

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No. 17/2019

Date of Grievance: 02.04.2019

Hearing Date : 10.05.2019

22.05.2019

07.06.2019

Date of Order : 16.08.2019

In the matter of recalculate of energy bill in respect of CD/Demand charges/PF Incentive etc.

M/s. Sant Dyaneshwar Steels Pvt. Ltd., ---- APPELLANT

Gat No.1076/77, Golegaon Road,

Markal, Tal. Khed,

Dist-Pune - 410501.

(Consumer No. 170149022850)

VS

The Superintending Engineer, ---- RESPONDENT

M.S.E.D.C.Ltd.,

Pune Rural Circle,

Pune - 411011.

Present during the hearing:-

A] - On behalf of CGRF, Pune Zone, Pune.

- 1) Shri. A.P. Bhavathankar, Chairman, CGRF,PZ, Pune
- 2) Mrs. B.S. Savant, Member Secretary, CGRF, PZ, Pune
- 3) Mr. Anil Joshi, Member, CGRF, PZ. Pune.

B] - On behalf of Appellant

- 1) Mr.Suresh Sancheti, Representative

C] - On behalf of Respondent

- 1) Mr.K.S.Sarode, Ex.Engr., Admin.
- 2) Mr.Soham Dhamne, Sr.Manager (F&A) PRC

Tariff Category HT- I , Dt. of connection 18.4.2000, Sanctioned demand
: 4990 KVA & sanctioned load : 5540 KW.

The complaint about issue the bill with contract demand of 4990 KVA & accordingly recalculate our load factor incentive with respect to 4990 KVA for the month of Dec.2017 and Jan.2018. The above named consumer is HT consumer since 18.4.2000. The supply premises located in village Markal Tal. Khed Dist. Pune. According to the consumer, the contract demand was 4990 KVA. The consumer was submitted that the billed for demand charges and load factor incentives as per provision of MERC order 3.11.2016 referred in Case No.48 of 2016 is necessary. As per MSEDCL Commercial Circular No. 284 dated 11.04.2017 is reproduced as below by the consumer on Page No.34.

Load Factor Incentive -

The Load Factor is to be computed as follows :

Load Factor = $\frac{\text{Consumption during the month in MU}}{\text{Maximum Consumption Possible during the month in MU}}$

Maximum Consumption Possible during the month in MU

Maximum consumption possible = Contract Demand (KVA) x Actual Power Factor x (Total No. of hours during the month, less planned load shedding hours*)

* - Interruption/no n-supply to the extent of 60 hours in a 30 - day month.

In case 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 22.00 Hrs. to 06.00 Hrs. & therefore even if the maximum demand exceeds the CD in that period, Load Factor Incentive would be applicable. However, the consumer would be subject to shall have to pay penal charges applicable for exceeding such CD.

The consumer gave definition of penalty exceeding CD. In case of consumer (availing demand based tariff) exceeds his CD, 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 Charges (only for the Demand in excess of the C.D.). Under this circumstances, the consumer shall not liable for any other action under Section 126 of Electricity Act -2003. Since the penal additional demand charges provides for the penalty that the consumer is liable to pay for

exceeding his CD. In case of consumer exceeds his CD on more than 3 occasions in a calendar year, the action to be taken would be governed by the provision of Supply Code Regulations. The consumer submitted that he was surprised of receiving the bills in the month of Dec.2017 and Jan.2018 in which the CD was updated on the basis of highest recorded demand in the last 12 months for all 4 zones. The unilateral action on the part of MSEDCL has deprived from actual load factor incentive, which consumer have got and instead of that lower amount of load factor incentive credit was given. This unilateral action was taken by MSEDCL without any legal support. Therefore consumer prays that, to set aside the bills in the month of Dec.2017 and Jan.2018 with CD 5412 KVA and issued the bill with CD of 4990 KVA.

The consumer prays to recalculate the load factor incentive with reference to CD of 4990 KVA and to give the Cr. for the difference between load factor incentive given and the load factor incentive receivable from MSEDCL. The consumer also prays for re-calculation of demand charges/demand penalty/PF incentive/electricity duty on account of above charges. The consumer has also prays for the amount to be refunded with interest applicable at the rate applicable being recovered from the consumer for delay in making payment of bill.

The consumer initially files the said dispute to the Circle office and thereafter receiving the reply from MSEDCL. The consumer was not satisfied with their reply & therefore he filed the dispute in Form No.-X before IGRC on dated 29.11.2018. The IGRC after receiving the said dispute of consumer register the case No. 38/2018-19. The notice was issued to the Respondent Utility and reply received to the Circle Office on dated 19.12.2018 & oppurnity given for hearing to both the parties. On dated 29.01.2019, the IGRC proceed to pass the order and please to dismiss the said complaint stating that the recovery in the month of Dec. 2017 and Jan.-2018 bill issued to the consumer is proper & correct as per Circular No.312 and direction of S.E. dated 29.12.2017 & CE (Commercial) L.No.1298 dated 18.01.2018. The judgment referred to MERC Case No. 60 of 2018 and Commercial Circular No.312 followed by MSEDCL. Therefore IGRC found the energy bill for the

month Dec.2017 and Jan.2018 was correct as per rules of MSEDCL from time to time.

Being dissatisfied with the order of IGRC, the present consumer filed the dispute in Form No. A before this Forum on dated 02.04.2019. Thereafter the Office registered the case No.17/2019 and notice was issued to the Respondent Utility by this office on 02.04.2019 giving direction to file reply on or before 18.04.2019. Thereafter serving of notice, the Respondent Utility was filed the reply on 9.5.2019 & thereafter the hearing was conducted. The Respondent Utility filed the consumer details regarding load reduction record alongwith various circulars and its relevant correspondences. The consumer has also filed the copy of the bill Dec.2017 and Jan.2018 alongwith circulars etc.

The copy of sanction of load reduction dtd. 20.1.2018 is also filed on record. According to the Respondent Utility the bill issued to the consumer as per Commercial Circular No.312 and directions as per MERC judgment of 60 of 2018 given by MERC, copies of circulars and directions given in the period communicated to this Forum alongwith letters issued by Superintending Engineer & C.E. (Commercial) was on record. The Respondent Utility had filed the reply stating that, the notice was given to the said consumer (HT consumer) vide letter dated 12.12.2017 has exceeded the sanctioned contract demand 4990 on more than 3 occasions in the month of Aug., Sept., Oct. & Nov. 2017 & its contract demand recorded as 5412, 5409, 5358, 5361 respectively.

Therefore there is a breach of agreement between consumer and MSEDCL as per Supply Code Regulations and provision of MERC tariff order. The consumer was asked to make an application with MSEDCL Circle office to enhance of contract demand and make payment of Rs.2,00,521/- to regularise the same within a period of 15 days. After serving of notice, the consumer neither applied for enhancement of contract demand nor made payment of Rs.2,00,521/- to regularise the same within a period of 15 days. The contract demand of the consumer was auto updated from 4990 KVA to 5412 KVA through MSEDCL IT system in the month of Dec.2017 bill as per

the letter and notice issued to the consumer are enclosed. According to the Respondent Utility, the consumer has exceeded their sanctioned Contract Demand on more than 3 occasions in a calendar year 2017. This is a breach of agreement between consumer and MSEDCL as per Supply Code Regulation No.4 & 6 and as per provisions of MERC tariff order. The reduction of load from 5412 KVA to 4990 KVA was sanctioned on 20.01.2018 as per guidelines issued from time to time & compliance was made by the consumer in response to serving of the notice. Therefore the request made by the consumer for recalculate its load factor with CD 4990 KVA in the month of Dec.2017 & Jan.2018 & it is not applicable as per guidelines, tariff order etc. Therefore consumer complaint liable to be dismissed with cost.

After going through the contention of the consumer and reply of the Respondent Utility following points arose for my consideration to which I have recorded my findings to the points for the reason given below:-

1. Whether Respondent Utility is authorized to suo-moto extent to enhance the contract demand from 4990 KVA to 5412 KVA ?
2. Whether the consumer is entitled to recalculate the load factor incentive with revision of bill with CD of 4990 KVA into consideration for the month of Dec.2017 and Jan.2018?
3. Whether consumer is entitled for refund of any amount or adjustment alongwith with interest towards recalculation of Demand Charges/Demand Penalty/PF incentive/Elect.Duty etc.
4. What order?

Reasons :-

On dated 07.06.2019 I have given an opportunity to the consumer and his representative and also give opportunity to the Respondent Utility and his representative & the matter was heard by this Forum. I have perused the copy of IGRC order alongwith all relevant records submitted by both the parties. It appears that the dispute raised by the consumer at initial stage to claimed that Load Factor incentive was not properly calculated in the bill for the month of Dec.2017 & Jan.2018 & the consumer prays for recalculate and

re-assessed of the bill. The consumer has exceeded its sanctioned contract demand of 4990 KVA on more than 3 occasions & hence it was automatically upgraded by MSEDCL IT Section in the bill from Aug.2017 to Nov.2017 to 5412 KVA and charged the bill accordingly. The reason obviously given in the reply of Utility that the consumer made violation of agreement and exceeded their sanctioned contract demand more than 3 occasions during the calendar year 2017 and therefore the load factor incentive was not entitled as a breach of agreement during the said period.

It appears that the nature of dispute raised by the consumer was a policy matter subjudice before MERC. At that time, the dispute was raised before the authority & replied that, the policy matter was decided by MERC as per guidelines given in Commercial Circular No.275, 284 & latest 312. The reference is in Case No. 195 of 2017 decided by MERC recently if the detail circumstances in which the benefit of enhancement of C.D. & load factor incentive is entitled to the consumer on the grounds appear in the dispute individually. Therefore the nature of dispute apparently being a policy matter which was recently decided by the order of MERC. To my view individual consumer cannot raise the dispute against the policy matter pending before MERC and therefore the said dispute now already decided by Competent Authority of MERC as per guidelines given in the judgment 195 of 2017 and further directions was already given by CE, Commercial vide its Circular No.312 dated 15.1.2019. In view of the facts and circumstances the nature of the disputes touches to the policy of decision authorized MERC to decide the same. Therefore an individual aspect of the said dispute cannot be decided & entertained by this Forum.

The Respondent Utility has already followed & the procedure and reassesses the claim of the consumer strictly and complied also and such types of observations are made by MERC in the given judgment. I do not found any reason to decide the policy matter individually in the case of consumer.

The time limit of 60 days prescribed for disposal of the grievance could not be adhered due to hearing was taken thrice times and requests to postpone the hearing by the party.

Hence I am not inclined to grant any relief & I proceed to pass the following order:

ORDER

1. Consumer Complaint of Case No.17 of 2019 stands disposed off accordingly no order of cost.
2. The Licensee is directed to report the compliance within one month from the date of this order.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune on 16th Aug. - 2019.

Note:-

- 1) If Consumer is not satisfied with the decision, he may file representative within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman
The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E), Mumbai - 400 051.

- 2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I agree / ~~Disagree~~

Sd/-

ANIL JOSHI
MEMBER
CGRF:PZ:PUNE

Sd/-

A.P.BHAVTHANKAR
CHAIRPERSON
CGRF: PZ:PUNE

I agree / ~~Disagree~~

Sd/-

BEENA SAVANT
MEMBER- SECRETARY
CGRF:PZ:PUNE