

Before the  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 106 of 2008**

In the matter of  
**Complainant filed by Shri. Sonumal Sunil Kumar alleging non-compliance of  
order dated 5.4.2008 passed by CGRF, Bhandup Urban Zone, Bhandup.**

**Shri. V.P. Raja, Chairman  
Shri A. Velayutham, Member  
Shri S. B. Kulkarni, Member**

Shri. Sonumal Sunil Kumar  
House No. 1678/2, Khoni (Meetpada)  
Bhiwandi

.... Complainant

Vs.

1. Nodal Officer  
Maharashtra State Electricity Distribution Co., Ltd.,  
Bhiwandi.
2. Vice President, Torrent Power Limited, Bhiwandi.
3. General Manager (Tech), Torrent Power Limited, Bhiwandi

.... Opponents

**ORDER**

**Dated: May 20, 2009**

Shri Sonumal Sunil Kumar filed a complaint with this Commission on 12.11.2008 invoking Sections 142, 146 and 149 of the Electricity Act 2003 ("EA 2003") on the ground that there has been non compliance of the order dated 5.4.2008 passed by the Consumer Grievance Redressal Forum, Bhandup Urban Zone, Bhandup ("CGRF") so far as the same deals with refund of certain amounts to the Complainant. It has been alleged that the refund has not been made till September 2008 despite many follow up done for getting the said refund. However, MSEDCL as



well as Torrent, the franchisee, is paying no heed to the matter relating to refund. The Complainant states in his complaint that the brief details relating to the present grievance is as follows:

a) The Complainant was having 20 H.P. connection for power loom Industry. He demanded additional load of 40 H.P. with total load required of 60 H.P. due to expansion of his project. But he did not get additional sanction to fulfil his requirement though it was technically feasible. During his follow up, he was permitted to add the additional load without sanction and payment to be made. However, MSEDCL started penalizing him for additional load without any notice with whole current Meter recording. Thus, a huge amount of penalty was recovered from him illegally by applying connected load method, for load and capacitor penalty. Later on, the Meter was replaced by CT operated Meter having MF 0.5 but was being billed considering MF 1. Thus, MSEDCL has recovered from him amounts more than Rs. 5 lakhs. As a result of complaint for higher billing and follow up, the matter of wrong MF applied came to light. It is submitted that as a part of transparent working MSEDCL should refund the excess amount recovered in response to the proposal of DY EE concerned but no action has been taken for more than three years. The Complainant filed his grievance with the recovery committee in June 2007 but no refund was howsoever made. Instead, he was served a notice of disconnection of the supply instead of solving his grievance for refund of excess amount paid. As a result of a grievance filed by him that was pending for hearing before the CGRF, a refund of Rs. 3.37 lakhs against Rs. 5.17 Lakhs was shown credit in the month of December 2007, through M/s. Torrent, Bhiwandi that is the franchisee of MSEDCL. However, Torrent has been issuing abnormal bill on an average basis since February 2007 after taking over from MSEDCL though Meter was working. The said matter was brought to the notice of Torrent and the Complainant requested Torrent to issue bill as per Meter reading and followed up the matter sincerely. In response to such follow up made by the Complainant, Torrent declared his meter faulty without assigning any reason though testing of energy Meter was not done to ascertain its accuracy. At this stage, there was no bill being issued by Torrent regarding the status of amount lying with MSEDCL / Torrent after withdrawing average unit billed from February 2007 till December 2007.

b) The Complainant states that as per his estimation, the amount of refund from MSEDCL is nearly Rs. 4 lakhs to Rs. 5 lakhs and from Torrent the amount is Rs. 1.78 Lakhs. Thus, amounts of more than Rs. 6 Lakhs are lying with MSEDCL and Torrent without applying any interest though MSEDCL / Torrent charge 18% interest on consumers having arrears. However, CGRF Bhandup granted 6% interest on Rs. 3.37 lakhs up to the date of its order dated 5.4.2008 instead of 18%. For these reasons, Complainant states that he is unable to run his industry as he is suffering from financial crisis. With a hope to get justice and to get refund of the amount lying with MSEDCL / Torrent alongwith eligible rate of interest the present complaint has been filed before



this Commission. In pursuance of the order dated 5.4.2008 passed by CGRF, MSEDCL / Torrent did not comply with the same till date inspite of many follow up made with it under the below mentioned correspondence:-

- i. Complainant's letter dt. 24/04/08 - regarding compliance of the order.
- ii. Complainant's letter dt. 24/04/08 - for no use of power and issue of bill as per Meter reading.
- iii. Complainant's letter dt. 13/06/08 - non-compliance of CGRF order.
- iv. Complainant's letter dt. 17/07/08 - non-compliance of CGRF order.
- v. Complainant's letter dt. 06/08/08 - non-compliance of CGRF order.
- vi. Complainant's letter dt. 06/09/08 - non-compliance of CGRF order and refund of amount showing credit on bill.

c) Complainant states that in response to his application dt 24/04/2008, MSEDCL passed an order vide letter SE/BWD/NODAL OFFICER/ACTT/00994 dt. 20/05/2008 to refund an amount of Rs. 1,70,680.48 by complying with the order dated 5.4.2008 issued by CGRF partially without refunding the RLC amount. The said amount is not refunded immediately but it was refunded in the 1st week of October 2008. However, RLC amount for all the three connections has not been refunded till date. Further, it is reiterated that the interest part is considered up to date of order where as it should be taken as the date of its refund. Hence, additional interest on Rs. 1,70,680.48 should be given at the rate of 18% from 05/04/2005 to 02/10/2008 nearly 6 months delayed alongwith the RLC amount in pursuance of MSEDCL's circular No. 81. Further, MSEDCL has to refund additional amount of Rs. 60,088.39 appearing on bill for Aug-2008 for Cons.No. 13542240134 whereas Torrent submitted its compliance vide TPL/ICGRC/40 dt. 04/06/08, which was misleading and not in accordance with the order dated 5.4.2008 of CGRF vide its clause no. 7 in pursuance of point 7 of the observations made. Neither the details of account of power Meter for power loom have been submitted nor any amount refunded. In addition, the billing was stopped so as to keep the consumer in dark regarding actual amount to be refunded. Instead, no bill is being issued for all the three connections. The matter was brought to the notice of the concerned officials vide letter dt. 13/06/2008 alongwith demand of details of account for service No. 13542240134 and other two L&F connections under intimation to Chairman, CGRF and Nodal Officer, MSEDCL, Bhiwandi. This did not have any result. The matter was again brought to the notice of all the concerned on 17/07/08 & 06/08/08 regarding non-compliance of the CGRF's order dated 5.4.2008. During the said follow-up with all the concerned officials regarding the status for refund of amount, Complainant collected the duplicate copy of energy bill for all the three



connections where it has been shown as amount to be refunded by Torrent as Rs. 1,78,344.48 and Rs. 60,088.39 by MSEDCL as bills are not being issued and served by Torrent. Further, it is alleged that the details of accounts are not provided till date, nor any refund made by Torrent or MSEDCL (except Rs. 1,70,684.48 in Oct-2008). On the basis of duplicate bill for Aug- 2008, Complainant again followed up the matter vide his letter dated 06/09/08 though the credit amount shown is not authentic as per his demand as no account is submitted by Torrent as per the CGRF's order dated 5.4.2008. The above facts make it clear that the order passed by CGRF has not been complied with either by MSEDCL or by Torrent.

d) In light of the above allegations, the Complainant has sought to invoke Regulation 22 of the MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations 2006 ("CGRF Regulations") which reads as under:-

***"22. Punishment for non-compliance of orders***

*Without prejudice to any penalty which may be imposed or prosecution proceeding which may be initiated under the Act, non-compliance of Regulations 8.7 or 17.18 in any manner whatsoever shall be deemed to be a contravention of the provisions of these Regulations and the Commission may initiate proceedings suo motu or on a complaint filed by any person to impose penalty or prosecution proceeding under Sections 142 and 149 of the Act."*

Till date, the Respondents failed to comply with the aforesaid CGRF's order dated 5.4.2008 though various follow up has been made from time to time in writing and personally also but all in vain. Therefore, it has been prayed that this Commission orders penalty and initiates prosecution proceedings for non compliance of the said CGRF's order dated 5.4.2008 along with a direction to the Respondents to refund the actual amount to the Complainant with details of account and interest on delayed period for refund, RLC refund etc.

2. An affidavit in reply has been filed on 22.12.2008 by Shri. Rafique G. Shaikh, Superintendent Engineer of MSEDCL stating therein as under:-

(a) That there is no intentional or wilful disobedience of the order dated 5.4.2008 passed by CGRF, Bhandup. It has been stated that MSEDCL and its officials apologize in case of any inadvertent delay in compliance of the said CGRF order. It has also been stated that MSEDCL and its officials abide by the orders, directions of CGRF, Bhandup. MSEDCL has taken every possible step to comply with the said CGRF's order as expeditiously as possible. There was no intention of MSEDCL and its officials to contravene and disobey the orders of CGRF as alleged by the Complainant. In fact, after receipt of the order dated



5.4.2008 from the CGRF MSEDCL did immediately take necessary steps to comply with the said Order.

- (b) The manner of calculation of the amount refunded to the Complainant is as follows:
- (i) The load factor penalty of Rs.58,560/- with interest of Rs.33,307.20 aggregating sum of Rs.91,867 .20.
  - (ii) Connected load penalty Rs.25,170/- with interest of Rs.13,403.02 aggregating sum of Rs.38,573.02.
  - (iii) Capacitor Penalty of Rs.22,438.41 with interest of Rs.9,351.98 aggregating sum of Rs.31, 790.39.
  - (iv) Interest amount as excess amount billed due to wrong M.F @ 6% the amount of Rs.55,715/-.
  - (v) Interest on S.D for all the three connection of the Petitioner i.e. Rs.1,200/- + Rs.60/- +Rs.60/- = Rs.1,320/-.

Superintendent Engineer has annexed to his reply a copy of the letter dated 20.5.2008 addressed to the Complainant.

(c) Accordingly a statement was prepared and the credit amount of Rs.1,70,680/- was informed to the Complainant by letter dated 20.5.2008. M/s. Torrent Power Ltd. has given credit in the bill of July 2008. However, the Complainant requested a refund of the amount by cheque. Accordingly, a cheque being No. 741525 for Rs.1,70,680/- was issued on 14.9.2008.

(d) It is pertinent to note that the Complainant has accepted the cheque without any protest. The interest amount was calculated upto March 2008. As per the application of the Complainant, the additional interest for the period April 2008 to 14.9.2008 amounting to Rs.4,680/- was paid by cheque to the Complainant on 29.11.2008.

(e) From the record available with this office, it is revealed that M/s. Torrent Power Ltd., has complied with the order dated 5.4.2008 passed by the CGRF Bhandup.

(f) In light of the above, Shri. Rafique G. Shaikh, Superintendent Engineer of MSEDCL has denied all the allegations made by the Complainant except those specifically admitted hereinabove.

(g) Lastly, it has been submitted that this Commission may take into consideration the bonafide efforts on the part of MSEDCL regarding compliance of the aforesaid order of the CGRF and kindly dismiss the Complaint.

3. An affidavit in reply has been filed on 5.1.2009 by Shri. Pramod Kumar Diwan, General Manager, Torrent Power Limited, stating therein as under:-.



(a) That there is no intentional or wilful disobedience of the order dated 5.4.2008 passed by CGRF, Bhandup. It has been stated that Torrent and its officials apologize in case of any inadvertent delay in compliance of the said CGRF order. The status of compliance of the aforesaid CGRF's Order has been provided as follows:

(i) Torrent Power Limited complied with the order of CGRF, Bhandup, for two Consumer numbers out of three, as the third Consumer number was not correctly given in the said order of CGRF. A compliance letter dated 04/06/08 was duly sent to the MSEDCL, Bhiwandi with a copy to the Petitioner for the above compliance. After receiving the corrected third Consumer number from the Complainant himself, the compliance to that extent was also carried out and again a compliance letter dated 31/07/08 was duly sent to MSEDCL, Bhiwandi with a copy to the Complainant for the above compliance. Thus, the compliance of CGRF's order to the extent of Torrent Power Limited was duly made.

(ii) Torrent Power Limited carried out all the adjustments as instructed by MSEDCL, Bhiwandi from time to time with respect to the three Consumer numbers as the B-80 adjustments given by MSEDCL, for the credit of MSEDCL. This credit adjustment had already been passed by Torrent Power Limited as follows:

Service No.	Adj Type	Type	MSEDCL Letter No.	MSEDCL letter date	TPL Entry date	Dr / Cr Amount	Adjusted in bill
13542240134	5	Principle	1436	28/11/2007	03/12/2007	Credit -331204.91	Dec-07
13542240134	5	Principle	1082	08/07/2008	11/07/2008	Credit -106168.41	Jul-08
13542240134	3	Interest	1082	08/07/2008	11/07/2008	Credit -64512.07	

Thus, the compliance on the part of Torrent Power Limited has been timely made and duly informed to MSEDCL, Bhiwandi and the Complainant.

(b) In light of the above, Torrent has denied all the allegations made by the Complainant except those specifically admitted hereinabove.

4. The Complainant filed his rejoinder on 6.1.2009, wherein he states as under:-



(i) While going through the reply submitted by SE Bhiwandi for MSEDCL and Torrent, it is noticed that Respondents are hiding the fact of compliance of the aforesaid order passed by CGRF, Bhandup. The matter of non-compliance, in brief, is as follows:-

(a) *Comments on MSEDCL's reply :-*

(1) On demand for additional load of 40 HP MSEDCL/MSEB did not respond at all, though it was technically feasible but it had provided all the facilities for additional load required by changing whole current meter installed for 20 H.P Power Loom load for by C.T. Operated meter suitable for 20 HP previous + 40 HP additional load for Power Loom connection without completion of authorized formalities. However, it started charging load penalty for unauthorized load as per connected load method without physical verification and capacitor penalty though it was not chargeable as per tariff order applicable since 1/12/2003. In case it is charged, it was to be refunded in pursuance of this Commission's order dated 14/07/2005 in Case No. 2 of 2003 with interest at the same rate applied by MSEB to their consumers, from date of collection till date of refund but not later than three months from this order. The same was brought to the notice of all the field officers vide letter no. P com/ MERC/Tariff/ 2967 dt. 02/02/2006 for its implementation. In this case, MSEB did not refund excess load penalty and capacitor penalty till the implementation of the aforesaid CGRF's order. Thus, it is non-compliance of this Commission's order.

(2) The CGRF vide section no. 2 of the aforesaid order held that the load penalty and capacitor penalty should be refunded to the consumer as per the order of this Commission in Case No. 2 of 2003 dt. 14/07/2005. MSEDCL informed the consumer vide letter no. SE/BWD/NO/ACC/00994 dt. 20/05/2008 the amount to be refunded was for Rs. 170680 but no refund for it was passed on. During the follow up, Complainant was insisted to produce application for refund through cheque. After receipt of application / cheque No. 741525 dt 14/09/2008 an amount of Rs. 170680.00 was handed over in the 1<sup>st</sup> week of Oct. 2008 thus it was intentionally delayed but no interest from the date of order to date of amount refunded. Interest on delayed period for refund was handed over after the filing of the present Complaint before this Commission and an amount of Rs. 4680/- against interest was handed over on 29/11/2008. Thus, CGRF's order issued in April 2008 was fully implemented on 29/11/08 after the filing of the present Complaint before this Commission.

(3) Refund of RLC: Complainant has paid RLC for 3 No.s L.T. Connections for Rs. 80726/- from Dec 03 to Sep. 06. whose grievance are covered under the CGRF's aforesaid order but CGRF could not comment on it due to the matter being *subjudice* in pursuance of this Commission's order to refund the RLC. MSEDCL issued a circular No. 81 dt 7/7/2008 for its refund against refund of Rs. 80726/- however nothing is refunded by MSEDCL till Dec. 2008. MSEB charged excess billing by applying wrong



M.F. one instead of 0.5 thus double billing was one as compared to actual unit consumer. The excess recovery was of Rs. 5.14 lacs approx. During the course of hearing MSEDCL passed an order to refund through energy bill for an amount of Rs. 3.31 lacs shifted as credit in Dec/2007 bill against 5.14 lacs.

(b) *Comments on M/s. Torrent Power Ltd.*

(1) The Complainant is having one power loom connection and two lighting meter for power loom premises. He was a regular payer of the electricity bills up to January 2007. Torrent took over the charge of Bhiwandi from 26.1.2007. It started billing on average basis instead of actual meter reading from Feb.07 to Nov. 2007 for power loom connection under faulty status though meter was in working condition and raised fictitious amount which were adjusted from the refund amount provided by MSEDCL for Rs. 331204.91 in Dec. 07 bill. In this regard, CGRF held that Torrent *"is ordered to provide relief to the consumer as elaborated in observation at Sr. No. 7 of the observation for all the three connections"* that is to rectify the average billing and meter be tested at its own cost to confirm the accuracy. Also, it was instructed to provide the account which were also demanded many times but till date the account for service no. 13542240134 for power loom connection is not given nor testing result of the meter is communicated. As this connection is involved with major refund of amount no account has been provided, whereas account for two no.s lighting meter have been provided which were having less monetary benefit to the consumer with pending dues in arrears.

(2) As per the directives of MSEDCL an amount of Rs. 331204.91 was shown credit in Dec. 2007 which varied month to month with no conformity. The observations are mentioned below.

Feb-08	TPL Credit	59853.60
Aug.-08	Torrent Credit	180162.89
	MSEDCL Credit	60088.39
Dec.-08	Torrent Credit	231996.95

From the above, it is evident that amount of credit is increasing even though Complainant has not been paid any amount to be refunded. The above variations in credit amount create doubt about compliance of the aforesaid CGRF's order regarding correction of average billing from Feb.07 to Nov. 07. From the billing record since Dec. 2007 till Dec. 2008, there is credit shown without interest where as Torrent is charging interest on arrears on other two connections. However, Torrent be instructed to comply with the aforesaid CGRF's order and refund the amount of credit by



adjusting arrears of lighting connections alongwith interest charging to its consumers having arrear and its proper account. From the above submission, it is evident that the CGRF's order is not complied with by Torrent as well as MSEDCL, Thus, both are liable for action for non - compliance as per the procedure of law and regulation mentioned in the complaint.

5. A hearing was held on 6.1.2009. Smt. Deepa Chawan, Advocate appearing for MSEDCL submitted that the CGRF vide section no. 2 of the aforesaid order held that the load penalty and capacitor penalty should be refunded to the consumer as per the order of this Commission in Case No. 2 of 2003 dt. 14/07/2005. This has been complied with by MSEDCL. Counsel submitted that any grievance related to claim for interest should be agitated by the Complainant before the CGRF and not this Commission. Counsel submitted that there is no case for ordering penalty under Sections 142 or 149 of the EA 2003. The Commission directed MSEDCL to give to the Complainant the billing account details of Consumer No. 013542240134, i.e., regarding the third billing meter.

6. Having heard the parties and after considering the materials placed on record, the Commission is of the view that the directions that were given by the CGRF vide the operative part of its Order dated 5.4.2008 were as follows:-

- (i) That the load penalty and capacitor penalty should be refunded to the consumer as per the order of this Commission in Case No. 2 of 2003 dt. 14/07/2005;
- (ii) The interest on excess amount billed to the consumer due to wrong MF applied should be given with 6% interest;
- (iii) The interest on SD for all the three connections should be given as per applicable rate i.e., 6% of interest;
- (iv) Torrent ordered (a) to revise average bills based on actual readings; (b) testing of meters in the presence of the consumer if the meters are doubtful; (c) units billed on average basis if not credited after billing as per the meter reading should be given credit and consumer should be provided the detailed report for it; (d) to pay compensation of Rs. 1000/- to the consumer; (e) credit amount reflected by MSEDCL for consumer no. 013542193133 for Rs. 5199.24 and for consumer no. 013542240126 for Rs. 6267.57 should be properly accounted and its detail should be provided to the consumer. These directions are contained in detail in the 'Observation' portion of the CGRF's Order dated 5.4.2008.

As regards item nos. (i), (ii) and (iii) above, Shri. Rafique Shaikh, SE, MSEDCL has submitted on affidavit that a cheque No. 741525 for Rs.1,70,680/- was issued on 14.9.2008. He has submitted that the Complainant has accepted the cheque without any



protest. The interest amount was calculated upto March 2008. As per the application of the Complainant, the additional interest for the period April 2008 to 14.9.2008 amounting to Rs.4,680/- was paid by cheque to the Complainant on 29.11.2008. Complainant has admitted receiving the aforesaid amounts. As to whether he could have a claim of the refunds from 14/07/2005 that is the date of order of this Commission in Case No. 2 of 2003 is an aspect which he would need to agitate before the CGRF and not this Commission because the original complaint has been filed and disposed of by the CGRF.

MSEDCL filed a letter dated 13.3.2009 before this Commission stating therein that the billing account details was sent to the Complainant by RPAD on 20.1.2009. A copy of the same alongwith the RPAD acknowledgement slip has been submitted to this Commission.

As regards the contention that CGRF Bhandup granted 6% interest instead of 18%, the Commission is not inclined to entertain this claim since the Complainant has the right to invoke the alternative remedy available that is by filing a representation before the Electricity Ombudsman if he is aggrieved on this account with the CGRF's Order. It will not be justified to disturb the scheme of Sections 42(5), (6), (7) of the EA 2003 and the CGRF Regulations and the machinery available thereunder.

As regards the direction given to Torrent by the CGRF, from the rejoinder to MSEDCL's reply filed by the complainant on 6.01.2009 and the letters annexed to the affidavit in reply filed by Torrent *prima facie* it appears that the CGRF's directions have been partially complied with. MSEDCL is hereby directed to comply with the directions of the CGRF within three weeks from the date of this order and submit a full compliance report of the same to this Commission as well as to the CGRF with a copy to the Complainant. The Complainant will have the liberty to approach the CGRF in case he is not satisfied or has any grievance in relation to the same. The CGRF has the powers to make an enquiry to ensure that licensees comply with its directions fully under Regulation 6.17 of the CGRF Regulations in this regard.



With the above the present complaint stands disposed of. No order as to penalty under Sections 142 or 149 of the EA 2003.

Sd/-  
(S.B. Kulkarni)  
Member

Sd/-  
(A. Velayutham)  
Member

Sd/-  
(V.P. Raja)  
Chairman



(P.B. Patil)  
Secretary, MERC

