

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@mercindia.org.in
Website: www.mercindia.org.in

Case No. 31 of 2011

In the matter of
Petition filed by M/s. R. L. Steels and Energy Ltd seeking action against MSEDCL
for non-compliance of the Commission's direction regarding levy of Voltage
Surcharge in its Order dated 09.11.2010 in Case No.52 of 2010.

Shri. V.P. Raja, Chairman
Shri. Vijay L. Sonavane, Member

M/s. R.L .Steels and Energy Ltd
Aurangabad

.....Petitioner

V/s

Maharashtra State Electricity Distribution Co. Limited (MSEDCL)
5th Floor, Prakashgad,
Bandra (East), Mumbai – 400 051

.....Respondent

ORDER

Dated: June 02, 2011

M/s. R.L .Steels and Energy Ltd. submitted a petition under affidavit on March 3, 2011. The petition seeks to invoke Sections 142, 146, 149 and 62 (6) of the Electricity Act, 2003 (“EA 2003”) read with Regulations 92 and 94 of MERC (Conduct of Business) Regulations, 2004 on the ground of non-compliance of Commission's directions regarding levy of Voltage Surcharge in Order dated November 9, 2010 in Case No.52 of 2010 by MSEDCL.

2. The prayers of the Petitioner are as follows:

- a. *The respondent be directed for the immediate compliance of the order of this Hon'ble Commission dt. 09/11/2010 in Case No. 52 of 2010 and further be directed to refund the excess recovery amount to the petitioner and such other sufferers immediately.*
- b. *The respondent be directed to refund the excess recovered amount to the Petitioner and such other sufferers, along with the interest from the date of recovery up to the date of repayment, as provided in Section 62(6) of the Electricity Act, 2003.*
- c. *The respondent be punished for non-compliance of the direction of the Honorable Commission, by way of penalty up to one lakh rupees for contravention and daily additional penalty up to six thousand rupees per day for its continuing failure, as provided in Section 142 of Electricity Act 2003. Also the respondent be punished for non-compliance and / or offence, as provided under Section 146 and 149 of the Electricity Act 2003 as the Commission may think fit.*
- d. *Suitable cost be imposed on the respondent considering the harassment to the Petitioner and such other sufferers in the State.*
- e. *All other just and equitable reliefs be granted for the effective adjudication of the subject matter involved in this petition and for its implementation.*

3. M/s. R.L. Steel and Energy Ltd., in its Petition, submitted as under:

- a) The Petitioner is a Steel manufacturing industry situated at Aurangabad, and is a High Tension Industrial consumer of MSEDCL. Their Contract Demand was 19,934 kVA on 33 kV level dedicated feeder till the end of October

2010. Now from November 2010, the Petitioner's Contract Demand is 24,900 kVA and is being supplied from 132 kV level dedicated feeder.

- b) In the meantime, the Petitioner has received the first bill with 2% additional units as Voltage Surcharge in April 2010. The Petitioner could not stop its production activities, and hence was constrained to pay the bills. Since April 2010, the Petitioner is paying regularly the bills inclusive of 2% additional units as Voltage Surcharge.
 - c) Petitioner found that these charges are against the Order of this Honorable Commission. Hence Petitioner filed a petition seeking clarification of the Honorable Commission's Order in Case No. 71 of 2009 regarding levy of Voltage surcharge and its interpretation & implementation by MSEDCL.
 - d) After hearing the petition of the Petitioner i.e. Case No. 52 of 2010, Honorable Commission has issued a 'Clarificatory Order' in favour of the Petitioner on 9th November 2010.
 - e) On the basis of this Order of the Commission dated. November 9, 2010 in case No. 52 of 2010, the Petitioner applied to the Respondent MSEDCL on November 29, 2010 for the refund of excess amount recovered from him.
 - f) The Petitioner approached many times to the Respondent MSEDCL to get refund of the excess amount. But the Respondent MSEDCL avoided to give any reply, avoided to make any cognizance and avoided to refund the excess amount illegally recovered.
 - g) Being aggrieved by non-compliance of the directions of this Honorable Commission given in its Order dated November 9, 2010 in case No. 52 of 2010 filed by the Petitioner, amounting to violation of the Order by denying the refund of the excess illegally recovered Voltage surcharge, the Petitioner prefers this petition
4. The Commission, vide Notice dated March 22, 2011, scheduled a hearing in the matter on April 15, 2011, and directed the Petitioner to serve the copy of the Petition to the Respondent and four authorized Consumer Representatives.

5. During the hearing held on April 15, 2011, MSEDCL submitted that it is implementing the Order of Commission as per best of its ability, however in case there is any unimplemented portion of the Order, MSEDCL is ready to sort out the same through discussion with the Petitioner. Therefore, MSEDCL requested for additional time so that issues in the present matter can be sorted out through discussion. Accordingly, the Commission accorded additional time as sought by MSEDCL (Respondent) and scheduled next hearing in the matter on May 9, 2011.
6. During the hearing held on May 9, 2011, Shri Ravi Prakash, Advocate of MSEDCL had mentioned that, similar matters on Voltage surcharge were pending before the various CGRF. It was submitted that MSEDCL had filed an application before the Commission on 23rd February 2011 requesting the Commission not to pass final order in the present proceedings which suffers from a jurisdictional error. MSEDCL is implementing the Orders of the Commission as per best of their ability. During the hearing, the Commission observed that the Order dated March 5, 2010 in Case No. 71 of 2009 regarding Levy of Voltage surcharge grants only interim relief, but no final order has been passed accordingly. The Commission also directed MSEDCL to expedite its technical studies to determine the actual levy of Voltage surcharge. As there were many other proceedings on the issue of Voltage surcharge, including the present proceedings as initiated by the Petitioners, MSEDCL was directed to link the technical study in all such proceedings. The Commission scheduled the next hearing in the matter on Monday, 30th May 2011.
7. During the hearing held on 30th May 2011, the Commission asked the Petitioner to provide following informations.
 - a) Status of M/S R. L .Steel on dedicated feeder,
 - b) Time period of the connection on dedicated feeder,
 - c) Metering arrangements provided by MSEDCL

In reply, the Petitioner submitted that the Petitioner is connected on dedicated express feeder since 2006. Metering arrangement is available at both ends (consumer and substation of MSEDCL) and MSEDCL has been billing on the basis of readings taken from the meter installed at substations of MSEDCL. During the hearing MSEDCL submitted that the class of accuracy of meters installed at both ends (consumer and substation of MSEDCL) is different in case

of Petitioner and the Petitioner has not been billed on higher of the either readings.

8. Having heard the Parties and after considering the material placed on record, the Commission is of the view that

a) The Commission in its Interim relief in the Order dated March 5, 2010 in Case No. 71 of 2009 has clarified that the levy of 2% additional Voltage Surcharge to the consumers connected on Non Express Feeders (more than one connection on the said feeder) shall be applicable from the date of issue of Order, i.e. March 5, 2010.

b) The relevant extract of the Operative part of Order dated March 5, 2010 in Case No. 71 of 2009 is reproduced below:

“

At the same time, it cannot be denied that the distribution losses, including transformation losses, will increase on account of supply to consumers at voltages lower than that specified in the SoP Regulations. Accordingly, till such time as the detailed technical study is undertaken and the Commission approves the levy of Voltage Surcharge based on detailed deliberations in this regard, the Commission approves MSEDCL's request for interim relief seeking permission to levy Voltage Surcharge of 2% additional units to be billed, for supply to the consumers at voltages lower than that specified in the SoP Regulations. It is clarified that this Voltage Surcharge shall apply from the date of issue of this Order, till such time as the Commission issues further orders. The above referred Interim Relief may be continued for the consumers connected on Non Express Feeders. (More than one connection on the said feeder)” (Emphasis added)

”

c) The Commission in its Order dated September 12, 2010 in Case No. 111 of 2009 also clarified in 5.3(d) regarding levy of surcharge which is reproduced below:

“

the Commission approves MSEDCL's request for permission to levy Voltage Surcharge of 2% additional units to be billed, for supply to the consumers at voltages lower than that specified in the SoP Regulations. Further, the Commission has accepted MSEDCL's request in the above-said Petition, and it is hereby clarified that the above Interim Relief is applicable for the consumers connected on Non Express Feeders (more than one connection on the said feeder), and in case only one connection exists on the said dedicated feeder, the tariffs should be charged on the basis of consumption recorded by the meters installed at the source of

supply (EHV Level) and at the consumer's end (Premises), whichever is higher, without any levy of voltage surcharge.”

Above ruling of the Commission has already clarified that, levy of 2% Voltage Surcharge is not applicable for consumers connected on Express Feeder.

- d) The Commission opined that the responsibility of installing meters of same class of accuracy at both the Substation and consumer ends rests with MSEDCL. The Petitioner cannot be held responsible for the same and as meters have been placed at the both the ends, MSEDCL should not find any problem in billing the higher of the either meter readings.
- e) As the Petitioner is fed from the Express feeder, the Commission directs MSEDCL to refund amount collected from the Petitioner against the voltage surcharge from April 2010 to October 2010 within 30 days from the issue of this Order. The Respondent shall report compliance to the Commission within seven days after making the refund as directed.
- f) In view of the above, at this stage no order is required to be made imposing penalty as the Respondent has been directed to make the necessary refund. However, if the Respondent does not comply with this order then the Petitioner will be at liberty to file an appropriate application seeking penal action, if required.

With the above observations and directions, the present petition stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman