

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No.113 of 2011

Complaint filed by M/s Gimatex Industries Pvt. Ltd., Wani, Dist. Wardha, against MSEDCL, under Sections 142 and 146 of E.A., 2003, alleging non-compliance of the Order dated 6th Oct., 2010, passed by the Electricity Ombudsman.

Shri V. P. Raja, Chairman

M/s Gimatex Industries Pvt. Ltd
Wani, Taluka Hinganghat (District Wardha).

..... Complainant

V/s

Maharashtra State Electricity Distribution Company Ltd.
Through Superintending Engineer, Wardha Circle.

.....Opponent

ORDER

Date: 31st October, 2011

M/s Gimatex Industries Pvt. Ltd filed a complaint on 8th August, 2011 against Maharashtra State Electricity Distribution Company Ltd. (“MSEDCL”). The Complainant has sought to invoke Sections 142 and 146 of the Electricity Act, 2003 (“EA 2003”) on the ground of non-compliance of an Order dated 6th October, 2010 passed by the Electricity Ombudsman.

2. The prayers made by the Complainant are as hereunder:
- “i) *Penalize the Respondent under Sections 142 and 146 of the Act for contravening the directions issued in the order of the Ombudsman.*

 - ii) *Direct the respondent to comply with the order of the Ombudsman and refund the excess amount charged with interest for the disputed period of May 07 to May 08.*

iii) Issue any other direction as Commission deems fit as per facts & circumstances of the case.”

3. Facts of the matter, in brief, are as follows:

- a) The Complainant is a company incorporated under the provisions of Companies Act and having its unit of textile manufacturing facility at Wani. The Complainant is a consumer of MSEDCL, having a Contract Demand(CD) of 4825kVA and is catered on express feeder.
- b) The Complainant has referred to the Commission's various tariff orders which included the concept of Additional Supply Charge (ASC) in October 2006 and further clarificatory Orders dated 18/5/2007, 24/8/2007, 11/9/2007 issued in the matter. Further, Clause 7.4(g) of the Commission's Tariff Order dated 18th May, 2007 was modified by the Hon'ble Appellate Tribunal for Electricity vide its judgment dated 12th May 2008 in Appeal no. 135 of 2007.
- c) Due to its expansion plan the Complainant applied for additional CD which was increased in April, 2006, from 2550 KVA to 2950 KVA, and further increased in six steps to 4825KVA in May, 2009.
- d) The Complainant had been receiving bills from the Opponent and had duly paid the same. However, on 23rd Sept., 2009, a bill dated 21st Sept., 2009 from the Opponent was received by the Complainant with Rs.15,99,130.67 shown as "Debit Bill Adjustment" towards adjustment of ASC. The Complainant submits that there was no debit or outstanding payment against the supply of power for the period from December 2005. The Complainant on 25/09/2009 also paid this additional debit under protest. In response, the Opponent conveyed about the changes in clause no. 7(4) (g) of the MERC Order dated 18th May, 2007.
- e) As per Complainant's calculations the Opponent had to refund an amount of Rs.13,61,245/-.
- f) Aggrieved, the Complainant had filed its grievance with the CGRF, Nagpur(R) Zone. The Forum rejected the grievance filed by Complainant by its order on 2nd Aug., 2010. Aggrieved by the Order passed by the CGRF, Nagpur(R) Zone the Complainant filed a representation before the Electricity Ombudsman on 21st Sept., 2010 (No.124 of 2010).
- g) The Electricity Ombudsman("EO"), vide its Order dated 6th Oct., 2010, directed the Opponent to revise energy bills for the period between May-07 to May-08 based on revised/ updated calculation of the Benchmark consumptions and consequently the effects on amounts calculated for other incentives, like Load Factor, Power Factor, etc., since these are worked out as a percentage of the total bill. Suitable credit/ debit adjustments were to be carried out accordingly. Refund, if any, were to be given with interest as provided in Section 62(6) of EA 2003.

Compliance was to be intimated within 30 days of the Order.

- h) As per the Complainant's calculations, after adjusting the excess ASC amount already refunded to the Complainant (in line with the MERC order in case 144 of 2008), the revised refundable amount from the Opponent, worked out as Rs.22,08,692.79, but the Opponent issued a debit note of Rs.5,27,340.13/- dated 30th Nov., 2010. As per the Complainant this violated the Order passed by the EO, in Representation No. 124 of 2010, by the Complainant. The Complainant protested against the action of the Opponent by a letter dated 18th Dec., 2010.
4. The Opponent did not take cognizance of the Complainant's letter dated 18th Dec., 2010, and did not even reply to it. Hence, the Complainant has filed the present complaint before the Commission alleging non-compliance of the said Order passed by the EO.
 5. The Commission vide Notice dated 17th August, 2011 scheduled a hearing in the matter on 16th September, 2011. During the hearing held before the Commission on 17th Aug., 2011, Shri R. B. Goenka alongwith Shri P. Mohota appeared on behalf of the Complainant, whereas MSEDCL's Shri L. M. Borikar, Superintending Engineer, Wardha Circle, and Shri S. N. Kene, Jr. Law Officer appeared on behalf of the Opponent.
 6. The Complainant reiterated its submissions made in the Complaint, and no new fact of the matter was added. The Opponent submitted its written reply dated 14th Sept., 2011. The Opponent submitted that it has recalculated the various incentives etc., as also mentioned in the EO's Order, from October 2006 to May 2008, and that after all calculations the debit amount of Rs.5,27,340/- has been charged in the bill for Dec., 2010. Also, that it has already complied with the Order passed by the EO, in the matter, and has submitted its report to the Electricity Ombudsman vide its letter No. SE/WRD/A/C/HT/648 dated 9th Feb., 2011.
 7. Having heard both the parties and the material placed on record, the Commission is of the view that the present complaint is of clarificatory nature, for which the Commission is not the right forum. Both the sides are having different views on the amounts to be charged or refunded as the Electricity Ombudsman's order dated 6th Oct., 2010. For obtaining clarity in the matter, the Complainant should approach the Electricity Ombudsman asking for clarification on the Ombudsman's Order, impleading MSEDCL as a party.

With above, the Case no. 113 of 2011, stands disposed of.

Sd/-
(V. P. Raja)
Chairman