

NO. EE / CGRF/AMZ/ Amravati/ No./51.

Dt. 07.10.2019

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To,  
The Nodal Officer /  
The Executive Engineer,  
MSEDCL, O&M Achalpur Division,

The order passed on in the Complaint No. 10/2019 is enclosed herewith for further compliance and necessary action.

  
Secretary

Consumer Grievance Redressal Forum,  
MSEDCL, Amravati Zone, Amravati.

Copy s.w.rs..to:-

1. The Chief Engineer, MSEDCL, Amravati Zone, Amravati.
2. The Superintending Engineer, MSEDCL, Amravati circle, Amravati.

Copy to :-

- 1) The Executive Engineer, (Admin), Amravati circle
- 2) M/s Khandelwal Ginning and pressing, c/o Bhavesh Harendra Somaiya A2-405, Rami Heritage Society Opp To old RTO office, Murtizapur Road, Akola - 444004

**CONSUMER GRIEVANCE REDRESSAL FORUM  
AMRAVATI ZONE, AMRAVATI  
'Vidyut Bhavan', Shivaji Nagar, Amravati: 444603, Tel. No. 0721 2551158**

Dt: 07-10-2019

**ORDER**

Case No. 10/2019 dated 08.08.19

**In the matter of grievance pertaining to refund Electricity Duty**

**Quorum**

**Dr. Vishram Nilkanth Bapat (Chairman)  
B.D.Augad, Member Secretary  
Sau. Sushama Joshi, Member (CPO)**

**Complainant**

**M/s Khandelwal Ginning and Pressing  
c/o Bhavesh Harendra Somaiya A2-405, Rami Heritage Society Opp To old  
RTO office, Murtizapur Road, Akola - 444004.  
Consumer No:359820004327**

**Versus**

**Respondent**

**The Executive Engineer ,  
MSEDCL, O&M Division,  
Achalpur**

**Appearances:-**

**Complainant Representative :- Shri. Ashish S Chandarana**

**Respondent Representative :- Shri. C.N.Mohokar, Dy.Exe. Eng. Daryapur**

**A. Consumer Details**

Name	MSEDCL Office	Consumer No.	Category	Date of Connection
M/s Khandelwal Ginning and Pressing factory	EE, Achalpur	359820004327	Industrial	10-11-2015

## **B. IGRC Proceedings**

<b>Application Date</b>	<b>Hearing Date</b>	<b>Order Date</b>
23.05.2019	Not mentioned in IGRC order.	12-06-2019

## **C. CGRF Proceedings :**

<b>Application Date</b>	<b>Date of Serving Notice by CGRF</b>	<b>Due Date of Reply</b>	<b>Applicable Clause of MERC Regulations 2006 (CGRF &amp; Ombudsman)</b>
08-08-2019	16-08-2019	31-08-2019	6.4
<b>Date of Reply by NA</b>	29-08-2019		
<b>Date of Hearing Notice</b>	09-09-2019	<b>Date of Hearing</b>	19-09-2019 and rehearing on date 27.09.2019

## **D. Gist of Grievance of applicant:**

<b>S.N.</b>	<b>Description</b>
1	Applicant approaches CGRF on the basis of Maharashtra Government notification dated 7 July 2004 regarding exemption of electricity duty to all the existing and upcoming industrial consumers in Vidarbha region. By issuance of subsequent notifications by Government of Maharashtra, the said exemption continues to be continually effective from the year 2004 till the year 2024, to IGRC for obtaining refund of illegally recovered ED by MSEDCL from him.
2	In order to comply with the above notifications of GOM, MSEDCL issued Circular Nos. 393/2004, 101/June 2009, 196/July 2014.
3	In Spite of intimation from CE Commercial to ED of the concerned region, the exemption of ED to industrial consumers of Vidarbha region has not been implemented uniformly to all eligible consumers.



4	Applicant being the consumer since 10 Nov. 2015, respondent failed to assign him appropriate duty code till date in spite of the departmental circulars to that effect.
5	Concerned Electrical Inspector office have expressed their displeasure in through letter for not complying with the ED exemption Notification by GOM.
6	Negligence in filling appropriate duty code as per Departmental circulars 393 and 101 by MSEDCL.
7	In case of HT consumers under MSEDCL circle office, Akola, ED exemption has been duly given and no consumer had face illegal recovery.
8	<b>State Govt. has now delegated powers to refund excess recovery of ED to MSEDCL and hence the respondent does not require any permission therefor.</b>
9	Complainant files relevant order of Hon. Electricity Ombudsman, Nagpur for reference.

**E. Prayer by Applicant:**

S.N.	Description
1	Direct MSEDCL to refund electricity duty from the date of connection till the date of refund @ 12%p.a. By giving annual credit on accumulated basis as per the bank practice of MSEDCL practice in the event of security deposit.
2	Any other relief including the cost of representation of Rs. 5000/-

**F. Gist of Reply filed by N.A.MSEDCL:**

S.N.	Date	Description	Violation, if any
1	29-08-2019	The incorrect tariff applied in respect of the ED is corrected through application ID 21699835. Hence the applicant will not with ED from Sept. 2019.	

### G. Prayer by NA before the Forum:

S.N.	Description
1	Since the grievance is lodged by the complainant after 3 years, it may be rejected.
2	As ED falls under GOM, demand for Interest and penalty by NA may be rejected.

### H. Gist of Applicant's submission during Hearing:

S.N.	Date	Description	Violation, if any
1		Applicant has received the first bill wherein ED is being exempted. However MSEDCL has not submitted details steps taken to refund it with interest.	

### I. Gist of NA's response during Hearing

S.N.	Description	Violation, if any
1	Necessary corrections are made as per ID 21699835 and ED exemption has been effected from Sept 2019.	
2.	Proposal for refund of duty recovered from the complainant has been sent for approval of competent authority. It will be given effect in the next billing cycle.	
3.	This ED exemption is not applicable to all industrial consumers and eligible consumers are bound to apply to MSEDCL for the purpose.	
4.	ED amount is paid to the GOM by NA from time to time and hence interest may not be levied on MSEDCL.	
5	The ED is not part of the charges of MSEDCL against consumption of electricity.	
6	As consumer lodged grievance after 3 years hence out of time limits as per Indian Law. Hence not eligible for interest penalty.	
7	ED is related to GoM and not within the jurisdiction of CGRF.	



**J. Opinion of the Forum :**

Original hearing was held on 19-9-2019 wherein, complainant pleaded all the claims he had made in his complaint. The non applicant had submitted a very brief reply and had not defended all the claims made by the complainant. Realizing this fact, the NA sought more time to Forum for preparing detailed reply to the complaint in the matter. Upon the agreement from the complainant, the next date of 27-9-2019 was fixed for second hearing as a special case. Second hearing was held on 27-9-2019.

Examining all the records placed before the Forum and the facts brought before it during the hearing, the Forum observes as under

- a. It is very clear that as per Govt letter /notification dated 07 July 2004 and subsequent notifications issued on 26.05.2009 and on 06.06.2014, and on 28-5-2019 wherein existing as well as upcoming industrial establishments in Vidarbha Region are specifically exempted from payment of Electricity Duty till 31-3-2024.
- b. Applicant becomes the consumer of MSEDCL from 10.11.2015, and consumer is provided electricity supply under Industrial category. Hence the benefit of exemption of ED should have been given suo moto to applicant by MSEDCL from his first bill.
- c. The NA accepts the error in not applying the ED exemption applicable to the concerned consumer vide the relevant GOM Notifications. The NA submits that they have stopped charging ED to the consumer from Spt. 2019.
- d. However, while NA accepts the ED refund claim, it begs to deny the claim of interest thereon.
- e. NA further takes recourse to time limitation as the applicant has lodged the grievance 3 years after the cause of action that is Dec 2015.
- f. NA further argues that as the ED is levied by GOM through NA, the case does not fall under the jurisdiction of CGRF.
- g. The Forum is inclined to consider the matter in the case as very much in their jurisdiction as it is purely between the NA and their Consumer.
- h. On the argument of time limitation raised by the applicant, the Forum feels that since the grievance has been continuing till the date of lodging grievance and beyond, point of time limitation does not hold substance.
- i. In the light of the Electricity Duty Act 2016 Section 6(8), and further the Common order of Electrical Ombudsman (Nagpur) on Representation Nos. 45/2013, 46/2013, 48/2013 and 55/2013, the Forum is of the view that the applicant is eligible for the refund of illegally recovered ED and the interest thereon from MSEDCL both these components to be reimbursed to MSEDCL by GOM.

j. The Forum finds a bonafide error on the part of concerned MSEDCL officers who, despite of departmental circulars to give effect of the said exemption, did not do so in time.

**Opinion of Member Secretary:**

As per GoM, Electricity Duty Act 2016, the Electricity Duty matter (or issues) is under the jurisdiction of Govt of Maharashtra. MSEDCL is mediator for the collection of the ED amount (recovered from the consumer) and to deposit the said amount to GoM. Therefore I am of the opinion that Electricity Duty related matter is not within the jurisdiction of the CGRF.

Sd/-  
(B.D.Augad)  
Member Secretary

Therefore order by majority is as follows

**ORDER**

With the above observations, the Forum in majority passes the following order.

1. The complaint in case no. 10/2019 is partly allowed.
2. MSEDCL is directed to refund the recovered amount on account of ED from the complainant from the date of connection till it is refunded along with the interest at the prevailing bank rates as defined in the MERC Practice Directions of 22 July 2019. It is directed to give credit of this refund along with interest in the next bill to the applicant.
3. The parties to bear their own cost.
4. MSEDCL is directed to submit compliance report of this order to this office within one month of the order.

Sd/-  
(Smt.S.P.Joshi)  
Member (CPO)

Sd/-  
(Dr.V.N.Bapat)  
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, Shrikripa, Vijai Nagar, Chhaoni,  
Nagpur- 440013.