

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

Case No. CGRF(NUZ)/039/2008

Applicant : M/s. Vaibhav Plastomoulds Pvt. Ltd.,
At, J-2, M.I.D.C. Hingna Road,
NAGPUR.

Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
MIDC Division, NUZ,
Nagpur.

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 S.J. Bhargawa
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 26.08.2008)

This grievance application is filed on 03.07.2008
under Regulation 6.4 of the Maharashtra Electricity
Regulatory Commission (Consumer Grievance Redressal

Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of allegedly illegal recovery of meter cost and fixed connection charges while sanctioning of power supply to the applicant at 11KV vide S.E. NUC MSEDCL, Nagpur's sanction order bearing no. 1444 dated 28.06.2005. His grievance is also in respect of erroneous recovery of service connection charges amounting to Rs.1,75,000/- in respect of sanctioning of increased contract demand of 100 KVA / increased connected load of 120 KW vide S.E. NUC, Nagpur's sanction order bearing no. 509 dated 08.08.2007.

The applicant has requested to refund the meter cost and fixed connection charges of Rs.11,000/- and Rs.30,000/- respectively erroneously charged to him while sanctioning his fresh power supply and also refund of amount of Rs.1,75,000/- wrongly recovered from him as service connection charges while sanctioning the additional load with interest.

Before approaching this Forum, the applicant had filed his complaint on the same subject-matter on 01.04.2008 before the Internal Grievance Redressal Cell (in short, the Cell) under the said Regulations. The Cell, upon inquiry and hearing, informed the applicant by its letter, being letter no. 3841 dated 25.06.2008, that service connection charges of Rs.1,75,000/- and security deposit amount of Rs.97,500/- were charged correctly since the work involved for release of additional load was in respect of installation of C.T. of 50-5 Amp and that it was in tune with the schedule of charges

approved by the Maharashtra Electricity Regulatory Commission (in short, the Commission) vide its order dated 08.09.2006 passed in case no. 70/2005. It is against this order of the Cell that the applicant has filed the present grievance application since he is not satisfied with the Cell's order.

The matter was heard on 08.08.2008 and 21.08.2007.

The applicant's case was presented before this Forum by his nominated representative one Shri Ashok Parad while Shri Fulkar, Executive Engineer, MIDC Dn., and Shri S.B. Kamble A.E. H.T. NUC represented the non-applicant Company's case.

The applicant's representative contended that the date of connection of the applicant's unit is 04.01.2006. His fresh power supply at 11 KV was sanctioned by the S.E., NUC vide his sanction order no. 1444 Dated 28.06.2005 and the applicant was asked to make a total payment of Rs.2,06,450/- including fixed service connection of Rs.30,000/- and meter cost of Rs.11,000/-. The work was carried out by the consumer under 15% Outright Contribution Scheme through a Licensed Electrical Contractor. Connected load of 220 KW and contract demand of 200KVA was sanctioned that time. According to him, the service connection charges demanded that time by the Superintending Engineer are illogical as the applicant was already charged 15% supervision charges under ORC work. It is his strong submission that the meter cost and fixed service connection charges respectively of Rs.11,000/- and Rs. 30,000/- charged and recovered from the applicant were illegal and this recovery was not in tune with Commission's directives given

under its order 08.09.2006 in case no. 70/2005. He, therefore, requested that these two amounts may be refunded to the applicant alongwith interest.

As regards his second grievance of recovery of service of connection charges amounting to Rs.1,75,000/- at the time of sanctioning enhancement of his load vide SE's order dated 08.08.2007, he stated that this recovery is violative of the Commission's order passed on 08.09.2006 for case no. 70 / 2005. Since the applicant was urgently in need of power, he had paid the service connection charges of Rs.1,75,000/- alongwith security deposit of Rs.97,500/- on 01.11.2007 and accordingly, his additional load of 120 KW, contract demand of 100 KVA came to be sanctioned by the Superintending Engineer.

He continued to submit that the MSEDCL's MIDC area in Nagpur is completely a overhead system. Mere laying of cable from overheard line DP structure to the consumer's HT metering cubicle which is Indoor type installed Outdoor does not mean that his supply has been sanctioned through underground connection. Hence, the charges recovered holding that the applicant's connection is an underground connection are totally baseless and illogical. While sanctioning additional load to the applicant, no infrastructure changes are made. Only higher ratio CT is installed in place of the previous CT. The non-applicant, therefore, ought to have recovered only reasonable charges in respect of replacement of CT and credit for old CT should also have been given. Such reasonable charges are recoverable as laid down in the Electricity Act, 2003 and the MERC (Electricity Supply Code and Other

Conditions of Supply) Regulations,2005 (in short, the Supply Code Regulations) vide Regulations 3.3.1, 3.3.2, 3.3.3 and 3.3.4. He further stated that the applicant is ready to bear the reasonable and proportionate charges for the replaced higher ratio CT alongwith relevant credit for Old CT. He has alternatively submitted in his written submission that the service connection charges meant for overhead connection as per annexure-II appended to the Commission's order dated 08.09.2006 may be recovered from the applicant. The Commission has approved service connection charges of Rs.15,000/- for new overhead connection.

He, therefore, requested that the amount of Rs.1,75,000/- recovered from the applicant in violation of the Commission's orders for sanctioning the additional load may be refunded to the applicant alongwith interest.

The non-applicant has submitted his parawise report which is on record. A copy of this report was given to the applicant and he was given opportunity to offer his say on this report. There is also a rejoinder, being rejoinder dated 21.08.2008 submitted by the non-applicant and a copy this was also given to the applicant for his comments thereon.

The non-applicant has submitted that the applicant is a HT consumer connected on 04.01.2006 having connected load of 220 KW and contract demand of 200KVA. The sanctioning of supply entailed execution of works which were carried out by the applicant for laying HT line on payment of 15% supervision charges. According to him, there is nothing wrong in recovering total charges of Rs.2,06,450/- including fixed connection charges of Rs.30,000/- also cost of

meter of Rs.11,000/-. According to him, the applicant's grievance is without any basis. The applicant has also paid the demand note amount in full without any protest and his supply was accordingly released on 04.01.2006.

As regards the applicant's grievance of illegal recovery of normative charges of Rs.1,75,000/- while sanctioning additional load to him vide the SE's order dated 08.08.2007, he submitted that the order is in tune Commission's order dated 08.09.2006 passed in case no. 70/2005 read with annexure-II appended thereto.

He added that the Commission has stated in the footnote below Annexure-II that in case of extension of load, the normative charges will be applicable on the total load (existing as well as additional load demanded) as per load slabs indicated in the annexure - II. The applicant's existing contract demand was 200 KVA and the applicant applied for additional contract demand of 100 KVA. Hence, the total load was 300 KVA which was below 500 KVA and as such, the normative charges of Rs. 1,75,000/- were correctly charged. The applicant's request for refund of this amount is without any basis. He has paid this amount at the time of sanctioning additional load without any protest. After having paid the amount and having extended his load, the applicant is now requesting for refund of this amount which is not correct and proper.

The non-applicant has referred to this Forum's order passed in case no. 42/2005 in respect of consumer M/s. AMA Enterprises in which the Forum has held that the MSEDCL was not authorized to recover the cost of metering

arrangement including cubicle & HT cable and that MSEDCL cannot recover any cost for replacement of existing metering arrangement in the event of extension of load. The Forum also ordered refund of penalty amount of Rs.49,500/- in this case for exceeding the contract demand. He further stated that MSEDCL has approached the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, Nagpur against this order vide writ petition no. 6316/2005 and the Hon. High Court has granted stay in this matter. He added that the question involved in the writ petition and the one in the applicant's grievance in the present case is also one and the same and as such, the applicant's request may be disallowed till the outcome of the aforementioned writ petition.

On the point whether the applicant's power connection is underground or overhead, the non-applicant has stated that the applicant's contention raised in this respect is without any basis. For sanctioning power supply to the applicant, an underground cable from the nearest point of distributing main to the point of supply was laid at the time of sanctioning fresh supply to the applicant. He has strongly denied the applicant's contention that the supply is not extended through an underground connection.

In reply, the applicant's representative has stated that the non-applicant is diverting the Forum's attention with an intention to delay the refund of the amount by wrongly citing the case of M/s. AMA Enterprises. The Forum's order was issued in this case prior to the order passed by the Commission on 08.09.2006 and hence, the reference cited by the non-applicant should not be considered. Moreover,

according to him, the facts involved in this case are not similar to those of the applicant's present case.

He has also referred to the order dated 10.08.2006 issued by the Superintending Engineer, TQA Kolhapur on the subject of guidelines for fixing point of supply in respect of HT consumers and brought to our notice that the Superintending Engineer has clearly stated in item no. (6) of this order that in-coming HT cable be brought upto HT cubicle through open cubicle trench and the same should not be buried in ground so that it should be visible for inspection. This means that the applicant's connection was not strictly underground.

The applicant's first grievance is in respect of illegal recovery of the meter cost and the service connection charges at the time of sanctioning fresh power supply on 11 KV vide SE's order dated 28.06.2005. In this respect, this Forum observes that the applicant had applied to the non-applicant on 07.06.2005 for getting fresh power supply at 11KV. Accordingly, this supply was sanctioned by SE on 28.06.2005 and the applicant had paid the total amount of Rs.2,06,450/- and accordingly, the supply was connected on 04.01.2006. The fact on record makes it amply clear that the applicant paid this amount and got his supply on 04.01.2006. After getting the power connection sanctioned, the applicant has never before made any grievance in respect of allegedly illegal recovery of the total demand note amount for a period of more than two years. It is for the first time that the applicant has made a grievance against the SE's order dated 28.06.2005 before this Forum on 03.07.2008. As laid down in Regulation 6.6 of the said Regulations, the Forum shall not admit any

grievance unless it is filed within two years from the date on which the cause of action has arisen. In this case, a period of more than two years has already elapsed since the date on which the cause of action has arisen. This is clear from the fact on record that the applicant's power supply was connected on 04.01.2006 on payment of the charges as per the Superintending Engineer's demand note dated 28.06.2005 and since that date, the applicant did not approach this Forum within a period of two years. Hence, the applicant's grievance in this respect does not deserve to be admitted. This Forum, therefore, is unable to admit as the same is time-barred in terms of Regulation 6.6 of the said Regulations. It is not, therefore, necessary to comment upon merits or demerits of this grievance. The applicant also did not raise this particular grievance before the Cell.

The second grievance is about allegedly illegal recovery of service connection charges of Rs.1,75,000/- while the additional load was sanctioned as per SE's order dated 08.08.2007. In this respect, a point has been raised by the applicant that his connection was not underground and hence, the service connection charges meant for underground connection as per annexure-II of the Commission's order dated 08.09.2006 in respect of approval of Schedule of Charges are not applicable. In this respect, it is a factual position borne out by record that the HT cable laid from the nearest point of distributing main to the applicant's point of supply is not overhead. It is laid in the ground and hence, it is an underground connection. The entire system of transmission of power in the MIDC area may be overhead but the applicant's

connection cannot be said to be overhead connection since no overhead cable was laid for supply of power to the applicant from the distributing mains to the point of supply. Hence, the applicant's contention in this respect is devoid of any merits.

It is also a matter of record that the applicant never asked for permission to carry out work of replacement of CT of appropriate capacity while his additional load was sanctioned. The applicant has quietly paid the amount of Rs.1,75,000/- on getting the demand note without raising any protest. Had he sought permission to carry out the work of installation of higher ratio CT at appropriate time, the matter would have been viewed differently. As laid down in the note below Annexure-II of the Commission's order dated 08.09.2006 (in case no. 70/2005) which is very much applicable to the instant case, in case of extension of load, the normative charges will be applicable on the total load (existing as well as additional load demanded) as per load slabs indicated in the annexure. The applicant's existing contract demand was 200 KVA and he asked for additional contract demand of 100KVA thus making a total of 300 KVA. The normative charges approved for HT supply upto 500 KVA are Rs.1,75,000/- for underground connection. Hence, there was nothing wrong if the non-applicant has charged amount of Rs.1,75,000/- as service connection charges in the context of extension of load.

Moreover, as laid down in Regulation 6.8 of the Supply Code Regulations, the Distribution Licensee shall increase or reduce the contract demand / sanctioned load of the consumer upon receipt of an application for the same from the consumer:

Provided that where such increase or reduction in contract demand / sanctioned load entails any works, the Distribution Licensee may recover expenses relating thereto in accordance with the principles specified in Regulation 3.3, based on the rates contained in the schedule of charges approved by the Commission under Regulation 18:

In this case, it was required to replace CT of appropriate higher capacity in view of the applicant's request for sanctioning increase in contract demand and accordingly, the work of installation of a new CT of appropriate capacity was required to be carried out. Hence, the recovery of normative charges of Rs.1,75,000/- was quite in tune with Regulation 6.8 aforesaid read with the Commission's order dated 08.09.2006 in respect of approval of schedule of charges.

The contentions raised by the applicants are devoid of any merits and, according to us, they also do not have support of the Commission's order.

As regards reference to this Forum's order passed in the case of consumer M/s. AMA Enterprises, it is a matter of record that the Hon. High Court, Nagpur has stayed the execution of the Forum's order and as such this matter is sub-judice.

In the light of above, the applicant's second grievance stands rejected.

The Cell's order challenged by the applicant stands confirmed.

The grievance application, therefore, stands disposed off accordingly.

Sd/-	Sd/-	Sd/-
(S.J. Bhargawa)	(Smt. Gauri Chandrayan)	(S.D. Jahagirdar)
Member-Secretary	MEMBER	CHAIRMAN

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

Member-Secretary
Consumer Grievance Redressal Forum,
Maharashtra State Electricity Distribution Co.Ltd.,
Nagpur Urban Zone, NAGPUR.