

.(A Govt. of Maharashtra Undertaking)

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Consumer Grievance Redressal Forum  
"Vidyut Bhavan", Gr. Floor,  
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Mumbai – 400078.

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REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/ 58/ 596      Dates: 10.04.2018

**Hearing Date: 03.04.2018**

**CASE NO.58/2018**

**In the matter of Billing**

M/s. Excel Ice Services,  
Sector-18,Plot No. 27,APMC,  
Mafco yard services,  
Vashi, Navi Mumbai-400705.  
(CONSUMER NO. 000079008150)  
. . . . (Hereinafter referred as consumer)

**Versus**

Maharashtra State Electricity Distribution Company Limited  
through its Nodal Officer,  
Vashi Circle,Vashi

. . . . (Hereinafter referred as Respondent)

Appearance For Licence:- Shri D.B. Pawar Executive Engineer ,Vashi Circle.  
Shri.D.S.Tele( Dhangar ) Sr.Manager ( F & A) Vashi  
Circle.

For Consumer:- Shri.Tulshiram Y.Mane  
Shri.Ghumaji Nana Bansode  
Shri.Delip Nevase

[Coram- Dr. Santoshkumar Jaiswal - Chairperson, Shri. R.S.Avhad -Member Secretary  
and Sharmila Ranade - Member (CPO)].

1. Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as

per the notification issued by MERC i.e. “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005] Hereinafter referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. ‘Maharashtra Electricity.

2. This application filed by Excel Ice services before this CGRF on 22.01.2018 alleging that they are the consumer of MSEDCL, having factory at plot No. 27 MAFCO yard services, Vashi Navi Mumbai and consumer no 000079008150 connected load 825KW and contract demand 412.5KVA and paying the bills time to time regularly.
3. Applicant further alleged that they received letter no SE/VC/00770 on 15.02.2017 asking to pay totally unjustified amount of Rs. 1,38,37,250/-. This is the grievance of aging the bill instead of providing of justice they have serve the letter asking to pay amount Rs. 1,38,37,250/-. They further alleged that dispute to payment regularly MSEDCL, they have not credited paid amount of bills in their account and shown in as arrears. Further that the cheque issued by them was dishonored but that on it was debited on May -10 and June 10 Rs. 6,70,365/- for two times.
4. Applicant further submit that they have paid amount Rs. 24, 24,702/- , 2) 12,49,475/-, 3) 10,18,750/-, 4) 16,69,089/- was not posted. They further submitted that they have shown to concern authority time to time but only made correction on bill but not credited and shown in at arrears.

5. Applicant further submitted that they have paid amount by cheque each is of Rs. 6,70,365/- and it was debited on May 10 and June 2010 he further submit that he has paid Rs. Rs. 24, 24,702/- , 2) 12,49,475/-, 3) 10,18,750/-, 4) 16,69,089/- but it was not posted. Applicant further alleging that they have to charge DPC, Interest and not given prompt payment discount which was totally unreasonable amount of assessment and claiming for assessment finalized as Rs. 65,18,650.20/- in Jan 2007. Applicant further alleged that there are earlier assessment was above two crore but applicant force to pay Rs. 30, 00,000/-only.
6. He further submit that the SE, Vashi vide his letter dated 03.01.2007 informed that the final assessment balance is of Rs. 65,18,650/-((based on order issued by appellate authority and directed us to pay balance amount of Rs. 35,18,650.20/-. The same assessment was challenged by applicant for 25% penalty and period of assessment. However, the Hon'ble high Court by its order dated 19.10.2012 directed utility to be paid by applicant.
7. The applicant further alleged that the Hon'ble High Court order 19.10.2012 was challenged before being of high court branch of High court directed to pay Rs. 10,00,000/- and interim relief was granted in remaining amount. The applicant further submit that the Hon'ble High Court order dated 15.04.2014 decided the matter and directed to pay amount Rs. 10,18,750/- within six weeks.
8. Applicant further submitted that they have paid entire amount as directed by Hon'ble High Court on 31.07.2014. The details of payment of theft assessment finalized by Hon'ble High Court Mumbai. The applicant is given details of at para 28&29. Showing that the applicant had paid R. 65,71,750/-

9. Applicant further submitted that applicant in the March 2017 the respondent issued the letter asking to applicant paid Rs. 1,38,37,250/-.
10. Applicant has made payment directly to MSEDCL and applicants are deliberately deprived of their right of prompt payment made by them as any midcourt.
11. Applicant further alleged that there was a hearing by IGRC dated 30.08.2017 and the IGRC directed to HT billing section to correct the bill by posting of payment and withdraw the prompt payment discount DPC and interest.
12. Applicant further alleged that the DPC and interest and prompt payment but the discount not given as per there requirement.
13. Lastly, the applicant prays that to give order to MSEDCL HT section to credit the total amount Rs.48,17, 021.48 towards DPC Interest prompt payment discount.
14. Further that the DPC and interest are wrongly charge and prompt payment discount may be given. This applicant has filed IGRC grievances Case No. 16/2017-18 in which order it was held at all un posted energy bill is of Rs. 53,63,292/- and interest there of 34,93,167/- as totally amount of Rs. 88,56,459/- it is shown in schedule 1.
15. Prompt payment discount is of Rs.1,44,496/-, DPC 4,10, 621/- interest – 14,19,241/- the total amount into Rs.1974358/- shown in Schedule -2.
16. Therefore grant total 88,56,459/-- and 19,74,358/-comes Rs. 10820870/-. This compliance order sent to the applicant by SE, Vashi circle dated 08.07.2018. In accordance with order of IGRC dated. 07.09.2017 in which the IGRC was held to check the paid amount reported by the consumer and ascertains whether the amount is deposited in utility account. And delayed

payment charges and interest levied amount accrued against the bills paid within due time period shall be waived and accordingly the bill shall be revised by the utility.

17. It was also directed by IGRC that his applicant and opponent are not satisfied with the decision they may go to in appeal to CGRC.
18. In view of total arrears along with current bill as on 31.12.2017 is of Rs. 1,56,85510/-
19. The adjustment of Rs. 1,08,0,817/-the order passed in December 2017 through B-80.the balance amount is of Rs. 4854640/- is to be paid to MSEDCL within 15 days of receipt of this letter otherwise supply will be disconnected without any further order. This case No. 58 was filed by the applicant was 24.1.2018 and respondent Ex. Eng. MSEDCL Vashi circle as filed their point wise compliance on 13.03.2018.They submitted that consumer LAP No.270. In the writ petition filed by this applicant consumer (writ petition no 420/2012 is dismissed with no cost as per Bombay High Court order dated 5.04.2016. As per decision of Appellate authority vide letter no. 15.09.2006 the supplementary was finalized RS. 6518450/- as consumer has paid Rs. 30,00,000/- and balance amount of Rs. 35,18,650/- was payable and same was communicated to consumer as per letter dtd. 03.01.2007.Appellate authority as allow the consumer to pay the outstanding amount within one month but consumer has not paid the amount of theft of energy and therefore the balance amount of Rs. 35,18,651/- was added in his bill of December 2008 and up to December 2011 arrears along with energy bill was grown up to Rs 5752710/-. Vide letter dated 19.12.2018 requested to pay the bill within 30 days from the date of said letter.

20. He further submit that it was contention of the consumer that he has paid on balance amount of theft that 3518650/- debited in the month of December 2008 along with monthly bill, but it was showing unpaid in the next bill. He further submits that in IGRC Case No. 16/2017-18 order to check the amount reported by the consumer and ascertain whether the amount is deposited in utility account and secondly to waive the delayed payment charges & interest levied he amount deposited in utility account and secondly to waive the delayed payment charges and interest levied amount accrued against the bill paid with due time period. Also submit that the first issue raise in IGRC accordingly after verifying record as shown in Schedule1 &2 amount Rs. 1,08,30,817/- up to august 2017 along with DPC/Interest is credited in Dec 2017 bill and balance interest amount from Sept.2017 to December 2017 the amount is of Rs. 3,21,797/- is to be credited in March 2018 bill.
21. The applicant consumer has filed written notes of arguments and also Mr. Mane representative of consumer has submitted that the consumer has cold storage at Vashi there was recovery of Rs. 65,18,650/-dtd.03.01.2007 out of which 30,00,000/-was paid by the consumer and 35,00,000/- was balanced against this bill the consumer has preferred application dated 21.02.2007 to review this bill as recovery of 65,18,650/- was wrong. He further submitted that the bill of December 2008 the respondent as added Rs.35, 00,000/- in the current bill account. The consumer has requested to keep this objectionable amount of Rs. 35,65,618/- separate and he ready to pay a current bill amount. He further submitted that in year 2010 he has paid the cheque of Rs. 6,70,365/- in the month of May June but respondent has shown the entry of Rs. 6,70,365/- in the month of June 2010 also though it was paid by the applicant. Later on respondent has accepted in this cheque amount the re entry of 6, 70,365/- but therefore required to be deleted. On 16.11.2011 no change in the bill was made above entry of Rs. 35, 00,000/- therefore



applicant has filed writ petition before Hon'ble High Court. As per direction of Hon'ble High court Bombay the consumer has deposited in advance Rs. 10,00,000/- at first instance and again Rs. 10,00,000/- at second instance and Rs. 10,11,650/- in the year 2014 as direction of Hon'ble High Court.

22. The petitioner submitted that in the month of May 2010 and the cheque issued by him of Rs. 6,70,362/- was dishonored but it was debited for two times by mistake of the respondent therefore one amount of Rs. 6,70,362/- be paid to the petitioner . He further submit that applicant paid the amount of Rs. 24,24,702/- and 12,49,475/- both the payment dated 10.02.2014 and the advance amount paid as per direction of the Hon'ble high court the petitioner has deposited Rs. 10,00,000/- and again 10,0000/-and finally 10,18,650/- dtd. 25.07.2014 towards payment of arrears of Rs. 35,,65,618/- are also shown un posted therefore they may be considered form the date of payment of bill and arrears and from those dates petitioner has entitle form exemption from DPC, Interest and prompt payment discount form interest and from part payment instalments. He further submit that he considered then there will be arrears against respondent Rs. 48,17,021/ with interest to paid to the consumer.
23. I have gone through the reply and opportunity given to the respondent representative . He have submitted that as per decision of appellate authority dated 15.09.2006 the amount of supplementary towards theft of energy as finalize to Rs. 65,18,650/-as per their letter dated 03.01.2007.Respondent has demanded the Consumer that out of the amount of Rs. 65,18,650/-. Consumer has paid Rs. 30,000,00/- and balance amount is of Rs. 35,18,650/- is payable and it is to be within 30 days otherwise these amount have included in subsequent bill and further action form recovery shall be taken. He further submitted that this petitioner has gone in writ petition before Hon'ble High Court but the high court has dismissed their petition. Therefore

recovery of Rs. 35,18,650/- against the Consumer along with interest as it is done. The respondent has admitted that the Consumer has paid as per order of Hon'ble High Court Rs. 10,00000/- and Rs10,18,650/- dated 25.07.2014 towards recovery Rs. 35,18,650/- but as the petition was finally dismissed by the Hon'ble High Court these amount will be calculated in the recovery along with interest . The respondent have admitted that the petitioners has paid Rs. 24,24,702/- and Rs12,49,475/- both payment dated 10.02.2014 but they are not posted or considered for recovery of current bill or recovery of arrears of 35,18,650/-.

24. He further submit that the consumer is in arrears of the amount and the amount of Rs. 65,18,650/- is recovery towards theft of electricity decided by appellate authority and not against electricity bill. Therefore distributed separately and interest separately upon it as per Bank interest in its realization. He further submit that the respondent is ready to considered the double entry of encashment of cheque amount Rs. 6,70,365/-.
25. He further submit that the payment of 24,24,702/- and 12,49,475/- shall be adjusted in the arrears in the recovery amount. Therefore application be dismissed with cost.
26. On hearing both sides, I am going through the documents on record it appears that there is recover of Rs. 65,18,650/- from the consumer as per the decision of appellate authority dated 15.09.2006 towards theft of energy was finalize. Out of this amount of Rs. 65,18,650/- the consumer has paid Rs. 30,00000/-. And remaining amount of Rs. 35, 18,650/- is balance against the petitioner as per order dated 15.09.2006. The consumer is challenging this amount Rs. 65, 18,650/- up to the level of Hon'ble High court but no relief was granted to the petitioner by the Hon'ble High Court as petition was dismissed. Therefore it is crystal clear the petitioner is in arrears of Rs. 35,18,650/- as per order



dated 15.09.2006 and this amount to be paid to respondent along with interest as per MERC tariff order and the electricity connection is commercial one. Out of this amount the consumer has deposited Rs. 10, 00000/- in Dec2012 for first time before Hon'ble High court again 10, 00000/- on 13.05.2014 as per direction of Hon'ble High court and for third time Rs. 10, 18,750/- on 25.07.2014 In the order of Hon'ble High Court in LAP no 270 of 2012 in write Petition no 420 of 2012 it is clear that there is no interference in order of appellate authority only Ad-interim relief granted dtd. 06.11.2012 to continued for period of 8 weeks on payment of sum of Rs. 10, 18,650/-.

27. Admittedly, the amount of Rs. 10, 18,650/- was paid by petitioner on 25.07.2014 that is after two months and 10 days. The statement given before Hon'ble High court was they will pay Rs. 10, 18,650/- within a period of 6 weeks from today dated 13.05.2014.
28. It is cleared and admitted that the consumer has deposited Rs. 30, 18,750/- out of the amount Rs. 35, 18,650/- which raised. And therefore consumer has to pay the remaining amount along with interest as per calculation from the date of outstanding dated 15.09.2006 till the payment of outstanding amount.
29. Consumer is entitle to recover of cheque amount of Rs. 6,70,635/- from the Respondent along with interest as per RBI rules and this amount may be adjusted by the respondent in the bill amount or any outstanding amount if any .
30. Consumer is also entitle for non posted amount of Rs. 24,24,702/- and 12,49,475/- both entries dated 10.02.2014 and accordingly they are entitle to consider this amount payment to the respondent in the current bill and at the same time they are entitled for the exemption of delay payment charges and

interest and also entitled for prompt payment discount accordingly. Hence I proceed to pass following order

### ORDER

1. The application is partly allowed.
2. The Petitioner is entitled for recovery of cheque of Rs. 6, 70,365/- from The Respondent along with interest as per RBI rules and it be adjusted in the bill amount.
3. The petitioner is entitled for adjustment of non posted amount Rs 24, 24,702/- and Rs 12, 49,475/- both dated 10.02.2014 in the current bill and along with benefits delay payment charges and interest and prompt payment charges from 10.02.2014 onwards till its satisfaction in the current bill.
4. The Consumer shall pay the recovery amount Rs.35,18,650/- towards outstanding energy charges along with interest at the rate of 12% P.a as per MERC Tariff order from the date of demand in the bill till realization to the Respondent by adjusting the payment of Rs 30,18,650/- already deposited by the petitioner to The Respondent as per direction of Hon'ble High Court Bombay.
5. The petitioner is entitle for prompt payment discount, waiver DPC and interest if any charged from Dec 2008 up to date for prompt payment of current electricity bill during subsequent periods.  
No order as to the cost.  
Both the parties are informed accordingly.  
Compliance should be reported within 30 days from the receipt of this order.

**I Agree/Disagree**

**I Agree/Disagree**

**MRS. SHARMILA RANADE,  
MEMBER  
CGRF, BHANDUP**

**Dr. SANTOSHKUMAR JAISWAL  
CHAIRPERSON  
CGRF, BHANDUP**

**RAVINDRA S. AVHAD  
MEMBER SECRETARY  
CGRF, BHANDUP**

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

**Note:**

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address. " Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606, Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051"
- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non- compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission ( consumer Redressed Forum and Ombudsman) Regulation 2003" at the following address:-  
  
"Maharashtra Electricity Regulatory Commission, 13<sup>th</sup> floor,world Trade Center, Cuffe Parade, Colaba, Mumbai 05"
- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.