



**OFFICE OF THE OMBUDSMAN**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051  
Tel. / Telefax: 022-2659 2965

**REPRESENTATION NO.36 OF 2005**

In the matter of Levying Delayed Payment Charges

M/s. Sphere Engineers Pvt. Ltd..... Appellant  
Versus  
Superintendent Engineer,  
Maharashtra State Electricity Distribution Co.Ltd., Thane..... Respondent

Present:

1. Shri W.G.Gorde, Ombudsman

On behalf of the Appellant:

1. Shri Nipun J. Mehta, Director

On behalf of the Respondent:

1. Shri N.A.Khan, Superintending Engineer, M.S.E.D.C.L., Thane
2. Shri R.K. Ghadi, Accounts Officer, M.S.E.D.C.L., Thane

**Date: 2<sup>nd</sup> December, 2005**

1. M/s. Sphere Engineers Pvt. Ltd. is a High-Tension electricity consumer of Maharashtra State Electricity Distribution Co. Ltd. Its factory is located at plot no. A-287, Road no. 16/Z, Wagle Industrial Estate, Thane. The consumer has filed the representation on 24<sup>th</sup> October, 2005 against the order of Consumer Grievance Redressal Forum, Bhandup, issued on 7<sup>th</sup> March, 2005 in respect of its grievance regarding waiver of delayed payment charges. The representation is registered at Serial No. 36 of 2005 in this office. M/s. Sphere Engineers Pvt. Ltd. (hereinafter referred to as Appellant) has stated its case as under.

2. The Appellant has a manufacturing unit located at the address given above. It is supplied electricity at high tension by Maharashtra State Electricity Distribution Co. Ltd. (hereinafter referred to as the Respondent). It has paid an amount of Rs. 45,501/- towards the delayed payment charges to the Respondent between the period, November, 1996 and March, 1997 due to late payment of bills which was deposited in the Court through Thane Small Scale Industries Association (TSSIA). It says that M/s. TSSIA had filed a Civil Case in the Court of Civil Judge Junior Division, Thane in the year 1996 against the revision of electricity tariff implemented by the Respondent. As a result of ad interim consent order from the said Court, members of the TSSIA were required to pay 75% of

the amount of the electricity bill to the Respondent directly while the remaining 25% was required to be deposited in the Court, till the decision on the said matter is taken by the Court.

3. The Appellant being a member of the Association made the payment of electricity bills as per the above order. It continued to pay 75% of the amount of the bill to the Respondent and the remaining 25% to the Court through the TSSIA. Accordingly, the Appellant paid the 25% amount for the billing period between November, 1996 to March, 1997 to TSSIA for depositing the same in the Court on or before the due dates. Although, these payments were made by the Appellant to TSSIA before the due dates, TSSIA deposited the same in the Court later on after the due date prescribed by the Respondent. As the amount of bill paid to TSSIA was not deposited within the due date with the Court, the Respondent levied interest and delayed payment charges thereon. The Appellant states that since it has made the payments by cheques to TSSIA before the due date, the Respondent should not levy any delayed payment charge thereon. Whatever the amount on account of delayed payment charges was paid by the Respondent in the year, 1997 should be refunded.

4. Notice was issued to the Respondent on 25<sup>th</sup> October, 2005 to file its reply to the points raised in the representation. The Respondent, however, did not furnish its reply within the prescribed time nor did it request any extension of time. As such, the case was posted for hearing on 22<sup>nd</sup> November, 2005. The Respondent submitted its short reply during the hearing alongwith the copy of the Regular Civil Suit No. 1142/96 referred to above, copy of the ad interim order of the Court and copy of Circular dated 6<sup>th</sup> May, 1997 issued by the Chief Engineer (Commercial) clarifying the method of depositing the amount of bills with the Court. The Respondent also submitted a statement during the hearing showing details of payment made by M/s. Sphere Engineers Pvt. Ltd. between December, 1996 and April, 1997.

5. The Respondent failed to appear for the hearing in time, necessitating the rescheduling of hearing after two hours on the same day. The reply furnished during the hearing says that the Regular Civil Suit No. 1142/96 in the Thane Court was filed by the Association but was later on treated as a Representative Suit and the consumers were allowed to join the suit as Plaintiff. M/s. Sphere Engineers Pvt. Ltd., thus, was one of the Plaintiff in this case. The Respondent further says that the Appellant has paid 75% of the bill amount in the Board's office and 25% of the amount to M/s. TSSIA who deposited the consolidated amount in the Court after the due date and hence delayed payment charges and interest were levied. He relied on the circular issued by the Chief Engineer (Commercial) on 6<sup>th</sup> May, 1997 and argued that the Court had allowed the Plaintiff to deposit 25% of the bill amount which was then due (i.e. on the date of the order-5<sup>th</sup> December, 1996) and payable within one month from the 5<sup>th</sup> December, 1996. The consumer was required to pay the the respective portions of the bills to Maharashtra State Electricity Distribution Co.Ltd and in the Court on or before the due dates as applicable.

6. The Respondent argued that in the present case, although the Appellant may have paid each cheque to TSSIA within the due date, the TSSIA failed to deposit the amount in Court in time and therefore the Maharashtra State Electricity Distribution Co. Ltd. was entitled to levy the delayed payment charges and the interest as per prevailing conditions of supply. The payments in respect of this 25% amount of the bills were made by the Appellant from the billing month of November, 1996 to March, 1997 beyond the due dates in the Court. Having made the payments in the year 1996-97, the Appellant if at all was aggrieved, did not take up the matter of refund of the delayed payment charges with any Forum or Authority for 8 years. Moreover, all the events relate to period of 1996-97 and were already settled. The Respondent further stated that the Appellant's request made in October, 1997, for waiver of delayed payment charges was examined and rejected in November, 1997. It will not be proper to reopen the matter after eight years.

7. The Appellant was asked whether he has taken up this matter earlier in the year 1997 with any Forum or Authority, he replied in negative. He, however, mentioned that the payment of delayed payment charges amounting to approximately Rs. 45000/- was made under protest. He also conceded that the Respondent did not agree with his request for waiver of delayed payment charges and had earlier communicated the decision in November, 1997. The Appellant, in his representation has mentioned the amount of Rs. 4565/- as the delayed payment charges for which the waiver is sought. This is far smaller the amount as compared to Rs. 45000/- he mentioned during the hearing. He conceded that it was a mistake on his part that he did not indicate the correct amount of delayed payment charges in the representation for which the waiver is requested.

8. The representation is filed on 24<sup>th</sup> October, 2005 against the order issued by the Forum on 7<sup>th</sup> March, 2005. It is clear that the representation is required to be filed within 60 days of the order of the Forum. The Appellant could not give any satisfactory explanation for the delay. He has quoted two reasons 1) that he has received the Schedule B form at very late and 2) that he had to find out the old records of correspondence made in the case which took considerable time. The Appellant requested to condone the delay on the above grounds.

9. Perusal of the documents on record show that the Appellant is a member of TSSIA and therefore was one of the Plaintiff in the case before the Civil Court. The ad interim order of the said Court required that the Appellant should pay 75% amount of the bill to the Respondent and the balance 25% to the Court. The Appellant being the Plaintiff was required to ensure that 25% amount of the bill was deposited with the Court in accordance with the due dates and the order of the Court. The Respondent has clarified in the circular of 6<sup>th</sup> May, 1997 that the Court had allowed the Plaintiff to deposit the 25% of the amount which was then due and payable within one month from the date of the ad interim order. The circular also made it clear that due date of the payment of energy bills, date of payment of 75% of the bills and the date of deposit of balance 25% in the Court will be carefully verified and in case if any of the payment is received after the due date of the bill, delayed payment charges and interest will be charged as per the Board's rules. It was, therefore, mandatory that the Appellant ensures to make payment of both the portions of the bill (75% and 25%) within the due dates in

respect of all the bills issued subsequent to the date of ad interim order. Late deposit of the amount in the Court by TSSIA thus, does not absolve the Appellant from the consequences of delayed payment charges and interest if leviable under the Board's rules. It is further noted that the Appellant made payments of the bills including the delayed payment charges in the year 1997 from time to time. The Respondent also considered and disposed off the request of the Appellant in respect of the waiver of delayed payment charges, etc in November, 1997. Moreover, the Appellant settled all the bills long back in the year 1997 and did not approach any Forum or Authority to seek redress in the matter until December, 2004 when it lodged the grievance application with Consumer Grievance Redressal Forum, Bhandup. It chose to reopen the issues which were already settled, after a period of 8 years, without any reasonable explanation.

10. The Appellant has submitted the representation after five and a half months of delay beyond the prescribed time limit. Provision contained in the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003, in this behalf is reproduced below:

*16.2: Any Consumer, who is aggrieved by the non-redressal of his grievance by the Forum, may make a representation for redressal of his grievance to the Ombudsman exercising jurisdiction over the Distribution Licensee within sixty (60) days from the date of the order of the Forum.*

*Provided that the Ombudsman may entertain a representation after the expiry of the said period of sixty (60) days if he is satisfied that there was sufficient cause for not filing it within the said period.*

On the issue of condonation of delay, the grounds put forth by the Appellant do not have much force. The averments contained in the application for condonation do not disclose any valid and sufficient reason explaining the inordinate delay of over 5<sup>1</sup>/<sub>2</sub> months. Non availability of application form in Schedule B, cited as one of the grounds for delay, has no merit. It is freely available in the Forum's office, in the copy of the Regulations or with the Respondent. The second ground that it had to locate very old records of correspondence to file the representation is also not valid. In fact, the Appellant's grievance filed with the Forum in the month of December, 2004 was based on all these documents and letters of correspondence between him and the Respondent. No new letters or correspondence was required to be located and produced. The explanation put forth by the Appellant in this behalf is very casual and not convincing. I do not, therefore, find any reason to condone the inordinate delay in filing this representation.

11. The Appellant during the hearing made a plea that the Respondent should have allowed a period of one month for making the payment into Court for the amount representing the 25% of the bill as required under the Court's order. Upon query, he conceded that he did not mention this point in his submission to the Forum or to the Ombudsman. He also conceded that this point was never raised earlier with the Respondent when the payments were made during the year 1997. Further it is observed that out of the above five months period under reference from November, 1996 to March

1997, payments of 25% of the bills for November, 1996 to January, 1996 were delayed even beyond the period of one month and the payment of bills for February, 1996 and March, 1996 were delayed beyond the due date prescribed by the Respondent as per the conditions of supply. Moreover, the Appellant did not take up this issue during the period of 8 years after the Respondent issued a clarificatory circular in the month of May, 1997. The argument in this behalf made belatedly after 8 years by the Appellant therefore has no merit and cannot be accepted.

12. Before parting with this order, I must make a mention of the casual attitude and the apathy displayed by the Respondent – Maharashtra State Electricity Distribution Co.Ltd. in dealing with the matter. It failed to respond to the notice of this office calling upon to furnish its written statement of defence within the prescribed time. As if this was not enough, the Respondent chose to file a short reply right during the hearing. The representatives of the Respondent did not present themselves in time for hearing. The hearing had to be rescheduled later in the day, causing inconvenience to all. This attitude of the Respondent must be disapproved unambiguously. Copy of the order should be endorsed to the Managing Director, Maharashtra State Electricity Distribution Co. Ltd. for information and needful.

### **ORDER**

1. Appellant's prayer for condonance of delay in submitting the Representation has no justification and is therefore rejected for the reasons elaborated at paragraph 10 above. The Representation is rejected as time barred.
2. Appellant's prayer for refund of delayed payment charges paid to the Respondent is rejected for the reasons elaborated at paragraph 11 above.
3. Appeal made through this representation therefore fails on both the counts. The order issued by the Consumer Grievance Redressal Forum is upheld.

Sd/  
(W.G.Gorde)  
Ombudsman

Sd/  
(S.N.Yadwad)  
Secretary