

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 04 of 2010**

**In the matter of**  
**Complaint filed by M/s. Mundra Steel & Alloy Pvt. Ltd., against Maharashtra State**  
**Electricity Distribution Company Ltd., alleging non-compliance of the Electricity**  
**Ombudsman's order dated 04.02.2010 and seeking refund of Tariff Difference.**

**Shri V. P. Raja, Chairman**  
**Shri S. B. Kulkarni, Member**  
**Shri V. L. Sonavane, Member**

M/s. Mundra Steel & Alloy Pvt. Ltd.

.... Complainant

V/s

Maharashtra State Electricity Distribution Company Ltd.

.... Opponent

**ORDER**

**Date: August 03, 2010**

M/s. Mundra Steel & Alloy Pvt. Ltd., the Complainant, filed a complaint dated 15.03.2010, under Sections 142 and 149 of the Electricity Act, 2003, against Maharashtra State Electricity Distribution Company Ltd. ("MSEDCL"), alleging non-compliance of the order passed by the Electricity Ombudsman dated 4<sup>th</sup> February, 2010.

2. The Complainant has prayed as under:

*"MSEDCL should be directed to give credit/refund of tariff difference from June, 2008 onwards as per order of the ombudsman".*



3. Key points and facts of the matter, as stated in the Ombudsman's order dated 4<sup>th</sup> Feb, 2010, are as follows:
- a) The Complainant is an industrial unit, situated in MIDC Jejuri, within the area of supply of Opponent. The Complainant is having HT supply from Opponent since 13<sup>th</sup> December, 2002, and was being charged at industrial tariff till the month of May, 2009. In the bill for May, 2009, the Opponent changed the tariff category for the Complainant as applicable to express feeder consumer and changed tariff at Rs.4.30/kWh from Rs.3.95/kWh. Further, the Opponent also debited an amount of Rs.17,68,091.47 towards recovery of tariff difference from June, 2008 onwards.
  - b) Aggrieved with the action of Opponent, after making the payment as billed, the Complainant filed a complaint with the Consumer Grievance Redressal Forum, Pune Zone. The Forum decided the matter (Case No. 19 of 2009) by order on 30<sup>th</sup> October, 2009, dismissing the Appellant's application.
  - c) Being aggrieved with the impugned order of the Forum, the Complainant filed a representation to the Ombudsman (no.147 of 2009).
  - d) The submissions and the representations, made to Ombudsman, are as follows:
    - i. The Complainant submitted that it never asked for an express feeder connection, and therefore the Opponent cannot force him to take supply on express feeder and charge that tariff. Terming the action of the Opponent as arbitrary and illegal, the Complainant appealed for it to be withdrawn and the excess amount charged to be refunded with 18% interest.
    - ii. In his written reply, the Opponent's Superintending Engineer, MSEDCL (BRC) Baramati, submitted to Ombudsman, contending that the Complainant has not raised any legal issue or any factual merit because he is availing supply from an express feeder. On execution of 33kV line, extending the existing 33kV MIDC feeder (which is an express feeder), supply was released to the Complainant on 13<sup>th</sup> December, 2002. At that time, there was no tariff for express feeder category. No load shedding is carried out on this feeder, being an express feeder. MRI data also shows that the Complainant used power on every staggering holiday, Thursday.
    - iii. The Opponent had submitted that, according to this Commission's Clarificatory Order dated 12<sup>th</sup> September, 2008, the consumer getting supply on express feeder may exercise its choice between continuous and non-continuous supply, only once in a year in the first month after issuing of tariff order.
    - iv. Referring to Commercial Circular of MSEDCL (no.88) dated 26<sup>th</sup> Sept. 2008 about high tension industries connected on express feeders to be deemed as high tension continuous industry and consumer to exercise choice between continuous and non-continuous supply, MSEDCL had submitted that the Complainant did not give any choice, and therefore, the existing category was to be continued and thus the bill for continuous tariff was issued. Bill towards differential amount was issued in May 2009.



- e) When the matter was heard by the Electricity Ombudsman on 20<sup>th</sup> January, 2010, representatives of both, the Complainant and the Opponent, had conceded that the matter of the Representation was same as the matter considered in the Representation no. 146 of 2009, to the Ombudsman, filed by M/s Paul Strips and Tubes Pvt. Ltd., and therefore, this Representation (no.147) to Ombudsman was liable to be disposed of in terms of same directions as for deciding the Representation no. 146 of 2009. Accordingly, the Opponent was directed by the Ombudsman's order dated 4<sup>th</sup> Feb., 2010, to refund the excess amount recovered, alongwith interest at Bank rate as stipulated in Section 62(6) of the Electricity Act, 2003. Compliance report to the Ombudsman was to be made within 30 days of the order.
4. With reference to the above order of the Electricity Ombudsman, the Complainant has filed a complaint with this Commission alleging non-compliance of the Ombudsman's order by the Opponent.
5. From the documents submitted with the Complaint, it is seen that vide letter dated 20<sup>th</sup> Feb., 2010, the Complainant had reminded the Opponent that the credit was to be given to him within 30 days of the Ombudsman's Order, in reply to which the Opponent vide letter dated 24<sup>th</sup> Feb., 2010, conveyed to the Complainant that the Opponent was in process of filing a writ petition in the High Court, challenging the Ombudsman's order, and also conveyed that they were waiting for a stay on execution of Ombudsman's order.
6. A letter dated 22<sup>nd</sup> March, 2010 was issued by the Commission to the Opponent asking them about the steps taken to comply with the said order of the Ombudsman. The Opponent submitted vide its letter dated 31<sup>st</sup> Mar., 2010, that they had filed a writ petition with the High Court challenging the order passed by the Ombudsman, and, that they awaited a Stay Order on execution of the Ombudsman's order.
7. The Opponent, through their Legal Advisor's letter dated 22<sup>nd</sup> April, 2010 submitted that non-compliance of the said order of Ombudsman dated 4<sup>th</sup> Feb. 2010 was not deliberate and was not with an intention to cause any difficulty or prejudice to the Complainant.
8. A hearing in the matter was held by the Commission on 23<sup>rd</sup> April, 2010, where Shri Suresh Sancheti appeared on behalf of the Complainant and Shri Karthik Somasundram, Advocate, appeared on behalf of the Opponent.
9. During the hearing the Opponent submitted that since they have preferred a Writ Petition (No.3206 of 2010) before the Bombay High Court an adjournment may be granted as an interlocutory application seeking stay of the Ombudsman's Order was coming up. The hearing stood adjourned in view of the request made. Further hearing in the matter was scheduled for 23<sup>rd</sup> June, 2010 on the request of the Complainant.
9. Subsequently, the Opponent by its legal representative's letter dated 28<sup>th</sup> June, 2010, submitted that the Writ Petition filed by the Opponent before the Hon'ble High Court was heard on June 23, 2010, and, that the High Court had declined to grant interim



order of stay of the impugned order of the Ombudsman. It was also submitted that the Opponent was considering filing a Special Leave Petition against the Hon'ble High Court's order dated June 23, 2010, and that therefore the hearing in the matter should be postponed. As the Commission did not accede to the said request for postponement, a hearing was held on 6<sup>th</sup> July, 2010. Shri Suresh Sancheti appeared on behalf of the Complainant and Shri Karthik Somasundram appeared on behalf of Opponent. Both the parties reiterated their case.

10. Having heard the parties, the Commission is of the view that if the Opponent is interested in pursuing the case before the High Court or before the Supreme Court, it is their right and nobody can take away the right, but since Hon'ble High Court has not granted interim order of stay on implementation of the Ombudsman's order, compliance of the Ombudsman's Order becomes mandatory under law. Accordingly, the Commission directs the Opponent to comply with the Ombudsman's Order, within one month from the date of the hearing (i.e. July 6, 2010) and give credit/refund of tariff difference as per order of the Ombudsman along-with the due interest, failing which the Commission may consider taking appropriate action under Section 142 of the Electricity Act 2003.

With above, the Case 04 of 2010 is disposed of.

Sd/-  
(V. L. Sonavane)  
Member

Sd/-  
(S. B. Kulkarni)  
Member

Sd/-  
(V. P. Raja)  
Chairman



(K. N. Khawarey)  
Secretary, MERC