

**CONSUMER GRIEVANCE REDRESSAL FORUM,**  
**AKOLA ZONE, AKOLA.**

*“Vidyut Bhavan” Ratanlal Plot ,Akola. Tel No 0724.2434475*

**ORDER**

**Dt:- 11.12.2018**

**Complaint No: - 48/2018**

**In the matter of grievance pertaining to refund of infrastructure cost  
with interest under Non-DDF CCRF Scheme.**

**Quorum**

**Dr.V.N.Bapat- Chairman**

**Shri.D.M.Deshpande, Member (CPO)**

**Shri. R.A.Ramteke, Member – Secretary**

1. M/s Avatar Agro Industries :- Complainant  
MIDC Khamgaon  
Consumer No- LT VBII-297075033217  
% shri Ashish S.Chandarana Flat No.302  
Satguru Villa apartment  
Sahkar Nagar, Gorakshan Road,  
Akola 444004.

....Vrs.....

Executive Engineer , :- Respondent  
MSEDCL, O&M  
KHAMGAON Dist. Buldana

**Appearances**

1. Shri Ashish S. Chandarana - Representative for Complainant  
2. Shri. R.R.Mahulkar - Representative AEE MSEDCL  
Khamgaon.

1. On being aggrieved by the decision of IGRC Buldana issued vide IGRC/BLD/2957 dated 29/09/2018, Complainant M/s Avatar Agro Industries Khamgaon approached this Forum through their authorised representative Shri. Ashish S. Chandarana, under clause 6.4 of MERC CGRF Regulation 2006 for resolving the grievance.

2. Complainant's case in brief is that complainant is applicant for New Industrial connection having applied online to N.A.MSEDCL Khamgaon on 19/02/2018, for availing 200 HP Industrial load. According to complainant N.A.MSEDCL gave harassing treatment in sanctioning the load and issuing firm quotation and narrated the story of harassment to D.O.P. and M.D. of MSEDCL by letter, the copy of which is filed on record with acknowledgement of M.D. and DOP MSEDCL. According to complainant the estimate was sanctioned by N.A. MSEDCL only after the threat of complaint to M.D. According to complainant N.A. MSEDCL sanctioned the estimate under Non-DDF CCRF scheme without the consent from complainant, only to hide the guilt. According to complainant the said estimate was sanctioned for Rs 3,31,340.50/ without having consent on record vide EE/Khm/Non-DDF/01 dated 12/05/2016 and issued demand note which is paid by complainant on 19/05/2016 against money receipt dated 20/05/2016 issued by N.A.MSEDCL. According to complainant, considering the urgent need of electric supply and having left with no choice, complainant executed the infrastructure work under Non-DDF CCRF refundable scheme sanctioned by N.A.MSEDCL. According to complainant, N.A.MSEDCL released electric supply on 15/10/2016 as per bills of material and inspection of material and taken the bills in their custody. According to complainant despite release of connection after observing all formalities, N.A.MSEDCL failed in their obligation to refund the infrastructure cost through energy bills, constraining complainant to approach IGRC Buldana on 04/09/2018. According to complainant IGRC Buldana did not resolve the grievance and ignored the prayer for awarding the interest and prays before Forum to refund the estimated amount spent on infrastructure including 10 % labour, 5% and 1.5% T and P totaling, 24.5% on material cost with 12% interest from date of connection till refunded, at Rs. 12% per annum as per MERC order in case No. 23 of 2004 in one go. Complainant Annexed IGRC order dated 29/09/2018, letter to M.D. by Ashish Chandarana dated 12/05/2016 with Gmail dated 12/05/2016 to M.D. and DOP of MSEDCL, AEE MSEDCL letter No. 1040 dated 12/05/2016, demand note dated 12/05/2016, Tax invoice for Rs 313661/-, letter of E.E. MSEDCL Khamgaon No.1007 dated 15/03/2018, load sanction dated 12/05/2016, energy bill for April

18, CE(Dist) Circular No. 22197 dated 20/05/2008 and MERC order dated 18/10/2005 in case No. 23 of 2004 along with the complaint.

3) Reply came to be filed by N. A. MSEDCL on 26/10/2018. According to N.A. MSEDCL it is fact on record that complainant has applied for new Industrial connection of 200 HP on 19/02/2016 and executed infrastructure work as per sanctioned estimate and load sanction dated 12/05/2016. According to N.A. MSEDCL estimate was sanctioned under Non-DDF CCRF scheme as per verbal consent of complainant for amount Rs.372907 considering cost data of MSEDCL, out of which material cost was Rs.338853/. According to N.A. MSEDCL electric supply to M/s Avatar Agro Industries Khamgaon was released on 15/10/2016 as per sanctioned estimate and load sanction dated 12/05/2016. According to N.A. MSEDCL as per directives of IGRC Buldana issued on 29/09/2018 refund of infrastructure cost proposal for Rs. 265119.11/- was submitted to Zone office of MSEDCL on 15/03/2018. According to N.A. MSEDCL refund is delayed because of non-submission of invoice within time by complainant. According to N.A. MSEDCL the grievance is solved as credit note is already processed through the system. N.A. MSEDCL annexed copy of sanctioned estimate dated 12/05/2016, copy of load sanction dated 12/05/2016, credit note for Rs. 265119.11/- letter No. EE/Khm/1007 dated 15/03/2018, and EE/Khm/1855 dated 17/05/2018 along with the reply.

4) Shri Ashish S. Chandarana learned representatives for complainant and Shri R.R.Mahulkar AEE MSEDCL for respondent were present for the hearing held on 27/11/2018. Shri Ashish S. Chandarana learned representatives for complainant reiterated the grievance on record and urged that N.A. MSEDCL authorities of Khamgaon deliberately delaying the refund of Non-DDF-CCRF cost for Infrastructure as complaint of harassment was reported to M.D. and D.O.P of MSEDCL by complainant which is filed on record. Shri Ashish Chandarana brought to the notice of Forum that N.A. MSEDCL sanctioned estimate for Rs.372907/- which includes 10% labour cost only and 5% Vat, 5% transportation, 3% contingencie and 1.5% T and P totaling 14.5%, overheads are excluded when cost data includes all such overheads and charged to estimate when work is executed departmentally and urged Forum to set aside the refund proposal Rs.265119/- which is prepared by excluding the expenditure of 14.5% overheads incurred by complainant and also does not include the cost of H.T. line work executed by complainant. Shri Ashish S. Chandarana brought to the notice of Forum that oral consent for execution of infrastructure work was never given

by complainant as mentioned in M.S.E.D.CL.'s reply filed on record. Shri Ashish Chandarana brought to the notice of Forum that all necessary formalities including the submission of Invoice and other documents were completed before release of connection on 15/10/2016 and defence taken by MSEDCL for having issued letter on 27/01/2017 and submission of original bills in JAN 2018 is false and requested Forum to call for records to substantiate the defence taken by MSEDCL. Shri Ashish S. Chandarana referred case No. 23 of 2004 and requested Forum to allow interest of 12% on refund amount from the date of connection.

5) Shri R. R. Mahulkar AEE, MSEDCL urged that electric supply to industry of complainant was released on 15/10/2016 as per conditions of load sanction dated 12/05/2016, and W.C.R is delayed as complainant did not submit the original invoice till intimated to complainant by AE MSEDCL by letter dated 17/01/2017 and filed on records copy of dak book showing issue of letter No.952 dated 27/01/2017 and confirmed that on receipt of original bills in JAN 2018 refund proposal initiated in march 2018. Shri R. R. Mahulkar AEE however agreed to revise W.C.R when Forum asked the reason for exclusion of H.T. line work from W.C.R filed on record dated 15/03/2018.

6) Forum, to facilitate and expedite the disposal of grievance and to bring facts on record directed N.A. MSEDCL to file on record on or before 01/12/2018 following documents.

- i) Joint W.C.R signed by both the parties as per bills estimate and execution.
- ii) Agreement copy between contractor and complainant witnessed by MSEDCL.
- iii) Copy of cost data of MSEDCL for 2016-17.
- iv) Correspondence between MSEDCL and complainant upto 15/10/2016.
- v) Submission of documents showing submission of original bills by complainant in JAN 2018 in response to MSEDCL letter dated 27/01/2017.

7) N.A. MSEDCL filed on 01/02/18 following documents on record.

- i) Authorisation of shri R. R. Mahulkar to plead the case.
- ii) Cost data for 2016-17 and 2012-13.
- iii) Agreement copy between EE, Contractor and complainant.

- iv) Receipt register of subdivision for receipt of letter no. 952  
Dated 27/01/2017.
- v) Correspondence with supplier dated 27/01/2017.
- vi) Test report.
- vii) Revise W.C.R signed by MSEDCL and complainant  
dated 30/11/2018.

8) Having heard the parties and after considering material placed on record, Forum is of the view that refund of infrastructure cost spent by the complainant is not disputed by N.A. MSEDCL but the dispute is about amount of refund and delay in refunding the cost by MSEDCL resulting in the claim for interest by the complainant. It is fact on record that electric supply to the industry of complainant is released on 15/10/2016 after spending infrastructure cost by complainant and N.A. MSEDCL have not refunded through bills from 15/11/2016, required to be refunded as per guidelines issued by CE distribution vide letter No. 22197 dated 20/05/2008. The defence taken by N.A. MSEDCL is non-submission of invoice by complainant. Forum do not agree with the plea taken by N.A. MSEDCL that after intimating complainant dated 27/01/2017 regarding non-submission of invoice and submission of invoice by complainant in JAN 2018, refund proposal processed in March 2018. N.A. MSEDCL could not file on record the submission of invoice copy by complainant in JAN 2018 in response to MSEDCL letter dated 27/01/2017, even after directives on 27/11/18. Forum is of the view that the letter No. 952 dated 27/01/2017 filed on record pertains to requirement of documents for preparing W.C.R. addressed to S.D.O. MSEDCL by A.E, MSEDCL and copy to firm, where in need of material bills (invoice), sanction letter, load sanctioned letter and approval of G.T.P. by MSEDCL which were in the custody of AEE MSEDCL as per condition of agreement and load sanction approved, were requested by AE for recording W.C.R. Forum is of the view that N.A. MSEDCL could not establish beyond doubt that letter dated 27/01/2017 is received to complainant. On the contrary Forum finds substance in plea taken by complainant that A.E.E. MSEDCL who was authorised to inspect the material, as per bill of material has verified the bills as per originals and taken xerox copy in his custody as per conditions of load sanction dated 12/05/2016 and then only released the connection. Forum is of the view that N.A. MSEDCL could not file on record the correspondence or discrepancies in execution or submission of record with complainant prior to 15/10/2016, which amply demonstrate the submission of invoice to the N.A. MSEDCL before 15/10/2016. Forum is of the view that plea taken by N.A. MSEDCL for non submission of invoice before this

Forum, has not been taken with IGRC Buldana. Forum is also of the view that W.C.R. and refund proposal for Rs.265119.11/- is incomplete W.C.R. as H.T. line work executed by complainant has not been included and needs to be set aside. The joint W.C.R. filed on record on directives of Forum on 01/12/2018 is verified and found to be correct and Forum is of the view that MSEDCL should refund the infrastructure cost as per Abstract sheet filed on record against material cost as per bills submitted, excluding the cost of service connection material Rs.14240/-. Forum is of the view that service connection charges are to be borne by complainant as per MERC tariff order. Forum have gone through the sanctioned estimate and cost data filed on record and of the view that N.A M.S.E.D.CL. have erred in considering only 10% labour charges ignoring 5% VAT, 5% transportation, 3% contingencie and 1.5%, T and P while sanctioning estimate. Forum is of view that complainant is entitled for refund of 10% labour, 5% VAT, 5% transportation, 3% contingencie and 1.5%, T and P, totalling 24.5% overheads on material cost. Forum is of the view that N.A. MSEDCL should refund material cost Rs.297508.00/- and 19.5% overheads on material cost, as material cost shown in joint W.C.R. is inclusive of VAT. Forum is of the view that N.A. MSEDCL should pay interest at 12% per annum on Rs.3,55,522.00/- (cost of infrastructure with overhead) which is prevailing interest rate for arrears in payment of consumer bills without time escalation chargeable by MSEDCL, from 15/11/2016 till adjusted in the bill, as per MERC case No. 23 of 2004. Forum is of the view that parties to bear their own cost.

With these observation Forum proceeds to pass following unanimous order.

### **ORDER**

- 1) That the complaint No. 48 of 2018 is hereby partly allowed.
- 2) That the N.A.MSEDCL is directed to give credit to the complainant in one go against infrastructure cost of Rs.3,55,522/- spent by complainant under Non-DDF CCRF Scheme with 12% interest from 15/11/2016 till adjusted in the ensuring bills.
- 3) No order as to the cost.
- 4) That the N.A. M.S.E.D.CL. is directed to submit compliance report to this Forum within one month.

S/d/-  
Member Secretary

S/d/-  
Member (CPO)

S/d/-  
Chairman

Contact details of Electricity Ombudsman appointed  
by MERC (CGRF&EO) Regulations 2006 under Regulation 10:

THE ELECTRICITY OMBUDSMAN,  
Office of Electricity Ombudsman (Nagpur)  
Plot No.12, Shrikrupa, Vijaynagar, Chhaoni,  
Nagpur-440 013.Phone:- 0712-2596670

No. CGRF/AKZ/Akola/391

Dt: 11.12.2018

To,  
The Nodal Officers  
Executive Engineer  
MSEDCL O&M, Division  
Khamgaon.

The order passed on 11.12.2018 in the Complaint No. 48/2018 is enclosed  
herewith for further compliance and necessary action.

Secretary,  
Consumer Grievance Redressal Forum,  
MSEDCL, Akola Zone, Akola.

Copy to :-1) Superintending Engineer MSEDCL, O & M Circle Buldana.  
2) M/s Avatar Agro Industries, MIDC Khamgaon, % Shri Ashish  
S.Chandarana Flat No.302, Satguru Villa apartment, Sahkar  
Nagar, Gorakshan Road, Akola 444004.