

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

Case No. CGRF(NUZ)/038/2007

Applicant : M/s. KSL & Industries Ltd.,
Kalmeshwar,
Dist. NAGPUR.

Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
Division-II, 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 22.08.2007)

The present grievance application is filed on 10.07.2007
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 non-consideration of the applicant's unit as a continuous process industry despite the fact that the competent authority namely the District Industry Centre, Nagpur has certified the applicant's industry as a continuous process industry. He has also a grievance about non-charging of appropriate tariff meant for a continuous process industry as per the MERC's order. The applicant has requested this Forum to direct the non-applicant to refund excess amount charged in the energy bills from the month of October 2006 along with interest at Bank rate considering the applicant's industry as a continuous process industry.

Before approaching this Forum, the applicant had approached the non-applicant vide his letter dated 21.04.2007 and submitted certificate of District Industries Centre (D.I.C.) alongwith Govt. authorization dated 04.04.2007 and requested MSEDCL to revise energy bills from October, 2006 considering the applicant's industry as a continuous process industry. However, his grievance has not been redressed and a period of more than 2 months has already lapsed since the date of filing of his application. Hence, the present grievance application.

The intimation given to the licensee on 21.04.2007 by the applicant is deemed to be the intimation given to the Internal Grievance Redressal Cell (in short, the Cell) under the said

Regulations and as such, the applicant was not required to approach the Cell again before coming to this Forum.

The matter was heard on 14.08.2007.

The applicant's case was presented before this Forum by his nominated representative one Shri R.B. Goenka.

The applicant had approached this Forum earlier with a grievance that his industry should be treated as a continuous process industry since the D.I.C. Nagpur has already issued a certificate on 27.02.2007. His grievance was registered at this Forum and its registration number was CGRF/NUZ/82. This grievance application was decided by this Forum on 11.04.2007. It was held in this Forum's order that the applicant's industry cannot be treated as a continuous process industry unless and until a certificate from the appropriate authority as per the MERC's order dated 07.02.2007 is obtained by him and that the certificate issued by the General Manager, DIC, Nagpur is of no use to the applicant since nothing is produced to show that the General Manager, DIC, Nagpur is duly designated by the Government to issue such a certificate.

The applicant's representative contended that in the MERC's order dated 07.02.2007 passed in case no. 59/2006 in the matter of tariff petition filed by MSEDCL it is held that the Development Commissioner of Industries or similar authority designated by the State Government are the appropriate forum to certify whether an industry is a continuous process industry or a non-continuous process industry and industries need to submit required certifications from the State Industrial Development Authorities to

avail the tariff allocated for continuous process industries. Based on this order, he added that now the State Government has already designated General Manager, DIC to be the competent authority to issue such a certificate vide Govt. Resolution dated 04.04.2007. His limited request is that the applicant's industry be treated as a continuous process industry based on the certificate issued on 27.02.2007 by the DIC, Nagpur and tariff applicable for a continuous process industry be made applicable w.e.f. 01.10.2006. According to him, the applicant's Unit should be charged @ Rs. 2.15 per KWH instead of Rs. 2.85 already charged by the MSEDCL. He sought direction from this Forum to refund the excess amount charged to the applicant w.e.f. October, 2006 along with interest at Bank rate as per Section 62 (6) of the Electricity Act 2003. He has produced on record a copy of the Government Resolution dated 04.04.2007 and a copy of the certificate dated 27.02.2007 issued by the General Manager, DIC, Nagpur.

The non-applicant, on his part, has submitted his parawise report dated 30.07.2007 which is on record. He has stated in this parawise report as well as in his oral submissions that the certificate dated 27.02.2007 issued by the DIC, Nagpur was issued prior to the date of issuance of Government Resolution dated 04.04.2007 and as such, this certificate cannot be treated as a valid certificate. According to him, the applicant should have produced a fresh certificate from the D.I.C. after it was designated as an authority competent to issue such a certificate. Hence, he requested that the applicant's unit cannot be treated as a continuous process industry and tariff meant therefor cannot be applied unless he submits a fresh certificate.

In reply to the non-applicant's submission, a rejoinder was submitted by the applicant's representative on 07.08.2007. In this reply, he has stated that since the Government has authorized the D.I.C. as authority competent to issue certificate as to whether a particular industry is a continuous process industry or a non-continuous process industry, the certificate issued on 27.02.2007 by the D.I.C. has to be treated as a valid certificate. He added that it was not expected from the licensee to raise such a hyper technical issue which does not carry any meaning.

He, therefore, prayed that the non-applicant be directed to treat the applicant's industry as a continuous process industry w.e.f. 01.10.2006 and to refund the excess amount charged in his energy bills from the month of October, 2006 alongwith interest.

The non-applicant in reply to the applicant's re-joinder dated 07.08.2007 has filed his written submission dated 08.08.2007 stating that as per guidelines issued by the Chief Engineer (Comm) vide his Commercial circular no. 52 dated 07.05.2007, the Superintending Engineer will have to inspect the premises and decide whether the industry is a continuous process industry or not. His say is that on determination of nature of industry further necessary action of billing to that effect will be taken. The applicant's representative has challenged this submission of the non-applicant stating that once the State Government has designated, D.I.C. to certify whether a industry is a continuous process industry or not in terms of MERC's order dated 07.02.2007 referred to above, there is no necessity at all of further probing into this matter by the S.E. He also termed the Chief Engineer's Commercial Circular no. 52 dated 07.05.2007 as incorrect.

According to him, this circular is violative of the MERC's order dated 07.02.2007.

In this case the main point, according to us, is whether the certificate issued on 27.02.2007 by DIC, Nagpur certifying the applicant's industry as a continuous process industry is valid or not. The applicant's representative's submission on this that since the State Govt. has authorized the General Manager DIC to issue such a certificate, the DIC's certificate dated 27.02.2007 will have to be treated as a valid certificate while the non-applicant's say is that the applicant will have to produce a fresh certificate from the DIC.

The State Govt. by its Resolution dated 04.04.2007 has designated the General Manager of DIC to issue such a certificate. Hence, it is obvious that the General Manager, DIC has assumed the power to issue such a certificate w.e.f. 04.04.2007. Moreover, there is no stipulation made in this Govt. decision to the effect that such a certificate if issued prior to 04.04.2007 by any General Manager DIC stands ratified. It is also a matter of record that in our earlier order dated 11.04.2007 passed in case no. 82 of the same applicant, it was held that the applicant's industry cannot be treated as a continuous process industry unless and until a certificate is obtained by the applicant from the appropriate authority as per the Commission's order dated 07.02.2007 and that the certificate already issued by the General Manager DIC on 27.02.2007 is no use to the applicant since nothing is produced to show that the General Manager DIC is duly designated by the Govt. to issue such a certificate. It thus boils down to this that the G.M. DIC, was not a competent authority to issue such a certificate on 27.02.2007 and that the G.M. got the power only w.e.f. 04.04.2007 the

date of the Govt. Resolution. Hence, the contention of the non-applicant that the applicant should produce a fresh certificate from the DIC, Nagpur is proper.

A submission is made by the non-applicant that as per the guidelines issued vide commercial circular no. 52 dated 07.05.2007, the Superintending Engineer shall inspect the premises and decide whether the industry is a continuous process industry or not and further necessary action for treating the industry as a continuous process industry will be taken only there after. This submission has been challenged by the applicant's representative stating that such a stipulation of inspecting the premises by the S.E. after production of certificate from the DIC is not only violative of the MERC's order dated 07.02.2007 but it is also otherwise not proper and legal. This, according to him, is an unwarranted stipulation. We agree with the applicant's view point and hold that once the applicant produces a fresh certificate from the DIC Nagpur certifying his industry as a continuous process industry under powers vested in the General Manager DIC as per Govt. Resolution dated 04.04.2007, it is has to be treated as a conclusive proof to that effect. It is a different matter that the S.E. can always inspect the applicant's premises any time to verify whether the process of the industry has undergone any changes. In that case, the S.E. can always refer the matter to the committee constituted as per Development Commissioner's letter dated 09.04.2007 to take a view of his observation. This aspect has been amply clarified by the Development Commissioner of Industries in his letter, being letter no. B-3966 dated 09.04.2007 addressed to the Managing Director, MSEDCL, Mumbai.

In the result, the present grievance application stands rejected.

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