

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

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**Case No. CGRF(NZ)/27/2018**

Applicant : M/s. Ramsons Castings Pvt. Ltd.,  
Plot No. N-3,4,8,9 & 10,  
MIDC Area, Hingna Road,  
Nagpur-440016.

Non-applicant : The Superintending Engineer,  
NUC, MSEDCL, Nagpur

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Applicant represented by : 1) Shri. D. D. Dave,  
2) Shri V. K. Tumane,

Non-applicant represented by: 1) Shri Manish Wath, S.E., MSEDCL.  
2) Smt. Varsha P. Jivtode, Dy.E.E., MSEDCL.  
3) Shri S. N. Keney, Dy.Law Officer, MSEDCL.

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Quorum Present : 1) Shri Vishnu S. Bute,  
Chairman.  
2) Shri N.V.Bansod,  
Member  
3) Mrs. V.N.Parihar,  
Member Secretary.

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**ORDER PASSED ON 10.05.2018**

1. The applicant filed present grievance application before this Forum on 02.04.2018 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).
2. Non applicant, denied applicant's case by filing reply dated 27.04.2018.

3. Forum heard arguments of both the sides on 02-05-18 and perused the record.

4. The applicant's case in brief is that M/s. Ramsons Castings Pvt. Ltd., bearing consumer No.410019004167 is a consumer of M.S.E.D.C.L. who was availing Open Access supply till March-17. Since April 17 to June 17, the connected load of applicant was 8300 KW with Contract Demand 8000 KVA connected at 33 KV voltage. In July 2017 the said contract demand was reduced to 6700 KVA and in Aug-17 to 6050 KVA, MSEDCL vide letter bearing no. SE/NUC/06145 dated 22-12-2017, issued a bill amounting Rs.37, 69,850.00 due to refixing of the Contract Demand according to Contract Demand recorded during off peak period i.e. (22.00 HRS TO 06.00 HRS). And further issued the energy bill of Dec 2017 quoting contract demand as 7884 kVA as against 6050 KVA without the applicant's request and without entering into agreement as specified in SOP of 2005 and 2014. As per applicant the said act is against the Hon. MERC Tariff order no. 48/2016, as per clauses 2.21, 8.32 & 8.12 .

7. Further the applicant contended that, they have exceeded contract demand during the off peak period to utilize throwaway energy. Clauses 2.21 and 8.32 of Hon. MERC order no. 48/2016 permits them to exceed their contract demand with Load factor incentive. But now the applicant is deprived of load factor incentive due to change in Contract Demand unilaterally by Non-applicant, resulting in huge loss of incentive and Govt. subsidy amount to them.

8. To substantiate this, the applicant rely on Case No. 139 of 2011 decided by the Hon. MERC. and further stated that the review petition of the MSEDCL in respect of order dated 12<sup>th</sup> Sep 2010 passed by the Hon. Commission in case no. 111 of

2009 for withdrawal of load factor incentive who exceeds contract demand during off peak hours(i.e. 2200hrs to 0600hrs) and pay merger penalty has been dismissed as not maintainable by the Hon. MERC.

8. Therefore they pray the Forum as follows :

1. To direct the Non-applicant to follow the Hon. MERC orders i.e. Tariff order No. 48/2016 and order no. 139 of 2011 and adhere to moral principles.
2. To correct all the energy bills issued for Dec. 2017, January 2018 and onwards by following the rules of right and wrong, moral Principles.
3. To withdraw the undue Demand raised violating the Hon. MERC Tariff order No. 48/2016.

9. The Non applicant, denied applicant's case by filing reply dated 27.04.2018.

It is submitted that M/s. Ramsons Casting Pvt. Ltd. bearing consumer No.

410019004167 is their HT consumer who was availing supply on Open Access till

March-17. From April-17 the consumer is using 100 % MSEDCL supply. The

connected load of the applicant was 8300 kW and Contract Demand was 8000 KVA

from April-17 to June-17. In July-17, as request of applicant their Contract Demand

was reduced to 6700 KVA and in Aug-2017 the Contract Demand was further

reduced to 6050 KVA. However, the applicant has exceeded the Contract Demand

nearly every month from April-17 to Nov-17. In the month of April & May the MD

have been exceeded in all the 4 slots where as in remaining months the applicant

has exceeded Contract Demand in Slot 'A'.

10. In Hon'ble Commission's Tariff order in Case No. 48 of 2016, it is stated that

*In case the Billing Demand exceeds the Contract Demand in any particular month*

*the Load Factor Incentive will not be payable in that month. (The Billing Demand*

*definition excludes the demand recorded during the non-peak hours, i.e., 22:00 hrs*

*to 06:00 hrs and therefore, even if the Maximum Demand exceeds the Contract*

*Demand in the period, Load Factor Incentive would be applicable. However, the consumer would be subject to and shall have to pay the penal charges applicable for exceeding such Contract Demand).*

*Penalty for exceeding Contract Demand : In case a consumer (availing Demand-based Tariff) exceeds his Contract Demand, he will be billed at the applicable Demand Charge rate for the Demand actually recorded, and also be charged an additional amount at the rate of 150% of the applicable Demand Charge (only for the Demand in excess of the Contract Demand). Under these circumstances, the consumer shall not be liable for any other action under Section 126 of the EA, 2003, since the penal additional Demand Charge provides for the penalty that the consumer is liable to pay for exceeding his Contract Demand. In case a consumer exceeds his Contract Demand on more than three occasions in a calendar year, the action to be taken would be governed by the provisions of the Supply Code Regulations.”*

Accordingly Penalty for exceeding the Contract Demand was charged to the applicant in every month and granted Load factor incentive which was nearly 40-45 lakhs per month.

11. As per Hon'ble Commission's tariff order in case no.48 of 2016, the Consumers are not allowed to exceed Contract demand more than three occasions. But as the applicant has exceeded the Contract Demand more than 3 times during the year 2017, this office has acted as per Hon'ble Commission's order and issued a notice to the applicant vide letter No. 6145 dt. 12/12/2017 whereby the applicant was warned for exceeding the Contract Demand more than 3 times in a year and asked to make application to enhance the Contract Demand accordingly and pay the amount for enhancement of load within 15 days from receipt of notice. But the applicant did not take any cognizance of the notice served by the Non-applicant.

Therefore, as the consumer has exceeded Contract Demand more than 3 times in a year Non- applicant has to take action as per provisions of the MERC Regulations. As per proviso of clause no. 6 of the agreement *“The consumer hereby agrees that its/his/her supply will be disconnected in case it/he/she fails to deposit arrears of electricity charges and other charges as may be due within 15 days from the date of receipt of demand notice for such charges.”* As the applicant has exceeded the agreed Contract demand more than 3 time during 2017 and did not comply as per the notice served vide letter dated 12-12-2017, the applicant has breached the agreement made with MSEDCL. Hence the applicant’s Contract Demand was enhanced to 7884 kVA in Dec-17 bill and to 8744 kVA in Jan-18 bill by Non-applicant and 15 days disconnection notice was served to the consumer vide letter no. 232 dt.15/01/2018 .

12. To substantiate their action, it is further submitted that, MSEDCL builds its infrastructure as per the agreed contract demand of any consumer. The capacity of the installed Transformers/ Power Transformers, the conductor size of the 33 kV/11 kV feeders, the CT ratio of the installed CTs in Sub-Station or in the consumer’s premises all depend upon the total sanctioned load / contract demand of the connected consumers. If the consumer exceeds the contract demand to avail the benefits like load factor incentive or Govt. subsidy, it will have negative impact on their system as follows:-

1. As the load increases the current in the conductor increases. The line losses which are directly proportionate to square of the current therefore increase drastically.

2. The ratio of the CTs connected in the consumer premises commensurate with the contract demand of the consumer. In case the consumer exceeds the contract demand ,the increased current causes the saturation of the CTs due to

which the current recorded is less resulting in less billing to the consumer.

3. As the increased load causes extra stress on the entire system the electrical system deteriorates further increasing the losses.

4. Applicant's predominant load is of Arc Furnace which generates the harmonics (current) being a dirty load. The said harmonics are flowing through the current transformer utilized for the measuring purpose. Also there is the transient hike in the current frequently. The harmonics generated by arc furnace and the transient hikes in current causes the saturation of the CT and errors of the CT may vary beyond the specified limits due to injection of DC component in the system. This above phenomenon of the increased load and saturation of the current transformer causes the less measurement of the current resulting in less recording the energy consumption in energy meters, affecting the revenue resulting in loss to the MSEDCL. Hence, to avoid this deterioration of the system, Hon'ble MERC has permitted the consumer to exceed the contract demand only thrice in a year. There were nearly 60 HT consumers under Nagpur Urban Circle who have exceeded the Contract demand more than thrice during 2017 whose Contract demand is refixed/enhanced by Non-applicant unilaterally

and it was observed in all these cases, the intention of the consumers is to maximize the load factor incentive and the Govt. subsidy relating to Vidarbha region. In the instant case also, as the Contract Demand of the applicant was enhanced/refixed by Non-applicant, the applicant could not avail the high amount of load factor incentive hence lodged the grievance application.

13. They further submitted that, the ratio of Current transformer used for metering for load of 6050 kVA is 125/5A, 0.2S class and beyond 7500 kVA the CT ratio required is 150/5, 02s class. But Non-applicant cannot install CTs with ratio 125/5 for this applicant because the applicant regularly exceeds the contract demand beyond 7500 KVA. Due to this ratio error the losses increases.

14. Considering above mentioned facts, they submitted that as the applicant exceed the Contract Demand every month and used enhanced CD without consent of the utility and without consideration for the infrastructure, the action of the Non-applicant to enhance the Contract Demand to the extent Maximum Demand attained by the applicant in the year is justified .And hence prayed the Forum to reject and dismiss the consumer's application. Also they requested to provide any other relief as deem beneficial in the interest of MSEDCL.

15. Not satisfied with these arrears, Applicant approached the IGRC, Nagpur Rural Circle on 24.01.2018 vide case no. 01/2018, asking for revision of the said bill

16. The IGRC by its order dated 22.03.2018 dismissed the Grievance application of applicant. The order says *"As the consumer exceeded the contract demand more than 3 times during 2017 and did not comply as per notice served vide letter dt.12/12/2017,MSEDCL has taken action of increasing the contract Demand to the highest Maximum Demand attained by the consumer in the calendar year which is correct. Hence the Grievance application is dismissed."*

17. Aggrieved by this order, the applicant approached this Forum on 02.04.2018.

18. During hearing, Non-applicant reiterated the facts already stated in their written submission.

19. After the hearing was over the case was discussed among the Members of the Forum. The Chairman and the Member/Secretary were of the same opinion. However the consumer representative was of the different opinion. Therefore as per provision given in clause 8.4 of MERC (CGRF & EO) Regulation 2006 the Member (CPO) gave a note which reads as under,

8.4 *“Provided that where the members differ on any point or points the opinion of the majority shall be the order of the Forum. The opinion of the minority shall however be recorded and shall form part of the order”.*

19. Note by Mr. Naresh Bansod Member (CPO) in Case No. 27/2017 dated

Arguments heard on 2-5-2018, file received on 10-5-2018 for Dissent Note, perused all papers on record, as well as MERC Tariff orders etc.

(1) Applicant said that the grievance has started on receipt of letter bearing No. SE/NUC/06145 dated 22-12-2015, demand undue amount of Rs.3769850/- raised against contract demand recorded during off peak period i.e. (22 hours to 6 hours). The applicant further said he has clarified the matter to S.E.(NUC) Nagpur vide letter 18-12-2017, 9-1-2018, 11-1-2018. Stating that the enhancement of Contract demand to 7884 KVA as against 6050 KVA (which is mutually agreed by the non applicant and applicant through agreement) is against Tariff order no. 48/2016. Particularly Clauses 2.21, 8.32 & 8.12 which are self explanatory and does provide scope for any misunderstanding.

(2) Applicant said, non applicant has neither served any notice nor replied to the issues raised through letters of applicant. Non applicant further issued the wrong energy bill of Dec. 2017 mentioning. Contract demand as 7884 KVA of their own without request application by Applicant and without entering into agreement as specified in SOP 2005 and 204.

(3) Applicant further said that contract demand is exceeded during “Off peak period” to substantiate this throwaway energy as per Hon. MERC and order No. 48/2016, Clauses 2.21 and 8.32 and deprived of correct load factor due to change of contract demand by non applicant, resulting huge loss of incentive and Govt. subsidy amount.



Applicant draw our attention to the refer the observations of in order of MERC in case No. 139 of 2011.

(4) Applicant said, the review petition of the MSEDCL in order of MERC dated 12-9-2010 in Case No. 111/2009 for withdrawal of Load Factor incentive who exceed contract demand during off peak hours. (i.e. 22 hrs to 0600 hrs) and pay merger penalty and review petition of non applicant was dismissed as on maintainable by the MERC.

(5) Applicant said, he is facing heavy losses in production & paying huge payments (under protest) against the wrong energy bill since Dec. 2017 onwards resulting in production loss of 50 lakhs each month in Feb. & March 2018 and prayed to direct non applicant to follow MERC i.e. Tariff order No. 48/2016 and order No. 139/2011 with moral principles and correct energy bills for Dec.2017, Jan 2018 onwards and withdraw undue demand raised violating Hon. MERC Tariff order No. 48/2016.

(6) Non applicants reply to grievance of the applicant and finding recorded in IGRC are almost same and IGRC dismissed the grievance application on 20-3-2018.

(A) Non applicant in reply put more stress clause 6.2, 6.1 of the agreements dated 5-8-2017 executed after sanction for reduction of contract demand at 33 KV. Level of applicant from Maximum demand of 6700 KVA to 6050 KVA and connected load 8300 KW (Reduction in MD is 650 KVA) vide letter of non applicant dated 4-8-2017 stipulating conditions No. 13 (Agreement) & 14 (conditions of supply and Tariff) and applicant consented the stereo type temns mentioned in agreement as Maximum demand was reduced as per request of Applicant with mutual consent.

#### Clause 6 – Disconnection of Power Supply.

6.1 - The consumer hereby agrees that its/his/her supply will be disconnected in case it/he/she fails to deposit arrears of electricity charges and other charges as may be due within 15 days from the date ore receipt demand notice for such charges

firstly, it is not in disunt that the applicant has defaulted on any occasion in paying electricity ahrges may be under protest in the past on any occasion. The above mentioned clause relates to non payment of electricity charges or other charges and disconnection which is totally irrelevant in case of present consumer but non applicant bent upon applicant with threat of disconnection. Generally consumers consent such type of clauses not with force mind but under compulsion or coercion.

“I reply on Judgement In the High Court of Judicature at Bombay Civil Appellate Jurisdiction – Writ petition No. 2798 of 2015 beth.

M.S.E.D.C.L. & Anr. (petitioners) v/s M.R.Scion Agro Processors Pvt. Ltd. & Anr. (Respondent).

Hon'ble High Court while ordering in favour of Respondent in case of Refund of In fray struction cost has observed in para 9 & 10 as under which is eye opener to the MSEDCL and shall take serious note of the same.

Non applicant made reference to the agreement dated 23.1.2015 but could not reply whether copy of agreement is given to applicant as per Regulation 6.3 of the MERC (Electricity Supply Code & Other Conditions Of Supply) regulations 2005 and Applicant again refused that copy of Agreement is not provided which is violation of the above regulation.

K] Hon'ble High Court of Judicative at Bombay- W.P.No 2798/2015 in case of MSEDCL V/s M/s M.R. Scion Agro Processions Pvt Ltd. dated 18.1.2017, has ordered refund of infrastructure cost and rejected the petition of MSEDCL with following observation at Page 9& 10 (from Judgement)

9} There cannot be a second opinion, that the orders which are passed by the Maharashtra Electricity Regulatory commission would become relevant from the

point of view of the consumer's interest. So also the regulations which are framed under the Electricity Act 2003 as noted above and relevant to the facts of this case, are required to be interpreted in a manner which are beneficial to the consumers. Further when it comes to distribution electricity, the petitioners are in a monopolistic or in a dominant position, as no other player is in the field at least in this case. In this situation the consumers,, ( respondent No 1 in this case) cannot be said to be in a sound bargaining position in demanding supply of Electricity and its term and conditions. This inequality becomes relevant when such agreements as the MOU in the present case are required to be considered by the court. The applicability of doctrine of inequality to such contracts cannot be ignored. It is in this circumstance that the order passed by the MERC and the statutory regulation play a pivotal role for protection of the consumers interest. Thus in entering into such agreements the petitioners in their public character cannot be oblivious of the statutory regulations and the obligations cast on them under the various orders, which are passed by the authorities under the Act and which become binding on the petitioners as in the present case. Nor can the petitioners enter into such agreements which would defeat the regulations or render nugatory the orders passed by the adjudicating authorities under the act. Thus, the reliance of the petitioners on the decision of the Supreme Court in **Virgo steels Bombay** (supra) would not assist the petitioners and/or is misplaced in the facts of the present case.

(B) Whether the action of non applicant vide letter No. 006145 dated 12-12-2017 emphasizing or forcing Applicant for enhancement of contract demand is as per MERC (ESC & other conditions of supply) Regulations – 2006 ? - No.

The Regulations 6 & 6.8 area as under.

Reg.6 - Agreement.

Reg. 6.8 - 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.

It is clear that applicant has not applied to non applicant to increase the contract demand. On perusal of electricity bills dated 1-9-2017,01-10-2017,4-12-2017, the contract demand was 6050 KVA but no perusal of bill dated 6-1-2018, the contract demand appears to be 7884 and so called presumption of non applicant and insistence on applicant to enhance contract demand vide letter No. SE/Nagpur Urban Circle/No.000145 dated 12-12-2017 is violating the Reg. 6.87 and any excess bills issued violating the Reg. 6.8 mato by non applicant is illegal in the eyes of The Electricity Act 2003 & MERC (ESC & ocs) Reg. 2005. It needs to record that applicant is guided by non applicant and followed by applicant while executing Agreement dated 5-8-2017, was on his request and compliance SOP Regulations 4.14.

(C) Whether action of non applicant on pretext of Applicant exceeded sanctioned contract demand of 6050 KVA on more than 3 times is correct ? - No

Non applicant referred clause 4.1 of the agreement dated 5-8-2017 is as under.

4 - Other conditions of supply.

4.1 - During the period 2 supply, the licensee shall ksupply to the consumer and consumer shall take from the licensee all the electrical energy required by the consumer subject to the limits of contract demand/sanctioned load, for the purposes stated herein above at consumer's premises. It is not in dispujte that supply is not provided as well as utilization of supply for the purpose & premises. It is admitted fact the contract demand has excceded but entire dispute is regarding various slots of "TOD" specially contract demand recorded during off peak period i.e. (2200 hours to 06.00 Hrs) and the philosophy behind providing the various concessions i.e. load

fact incentives, Power factor incentives and Govt. subsidy amount.

Applicant's emphasis is on clauses of 2.21, 8.32 & 8.12 which are self-explanatory and does not provide for any misunderstanding and agreement dated 5-8-2017 is against of above clauses. Applicant also relied on MERC case No. 139/2011 as well as MERC order in Case No. 111 of 2009.

On perusal of order of MERC in case No. 139 of 2011 dated 17-10-2011 in respect of MERC order dated 12-9-2010 in case No. 111 of 2009, it is revealed that it was review petition filed by MSEDCL on "Subject matter for withdrawal of load factor incentive to consumer who exceeds contract demand. (during off – peak hours i.e. 22.00 to 6.00 hours i.e. slot A and meager penalty and it was dismissed by MERC.

It is necessary to mention that non applicant has raised the issues in reply as well as in arguments as were raised by MSEDCL in its petition para 3 i to vii regarding exceeding contract demand during off peak hours. So as to avail Load Factor incentive.

On perusal of para 6,a,b,c of order in Case No. 139 of 2011 it is clear & kept no scope for any misunderstanding & I feel no need to remit all para's as are well known to applicant as well as non applicant who are the Engineer of MSEDCL but intentionally raising the issues which needs to be concluded with a sole aim to extract more amount from Applicant even on false pretext ignoring the reality, which needs to be condemned.

In para 2(c) The Commission added following conditions for load factor incentives.

"(2) the billing demand definition excludes the demand recorded during non peak hours i.e. 22 hours to 6 hrs. and therefore even if, the maximum demand exceeds the contract demand in that duration, load factor incentives would be applicable.

(3) However the consumer would be subjected to the penal charges for exceeding the contract demand in B,c,d slot of ToD and only misunderstanding misperception in the mind of non applicant is regarding slat 'A' i.e. during non peak hours i.e. 22 hours to 6 hours.

Non applicant in reply at page 2 elaborated by way of chart on page 1 also enclosed Annexure A i.e. page 458 to 463 of MYT 2016-2017. The relevant portion of Tariff in case no. 48 of 2016 is as under.

“In case the Billing Demand exceeds the Contract Demand in any particular month the Load Factor Incentive will not be payable in that month. (The Billing Demand definition excludes the demand recorded during the non-peak hours, i.e., 22:00 hrs to 06:00 hrs and, therefore, even if the Maximum Demand exceeds the Contract Demand in that period, Load Factor Incentive would be applicable. However, the consumer would be subject to and shall have to pay the penal charges applicable for exceeding such Contract Demand.).

Penalty for exceeding Contract Demand: In case a consumer (availing Demand-based Tariff) exceeds his Contract Demand, he will be billed at the applicable Demand Charge rate for the Demand actually recorded, and also be charged an additional lamount at the rate of 150% of the applicable Demand Charge (only for the Demand in excess of the Contract Demand). Under these circumstances, the consumer shall not be liable for any other action under Section 126 of the EA, 2003, since the penal additional Demand Charge provides for the penalty that the consumer is liable to pay for exceeding his Contract Demand. In case a consumer exceeds his Contract Demand on more than three occasions in a calendar year, the action to be taken would be governed by the provisions of the Supply Code Regulations.”

Non applicant in reply at Page 3 para 2, it is specified that the consumer C.D. was 8000 KVA at that time itself the consumer have exceeded the contract demand in all the 4 slots. Yet the consumer further reduced the contract demand to 6700 KVA and further to 6050 KVA without any reduction in connected load and continuously exceeded the contract demand in the 'A' slot keeping M.D. in other slots below the contract demand.

This was done by the consumer only to avail the load factor incentive and the subsidy given by Govt. of Maharashtra relating to Vidarbha region vide GR dated 29-06-2016 and 24-03-2017 as MERC have permitted the Load Factor Incentive even if the consumer exceeds the contract demand in slot 'A'. But the consumer did not pay any heed to the fact that MERC has permitted to exceed the contract demand only 3 times in a calendar year and if the contract demand is exceeded more than 3 times in a year MSEDCL is to take action as per provisions of the Supply Code Regulations.

It is very surprising that Non applicant was fully aware that the consumer have exceeded the C.D. when C.D. was 8000 KVA in all the slots, and later on also as to why the contract demand was allowed to reduce to 6700 & then to 6050, keeping the connected load same which creates doubt about the entire working of non applicant.

Not considering but assuming that applicant is exceeding contract demand in B, c, d slot of TOD and paying the additional amount at the rate 150% of the applicable demand charge (only for the demand in excess of the contract demand) and not liable for any action under section 126 of the Electricity Act 2003 and without any grievance applicant has paid the charges.

Non applicant alleged that applicant has exceeded his contract demand on more than 3 occasions in a year, MSEDCL is to take action as per provisions of the Supply Code Regulations and as per Clause 6.1 of Agreement, which can be applied

only case in hand(no arrears are noted by non applicant). Hence entire correspondence on submission of non applicant is futile attempt just to create the situation to deprive the applicant from benefits of Load Factor Incentives/Power Factor Incentives & Govt. subsidies and to get the contract demand enhanced with their ulterior motive but intentionally forgotten to look the philosophy & back ground of allowing LF.I & PF2 G.S. when excess load remains unutilized and sale of other D.L. or state at throwaway cost but in this case dispute is above C.E. exceeded during off peak period to substantiate this throwaway energy as per MERC order No. 48/2016. Clauses 2.21 & 8.32. Hence submission of non applicant as well as order behind offer of incentives and any demand violating MERC T.O. NO.48/2016 be withdrawn and correct the energy bills issued for Dec.2017, Jan. 2018 & onwards on contract demand of 6050 KVA.

During arguments, non applicant referred some para of Judgement but intentionally/probably avoided place on record for the perusal of forum. Hence not of any use.

In view of the above observations. I am of the firm opinion that application deserves to be allowed.

### **ORDER**

1. Non applicant is directed to correct the contract demand from 7884 to 6050 KVA as per agreement W.E.F. Dec. 2017 onwards.
2. Non applicant is directed to withdraw undue demand of Rs.3769850/- vide letter dated 12-12-2017.
3. Non applicant is further directed to withdraw the letter dated 12-12-2017 and no coercive action to enhance contract demand be contemplated.

The compliance of this order shall be done within 30 days from the date of this order.

**Naresh Bansod**  
**Member (CPO)**  
Case No.27/2018



20. We have perused the note. We disagree with the Ld Member for the reasons discussed below,

21. We have perused the record. We have heard the arguments of both the parties. On perusal and consideration of both the oral and written submissions made by both the parties, it is seen that when the applicant's Contract Demand was 8000 KVA at that time itself the applicant have exceeded the contract demand in all the 4 time slots. Yet the applicant further reduced the contract demand to 6700 kVA and further to 6050 KVA without any reduction in the connected load and continuously exceeded the contract demand in the 'A' slot keeping the MD in other slots below the Contract demand. This seems to be deliberate act of the applicant only to grab the load factor incentive and the subsidy given by the Govt. of Maharashtra relating to Vidarbha region vide GR dated 29-06-2016 and 24-03-2017 as Hon'ble MERC has permitted the Load Factor Incentive even if the consumer exceeds the contract demand in slot 'A'.

22. The applicant has ignored the pertinent fact that Hon'ble MERC has permitted to exceed the contract demand only 3 times in a calendar year otherwise there is penalty for such act as per provision clearly stated on page 461 of case no. 48 of 2016 as follows:-

*Penalty for exceeding Contract Demand : In case a consumer (availing Demand-based Tariff) exceeds his Contract Demand, he will be billed at the applicable Demand Charge rate for the Demand actually recorded, and also be charged an additional amount at the rate of 150% of the applicable Demand Charge (only for the Demand in excess of the Contract Demand). Under these circumstances, the consumer shall not be liable for any other action under Section 126 of the EA, 2003, since the penal additional Demand Charge provides for the penalty that the*

*consumer is liable to pay for exceeding his Contract Demand. In case a consumer exceeds his Contract Demand on more than three occasions in a calendar year, the action to be taken would be governed by the provisions of the Supply Code Regulations.”*

23. In view of above and contention submitted by Non-application, it is also seen that as MSEDCL's circular such as Chief Engineer (Commercial) No. 1298 dt. 18-01-2018 and Commercial circular 291 dt.29-06-2017, If a consumer opts for reduction in Contract Demand the same must not be denied and the Contract Demand shall be changed immediately prospectively. As per the powers delegated by these circulars and as per action of applicant who is taking shelter of it is seen that ,on one hand it provides facilities to their consumers ,but on the other hand it seems some consumers are reducing and increasing CD every now and then just to grab/avail load factor incentive and subsequently licensee is incurring revenue loss, as well system losses as per aforesaid technical aspects rightly contended by the Non-applicant. This act of applicant is not in the interest of the other general consumers. Hence Non-applicant in taking the action of increasing the Contract Demand to the highest Maximum Demand attained by the consumer in the calendar year as per Hon'ble commission's tariff order 48 of 2016 is justified.

24. Hence we are of the opinion that there is no force in the grievance application and therefore it is rejected and dismissed.

In view of the position as explained above, we hold that the application deserves to be dismissed .Hence we proceed to pass the following order by majority

**ORDER**

1. Application is dismissed.
2. As such order passed by the IGRC is correct. It needs no interference.

Sd/-  
**(N.V.Bansod)**  
MEMBER

Sd/-  
**(Mrs.V.N.Parihar)**  
MEMBER/SECRETARY

Sd/-  
**(Vishnu S. Bute)**  
Chairman