

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
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Case No. 42 of 2009

In the matter of
Complaint filed by M/s. Tungabhadra Holding Private Limited under Section 142 of
the Electricity Act, 2003 against MSEDCL-II, Kalyan for non-compliance of Order
dated 19.01.2009 passed by the CGRF, Kalyan Zone

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

M/s. Tungabhadra Holding Private Limited
Survey No. 440/441,
Village: Kakadpada,
Murbad-Karjat Road,
Murbad Dist. – Thane

.....Complainant

V/s

Superintendent Engineer (R)
MSEDCL – II,
Kalyan

.....Opponent

ORDER

16th December, 2009

M/s. Tungabhadra Holding Private Limited, a consumer of Maharashtra State Electricity Distribution Co. Ltd. (hereinafter referred to as “MSEDCL”) at Kalyan, filed a Complaint under affidavit on 07.07.2009 under Section 142 of the Electricity Act, 2003 (hereinafter referred to as “EA 2003”) seeking directives of the Commission against MSEDCL for non-compliance, part-compliance or delay in compliance of the Order dated 19.01.2009 passed by the Consumer Grievance Redressal Forum (hereinafter referred to as “CGRF”), Kalyan Zone in Grievance No. K/E/0145/0166 of 2008-09.



2. The prayers of the Complainant are as follows:

“It is therefore prayed that this Honorable Commission be pleased to direct the Respondent to comply with the Order dated 19/01/2009.”

3. The Complainant is a consumer of electricity of MSEDCL having Consumer No. HT – 018019050270. The Complainant submits that it has a factory located in rural area at village Kakadpada, which is fed by 22 kV Saralgaon feeder emanating from 100/22 kV sub-station at Murbad.

4. The Complainant submits that the abovementioned feeder was under planned load shedding of 10-12 hours and unplanned load shedding was being implemented as and when the control room gave the message. The Complainant has not been able to run the factory due to several hours of this planned and unplanned load shedding, resulting in loss of production. It is stated that MSEDCL has provided rural feeder, but the energy bills mentioned that it was an industrial feeder, resulting in the Complainant being charged with Additional Supply Charges (hereinafter referred to as “ASC”) from the effective date of ASC till discontinuation.

5. The Complainant submits that, in the Tariff Order for MSEDCL passed by the Commission for FY 2006-07, the consumers were allowed to receive the benefit of reduced load-shedding hours by paying for the costly power separately through additional ASC. According to the Complainant, it did not get any benefit of such reduced load shedding hours.

6. The Complainant further submits that, in the Tariff Order for MSEDCL passed by the Commission for FY 2007-08, the method of levy of ASC had been simplified by allocating the costly power only to industries connected to EHV levels or express feeders. Railways and some other industries were allowed to face one-day load shedding. According to the Complainant, it did not get the benefit of reduced load-shedding hours or one-day load shedding pattern for this period also.

7. Being aggrieved by the same, the Complainant raised the grievance before the CGRF, Kalyan alleging excessive billing, registered as Consumer Grievance No. K/E/0145/0166 of 2008-09. At the time of hearing, the Complainant submits that it had stated that, ASC charges were wrongly taken from the Complainant, and that MSEDCL ought to withdraw the same. It was asked to be withdrawn from 1st June 2006 to May 2008 during which it was in force. In the Order of CGRF dated 19/01/2009, it was held by the CGRF that all additional supply charges wrongly recovered by MSEDCL from the Complainant should be adjusted in the ensuing current bills and that MSEDCL should pay interest on wrongly recovered ASC through the ensuing current bills at the existing savings rate of Reserve Bank of India.

8. The Complainant has calculated the amount of refund claimed from MSEDCL to be Rs. 7,51,541.80/-, which has been supported by a calculation sheet appended with his Complaint.

9. MSEDCL submitted its reply dated August 25, 2009 to the Commission. In its letter, MSEDCL submitted that as per Commercial Circular No. 47 (PR-3/Tariff/40506 dt. 04-11-2006), the Complainant has been classified in the "OTHER REGION CONSUMER" category having load shedding of 5.30 hrs daily. It was submitted that Table-III of the abovementioned circular shows the rates of ASC of various consumer categories. According to that, the Complainant comes under the "OTHER REGION" category and is charged @ 9% ASC charges after the passing of the abovementioned order of CGRF. Since the CGRF Order was passed on 19.01.2009 and the billing of the HT consumers are scheduled on 16th and 17th of every month, the credit for the month of January, 2009 has been passed on in the bill for April, 2009 amounting to Rs. 1,14,990.83/- as wrongly recovered ASC charges and interest thereon. In the circumstances, it was submitted that MSEDCL has complied with the CGRF's Order.

10. This information was communicated to the Complainant by the Commission vide letter dated September 1, 2009 and the Complainant was asked as to whether it still wanted to pursue with the matter further. In reply, vide letter dated September 16, 2009, the Complainant disputed the amount credited by MSEDCL, and asked for the refund of Rs. 7,51,541.80/- from MSEDCL, as per its calculation sheet annexed with its Complaint.

11. The Commission through notice dated September 29, 2009, fixed the hearing in the matter on 16th October, 2009.

12. Thereafter, MSEDCL filed its reply justifying their reasons for compliance with the Order of the CGRF dated 19.01.2009. In its reply, MSEDCL quoted the said Order of CGRF stating that, "*All additional supply charges wrongly recovered by Licensee from consumer should be adjusted in the ensuing current bills (with interest and DPC, if recovered by licensee)*". MSEDCL had thereafter passed Commercial Circular No. 47 (PR-3/Tariff/40506) dated 04-11-2006. As per Article 2.6 of the abovementioned circular, the Complainant falls under "OTHER REGIONS" consumers having a planned load shedding of 5.30 hrs daily, thus falling under the range of 4.5 hrs to 6 hrs load shedding. MSEDCL had stated that, as per Table-III of the circular, the Complainant falls under the category of "Express feeders (continuous or non-continuous)" whose ASC charges are 9%. So, while calculating the refund of wrongly recovered ASC charges from October 2006 to June 2008, during which period the Complainant had paid ASC charges @ 19%, it had been reduced to 9%. Accordingly, the wrongly recovered ASC charges of Rs. 1,14,990/- have been credited in the monthly bill of April, 2009 bill.

13. During the hearing held on 16th October, 2009, the Complainant argued its point and stated that, as per MSEDCL's Tariff Order for 2007-08, only percentage of 24% and 11% is provided and there is no mention of refund of 9% as calculated by MSEDCL. It was pointed out by the Commission that there is no mention of any percentage of refund in the CGRF's order, in which case a clarification is needed from CGRF itself.

14. Having heard the parties, the Commission observes that it does not have jurisdiction to entertain such individual billing and refund disputes between consumers and licensees. Since what constitutes “*all additional supply charges...*” as held in the order of CGRF is an aspect which is in issue, it is the CGRF who may be approached for issuance of clarification regarding the percentage of refund to be given to the Complainant by MSEDCL. The Complainant may approach the CGRF with the detailed calculation sheet of refund and seek clarification as to the percentage of refund to be granted to the Complainant by MSEDCL.

In view of the above, the present case stands dismissed as not maintainable.

Sd/-
(V. L. Sonavane)
Member

Sd/-
(S. B. Kulkarni)
Member

Sd/-
(V. P. Raja)
Chairman



(Sanjay Sethi)
Secretary, MERC