

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

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**Case No. CGRF(NZ)/35/2018**  
Applicant : M/s. Shreenath Oil Industries, Arvi, (19.04.18)  
C/o. Ashish Subhash Chandarana,  
302, Sahakar Nagar, Akola-444004.  
Non-applicant : Nodal Officer,  
The Executive Engineer,  
O&M Division,MSEDCL,  
Arvi.

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**Case No. CGRF(NZ)/36/2018**  
Applicant : M/s. Salasar Industries, Hinganghat,(19.04.18)  
C/o. Ashish Subhash Chandarana,  
302, Sahakar Nagar, Akola-444004.  
Non-applicant : Nodal Officer,  
The Superintending Engineer,  
Wardha Circle,MSEDCL,  
Wardha.

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**Case No. CGRF(NZ)/37/2018**  
Applicant : M/s. Uday Oil Industries, Hinganghat, (19.04.18)  
C/o. Ashish Subhash Chandarana,  
302, Sahakar Nagar, Akola-444004.  
Non-applicant : Nodal Officer,  
The Executive Engineer,  
O&M Division,MSEDCL,  
Hinganghat.

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**Case No. CGRF(NZ)/47/2018**  
Applicant : M/s. Viarba Industries, Hinganghat, (23.04.18)  
C/o. Ashish Subhash Chandarana,  
302, Sahakar Nagar, Akola-444004.  
Non-applicant : Nodal Officer,  
The Executive Engineer,  
O&M Division,MSEDCL,  
Hinganghat.

**Case No.CGRF(NZ)/51/2018**

Applicant : M/s. Maa Vaishnodevi Oil Industries, Arvi, (2.5.18)  
C/o. Ashish Subhash Chandarana,  
302, Sahakar Nagar, Akola-444004.

Non-applicant : Nodal Officer,  
The Executive Engineer,  
Arvi Division,MSEDCL,

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Applicant represented by :- Shri Ashish Subhash Chandarana,

Non-applicant represented by :- 1) Shri H.P.Pawade, E.E., Hinganghat Dn.  
2) Shri N.V.Gayakwad, E.E., Arvi Dn.

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

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**COMMON ORDER PASSED ON 18.06.2018 in Case No.35/2018,  
Case No.36/2018, Case No.37/2018, Case No.47/2018, Case No.51/2018,**

1. All these five grievances applications are filed on 19-04-2018, 23.04.2018,02.05.2018 and 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. Facts of all these applications are similar and identical, therefore we are deciding these cases by a common order.
3. Non applicant filed reply and denied case of the applicant.
4. Forum heard arguments of both the sides and perused record.

5. Applicant's case in brief is that all of them are Industrial consumers of non-applicant MSEDCL. As per the grievance, while providing electric connection to their installation non-applicant has recovered infrastructure cost, ORC, testing charges and service connection charges in violation of MERC's supply code regulations 2005 and approved schedule of charges. They subsequently agreed to refund the total amount without interest. According to applicant, IGRC vide its order directed to refund the amount but committed error in not deciding the rate of interest as per APTEL and MERC order and provisions of section 62(6). So also IGRC remained silent on the issue of overheads such as transportation @5%, contingencies @ 3%, T&P@1.5%, service tax on labour & transportation @ 12.24%, Contractor's supervision, high level commissioning and testing charges on material cost @5%, Contractors profit on project Cost @5%, price escalation on material cost @5%, interest during construction period@2.5%, H.O. supervision charges actually paid. Non-applicant while finalizing WCR accounted only 10% labour and ignored aforesaid overheads as per cost data, resulting in less refund and hence causing dispute over refund amount. Therefore prayed for refund of differential amount after adding aforesaid overheads in W.C.R. and payment of interest @ prime lending rate of SBI as decided by APTEL in appeal no.47 of 2011 from the date of release of connection till the date of refund of entire amount. Applicant produced on record a chart showing admissible amount and correct

refund amount after adding overheads.

They claimed refund of Rs. Rs.63947.00/-for M/s. Shreenath Oil Industries, Arvi, refund of Rs.185920.00/-for M/s. Salasar Industries, Hinganghat, refund of Rs.103096.00/-for M/s. Uday Oil Industries, Hinganghat, refund of Rs.384730 for LT connection and 1308470.00/-for HT connection for M/s. Virba Industries, Hinganghat, refund of Rs.67220.00/-for M/s. Maa Vaishnodevi Oil Industries, Arvi. Applicant annexed copy of WCR as per 15% supervision charges and IGRC order.

Further applicant has produced WCR of M/s Jyoti oil Mill Hinganghat wherein centrages of 42.63% is considered by non-applicant, so he demanded uniformity in the refund procedure to be adopted for all consumers by non-applicant.

6. Non-applicant filed written reply. Non-applicant MSEDCL denied the less refund towards infrastructure cost as alleged by applicant. As per their submission the amount of refund is as per guidelines of their departmental circular No. 25079 dt.12.10.2017 and No. 31793 dt.29.12.2017 and therefore it is in order. In case of M/s. Shreenath Oil Industries, Arvi, date of connection is 21.02.2008 and applicant executed the work as per 15% ORC scheme . In case of M/s Jyoti Oil Mill estimate was sanctioned under Non DDF CC&RF Scheme and WCR of M/s Jyoti Oil Mill is not for refund but only for the purpose of Asset Formation. Whereas aforesaid applicants estimate were framed under 15 % ORC scheme .While estimate was framed and sanctioned other centrages as

claimed by applicant were not included. Hence WCR was finalized with 10% labour charges and 15% supervision charges only without excess heads as claimed by applicant and hence those two parameters are not considered for refund. Also clear cut guidelines are issued vide their departmental circular no.43933 dt.23.11.2001 for framing the ORC estimate when the work is to be executed by the consumer i.e. 15 % ORC and when the work is to be executed by Licencee i.e. 100 %ORC .In both the cases overheads are different .The instant applicants belong to the category of 15% ORC. The execution of work is done after parties entered into contract. Further they contended that the applicants did not raise any objection when estimate was framed regarding centrages(overheads).The demand of applicants to refund the excess centrages at par with the centrages when licensee does work under 100% ORC cannot be accepted as centrages such as escalation etc has to be proved by applicants. In absence of valid proof, the demand for overhead other than mentioned in sanctioned estimate can not be considered. Further they submitted that Departmental circular issued for deciding interest is for the period from 20.01.2005 to 30.04.2007as per MERC's order dt.17.05.2007 and dt.21.08.2007 in case no.82 of 2006 hence applicant is not eligible to get any interest. Hence, prayed this Forum to reject the grievance application.

7. It is noteworthy that there is difference of opinion amongst the three members of the Forum. Therefore the judgment and the decision is based on

majority view of the Chairperson and the Member Secretary. Whereas dissenting note of the Member(CPO) is noted in the judgment and it is part and parcel of the judgment which is as follows,

Dissent note by Naresh Bansod, Member (CPO) dated 15.06.2018 in case No. 35,36,37,47,51/2018.

(1) Arguments of both the parties heard in detail and perused all the papers on record. The grievance in all above mentioned cases before me are more or less same or identical and applicants prayed for direction to MSEDCL to refund differential amount (i.e. actual receivable and refund adjusted in energy bills ) or refund of total actual receivable as per case wise given below along with interest at the bank rate (PLR of SBI) in compliance of section 62(6) of EA 2003 read with order of APTEL in appeal no. 47 of 2011 from the date of release of respective connections and direct SE Wardha to take action against errant officers in line with directions issued by Director Operations for delaying refunds to ORC under letter dated 05.03.2018 and Rs.15000/- for harassment and unwarranted expenditure, in each case. Applicant said the refund with interest etc. is relating to above Non DDF consumers to whom MSEDCL burdened infrastructure cost under ORC head.

(2) The grievance of the applicant is that non applicant while refunding the amounts burdened upon consumer in violation of supply code 2005 & in violation of approved schedule of charges in MERC case No 70 of 2005 and subsequent order of as per MERC order in case no. 82/2006 and in case No. 93/2008 and Hon'ble Supreme Court's order dated 11.10.2016, followed by MERC letter dated 02.07.2017 and subsequent circular of MSEDCL dated 12.10.2017 & 29.12.2017, IGRC acted unlawfully and passed vague direction and did not processed the refund in right spirit but directed refund of lesser amount by not adding centrage charges over and above material cost as per standard practice to be adopted read with prevailing cost data released by the

HO of non applicant.

(3) The grievances are limited up to less amount received or not received as the case is on account of infrastructure cost burdened upon consumer in violation of approved schedule of charges under ORC head and demand for awarding interest on the amount as per MERC order in case no 82/2006 read with APTEL order in appeal no 47 of 2011 as well refund of interest on security deposit along with SOP compensation for delay in closure of account case no. 47/2018.

(4) The refund of infrastructure cost is not disputed by MSEDCL and major portion of principle amount is refunded or agreed to refund and dispute is in relation to calculation of amount and interest on entire amount and cost of hardship and unwanted expenditure on above consumers.

(5) Applicant relied on provisions regarding infrastructure cost, interest on refund amount etc. i.e. The E.A. 2003, Electricity supply code Regulation 2005, MERC regulation dated 08.09.2006 in case no. 70/2005, APTEL order dated 14.05.2007, MERC order in case no. 82/2006 regarding refund of infrastructure cost, other MERC order dated 21.08.2007, Supreme Court order dated 31.08.2007 & 16.10.2016 etc. (6 orders of MERC, MSEDCL etc. at serial no. 7,8,9,10,11,12,13).

As per applicants (data given), the basic estimate of applicant's connection (excluding overhead centrages) but while preparing WCR, MSEDCL failed to add various overhead expenses which regularly added while making payment to contractors and which is mandatory as per cost data of N.A. and so also in line with actual execution of work as it was not applicant's job to get the work done through contractor by themselves but MSEDCL compelled consumers to do in violation of approved schedule of charges. The overheads are integral part of execution of work and applicants bring to notice of the forum exemplary case of one consumer of Wardha circle under refund scheme of infrastructure work wherein all centrages were included in WCR.

The said charges are :-

- a) Transportation charges 5%
- b) Service tax 12.24% on labour and transportation charges.
- c) Contingencies on material 3%
- d) Tool and plant on material 1.5%
- e) Contractor supervision, high level testing and commissioning charges 5%
- f) Contractor's profit on all these components 5%
- g) Price escalation on material cost 5%
- h) HO. Supervision charges 15% on labour cost and i.e. 1.5% on material cost.
- i) Interest during construction period 2.5%

Applicants representative during arguments filed copy of order of C.G.R.F., Akola Zone in complaint No. 08/2018 & 09/2018 dated 04.05.2018 in which issues are identical to the present grievances, pertains to refund of ORC with infrastructure cost, excessive service connection charges and testing charges with interest at bank lending rate and order refund of unlawfully recovery with interest in favor of consumers i.e. directed to adjust refund with interest in forth coming bills payable by complaints. This order has percussive value and can be considered as precedent as it well reasoned order. ( submitted as directed by the chairman of the forum )

This order of CGRF Akola is **unanimous** directing MSEDCL to refund infrastructure cost along with cent rages and interest as claimed by applicant.

**A) Case No. 35/2018** – As per applicant, Principle amount receivable Rs.342189/26 ps is the amount as per cost data as per norms of MSEDCL (data given) but Rs.277864.37 ps was estimated excluding centrages. Applicant prayed for refund of difference Rs.63947/- with interest as per section 62(6) r/w order of Aptel as above.

Non applicant in reply stated that amount as per estimate is Rs.277864.37 and refunded Rs.278242/- in which 10% labour charges and 15% supervision charges are considered and other centrages were not included in sanctioned estimate but failed to specify the reasons for the same which proves the



deliberate act against cost data and WCR norm, when NA considered in case where works are done by their contractor on their behalf. This is discrimination and law does not permit.

Non applicant also denied eligibility of interest as per their circular considering date of connection is 4.4.2008. Which is not as per MERC or Aptel orders. Hence non applicant is liable to pay difference of Rs.63947/- with interest (bank rate PLR of SBI), as per Aptel order in appeal No. 47/2011 till refund of entire amount Rs.342189/-.

B) Case No. 36/2018 – As per applicant principle amount receivable is Rs.548013.22 with interest from date of collection till date payment as per annexure A-1 but non applicant refunded partial amount i.e. Rs. 3688992.96 (data on record). Applicant prayed for refund of difference of Rs.185920/- with interest.

Non applicant in reply said that actual material cost i.e. 387392.90 considered and the amount of Rs.368893.83 refunded to consumer on 31.03.2018. Non applicant admitted that labor charges Rs.36239/- along with transformer testing fee Rs.3000/- will be refunded as per MSEDCL rule but failed to explain why not refunded on 31.03.2018 along with Rs.368893.83. Non applicant admitted that centrages from Sr. No. 3 to 11 cannot be refunded as not covered in the sanctioned estimate but further failed to explain as to why non applicant did not covered in the sanctioned estimate as per cost data and WCR to their own contractor. This act of non applicant appears to be deliberate and needs to be condemned. Non applicant admitted the meter cost Rs.22400/- at Sr. No. 12 is paid separately by consumer and cost is covered under cost of service connection i.e. Rs.36569/- of sanctioned estimate and cost is already refunded under service connection head. On verification Rs.22400/- are included in cost of service connection and is refunded hence Rs.22400/- needs to be reduced from 185920/- i.e.  $185920 - 22400 = 163520/-$  is refundable amount with interest as above in para 1 & B.

C) Case No. 37/2018 - As per applicant, principle amount Rs.343500/- along with interest was receivable/refundable but, non applicant partially refunded amount Rs.238943/- only and balance refundable amount is Rs.104557/- with interest on entire amount is still pending (data given).

Non applicant said actual material cost is Rs.232443.37 ps. as per applicant. NA considered in the amount of Rs.238943/- while refunding and labor component of centrages 23244.37 along with transformer testing charges Rs.3000/- will be refunded through energy bills as per MSEDCL rule. But fail to explain why these charges were not refunded along with 238943/- which is deliberate act on their part and needs to be condemned. Non applicant said other centrages at 3 to 11 as claimed cannot be refunded as they were not covered into sanctioned estimate, but intentionally avoided to explain as to why were not covered in the sanctioned estimate as per prudent practice of non applicant and such act needs to be further condemned.

Non applicant submitted that the meter cost of Rs.22400/- at Sr. No. 12 paid separately is covered under cost of service connection of Rs.32211.88 and on verification it is found so. Therefore, 22400/- needs to be reduced from balance refundable amount i.e.  $104557 - 22400 = 82157$ .

Non applicant submitted that interest issue will be dealt as per MSEDCL's circular but failed to explain when and how. Such type of reply are not expected and shows negligent attitude and casual approach while dealing with CGRF cases which according to me a serious lapse on part of non applicant hence balance amount Rs.82157/- along with interest on entire amount @ PLR of SBI needs to be refunded in next billing cycle by non applicant.

D) Case No. – 47 of 2018.

Earlier applicant was LT consumer since 10.12.2007 for which infrastructure cost was borne by consumer under ORC & infrastructure is created by consumer. Estimate was approved for basic material cost and labour 10% therein amounting Rs.277440.00 but excluding other overhead charges like transportation, Tool and Plant, contingencies, etc. (Cost of estimate excluding

labor was Rs.248823.84 ps.). After taking into account eligible centrages of 40.33% along with basic material cost, total expenditure on account of infrastructure comes to Rs.349175.00 & other unlawful recovery including meter cost 22400/- Excess SCC 6415/- and Supervision charges 3740/- and transformer testing charges 3000/- it comes to Rs.384730.00.

While providing HT connection, Estimate was again framed under ORC though expressly barred by MERC repeatedly and service connection charges 15000/- recovered as against permissible 1.3% of 15000 i.e. 195.00 i.e. excess recovery of Rs.14805/-. Additionally supervision charges Rs.13300/-, cubicle testing 5000/- & infrastructure cost after taking into account permissible centrages which comes to Rs.1275365.00 and hence excess recovered charges at the time of HT connection comes to Rs.1308470.00 (data on record).

Applicant prayed for refund of Rs.384730/- (LT connection) + 1308470/- ( HT connection ) i.e. 1693200/- with interest rate @ PLR of SBI as per APTEL order.

Applicant also prayed for unpaid interest on security deposit Rs.147200/- which is refunded after about 8 years from 01.04.2010 till the date of refund as per regulation 11.12 of supply code 2005 and SOP compensation @ 100/- per week for delay in closure of account.

Non applicant, in their reply admitted that infrastructure cost burdened under ORC head during LT connection for 107 HP will be refunded as per WCR and centrages as per sanctioned estimate but failed to justify the discrimination among contractors and consumers while adding centrages as per the prevailing cost data of NA. Non applicant also failed to explain as to why Security Deposit was not refunded for period of about seven and half years and subsequently refunded without interest though regulation expressly directs to pay interest till the date of refund. Non applicant failed to provide any explanation as to why the refund of infrastructure cost was not made in spite of instructions from H.O. of MSEDCL and so also order of the IGRC.

It is observed that meter cost 22400/- is already covered in estimate. Further service connection charges 6500/- and 15000/- are approved by MERC in their schedule of charges order against which applicant have demanded Rs.6415.00 and 14805/- as refund respectively after deducting 1.3%. In fact when Service connection is covered in estimate and hence amount Rs. 6500/- and 15000/- are rightly recovered, and therefore these three amount needs to be deducted from the claim of applicant amounting Rs.43620/- Accordingly applicant needs to be refunded Rs.1649580/- ( 1693200.00 claimed – 43620.00 rejected ) along with interest from the date of supply (LT & HT) till the date of refund @ PLR od SBI as per PTEL order in case No. 47 of 2011 through energy bill of HT connection of applicant.

MSEDCL also needs to pay interest on security deposit already refunded Rs.147200/- from 01.04.2010 till the date of refund as per provisions of supply code 2005.

E) Case No. 51 of 2018.

Like earlier matters 'a to d', applicant prayed for refund of infrastructure cost Rs.364292.10 out of which rs.297072.00 has been refunded and balance amount Rs.67,220.00 along with interest on entire amount from the date of release of connection i.e. 21.02.2008 till the date of refund. The difference in amount is justified due to non-application of applicable centrages as elaborated in earlier matters.

Non applicant in reply stated that amount as per estimate is 297237/- and amount as per WCR is Rs.297022/- is refunded to consumer through energy bill. Non applicant submitted that consumer is not entitled for interest as per departmental circular. MSEDCL admitted that excluding labor, other centrages are not considered while finalizing WCR. It is also admitted position vide additional submission that contractors are being paid centrages in the event MSEDCL engages contractor to execute the work. No satisfactory explanation is given during hearing in relation to this discrimination. The circular made available which is repealed by Supply code 2005 and which was no more in

existence. Thus it appears that there is arbitrary and inconsistent treatment among different WCR between contractor and consumer is given without any justification which needs to be condemned.

Hence non applicant is liable to refund Rs.67220/- together with interest on entire amount (including earlier refunded) as per section 62(6) @ PLR of SBI read with APTEL order in appeal No. 47 of 2011.

(6) Applicants in all the above 5 cases prayed for cost amounting Rs.15000/- from MSEDCL for not adhering and deviating from their own circulars resulting in unwarranted hardship and unwarranted expenditure to applicant consumers in addition to damage caused to reputation of MSEDCL. The entire attitude of the officials of non applicant is without application of mind and resultantly consumer required to suffer who is already suffering since last 10 years on account of the unlawful act of non applicant. The intensity gets multifold when non applicant disobeys the verdict of Hon'ble Supreme Court which is unpardonable. Hence in the interest of Justice, granting cost Rs.5000/- to each applicant will meet the end of justice to some extent as per Reg. 8.2 (C&E) of MERC (CGRF & EO) Regulations 2006. I am not inclined to penalize the MSEDCL but I feel that it is necessary that enquiry into the negligence of concerned officers should be made so as to fix the burden of cost and additional interest due to delay and the same could be recovered from errant officers if found guilty after due enquiry.

Accordingly all the above 5 applications deserves to be allowed. In the result I pass the following order and the order of IGRC needs to be quashed and set aside as vague as well as non appreciation of their own cost data.

### **ORDER**

1. Non Applicant is directed to refund below mentioned amounts in respective case number along with interest on entire amount from date of respective connections or deposits. (Including earlier refunded) as per section 62(6) read with APTEL order in appeal No. 47 of 2011 @ PLR of SBI through energy bill.

- a) Rs.3,42,189/-
- b) Rs.1,63,520/-
- c) Rs.82,157/-
- d) Rs.16,70,800/-
- e) Rs.67,220/-

2. In complaint No. 47 i.e. 'd' Non applicant is directed pay interest on security deposit amounting Rs.1,47,200/- (already refunded) from 01.04.2010 till the date of refund made as per regulation 11.12 of supply code 2005.
3. In complaint No. 47, non applicant is directed to pay SOP Compensation @ 100/- per week or part thereof for delay in closure of account from 01.01.2011 till the date of payment of interest on security deposit.
4. Non applicant is directed to pay Rs.5000/- to each applicant for hardship and unwarranted expenditure incurred.
5. IGRC order is quashed and set aside.
6. Compliance of this order shall be done within 30 days from the date of this order.

**Naresh Bansod**  
**Member (CPO)**

8. Reasoning and finding of majority view of the Chairperson and the Member Secretary of the forum,

According to the Regulation 6.6 of the said Regulation, **“Forum shall not admit any grievance unless it is filed within 2 years from the date on which the cause of action has arisen”**. In this case load was sanctioned and demand was issued to all these applicants in the year 2007 to 2010. Therefore cause of action arose in all cases in the year 2007 to 2010. Therefore it was necessary for the applicants to file grievance application on or before 2 years

i.e. on or before 2009-2010. But present cases are filed on 19-04-2018 i.e. after almost 9 to 10 years of expiry of period of limitation and therefore those are hopelessly barred by limitation.

9. Applicant desired to mislead this Forum on the ground that he filed Grievance application before I.G.R.C. on 09.01.2018 and so present grievance is within limitation. However, we do not agree with this argument of the applicant because the date of filing application before I.G.R.C. is not relevant. It is immaterial when anybody files grievance application before I.G.R.C. The relevant date of calculation of limitation is the date of cause of action within the meaning of regulation 6.6. Cause of action arose in year 2007 to 2008. Therefore limitation starts from the date of cause of action i.e. year 2009 to 2010. Therefore we find no force in the contention of the applicant that merely because he filed grievance application on 09.01.2018 before I.G.R.C. any special concession can be given to him.

10. It is noteworthy that date of filing of application before I.G.R.C. specially in time barred cases is irrelevant because if the matter is time barred, according to regulation 6.6 with fraudulent intention, to bring time barred case within limitation any consumer may knock the door of I.G.R.C. at belated stage and may claim to calculate the period of limitation from the date of filing the application before I.G.R.C. but this is not a legal concept. It is misconception and misinterpretation of the relevant provisions laid down under regulation 6.6 of the said regulations. Therefore grievance application filed by the applicant at belated stage before I.G.R.C. on 09.01.2018 will not help the applicant to bring the time barred cases within limitation.

11. Representative of applicant relied on the Hon'ble High Court ruling as mention in his application. We have carefully perused all the rulings cited by the applicant. However, facts of the present cases are totally different and distinguishable and therefore authorities relied on by the applicant are not applicable to the cases in hand.

12. Therefore we hold that grievance application is barred by limitation according to regulation 6.6 of MERC (CGRF & EO) Regulation 2006.

13. So far as merit of the cases are concerned, the grievance in all above mentioned cases before forum are more or less identical and applicants prayed for direction to MSEDCL to refund differential amount i.e. actual receivable and refund adjusted in energy bills or refund total actual receivable as per cases 35,36,37,47,51 along with interest at the bank rate (PLR of SBI) section 62(6) of EA 2003 as decided by APTEL in appeal no. 47 of 2011 from the date of release of respective connections and to direct SE Wardha to take action against errant officers in line with directions issued by Director Operations for delaying refunds to ORC under letter dated 05.03.2018 and Rs.15000/- for harassment and unwarranted expenditure, in each case. Applicant said the refund with interest etc. is relating to above Non DDF consumers. In perusal of record it is observed that, all applicants as per cases 35, 36,37,47,51 applied for their connections to non-applicant. Accordingly their estimates were sanctioned under 15 % ORC in the year 2007 to 2010 and on the



basis of the estimate, demand is given for load sanction by non-applicant in the year 2007 to 2010 .Applicant has submitted ground for huge delay in filing the grievance within the statutory period of 2 years as per chronology of events such as

a) MERC passed order on 08.09.2006 regarding first schedule of charges order under regulation 18 of supply code 2005 rejecting demand of MSEDCL to allow them to recover infrastructure cost from prospective consumers in case no.70 of 2005.

b) MSEDCL challenged Hon. Commission's order dtd. 8.9.2006. vide appeal no. 22 of 2007 filed before Hon. APTEL. APTEL on 14.05.2007 rejected MSEDCL appeal against MERC's order dt 08.09.2006. After referring the appeal no. 22 of 2007 filed before Hon. APTEL, what are the issues challenged by MSEDCL against Hon. Commission's order dtd. 8.9.2006 , becomes clear after referring the point which is reproduced below from order dtd. 14.5.2007.

*“This appeal filed by the Maharashtra State Electricity Distribution Company Ltd. (for short ‘MSEDCL’) is directed against the order passed on 08.09.2006 by the respondent, The Maharashtra Electricity Regulatory Commission (hereinafter called as ‘the Commission’ or ‘MERC’) whereby the ‘Commission’ did not approve the proposed “Schedule of Charges” including ‘Service Line Charges’ submitted to the Commission in compliance to Regulation No. 18 of MERC (Electricity Supply Code and other Conditions of Supply) Regulations, 2005 (hereinafter to be called as ‘Regulations 2005’). The aforesaid Service Line Charges (for brevity to be called as ‘SLC’) as claimed by the appellant is on the basis of normative expenditure to be incurred on the infrastructure which are required to be created for bringing the distribution network closer to the Consumer premises.”*

This appeal is dismissed by the order as follow:

*“In view of the above, it is clear that the “Service Line Charges” as proposed by the appellant are being allowed to be recovered through tariff. If the aforesaid proposal on “Service Line Charges” made by the appellant is accepted it will amount to doubling of the recovery of the expenses from the consumers. The appeal is accordingly dismissed.”*

c) MERC passed an order in case no.82/2006 directing MSEDCL to refund infrastructure cost collected under ORC/SLC head till 30.04.2017 and prohibited from further collecting amount which are not covered in schedule of charges or not defined in supply code 2005.

d) MSEDCL filed Civil Appeal/petition no. 20340 of 2007 with Hon’ble Supreme Court against the Hon. Appellate Tribunal order dt.14.05.2007 in appeal no. 22 of 2007 challenging the Hon. Commission’s order dtd. 8.9.2006. The matter was pending with Hon. Supreme Court.

e) Supreme Court rejected MSEDCL Civil Appeal No.4305 /2007 on 10.11.2016 . In view of the above, it is clear that the “Service Line Charges” as proposed by the MSEDCL are not being allowed to recover from consumer under the head ORC or SLC .Accordingly MSEDCL has issued circulars no.25079 dt.12.10.2017 No. 31793 dt.29.12.2017 and No. 5039 dt 07.03.2018,in pursuance of the Hon’ble supreme court decision and issued instructions for refund of SLC ,ORC charges and meter cost recovered from all consumers as per MERC’s directives issued in order dt.17.05.2007 and 21.08.2007 of case no.82/2006 alongwith interest during the period 20.01.2005 to 30.04.2007

14. Now question is what do we mean by SLC?. For which we rely on MERC order dt. 8th Sept 2006 passed in case no.70 of 2005 in the matter of approval of MSEDCL

schedule of Charges on page no 24 wherein it is stated that :-

*“From the schedule of charges proposed by MSEDCL, it is observed that Service Line Charges basically covers the cost of infrastructure between the delivery points on the Transmission lines and Distribution mains. Whereas service connection is interpreted as a link between Licensee’s nearest distribution points(i.e. distribution main) to the point of supply at consumer’s premises, which also includes other accessories i.e. any apparatus connected to any such line for the purpose of carrying electricity and SCC covers cost involved in providing service connection from distribution mains.”* The

instant applicants filed their application for new connection at LT / HT supply. There was no infrastructure available near the vicinity of the premises where load was demanded. Hence the extension of infrastructure was needed *from distribution mains*.

An estimate for giving supply was framed which involved the work of erection of HT OH line , laying of 11 KV UG cable for providing service connection link between the Licensee’s nearest distribution points(i.e. distribution main) to the point of supply at consumer’s premise. As such as per regulation 3.3.2 of Supply code, State Commission authorizes the Distribution Licensee to recover all expense reasonably incurred in laying down service line from distribution mains to applicant’s premises from the applicant Thus applicant was required to pay the entire cost of Service connection line from the distribution main to his premises.

Secondly Regulation 3.3.8 of Supply Code Regulation provides that Distribution Licensee may permit an applicant to carry out works through a Licensed Electrical Contractor, the Licensee in that case is not entitled to recover expenses relating to such portion of works so carried out by the applicant. The Licensee shall be entitled to recover only the supervision charges not exceeding the 15% of the cost of labour. As such it is seen that the instant

applicant has executed the estimated work by paying 1.3% supervision charges. The consent letter for such execution is on record. It is clearly mentioned in this consent letter that applicant is ready to carry out the required infrastructure work at his own cost along with 1.3% supervision charges to Licensee. The consent is not given conditionally. MSEDCL has not given any undertaking for refund of cost of work carried out by the applicant. It is noteworthy that there was no compulsion by MSEDCL to the applicant to give such consent. On the contrary the consent was given voluntary and free consent as per will and wishes of the applicant.

Therefore it has binding force on the applicant.

15. Therefore, this forum is of the considered opinion that the applicant has been misleading Forum by interpreting the SCC as SLC, and the said charges borne by them are covered under the Head of SCC and not SLC, which Hon'ble MERC has allowed the MSEDCL to recover the same from consumer. As the decision of the Hon'ble Supreme Court is regarding SLC charges, therefore it has no relevance in the instant matter.

16. It is also seen that non-applicant has already granted refund in this regard which need to be verified in light of above analysis.

17. For these reason, we hold that grievance applications deserves to be dismissed. Hence we proceed to pass following order by meajority

### **ORDER**

1. The Grievance applications are dismissed.

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

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

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