

**Before Maharashtra State Electricity Distribution Co. Limited Consumer
Grievances Redressal Forum, Pune Zone, 925, Kasabapeth Building,
IInd flr. Pune-11**

Case No. 11 of 2007

Date: 16/08/2007

In the matter of Kasat Paper & Pulp Pvt.Ltd.

- Complainant

V/S

M.S.E.D.C.L. Pune Rural Circle

- Opponent

Corum	Chair Person	Mr. A.V.Bhalerao
	Member/Secretary,	Mrs. N.D.Joshi,
	Member,	Mr. T.D. Pore

M/s. Kasat Paper & Pulp Ltd. (herein referred to as complainant) is a paper industry & H.T. Consumer getting supply of electricity from Maharashtra State Electricity Distribution Co. Ltd.(MSEDCL for short) The complainant made application on 10/04/06 for getting supply of electricity with connected load 1500KW and contract demand (CD) 1500KVA in phase manner . The first phase with connected load was 500KW & contract demand 500KVA, Second phase was for additional connected load 450 KW and CD 450KVA and Third phase was for additional connected load 550 KW & CD 550KVA. The complainant paid charges for the supply of 1500KV on 23/05/06. The supply of electricity with connected load 500KW & CD 500KVA was released on 08/06/06. Before the releasing supply of electricity, the first phase sanctioned order was issued on 12/05/06. The complainant made application dt. 11/09/06 to MSEDCL to release to the complainant load upto 1500KVA immediately on the ground that it had paid charges for 1500KVA. The complainant gave letters dt. 14/09/06 and 10/10/06 to MSEDCL requesting it to release CD load 1500KVA to avoid penalty being charged for exceeding CD . As penalty for CD was levied in the bills issued to

the complainant as and when the CD released and sanctioned in phase manner was exceeded. The complainant also made representation to MSEDCL by issuing a letter dt.05/09/06 contending that instead of issuing bill month wise, first bill was issued for period 41 days inclusive of 22 days for the month of June-06 and 19 days for the month of July-06. It made prayer that because of such consolidated bill, extra amount was recovered from him & if the separate bills had been issued one for the 22 days in the month of June-06 and second for the 19 days in the month of July-06, the total amount would have been less than what was demanded in consolidated bill. It made another representation by a letter dt. 11/09/06 contending that other industries which are related to production of paper like it were applied a tariff HTP-2 while in its case a tariff HTP-1 is applied for billing. It requested to apply tariff HTP-2 and refund the excess amount. W.e.f. 1/10/06 as new tariff came in to force which levied different energy charges for continuous and non continuous industry, the complainant contended that M/s.Kasat Paper & Pulp Pvt. Ltd., is a continuous process industry and , therefore, a tariff applicable to continuous process industry should be used for calculating the bill of energy consumption @ Rs. 2.15 per KWH instead of Rs. 2.85 per KWH . The complainant contended that the additional supply charges (ASC) be charged @ 28% on total consumption giving relief of incentive contained in tariff and for comparison the average of three months which is 237323 KWH be taken in to consideration and after giving incentives the additional supply charges be levied on 8% of the consumption of a particular months.

The complainant accordingly claimed the relief's and also compensation from MSEDCL for not following the provisions contained in Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensee, period for giving supply and determination of compensation) Regulation 2005 (SOP).

The MSEDCL filed its Written Statement contending that even if the application was made by the complainant for getting supply of electricity with connected load of 1500KW & CD 1500KVA, it was given to understand that full connected load was not available at Talegaon S/Stn. and therefore supply would be released in phase manner as applied by consumer in April-06. The first phase of 500KV, second phase

450KVA & third phase 550 KVA respectively. The complainant was given understanding that for giving it supply, commissioning of new transformer was necessary. As & when the complainant completed all formalities the supply in phase manner was released. The first phase on 07/06/06, second phase on 07/12/06 & third phase on 26/04/07. The complainant paid charges on 23/05/06 for full load of 1500KVA, as it wanted assured sanction of the said load and CD in phase manner. The supply was made as was agreed between the parties within stipulated time of one month on complainant completing formalities, therefore the complainant is not entitled to any compensation contending that within one month from the date of payment of full charges the supply to the fullest capacity was not released.

The complainant, in all the three agreements which he executed at the time of releasing supply in phase manner, undertook not to exceed CD that was released and sanctioned. As and when CD was exceeded than the sanctioned demand, penalty was levied strictly according to the provisions contained in respective tariffs. The Complainant can't make a grievance that it had not exceeded the CD when actually he had exceeded the sanctioned load CD which was released as was agreed upon. In the sanction order dtd. 12/05/06 the supply in phase manner was agreed to be released on making compliance of the conditions mentioned in the sanction order. The supply of 500KVA was released on 08/06/06 after the complainant had produced test report dtd.01/06/06, agreement dtd.03/06/06 & permission of energisation from Electrical Inspector, Pune dtd.05/06/06. In the second phase, additional supply of 450KVA was released on 07/12/06 making it 950KVA on complainant submitting test report from licensed Electrical Contractor dt.28/11/06, agreement dtd.16/10/06 & manufacturer's C.T. Testing Report from M/s.Huphen Electomech Pvt.Ltd, Nasik dtd.08/11/06 of C.T. Ratio 50/5A essentially required for installation of consumer to release additional CD of 450KVA. In the third phase the additional supply of 550KVA making the total supply of 1500KVA was released on 26/04/07 after the complainant had submitted test report on 02/04/07 and executed agreement on 23/04/07. From the dates of release of the supply in phase manner and the dates of the test report and execution of agreement it is clear that every time within one month after the complainant had completed all the formalities necessary for release of supply the

MSEDCL released the supply and did not violate the SOP. So far as complainant's request to change the tariff from non-continuous industry to continuous industry, the MSEDCL contended that the complainant obtained certificate dtd. 22/03/07 from District Industries Centre, Pune (DIC) about M/s. Ganga Papers India Pvt.Ltd. being a continuous process industry, the complainant did not produce any certificate from DIC about M/s. Kasat Paper & Pulp Pvt. Ltd. being a continuous process industry and therefore the complainant can't claim the tariff applicable to the continuous industry till it gets the change of name effected. The complainant had given application dt. 19/01/07 contending that M/s. Kasat Paper & Pulp Pvt.Ltd. stands changed to M/s. Ganga Papers India Pvt.Ltd. and registered under section 21 of company's Act 1956 and therefore change of name be made to MSEDCL record for the energy connection. The MSEDCL directed the complainant vide its letter dtd. 12/02/07 to submit application in proper format for change of name. The application in the proper format was submitted on 19/04/07. The MSEDCL vide its letter dtd. 24/05/07 directed complainant that it's request for the change of name was approved subject to the compliance of paying security deposit Rs. 31,33,200/- in new name, executing fresh agreement, submission of N.O.C. from Electrical Inspector for change of name and test report from the License Electrical Contractor. MSEDCL issued reminder dtd. 23/07/07 to the complainant. The MSEDCL gave another letter dtd. 26/07/07 requesting the complainant to pay the difference of S.D. Rs. 7.63 lakhs. as old deposit was transferred in the name of new company styled as M/s. Ganga Papers India Pvt.Ltd. The MSEDCL contended that as and when formalities of change of name would be completed it would give effect of continuous process industry and levy energy charges accordingly. So far as relief asked by the complainant as regards KWH unit rates and additional supply charges, the MSEDCL submitted in its Written Statement that it was going to modify.

On rival contentions following points arise for consideration:

- 1- Is complainant entitled to refund of penalty for exceeding CD on the ground that it had paid full amount of charges for 1500KVA though connected load and CD was released in phase manner.

- 2- Is complainant entitled to separate bill for the month of June & July-06
- 3- Whether the proper tariff to be applied in complainant's case under Tariff dt. 01/12/03 is HTP-2
- 4- Is complainant entitled to have a tariff for energy charges applied to continuous process industry @ Rs. 2.15 per KWH under Tariff order dtd. 01/10/06.
- 5- Whether for additional supply charges 8% of consumption is to be considered and consumption of 237323 KWH is to be taken in to account for comparison to arrive at percentage in reduction of consumption to give insensitive for the month of December-06.
- 6- Is complainant entitled to get any compensation?

The findings to the above points are as given below:

- 1) No
- 2) Yes
- 3) Does not survive as relief is already given.
- 4) No
- 5) Does not arise as for Additional Supply Charges (ASC) 5% of consumption is considered and for comparison 237323 kWh is considered to arrive at percentage in reduction of consumption to give incentive.
- 6) No

For the reasons given below: -

REASONS

POINT NO.1 :- On behalf of the complainant it is contended that as it had made full payment of 1500KVA it should not have been charged penalty for exceeding CD. From the bills raised by MSEDCL it is seen that as and when complainant exceeded

the sanction demand in the phase manner the penalty for exceeding CD sanctioned was levied.

In the first phase supply of 500KW & 500KVA for connected load and CD respectively was released on 08/06/06. From 07/12/06 onwards second phase of 450 KW and 450KVA as CL & CD respectively was released making connected load 950KW and CD 950KVA. In the third phase the additional 550 KW & 550KVA as CL & CD respectively was released on 26/04/07 making total connected load 1500KW and CD 1500KVA. During the periods 1) from 08/06/06 to 06/12/06 2) from 07/12/06 to 25/06/07 as and when the complainant exceeded released sanction CD the penalty for exceeding CD was levied.

On behalf of MSEDCL, it is contended that on the date of application made by complainant the supply of connected load and CD as claimed by the complainant was not available and therefore it was agreed between them to release CD of 1500KVA in three phases. First of 500KVA, Second of 450KVA & Third of 550KVA. The complainant agreed to and accordingly sanction order dtd. 12/05/06 was released. In the sanction order dt.12/05/06 the supply in phase manner was agreed to be released on making compliances of the conditions mentioned in the release order. The supply of 500KVA was released on 08/06/06 after the complainant had produced test report dtd. 01/06/06 and executed an agreement dtd. 03/06/06 & furnished charging permission for installation on 05/06/06 from Electrical Inspector, Pune. In the second phase additional supply of 450KVA was released on 07/12/06 making it 950 KVA on complainant submitting test report dt.18/11/06 and executing agreement on 16/10/06 & changing CT ratio from 25/5A to 50/5A by installing C.T. In the third phase the additional supply of 550KVA making the total supply of 1500KVA was released on 26/04/07 after complainant had submitted test report and executed agreement on 23/04/07. From the dates of release of the supply in phase manner and the dates of test report and execution of agreement it is seen that the additional supply was given within one month from the completion of formalities and therefore complainant is not entitled to any compensation making a grievance that supply to him of 1500KVA was given late and not as laid down in SOP. Merely because charges in full for supply of

1500KVA was paid complainant can not claim that immediately supply of 1500KVA ought to have been made available to him. Appendix "A" (1) (III) of SOP provides that supply is to be given within three months from the date of completed application and payment of charges in case where extension or augmentation is required. The completed application means compliance of all the formalities, mentioned in the load sanction order which are required to be made such as submission of test report and execution of agreement permission for charging installation issued by Electrical Inspector, Pune. The complainant has produced one letter dtd. 10/10/06 in which it is mentioned that "In the mean time we will be completing the balance formalities such as execution of agreement, test report submission" etc. The above contents of the letter show that for getting supply even in phase manner the complainant had not completed formalities. As & when formalities were completed the supply in phase manner was given and therefore there is no deficiency in giving services by MSEDCL to the complainant. Having once agreed to get supply in phase manner the complainant cannot make a grievance of not having supply of electricity by full CD immediately.

In Para -3 of agreements between the complainant and MSEDCL it was mentioned up to what maximum limit of KW and KVA was to be supplied by MSEDCL to the complainant's industry. It is also mentioned in the same Para upto what maximum limit the complainant was to take energy. In the first agreement the supply of 500KW and KVA in the second agreement supply was to be 950 KW & 950 KVA and in the third agreement supply was to be 1500KVA if the complainant under such circumstances had exceeded the sanctioned supply then the complainant was liable to pay penalty for exceeding CD as per tariff order issued by Hon. MERC. Penalty for exceeding CD under tariff order dt. 01/12/03 and 01/10/06 is *"In case HT consumer exceeds his CD he will be billed at the appropriate demand charges of the demand actually recoded and will be charged @ 150% of prevailing demand charges of the excess demand over the CD"*. On going through the bills issued it is seen that the penalty for exceeding CD was not calculated correctly e.g. in case of bill dtd. 18/09/06 the CD recorded was 888 KVA demand charges were rightly calculated for 888KVA at Rs. 330/- per KVA. (888 X Rs. 330/- = Rs. 2,93,040/-). The demand was exceeded

by 388 KVA, as sanctioned demand in the month of Sept-06 was 500KVA. For the excess demand 388KVA the penalty should have been levied @ 150% of the prevailing demand charges means 150% of Rs.330/- comes to Rs. 495/- per KVA. In the said bill charges for extra load /demand was 70,290/- which is much below than (388 X Rs. 495 /- = 1,92,060/-) It is expected that the MSEDCL correctly calculate the penalty for exceeding contract demand and recover it from the consumers by issuing additional bills.

POINT NO. 2:- In order to adjust the bill from the month of August -06 onwards the MSEDCL issued first bill for the period from 08/06/06 to 19/07/06 . From the bill dt. 14/08/06 it is seen that the connection was given on 08/06/06 and first reading was recorded on 19/07/06. During that period the CD recorded was 569KVA. The complainant in his complaint has mentioned that the bills should have been corrected and separate bill for the month of June & July -06 should have been raised. According to the complainant the CD recorded in the month of June-06 was 271 KVA the complainant did not dispute the CD recorded in the month of July-06 as 571 KVA (569). The complainant alleged that in the bill dtd. 14/08/06 demand charges were charged for two months. From the amount calculated as demand charges Rs. 3,46,905 .45 and amount for the charges of excess load Rs. 21,643.55. It is not made clear as to how those figures were arrived at. The MSEDCL in its say has agreed to bifurcate the readings for the month of June-06 and accordingly to issue the bills. The MSEDCL to raise separate bills one for the month of June-06 and other for the month of July-06 applying appropriate tariff.

POINT NO.3: - According to tariff order dtd. 01/12/03 category HTP-1 was to be applied to the industry within MMR or PMR. The complainant industry is at Bebedohal, Tal. Maval Dist.Pune under Resolution No. IDL / 002 /CR 345) IND-8/GOM/IE & L Dept. Mantralay Mumbai, dtd. 18/10/02 Tal. Maval of Dist. Pune is shown falling within A & B. A means area under PMR – Assistant Director (Town planning) Pune vide his letter dtd. 06/08/07 informed to S.E. (PRC) that Bebedohal, Tal. Maval. Dist. Pune, Circle No. 241 is outside PMR. If the area where complainant industry is situated falls outside PMR then HTP-2 is applicable as shown in tariff order

dtd. 01/12/03. The MSEDCL initially applied tariff HTP-1 but it changed it to HTP-2 for rest of the bills and gave credit of Rs. 25,823.84 in the bill for the month of Sept-06 and therefore, the point does not survive.

POINT NO.4: - The complainant has contended that applicant is a continuous process industry and therefore energy charges should be lived @ Rs. 2.15 however the MSEDCL levied the charges at Rs. 2.85 per KWH treating it as non continuous industry . The MSEDCL in its written statement averred that the tariff for non-continuous industries can be applied provided the complainant gets its name changed to M/s. Ganga papers Pvt.Ltd. in the name of which a certificate from DIC is obtained . The complainant has not yet got name changed to the supply connection and therefore the complainant cannot be given benefit of energy charges Rs. 2.15, which is to be given only to continuous process industry. The complainant did not produce any certificate obtained from DIC as a continuous process industry.. On behalf of the complainant it is argued that when M/s. Ganga Papers Ind. Pvt. Ltd. which deals in production like that of M/s. Kasat Paper & Pulp Pvt. Ltd. is certificate as continuous process industry its predecessor M/s. Kasat Paper & Pulp Pvt. Ltd. is also to be treated as continuous process industry.

It is pertinent to note that the complainant has not produced any certificate obtained from DIC declaring Paper Pulp Industry as continuous process industry. An industry which is a paper pulp industry can be continuous or non continuous according to process which it applies.

The complainant has produced certificate in favour of M/s Ganga Papers India Pvt.Ltd. for manufacturing of paper for craft, newsprint which certifies the unit as a continuous process industry. From the above contents of the certificate it is clear that the certificate of continuous process industry is given to M/s. Ganga Papers India Pvt. Ltd., and not to all industries which manufactures paper, craft, news prints etc. The complainant did not produce any certificate obtained from DIC certifying that it (M/s. Kasat Paper & Pulp Pvt.Ltd.) is a continuous process industry. The complainant did not get change of name in favour of M/s. Ganga Papers India Pvt. Ltd, for the energy

connection which today stands in the name of M/s. Kasat Paper & Pulp Pvt.Ltd. M/s. Kasat Paper & Pulp Pvt.Ltd is changed to M/s. Ganga Papers India Pvt Ltd. and it was registered under company's Act 1956. The complainant gave an application for change of name on 18/01/07 to MSDCL. The complainant was directed to give application in proper format. The complainant accordingly submitted an application in proper format on 19/04/07. The complainant was directed to make compliances of necessary requirement by letter dtd. 24/05/07 and 23/07/06. The complainant did not make compliances of the formalities. MSEDCL agreed to transfer the amount of SD in favour of M/s. Ganga Papers India Pvt Ltd. and requested complainant by its letter dt. 26/07/07 to deposit difference of SD amounting Rs. 7.63 lakhs but the complainant did not deposit the said balance. The situation as it stands today the energy connection is not in the name of M/s. Ganga Papers India Pvt Ltd., but it is in the name of M/s. Kasat Paper & Pulp Pvt.Ltd. There is no certificate issued by DIC in the name of M/s. Kasat Paper & Pulp Pvt.Ltd. The complainant therefore is not entitled to have a tariff applied, which provides charges Rs. 2.15 per KWH for continuous process industry. MSEDCL rightly levied energy charges applicable to non-continuous industry. If the complainant gets the name changed from M/s. Kasat Paper & Pulp Pvt.Ltd. to M/s. Ganga Papers India Pvt. Ltd. then only benefit of applying tariff for continuous process industry can be given from the date 22/03/07 on which certificate in favour of M/s. M/s. Ganga Papers India Pvt. Ltd. is issued as continuous process industry.

POINT NO.5:- For calculations of additional supply charges under tariff order dt. 01/10/06 for H.T. industries which are on express feeder 42 % of consumption and those which are on non-express feeder 28 % of consumption irrespective whether continuous or non-continuous is to be considered. The consumers who voluntarily reduce the consumption are to be given incentive through ASC by assessing the consumption of the consumer as against his monthly average consumption in the previous year (i.e. Jan-05 to Dec-05) while billing the consumer for ASC. Incentive is limited maximum of the percentage indicated against the particular category and the region of consumer. The S.E.(PRC) in his letter dt. 24/07/07 mentioned that complainant-industry is on non-express feeder. The complainant-industry falls in B

group as shown overleaf of electricity bill. As complainant-industry falls in B group, comprised of industrial Urban Agglomeration, for ASC 25% consumption is to be considered. In the present case, three months period before the tariff dated 1/10/06 came into force was complete. The average of those three months consumption 237323 kWh is required to be considered to assess the complainants consumption to give incentive. The average consumption for comparison to give incentive was taken as 237323 as shown in calculation made by Account Officer, PRC which is as shown by the complainant in Para-20 on its complaint. The reduction of the consumption for the month of Dec-06 is 20% deducting it from 25% the consumption for calculating ASC is taken as 5% of the units consumed which is less than 8% as prayed by the complainant. The complainant therefore has no reason to make any complaint.

POINT No.6: - As discussed above it is clear that MSEDCL gave supply as was agreed. The tariffs are also applied correctly by making correction whenever required. The services given by MSEDCL are not at all deficient and therefore complainant cannot claim any compensation. Hence the order

ORDER

- 1 The supply of energy was rightly released in phase manner as was agreed upon between the parties and in accordance with the provisions containing in SOP and SCO.
- 2 The complainant is liable to pay penalty as and when it exceeded CD, which was released in phase manner. The MSEDCL should calculate demand charges and penalty for exceeding CD according to the appropriate tariff in the light of disconnections made above.
- 3 MSEDCL to split up the consolidated bill which is for the total period of 41 days and issue separate bill for 22 days for the month of June-06 and 19 days for the month of July-06 applying appropriate tariff order dt. 01/12/03.
- 4 The grievance of the complainant applying HTP-1 of the tariff dt. 01/12/03 and claim of refund of the excess amount does not arise as category HTP-2 is already

applied & an excess amount recovered is adjusted in the bill of Sept-06 by giving due credit.

- 5 The tariff for continuous process industry cannot be applied in case of complainant, as it did not produce the certificate of DIC, certifying that M/s. Kasat Paper & Pulp Pvt. Ltd. is continuous process industry ever.

The tariff for continuous process industry be applied only after the change of name is effected on completing all formalities, from the date 22/03/07 the DIC issued certificate that M/s. Ganga Paper India Pvt.Ltd. is a continuous process industry.

- 6 The ASC charge for the month of Dec-06 on 5% of the consumption is correct according to the rules and regulations issued from time to time which is less than 8% asked for by the complainant. The complainant therefore is not put to any loss. For comparison base consumption is taken as 237323 kWh leaving no scope for the complainant to make any grievance.
- 7 The services given by MSEDCL to the complainant are in no way deficient and therefore complainant is not entitled to any compensation.

Sign:

Mrs. N.D.Joshi,
Member/Secretary

Mr. T.D.Pore,
Member

Mr. A.V. Bhalerao
Chair Person

Date: