from the consumers in the month of August 2013. Hence charging AEC charges is illegal and its amounts to violation of Commission's order.

Again in the same order, in case no.95 of 2013, the Commission allowed to recover monthly fix expenses of Rs.235.39 Crores from the consumers in six monthly installments starting from the month of September 2013. But the MSEDCL charged these charges as AEC2 from the month of August itself which is in violation of Commission's order and excess recovery by MSEDCL in billing of August 2013.

As per Commissions order in case no.28 of 2013 the Commission allowed MSPGCL to recover the amount of Rs.106.44 Crores and Rs.628.9 Crores from MSEDCL in six monthly installments from October 2013. The Commission allowed MSEDCL to recover the above fix charges from the consumers as is billed by

MSPGCL to MSEDCL. This amount was to be collected in six monthly installments by MSEDCL from the month of Oct 2013 as FAC mechanism. However the MSEDCL billed these charges as AEC3 from the month of August itself which is in violation of Commissions order and excess recovery by MSEDCL in billing of August 2013 and September 2013.

As per Commissions order in case no.44 of 2013 the MSEDCL was to recover variation in energy charge component of the amount billed by MSPGCL to MSEDCL from the consumers through the FAC mechanism. Similarly the amount of Rs.596.12 Crores which shall be recovered by MSPGCL from MSEDCL was to be recovered in six monthly installments starting from the month of October 2013. The MERC allowed to collect it from consumers as the fixed charge component billed by MSPGCL. Hence these charges are to be recovered from MSEDCL consumers in six monthly installments from the month of October 2013 as FAC mechanism. But the MSEDCL started collecting these charges as AEC4 charges from the month of August which is in violation of Commissions order and excess recovery by MSEDCL in billing of August 2013 and September 2013. The Commission issued order of charging cross subsidy surcharge vide order passed in case no.107 of 2013 dated 29-10-2013. In this order the Commission allowed to recover AEC charges from September 2013 till 28-02-2014. As such collecting AEC charges from the billing of August 2013 was wrong. So the AEC charges collected in the month of August 2013 should be refunded to the applicant.

Finally, the applicant prayed that the respondent MSEDCL may be directed to issue the revised energy bill for August 2013 by removing AEC1 and AEC2 charges

and the bill for September 2013 by removing AEC3 and AEC4 charges. Furthermore the respondent may be directed to refund the excess amount paid by the applicant alongwith interest.

4. Shri L.W.Sadawarti replied for the respondent. He referred to the written reply dated 19-09-2015 and 22-09-2015. He further stated that as per the Commissions order passed in case no.95 of 2013 the Commission allowed to recover the amount of Rs.237.78 Crores from the consumers in six monthly installments starting from the month of September 2013. The MSEDCL charged the consumers AEC1, AEC2, AEC3, AEC4 charges in the bill which is payable in the month of September 2013. The MSEDCL had issued the bill as per the order passed by the Commission. Hon'ble Commission also determine the period of recovery of additional energy charges and additional FAC to all category consumers of MSEDCL. Hon'ble Commission has allowed MSPGCL to recover the amount from MSEDCL in six months starting from October 2013. Hence MSEDCL has started charging the same from the billing of the month of August i.e. from September 2013. The MSEDCL vide letter no.PR3/Tariff/26517 dated 23-09-2015 had appraised this position to Hon'ble Commission. The recovery mechanism was also clarified. In the said letter MSEDCL categorically stated that in order to avoid complications in implementation of order dated 3rd, 4th, 5th September 2013 the MSEDCL will be levying all AEC (i.e.1 to 4) under one head of AEC as well as also merged the additional FAC1 and FAC2 under one head.

Hon'ble APTEL vide order passed on 22-08-2014, had set aside the order (case

no.95 of 2013 dated 05-09-2013) and remanded the matter to the State Commission to give opportunity to the parties concerned as per the provisions of section 64 of Electricity Act.

There is no specific direction to refund the amount recovered from the consumers in the form of additional energy charges. Hence the question of refund of AEC amount to the consumers does not arise. There is no force in the applications. The applications may be dismissed.

5. We have perused the record. We have heard the argument advanced by the respondent carefully.

Hon'ble MERC allowed to recover the additional charges vide order passed in case no.95 of 2013 dated 05-09-2013.

Hon'ble Appellate Tribunal for Electricity in appeal no.295 of 2013, filed by TATA Motors limited, by an order passed on 22-08-2014 had set aside the aforesaid order and remanded the case to Hon'ble Commission to pass suitable order as per the directions given in the judgment.

Subsequently, Hon'ble State Commission after following the due procedure passed the final order on 26-06-2015. Naturally the cause of action arose on 26-06-2015. However the applicant approached the respondent for redressal of alleged grievance on 16-09-2013.

Regulation 6.2 of the CGRF & EO Regulations 2006 reads as under,

6.2 A consumer with a grievance may intimate the IGR Cell of such grievance in the form and manner and within the time frame as stipulated by the Distribution

Licensee in its rules and procedures for redressal of Grievances.

Regulation 6.4 of the aforesaid Regulations reads as under,

6.4 Unless a shorter period is provided in the Act, in the event that a consumer is not satisfied with the remedy provided by the IGR Cell to his grievance within a period of two (2) months from the date of intimation or where no remedy has been provided within such period the consumer may submit the Grievance to the Forum.

The applicants ought to have approach the IGR Cell for redressal of their grievance after 26-06-2015.

They approached the respondent before final order was passed. Hence we are of the considered opinion that their applications are premature. Hence they are liable to be dismissed. The applicants may again approach the respondent if they think so in the light of the order passed by Hon'ble MERC on 26-06-2015.

So we pass the following order,

ORDER

- i) Application No.75A/2015, 76/2015, 77/2015, 78/2015, 79/2015 & 80/2015 are hereby dismissed.
- ii) No order as to cost.

Sd/- (Adv.Gauri D.Chandrayan) **sd/-** (Mrs.D.D.Madelwar) **sd/-** (Vishnu S. Bute)
MEMBER **MEMBER SECRETARY** **CHAIRMAN**
CONSUMER GRIEVANCES REDRESSAL FORUM; NAGPUR ZONE NAGPUR
(Nagpur Dtd.24th day of September, 2015)

CONSUMER GRIEVANCE REDRESSAL FORUM

NAGPUR ZONE (RURAL) M. S. E. D. C. L.

Plot No.12, Shrikrupa, Vijaynagar, Chhaoni,

NAGPUR – 440013

Email.id- cgrfnz@mahadiscom.in

(O) 0712- 2022198

cgrfnz@gmail.com

NO. CGRF/NZ/

Date :

Certified copy of order dated 24th September, 2015 in Case No.75A/2015, 76/2015, 77/2015, 78/2015, 79/2015 & 80/2015 are enclosed herewith.

Member-Secy/ Exe.Engineer,
C.G.R.F.(NZ)MSEDCL
N A G P U R

To,

- 1) M/s Gimatext Industries Pvt.Ltd., Ram Mandir ward, Hinganghat, Dist. Wardha Cons.No.510019000085.
- 2) M/s Gimatext Industries Pvt.Ltd., Ram Mandir ward, Hinganghat, Dist. Wardha Cons.No.510019000140.
- 3) M/s Gimatext Industries Pvt.Ltd., Ram Mandir ward, Hinganghat, Dist. Wardha Cons.No.510019000107.
- 4) M/s Gimatext Industries Pvt.Ltd., Ram Mandir ward, Hinganghat, Dist. Wardha Cons.No.510019001146.
- 5) M/s Gimatext Industries Pvt.Ltd., Ram Mandir ward, Hinganghat, Dist. Wardha Cons.No.510019000077.
- 6) M/s Gimatext Industries Pvt.Ltd., Ram Mandir ward, Hinganghat, Dist. Wardha Cons.No.510019005920.

Copy s.w.r.to :-

1. The Chief Engineer(NZ), MSEDCL, Vidyut Bhavan,Katol Road, Nagpur.
2. The Superintending Engineer, O&M Circle, Wardha

Copy f.w.cs.to:

1. The Executive Engineer/Nodal Officer., O&M Circle Office, MSEDCL.Wardha for information and necessary action.

Address of the Electricity Ombudsman is given as below.

Office of - The Electricity Ombudsman,
12, Srikrupa, Vijay Nagar,
Chhaoni, Nagpur-440 013
0712-2596670

