

**Maharashtra State Electricity Distribution Co. Ltd.'s  
Consumer Grievance Redressal Forum  
Nagpur Urban Zone, Nagpur**

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**Case No. CGRF(NUZ)/0116/2006**

- Applicant : M/s. National Tyres  
At. Kapsi Kh. (Jinsi)  
Bhandara Road, Post. Bhandewadi,  
Dist. Nagpur.
- Non-Applicant : The Nodal Officer-  
O & M Division-I,  
Nagpur representing the MSEDCL.
- Quorum Present : 1) Shri S.D. Jahagirdar,  
Chairman,  
Consumer Grievance Redressal  
Forum,  
Nagpur Urban Zone,  
Nagpur.
- 2) Smt. Gouri Chandrayan,  
Member,  
Consumer Grievance Redressal  
Forum,  
Nagpur Urban Zone,  
Nagpur.
- 3) Shri M.S. Shrisat  
Exe. Engr. & Member Secretary,  
Consumer Grievance Redressal Forum,  
NUZ, MSEDCL, Nagpur.

**ORDER (Passed on 25.04.2006)**

The present grievance application is filed on 31.03.2006 under Regulation 6.3 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance

Redressal Forum & Ombudsman) Regulations, 2003 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of charging him erroneous amount of Rs. 36,870/- towards load extension which is subsequently reduced to Rs. 23,130/-. The applicant has also requested for refund of a total amount of Rs.61,860/- wrongly charged to him w.e.f. 01.12.2003 against the provisions contained in the MSEB's (now MSEDCL) new tariff booklet and also for award of compensation of Rs.10,000/- towards mental agony caused to him because of the wrongful action of the non-applicant.

The applicant had earlier filed his complaint application, being application dated 19.11.2005 addressed to the Chief Engineer, NUZ, MSEDCL, Nagpur and Superintending Engineer, NRC, MSEDCL, Katol Road, Nagpur complaining therein about the erroneous energy bill amounting to Rs. 36,870/- dated 15.10.2005 issued by the Assistant Engineer, O&M S/Dn. MSEDCL, Mouda and requested them to withdraw the un-lawful recovery of Rs.36,870/-. This bill was issued as per the Flying Squad's inspection report dated 28.02.2005 in respect of service connection no. 41138001954. No satisfactory remedy was provided to the applicant and hence the present grievance application.

The requirement of the applicant approaching the Internal Grievance Redressal Unit under the said Regulations is dispensed with since he had already approached the Chief Engineer & the Superintending Engineer and because his

complaint application was not forwarded to the Internal Grievance Redressal Unit for disposal by them neither any remedy was provided by them. Such a dispensation is also confirmed by MERC.

The facts of the case, in brief, are as under:-

The Flying Squad inspected the premises of the applicant on 03.12.2004 and checked the applicant's service connection no. 411380001954. The Flying Squad noticed that the applicant's connected load was more than his sanctioned load of 45 HP. Assessment of Rs. 36,870/- was, thereupon, worked out by the Dy. Exe. Engineer, Flying Squad, Rural, MSEB, Nagpur. This came to be reported to the Assistant Engineer O & M S/Dn., Mouda by the Flying Squad by its report dated 25.02.2005. Accordingly, the Assistant Engineer issued energy bill amounting to Rs. 36,870/- to the applicant on 15.10.2005 quoting therein consumer no. 41138000971. A notice was also given to the applicant, being notice no. 1380 dated 15.10.2005, asking the applicant to pay this amount within seven days failing which the applicant's power supply would be permanently disconnected. The billing authority, namely, the Assistant Engineer, O & M S/Dn., MSEDCL, Mouda by his letter, being letter no. 2129 dated 22.12.2005 addressed to the applicant, again informed him that the aforesaid amount of Rs.36,870/- should be paid immediately failing which his power supply would be disconnected and legal action would be taken against him. The energy bill dated 09.12.2005 was also attached to this covering letter. This bill indicates that the un-authorized load extended by the

applicant was 11.5 HP against consumer no. 4113868001954. The applicant wrote to the Chief Engineer and Superintending Engineer on 19.11.2005 and strongly protested the recovery of the assessed amount and also the Flying Squad's report. The Assistant Engineer C.C. O&M S/Dn., Mouda finally intimated the applicant by his letter, being letter no. 246 dated 09.03.2006, asking him to pay a revised amount of Rs. 29,130/- for the un-authorized extension of load towards fixed charges and additional security deposit. Energy bill dated 24.02.2006 was attached to this letter wherein the consumer no. of the applicant is shown as 4110001934. Thus, the non-applicant is claiming assessment amount of Rs. 29,130/- from the applicant towards un-authorized extension of load. The applicant has strongly disputed the revised assessment also. Since no satisfactory remedy was provided to him, being aggrieved by the wrongful action of the non-applicant, he filed the present grievance application before this Forum.

The matter was heard by us on 18.04.2006.

The applicant's case was presented before us by its nominated representative one Shri D.D. Dave.

A copy of the parawise report dated 17.04.2006 furnished by the non-applicant in terms of said Regulations was also given to the applicant's representative on 18.04.2006 before the case was taken up for hearing and he was given opportunity to offer his say on this parawise report also.

The applicant's representative has strongly contended that the non-applicant has not provided any details as to how the revised assessment of Rs. 29,130/- was arrived

at. He added that three different consumer numbers have been shown on the demand bills pertaining to the applicant in this connection. They are consumer numbers 411380001954, 411380000971 and 41386001954.

He further submitted that the non-applicant has by passed the MERC's order dated 01.12.2003 wherein the billing tariff has been made applicable w.e.f. 01.12.2003. He has produced a copy of this Tariff Order in support of his say.

Relying on this tariff order, it is his strong contention that irrespective of the quantum of sanctioned load, the non-applicant did not measure the actual power drawn by the applicant's connection for billing purposes. It was a duty cast upon the billing authority to let the consumer know how the billing amount was calculated.

According to him, the non-applicant's action has violated the MERC's Tariff Order in as much as the applicant was charged on the basis of connected load or physical verification without measuring the actual drawal of power. According to him, no data is available with the non-applicant to indicate as to the quantum of power actually drawn & used by the applicant at the relevant time. In this regard, he relied upon the Chief Engineer (Commercial) H.O. MSEDCL, Mumbai's Circular No. PR 3 / Tariff /011704 dated 16.04.2005 and Circular No. PR 3 / Tariff /30157 dated 21.09.2005 copies of which are produced on record by him.

He also contended that the amount of fixed charges and penalties levied upon the applicant are totally violative of the MERC's Tariff Order.

He has also claimed refund of a total of Rs.61,860/- wrongly charged to him from 01.12.2003 till March, 2006. He has given details of this amount in his written submission. Not only this, but he has also claimed refund of this amount alongwith interest at the rate of 12% per annum.

The non-applicant, on his part, has stated in his parawise report that an assessment bill for Rs. 36,870/- was issued to the applicant based on the Flying Squad's inspection report dated 25.02.2005. This bill was issued on 15.10.2005. Subsequently, this bill amount was revised to Rs. 23,830/- considering extension of load of 5.50 HP and 11.5 HP on different dates. This revised bill was issued on 03.12.2004. He has lastly prayed that action taken by him is not without any basis.

We have carefully gone through the record of the case, documents produced on record by both the parties as well as all submissions, written & oral, made before us by both of them.

The basic point to be considered in the context of the applicant's grievance is whether the assessment carried out by the non-applicant towards extension of load in this case is in tune with the MERC's Tariff Order which came into effect from 01.12.2003. It is regrettably noted by us that there is no submission from the side of the Nodal Officer of the non-applicant Company on this crucial point. What is only said by the Nodal Officer is that the revised assessment of Rs. 29,130/- was worked out based on the Flying Squad's inspection report.

It is an un-disputed fact that LT MD meter has not been installed in the applicant's Unit which ought to have been done by the non-applicant in the long past as per MERC's Order.

In the absence of LT MD meter, it is not possible to know the actual drawal of power by the applicant. It has been laid down very clearly in the Tariff Order that in case of drawal of load exceeding the sanctioned load it should be measured by the MD meter and the consumer shall be billed on the basic of the actual drawal of power and he shall be penalized on the un-authorized extension of load beyond the sanctioned load at double the rate of demand charges applicable to MD based tariff to General Motive Power consumers and non-domestic consumers at rates prevailing from time to time. Demand charges at the rate of Rs. 60/- per H.P. per month for 50% of the sanctioned load are to be charged as laid down in the tariff order for LTPG motive power in case the actual drawal of power is measured by the LTMD meter.

The Chief Engineer's, (Commercial) Circular no. 9 dated 21.09.2005 also makes it clear that the MERC's Tariff Order dated 10<sup>th</sup> June, 2002 has recommended that all consumers particularly LT General Motive Power consumer category and LT commercial category (opting for MD based tariff ) having load more than 20 KW shall be provided with MD based TOD meters. This circular further states that instructions have been issued to the field Officers that no consumer irrespective of the quantum of sanctioned load and

whether the energy consumed is being recorded by the LTMD meter or conventional single phase / three phase be penalized for un-authorized connected load on the basis of physical verification.

The sum and substance of the MERC's tariff order and that of the Chief Engineer's (Commercial) circular is that fixed charges are to be levied against a consumer on the basis of actual drawal of power minus the sanctioned load.

Charging the applicant on the basis of connected load method or physical verification method in the present case is totally violative of the MERC's tariff order.

We had asked the officers present from the non-applicant's side during the course of hearing to comment upon the applicant's representative's submissions with reference to applicability of the MERC's tariff order and also as to the basis on which the assessment in question has been worked out. They admitted that working out of disputed assessment was done on the basic of connected load and that it was not arrived at on the basis of actual drawal of power.

The non-applicant also does not possess any data indicating actual drawal of power by the applicant's Unit at the relevant time obviously because of non-installation of MD based TOD meter.

It is also true that three different consumers numbers were indicated in three demand bills served upon the applicant as rightly contended by the applicant's representative. This is clear from the copies of the bills produced by the applicant. There is not even an iota of any



plausible explanation forth-coming from the non-applicant's side either in his written statement or in the oral submissions made before us in this regard.

It is pertinent to make a mention here of the MERC's order dated 14.07.2005 passed in Case No. 2 of 2003 in the matter of Non-compliance of Tariff Order direction by MSEB regarding installation of meter, violation of connected load, power factor norms by LTPG consumers, etc.

The MERC in this order in para 33 (e) thereof has laid down clear guidelines in the matter of working out of assessment for violations which would differ depending on the period of occurrence and its corresponding tariff and loads. They are as under:

- 1) Period prior to 10<sup>th</sup> June, 2003 (i.e. prior to Electricity Act, 2003): As per Clause 31 (e) of MSEB's Conditions of Supply.
- 2) Period from 10<sup>th</sup> June, 2003 to 30<sup>th</sup> November, 2003: One and a half times the normal tariff for the load exceeding the sanctioned load, measured by connected load method.
- 3) Period from 1<sup>st</sup> December, 2003 onwards: If exceeding the sanctioned load has been measured by maximum demand recorded by meter, then two times the tariff applicable for the exceeded portion of the load (maximum demand minus sanctioned load). No penalty will be applicable if exceeding of sanctioned load is claimed on the basis of connected load method.

- 4) The MSEB shall refund any amounts collected on account of invocation of Connected Load Power Factor penalty not in line with this dispensation to the concerned consumers alongwith interest at the rate applied by MSEB to their consumers from the date of collection till the date of refund.

This MERC's order fully supports the applicant's claim of waiver of assessed amount of Rs. 29,130/-.

In the result, the contentions raised by the applicant's representative in respect of the disputed assessment of Rs. 29,130/- deserve to be accepted in totality since they have the full support of the MERC's Tariff Order and the CE's (Commercial) Circular.

The present applicant by his complaint dated 19.11.2005 addressed to the Chief Engineer and Superintending Engineer had requested to withdraw un-lawful recovery of the assessment amount of Rs.36,870/-. This is the only issue raised by him before the non-applicant originally. It is in this context that we feel that this Forum should confine its decision only to the applicant's grievance pertaining to the un-lawful recovery of revised amount of Rs.29,130/- charged to him erroneously. There is no doubt that the applicant has made out a sound case for waiving of this amount. However, the applicant in his grievance application has also sought additional relief from this Forum in respect of refund of amount of Rs. 61,860/- towards wrong billing w.e.f.

01.12.2003. This item of relief was never agitated before the appropriate authority of the non-applicant in the past. This is, therefore, altogether a new item of relief made before this Forum for the first time. The intimation dated 19.11.2005 given to the Distribution Licensee by the applicant pertains only to the erroneous assessment bill of Rs. 36,870/-. No where the applicant has raised his grievances about wrong billing w.e.f. 01.12.2003 before the appropriate authority of the non-applicant Company. It will not therefore be appropriate on our part to entertain the request of the applicant to set right the allegedly wrong billing of the non-applicant w.e.f. 01.12.2003.

Hence the only relief that is permissible, according to us, is the withdrawal of assessment charges of Rs.29,130/- wrongly charged to the applicant. In that, we direct the non-applicant to revoke the assessment bill of Rs.29,130/-.

The request of the applicant to allow interest at the rate of 12% on the ground that the non-applicant had made a contempt of the MERC's is rejected by us we do not see any element of wilful deviation of the MERC's order by the non-applicant.

Since the applicant's power supply was not disconnected at any point of time, his request for payment of compensation does not also deserve any consideration. His request on this point is, therefore, rejected.

In the result, the grievance applicant stands disposed of accordingly.

The non-applicant shall report compliance of this order to this Forum on or before 31.05.2006.

Sd/-	Sd/-	Sd/-
(M.S. Shrisat)	(Smt. Gouri Chandrayan)	(S.D. Jahagirdar)
Member-Secretary	Member	CHAIRMAN

**CONSUMER GRIEVANCE REDRESSAL FORUM  
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's  
NAGPUR URBAN ZONE, NAGPUR**

**Chairman  
Consumer Grievance Redressal Forum,  
Maharashtra State Electricity Distribution Co.Ltd.,  
Nagpur Urban Zone, NAGPUR**