

BEFORE THE CONSUMER GRIEVANCES REDRESSAL FORUM

M. S. ELECTRICITY DISTRIBUTION CO.LTD.

(NAGPUR ZONE – RURAL) NAGPUR.

Application/Case No. CGRF/NZ/Rural/ **27** of 2006

- Applicant : M/S. Lloyds Steel Industries, Bhugaon
Post -Selukate, Tah & Dist - Wardha.
-- VS --
- Non-applicants. : 1.Executive Engineer,C.C.O&M Dn., MSEDCL,
Wardha.
2.Executive Engineer/Nodal Officer
Internal Grievance Redressed Unit,
Circle Office, MSEDCL, Wardha.
- Presence : 1.Shri N.J.Ramteke,Chairman
2.Shri M.G.Deodhar,Member
3.Shri M.S.Shrisat,Member/Secy.
- Appearance. : 1. Shri R.B.Goenka , Representative .
2. Shri Venkatraman.
3. Shri Manoj Parekh
For Applicant .
4. Shri B.S.Jaiswal, S.E.
5.Shri A.G.Shrigadiwar,A.E.
6. Shri P.G.Maske, D.A.
For Non-Applicants.

O R D E R

(Passed this 15th day of June, 2006)
(Per Shri N.J.Ramteke, CHAIRMAN)

1) This is an application under Regulation 6.6 of the M.E.R.C. (CGRF&O) Regulations, 2006 (hereinafter called the Regulations). Shri R.B.Goenka , Representative of applicant presented this application on 24.4.2006 . The Maharashtra Electricity Regulatory Commission, Mumbai in supersession of Regulations of 2003 made above Regulations and the same have come into force on publication in the Maharashtra Government Gazzettee on 20/4/2006 and, therefore, the present Regulations 2006 are applicable in this case. The Applicant had given original intimation about the grievance to the non-applicants on 26/5/2006 and, therefore, this case is covered under Regulation 6.6 of the Regulations . The Applicant made a prayer for redressal of his grievance --

a) That this Hon'ble Forum shall ensure enforcement and compliance of Order dated 4th September, 2001 passed in Case No. 7 of 2001 of MERC by providing the following.:

- i) The respondent be directed to provide bulk discount amounting to Rs. 5,50,62,258/- for the period March,2002 to May,2004 to which the petitioner is entitled, and this amount be reimbursed immediately or adjusted against current bill.
- ii) Due credit for this amount be provided in the account on the day on which the Applicant was entitled for the same and interest calculations also appropriately made in this respect and the corresponding interest also be paid or adjusted against current bill.
- iii) For any such other order as may be deemed fit and expedient in the circumstance of the case and also in the interest of justice.

2) The Applicant made this application on the grounds that from 1/1/2002 the new tariff order of the MERC (for short, the Commission) came into effect. As per this tariff order the bulk discount to be given to only to the consumer who was having no arrears with the Board, hence giving the bulk discount to Applicant after 1.1.2002 was out of question as the order dated 4.9.2001 of the Commission clearly mentions in condition No. iv that in the event of change in tariff order in future the relevant provisions for availing such bulk discount incentives shall become applicable. As per the tariff order dated 1/12/2003 of the Commission the rebate of bulk discount is available to the consumers who are not in arrears provided payment of such arrears in installment has been permitted by the Board and installment due has been regularly paid as scheduled. Applicant further submitted in the grounds inter-alia that Applicant was desperate to obtain withdrawal of disconnection notice and the respondent took advantage of vulnerable position of Applicant and obtained undertaking dated 29.9.2001 that Applicant will not claim bulk discount in future. This is against the Commission order date. 4.9.2001 and the tariff order. The non-applicants (D.L.) are not authorized to take such undertaking which is against the order of the Commission. No claim for bulk discount incentive has made for a period August,2001 to March,2002. From the provisions relating to bulk discount in various tariff orders, it is clearly evident that there is no change in the eligibility criteria since the first tariff order date. 5.5.2000 till the clarificatory order dated 10/3/2004. As per the Commission order date. 1/1/2002 for the financial year 2001-2002, the conditions for availing bulk discount was the same as was in tariff order dated 5.5.2000. The Applicant also alleged that the D.L.(MSEDCL) is attempting to circumvent Commission's directives as per order date. 4.9.2001. The D.L. should allow bulk discount incentive to application w.e.f. 1.5.2002 subject to fulfillment of prior terms as agreed with the D.L. Applicant claimed that they are eligible to receive bulk discount incentive of Rs. 5,50,62,258/- alongwith interest.

3) On receipt of the present application, the Forum registered the same and issued acknowledgement as required under Regulation 6.11 of the Regulations. The copy of the grievance application was forwarded to the Nodal Officer and the concerned Exe. Engineer and called their parawise comments as required under Regulations 6.12 and 6.13 of the Regulations. The non-applicants submitted their parawise comments to this Forum on 18/5/2006. The copy of the parawise comments was sent to Applicant alongwith the notice for hearing. The Forum issued notices to both the parties for hearing as per Regulation 6.14 of the Regulations. The Forum heard both the parties on 8/6/2006. Shri R.B.Goenka, Representative of Applicant, made elaborate submissions. Sarvashri B.S.Jaiswal, S.E. , P.G.Maske, D.A. and A.G.Shrigadiwar, A.E. made the submissions on behalf of the non-applicants. Shri A.G.Shrigadiwar made the main submissions on behalf of the non-applicants. The parties have submitted Xerox copies of the documents alongwith their respective application and parawise comment. Thus the Forum followed the principles of natural justice as fair and reasonable opportunity of hearing is given to both the parties for submission of their respective case.

4) The facts in brief in this case are that Applicant is a manufacturing unit at Bhugaon, Dist -Wardha. Applicant is a consumer of the MSEDCL (the then MSEB) since 1994, availing supply on 220 KV with the contract demand of 90 MVA. At present, the Applicant consumes around 40 MU/ month and average monthly bill is approximately Rs. 15 crores . In 1998 the sum of Rs. 88/- crores (Principal and interest) was outstanding against the deferment facility sanctioned by the D.L. The Commission passed the order on 4.9.2001 and gave the directions in para 18 of this order. The Commission also issued tariff orders on 5/5/2000, 1.1.2002, and 1.12.2003 . The Applicant gave an application on 29.9.2001 that they will not claim the bulk discount as per MERC's Order from Sept, 2001 onwards. The D.L. gave various packages on different dates in view of the precarious financial position of the Applicant. The Applicant claimed benefit of bulk discount. The D.L. granted bulk discount of Rs. 3.89,66,275.84 for the period May,2000 to July,2001 . The Applicant wants the bulk discount for the period March,2002 to May,2004 , amounting Rs. 5,50,62,258/- . Applicant approached MERC for enforcement of the order date. 4.9.2001 . The MERC advised Applicant to take up the matter with Consumer Grievance Redressal Forum, Nagpur Zone (Rural) under letter date. 20.3.2006 (Record page 53) hence the present application.

5) It has been laid down under Regulation 6.6 of the Regulations that the Forum shall not admit any grievance unless it is filed within 2 years from the date of which the cause of action has arisen. Applicant made original intimation to D.L. on 26.5.2005. Since no remedy is provided by the D.L. and, therefore, present application which is within 2 years from the date of which the cause of action has arisen.

6) Applicant made very elaborate grounds for seeking the relief from this Forum, supported by 19 exhibits. Shri R.B. Goenka , Representative made oral submissions at the time of hearing very elaborately. The main contention of Shri Goenka is that the D.L. defied the order dated 4.9.2001 of the Commission , and compelled Applicant to give undertaking for not claiming the bulk discount and not allowed the bulk discount of Rs. 5.50 crores though the Applicant is entitled for the same in light of MERC order and the various tariff orders.

7) The main contention of the non-applicants is that there was no any agreement between Applicant and the D.L. prior to March,2002 for clearance of arrears. There is no mutual agreement between the D.L. and Applicant for clearance of 100% payment. From 1998 onwards, the Applicant has never paid the current bills on due dates of payment. However, the D.L. gave concessional facility to make current bill payment on last date of due months as per the request of the Applicant, even though the Applicant skipped payment of arrears. In the joint meeting held on 20/3/2002, a fresh package date. 20/3/02 was agreed by both the parties. Applicant has not made the payment of arrears by way of cash payment from the month of Jan,2000 to March,2001 . The total arrears of Rs. 57.78 crores were outstanding against Applicant. The D.L. gave a scheme in March,2001 on Applicant's request that Applicant should pay the monthly energy bill at the last date of due month. Applicant should pay Rs. 1.5 crores and installment of arrears alongwith the current bill. Applicant did not submit a suitable undertaking on Stamp paper as per the conditions as above. The non-applicants further contended that Applicant would become normal consumer after one year i.e. after payment of previous arrears which were 18 crores as on 1.8.2001 at Rs. 1.5 crores per month as agreed. After receipt of the order date. 4.9.2001 of the Commission, the D.L. has taken various steps as the bulk discount as per tariff order date. 5/5/2000 worked out and the credit of bulk discount was given to consumer from May,2000 to July,2001 and the credit was found in Sept,2001 of Rs. 2,78,65,414/- .

8) Despite of positive approach of the D.L., the Applicant has misrepresented the facts at the time of hearing specifically that they will become normal consumer within one year after payment of Rs. 1.5 crores per month towards arrears. The Applicant has not paid the arrears. In view of the financial difficulties of the consumer, new package was given to Applicant (Record page 75). Even on failure to comply the said package of concession, reliefs have not been withdrawn and consumer was allowed to pay the arrears in installments. The Commission's order date. 4.9.2001 clearly mentions in condition No. IV that in the event of change in tariff order in future the relevant provisions for availing such bulk discount incentives shall become applicable. The consumer has never claimed for bulk discount from the date of giving undertaking dated 29.9.2001. The non-applicants denied the eligibility

criteria since the first tariff order dated 5/5/2000 till the tariff order date. 10.3.2004 as there was change in the eligibility criteria since the first order till the clarificatory order dtd. 10/3/2004. The D.L. has also waived the delay payment charges Rs. 1,54,72,190.52 and interest on D.P.C. Rs. 24,69,653.95 due to failure on the part of Applicant to pay the installment on due dates. The bulk discount has not been given to consumers from Aug,2001 to Dec,2001 for not following agreed terms and conditions for payment of arrears and from 1.1.2002 to Nov,2003. The consumer was not eligible for the bulk discount as per conditions in tariff order provisions. There was also an audit objection for irregular bulk discount allowed to Applicant vide A.G., Mumbai's letter dtd. 16/5/2005 (Record pages 152 to 154) .

9) Shri M.G. Deodhar, Hon'ble Member of the Forum, is of the opinion that there are no financial repercussion on the D.L. if the bulk discount is given to Applicant as claimed by them. There is no financial loss to the D.L. The amount as per tariff order in full has already been recovered by the D.L. Applicant has made the total payment and not in arrears. As per the MERC's order and the facts given by the D.L. , Applicant is entitled for relief as prayed in the present application and, therefore, these claims should be allowed and credit the bulk discount to Applicant .This opinion of Shri M.G.Deodhar is not acceptable to the majority (Shri N.J.Ramteke, Chairman and Shri M.S.Shirsat, Member/Secretary) . Shri Deodhar has not specified any concrete reasons in support of his opinion . There will certainly be financial burden on the D.L. as Applicant prayed for reimbursement or adjustment against the current bill, if majority accept Shri Deodhar's dissent note. The majority is of the opinion that Applicant is not entitled for any bulk discount and the reasons thereof are given in the conclusion of the order.

10) On hearing both the parties and perusal of the record, the Forum (Majority) come to the conclusion and pass the order as follows.

11) Shri R.B.Goenka has rightly pointed out that the enforcement of the order of the MERC is covered under the definition of grievance as per Regulation 2.1(c). It has been laid down under this definition of the grievance that inter-alia safety of distribution system having potential of endangering of life and property and grievances in respect of non-compliance of any order of the Commission or any action to be taken in persuance thereof which are within jurisdiction of the Forum .

12) The present case pertains to enforcement of the order of MERC and, therefore, it is admitted by the Forum. Shri Goenka has also submitted that the Forum can exercise the power and jurisdiction under Section 142 of the Electricity Act, 2003. Section 142 deals with punishment for non-compliance of directions by the Appropriate Commission. Section 142 falls under offences and penalties. The Forum is not empowered to deal with offences and penalties and, therefore, this submission of Shri Goenka is not acceptable. The whole case is

based on the claim of bulk discount. Question arises what is Bulk Discount? The Commission dealt with "Bulk Discount" in its tariff order dated 1/5/2000 (N.A.Exhibit 13, Record page 128) . The term bulk discount is also dealt with in the tariff order for 2003/2004 (Record page 55) . It has been laid down in para 2.5.3 that the bulk discount is a rebate given to the consumer who have very high consumption and need be retained in the MSEB fold to ensure adequate revenue to the MSEB. Hence the Commission has introduced the bulk discount under its first tariff order which has been continued. The discount is offered only on the energy charges and is not offered on other element of tariff. It is the duty of the consumer to pay their bills on time. The bulk discount will be available only if the consumer has no arrears with MSEB and the payment is made within 7 days from the date of bill or within 5 days of the receipt of the bill whichever is latter. As per Oxford Dictionary, the term Discount is "a deduction from the usual cost of something". Rebate means, the partial refund to someone who has paid too much for tax, rent etc. It is also discount on account of money due. In short, discount means a rebate or concession is given to the H.T. consumers as per the directions given in the relevant tariff orders of the Commission. The Applicant claimed the discount in light of the MERC order dtd. 4.9.2001 and directions contained in the different tariff orders from 2000 to 2003 . The question arises whether the MERC's order is a blank cheque given in the hands of Applicant? It has been specifically laid down under this order that MSEB should allow bulk discount incentives to the petitioner (LSIL) w.e.f. 1.5.2000 subject to fulfillment of the terms as agreed with them(MSEB). Thus this order is not blanket but it is subject to fulfillment of the terms. The non-Applicants have rightly submitted that there was no agreement on Rs. 50/- stamp paper for settlement of arrears. The D.L. offered many packages to Applicant in view of precarious position of the Applicant. Shri Goenka submitted that a payment scheme as laid down in exhibit 1 (Record page 14) should be treated as agreed terms and in result an agreement. This argument can not be accepted that this letter of C.E.(Comm) to the S.E., laying down the scheme for payment as per the approval of the Competent Authority. The non-Applicants have rightly submitted that Applicant has never paid the current bills on due dates. Applicant was in total arrears of Rs. 57.38 crores at the time of provision of bulk discount which came into force in May,2000. The Applicant has also given an undertaking to the D.L. that they shall not claim the bulk discount as per MERC's order from Sept,2001 onwards. The Applicant alleged that this undertaking was given under compulsion of the D.L. This argument can-not be accepted as there is no evidence on record to establish and show the compulsion made by the D.L. to Applicant. Applicant is a very big reputed company and any force or compulsion exercised by the D.L. on it can not be understood. It has been clearly laid down in the tariff order dtd. 1.5.2000 that the consumer has availed T.O.D. and has no dispute arrears with the Board

subject to maximum rebate of 5%. This tariff order gives bulk discount concession to the consumer on the condition of no dispute arrears with the Board. In the present case it has been found that Applicant was continuously in arrears. The Applicant have specifically admitted in their letter dtd. 12/4/2001 (Record page 93-94) that the Company had an arrears of around Rs. 88.00 crores in March,98 out of which payment have been made to the tune of Rs. 64.00 crores. The present principle arrears is Rs. 24.24 crores and accrued interest is around Rs. 31.65 Crores. The Applicant agreed with the Chairman , MSEB as discussed to make payment of Rs. 1.50 crores per month towards arrears from April,2001 . This demand on the part of Applicant negativates its claim for the bulk discount. The Commission has further laid down that after attaining normal status , the petitioner shall be granted bulk discount incentives subject to fulfillment the general terms and conditions of availing such incentives as prescribed by the Commission in its tariff order dtd. 5.5.2000 and subsequent clarificatory order dtd. 23.10.2000 which are presently in force. Thus this order is subject to attaining of normal status and fulfilling the general terms and conditions of availing such incentives as prescribed by the Commission. In light of this direction of the Commission in the order dtd.4.9.2001, the question arises whether the applicant attained the normal status and followed the terms and conditions as prescribed by the Commission? The perusal of the record shows that Applicant never attained the normal status as he was found in arrears. The non-Applicants have rightly submitted that the bulk discount has not been given to the consumer from Aug,2001 to Dec,2001 for not following the agreed terms and conditions for payment of arrears from 1.1.2000 to 2003 as consumer was not eligible for bulk discount as per the tariff order provisions. The Forum agrees with the submission of the non-applicants . The Applicant was certainly entitled for bulk discount provided he followed the directives as given by the Commission in the order date. 4.9.2001. Applicant can-not merely rely on the term bulk discount. The bulk discount incentives are given subject to fulfillment of payment terms as agreed with MSEB. The Applicant never approached for a formal agreement on Rs. 50/- stamp paper for settlement of the terms. On the other hand, the D.L. obliged the Applicant by giving different packages as there was no formal agreement between them. It is also seen from the record that the D.L. gave the bulk discount of Rs. 3.89 ,66,275.84 (N.A. exhibit 6 , Record page 113). So whenever the Applicant was entitled for bulk discount , the D.L. gave the same to it.

13) The C.E.(Comm) in his letter dtd. 17.4.2001 (N.A.Exhibit 7, Record page 114) mentioned that after detailed discussion with Shri Mukesh Gupta Chairman on 12.9.,2001, the terms about payment of amount due in Aug,2001 have been accepted by the Competent Authority. It shows the payment due in Aug,2001 as Rs. 7.21 crores. It has been clearly mentioned in this letter that provisional adjustment towards bulk discount which can be

allowed subject to fulfillment of terms and conditions of MERC order dated 4/9/2001. This letter clearly shows that the D.L. wanted to follow the directives of M.E.R.C. subject to fulfillment of the terms and conditions of the MERC order. It is also pertinent to note that Shri Mukesh Gupta discussed the matter with Chairman on 12/9/2001 and payment of amount due has been accepted by him. If he wants to seek the relief under MERC order, then why separate discussion with Chairman on 12/9/2001 ? It also shows in letter dated 17/9/2001 (N.A. Exhibit 7 , Record page 114) that the D.L. has given him full cooperation and suitable concessions in payment of the arrears and current bills. This letter was addressed by the C.E. (Comm) to Applicant. In the endorsement of this letter, the CE (Comm) specifically directed the C.E., N.Z., MSEB, Nagpur that the position of arrears may be brought to MERC's notice that in their opinion the consumer should be entitled to bulk discount only when he has cleared all arrears including interest. Only then the consumer can be said to have attained "Normal Status" referred to para 18 of MERC order date. 4.9.2001 . The Applicant wants the benefit of bulk discount for the period March,2002 to May 2004. The Applicant sought the relief for availing bulk discount in the bills raised by then MSEB from 1.5.2000 onwards in terms of tariff order of the Commission dated 5/5/2000 . Though the Applicant had not attained the normal status and , it failed to fulfill the payment terms as agreed with the D.L. Applicant was in arrears and defaulter in payment how he can claim the benefit for the period March,2002 to May,2004 ? If he had fulfilled the directives of MERC as per order date. 4.9.2001 then only he can venture to claim the discount. Whenever he was entitled for the bulk discount, the D.L.obliged him by giving bulk discount to the tune of crores of Rupees. Applicant admitted in the letter date. 8/9/2001 (N.A. exhibit 8 - Record page 117) about the past arrears installment of Jul,2001 bill which has gone in arrears.. The total arrears payable in Aug,2001 were Rs. 7.21 crores. Applicant admitted in its letter that they were surviving due to pragmatic approach of the major supplier like MSEB. In the tariff order dated 1.1.2002 it has been specifically mentioned that if the consumption of any H.T. industrial consumer , never in arrears with the Board exceeds 1 million units per month, he will be entitled for bulk discount. In the instant case, Applicant was in arrears for the period March,2000 onwards, how can he claim bulk discount? Moreover in clause IIIrd of para 18 of the order dated 4.9.2001 of the Commission , it has been laid down that the bulk discount incentives availed off will be adjusted towards settlement of existing arrears so as to facilitate the normalization of the petitioner with respect to their liability towards MSEB within one year i.e. Sept,2002. This condition is also not fulfilled by the Applicant and he has not become normal. Thus their claim about bulk discount amounting to Rs. more than 5.5 crores is baseless and cannot be accepted .

14) The D.L. had made it clear in their submission before the MERC (Para 15, order date. 4.9.2001), if Applicant wants to avail of bulk discount , it has to become normal consumer and make payment as per MERC order. No doubt , the commission had taken into consideration the critical nature in which the Applicant was found calls for suitable support from the MSEB . The papers on record clearly show that the D.L. had definitely taken into consideration the critical financial position of the Applicant and, therefore, given packages at various stages. It means, the D.L. had given full cooperation and help to Applicant in respect of payment of the current bills and the arrears. On one hand Applicant is seeking help and cooperation from the D.L. and on the other hand agitating about the bulk discount for which he is not entitled, in view of the directions of the MERC order dtd. 4.9.2001.

15) Office of A.G.(Comm.. Audit) Mumbai had raised a para “ Irregular discount to H.T. consumer” (N.A. Exhibit 19 , Record pages 152-154). It has been specifically laid down in the audit para that the Board (MSEB) paid Rs. 3.18 Crores as bulk discount for the period May,2000 to Aug,2001. Granting of bulk discount was not in order as payments were not made within the stipulated period and , therefore, Board (MSEB) suffered a loss of Rs. 3.18 Crores due to irregular discount allowed to consumer. It made it clear that the D.L. was giving bulk discount to Applicant whenever he was found well in terms of the tariff order. It is for the D.L. to give suitable reply on this audit para but the emphasis of the Forum is on the fact that D.L. was giving benefit of bulk discount to Applicant. When Applicant was not found in terms of MERC’s order and tariff order, the bulk discount was not given for the period Mar,2002 to 2004. The non-applicants have given the statement about the position of arrears and current bills and payment thereof for the period April,98 to Jul,2001. This statement shows the total arrears more that Rs. 60.00 crores for the period April,98 to Jul,2001,.

16) Shri R.B.Goenka argued that there is no change in the order of the Commission about bulk discount right from 2000 to 2003. This has been contested by the non-applicants. They submitted that from the provisions relating to bulk discount in various orders given by the MERC, it is clearly evident that there was change in the eligibility criteria since first tariff order dated. 5.5.2000 till the clarificatory order dated 10/3/2004 (record page 77) . The non-applicants have also brought out the changes made in the tariff order from 2000 to Sept,2003. This tariff order made it clear that the rebate of 1% of the energy bills was given to the industrial consumers provided the bill is paid within 7 days days from the date of bill or 5 days from the receipt of the bill by the consumer. The non-applicants have rightly submitted that from the date 1.1.2002, the new tariff order of the Commission came into effect. As per this order the bulk discount was given only if the consumer was never in arrears with the MSEB and, therefore, the question of giving bulk discount to Applicant was out of question.

As the order dated 4.9.2001 clearly mentions in the condition No. IV that in the event of any change in tariff order in future, the relevant provision for availing such bulk discount incentives shall become applicable. The D.L. has not only given the bulk discount to Applicant but they have also waived the delay payment charges amounting Rs. 1,54,72,170.52 and interest on D.P.C. Rs. 24,69,543.95 . The D.L. was ready to allow Applicant to avail the bulk discount facility after other conditions for eligibility were fulfilled by it. In the instant case, the other conditions of eligibility as laid down in relevant order of the Commission, the bulk discount was not allowed to Applicant.

17) Applicant alleged that it was desperate to obtain withdrawal of disconnection notice and the D.L. took advantage of vulnerable position of the Applicant and obtained an undertaking dtd. 29.9.2001, that Applicant will not claim bulk discount in future, which is against the order dated 4.9.2001 of the Commission and also against the tariff order. This allegation can-not be accepted as it is on a written note (Record page 23) signed by the Dy.G.M. on 29.9.2001 . It has already been observed that nothing is found on record about any coercion or compulsion by the non-applicants about the undertaking. The main emphasis of Applicant is on order dated 4.9.2001 of the Commission and the allegation that the D.L. failed to follow the directives of this order.

18) The Forum find no substance in this submission and allegation on the ground that Applicant itself failed to fulfill the terms and conditions as laid down in Para 18 of the above order. It is nowhere seen on the record that Applicant tried for an agreement on the stamp paper of Rs. 50/- . It was the duty of Applicant to approach for the agreement but he failed. Even though there was no formal agreement between the parties, the D.L. gave facilities and concessions about payment of the arrears and current bills. The Applicant itself admitted in its correspondence about the help and cooperation shown by the D.L.

19) Shri M.G.Deodhar opined that spirit of order of the MERC should be taken into consideration that in view of the critical nature in which Applicant found itself and the Commission directed for suitable support from the MSEB. The Forum would have agreed with Shri M.G.Deodhar provided the Applicant fulfilled the payment terms and attained the normal status. The Commission itself had laid down the conditions about the payment and attaining normal status. When we look after the critical financial position of the Applicant , at the same time , the Forum has to look into the financial position of the public authority i.e. M.S.E.D.C.L.. The concession and packages are given just to help and cooperate with the Applicant. Thus the majority do not agree with Shri Deodhar on this count.

20) It is seen from the letter dated 20/10/2005 (Exhibit 10 Record page 32) that the Recovery Committee of MSEB did not consider the request for grant of bulk discount from Aug,2000 to 2003. It means, Applicant made a request for relief in payment for extending

bulk discount facility. It has also been made clear in this letter if the consumer has paid current bills within due date and the payment of installment of arrears are delayed in respect of package date. 20/3/2002 then the D.P.C. is not to be charged. If D.P.C. is charged, it is to be waived. In their comments on Applicant's application dated 29/10/2005, in case of 2001 presented to MERC, the D.L. rightly made it clear that it was emphatically denied that the petitioner was compelled to give an undertaking dated 29.9.2001 as alleged. The Applicant shall become a normal consumer after about one year i.e. after payment of arrears which were found Rs. 18 crores as on 10/8/2001 at Rs. 1.5 crores per month as agreed. The credit of bulk discount was passed on to the consumer upto Aug,2001 and credit was found on Sept,2001 for Rs. 2.58 crores. It is also clear from the record that the first package date. 17.9.2001 was not followed by the Applicant and, therefore, disconnection notice was served to consumer by the D.L. In these circumstances and discussion, Shri Mukesh Gupta gave undertaking. As per the tariff order dated 1.1.2002 the bulk discount was to be given only if the consumer was not falling in arrears with the Board. The Applicant did not pay the bills of Jan,2002 and Feb,2002 it resulted into disconnection of supply on 11.3.2002. In the meeting dated. 2.3.2002, a fresh package dated 20.3.2002 was agreed to by the Applicant and the D.L. It is also clear from the record that Applicant has not followed the package as agreed to. Thus Applicant was not following the packages and in arrears eventhough he is claiming for the discount in terms of order dated 4.9.2001 of the Commission. The Forum can-not allow bulk discount as the terms and conditions are not fulfilled by Applicant. The D.L. has not withdrawn the reliefs in the form of packages and concession to Applicant even on failure to comply the said packages.

21) Applicant has produced the details of eligible amount for bulk discount incentive from Mar,2002 to May,2004 (Exhibit 19- Record page 64). In this statement the details have been given about the payment of current bills, arrears payment and amount of bulk discount to be allowed. Applicant has also produced the details monthwise for which no bulk discount has been claimed by Applicant from March,2002 onwards(exhibit 19A - Record page 65) . This amount comes to Rs. 2,61,53,717/- This shows that Applicant wants the bulk discount for the period March,2000 to May2004 on the basis of order of the Commission. The question arises before the Forum whether Applicant has followed mandate of the order dtd. 4.9.2001 ? It is certainly seen that Applicant has not followed the mandate of the order and he was in arrears, how can he claim the bulk discount for the future period ? Once he has not fulfilled the mandate of the order of the Commission, he is not entitled for bulk discount for the future period in light of the tariff order of 2002 and 2003. The non-applicants have given a statement about deferment of payment and installment packages agreed to by Applicant (N.A.Exhibit 1) It is seen from the packages that in all 11 packages were given to Applicant

from 27/3/2001 to 24.10.2002 . These packages were given by the D.L. with bonafide intention about the clearance of the arrears and the current bills . When Applicant is relying upon the order dated 4.9.2001 why he accepted the packages for getting concession from the D.L ? But at the same time he is seeking the benefit of bulk discount at the defiance of mandate of the order. This dual concession can-not be given to Applicant. Applicant is not entitled for any bulk discount for the period from Mar,2002 to May,2004 .

22) His request about the due credit for the amount more than Rs. 5.50 crores can-not be provided on the day on which the Applicant was entitled for the same and the interest calculation on the reasons that the bulk discount demand is not accepted by the Forum and, therefore, the question of due credit for this amount does not arise?

23) With above observations, the Forum find that the present application needs to be rejected . Thus the following order :

- 1) Application is rejected.
- 2) The demand for bulk discount of Rs. 5,50,62,258/- is rejected .
- 3) The demand for due credit of the above amount in the account of the Applicant is rejected.
- 4) There is no order as to cost.

CHAIRMAN

MEMBER

MEMBER/SECY

CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L.(NAGPUR ZONE – RURAL)NAGPUR

-oOo-

CGRF/NZ/R/ 117

Date:: 23rd June,2006

Certified that this is the true and correct copy of the above order.

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

Copy to:

1. M/S. Lloyds Steel Industries Ltd., Bhugaon, Dist-Wardha, for information .
2. The Chief Engineer, Nagpur Zone (Rural)MSEDCL, Nagpur.
3. The Exe.Engineer/N.O., O&M Circle Office, MSEDCL.Wardha, --
for information and necessary action. .
4. The E.E., C.C.O&M Dn., MSEDCL, Wardha for information and necessary action.

Address of the Ombudsman is given as below.

Office of - The Ombudsman,
Maharashtra Electricity Regulatory Commission,
606-608, Keshava Building,
Bandra-Kurla complex,
MUMBAI- 400 051

TEL.- 022 - 26592965 (Direct)
022 - 26590339 (Office)