



## BEFORE THE OMBUDSMAN

(Appointed by the Maharashtra Electricity Regulatory Commission under Section 42(6) of the Electricity Act, 2003)

606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051  
Tel. / Telefax: 022-2659 2965

### **REPRESENTATION NO. 04 OF 2006**

In the matter of Assessment of Bill for Slow Meter and  
Excess Connected Load.

M/s. Raman Thermosets Pvt. Ltd., Asangaon..... Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Kalyan..... Respondent

Present:

1. Shri W.G. Gorde, Ombudsman
2. Shri S. N. Yadwad, Secretary

On behalf of the Appellant:

1. Shri J.K. Raman, Director
2. Shri Ravi Anand
3. Shri S.S. Mirje

On behalf of the Respondent:

1. Shri B. R. Waghambhare, Ex.Engineer, MSEDCL, Kalyan
2. Shri H. K. Randive, Ex. Engineer, MSEDCL, Kalyan
3. Shri M.G. Pai, Divisional Accountant, MSEDCL, Kalyan

**Date: 22 February 2006**

### **ORDER**

M/s. Raman Thermosets Pvt. Ltd. is a Low Tension consumer of electricity supplied by the Maharashtra State Electricity Distribution Co. Ltd. for its industrial unit located at 28, R.B. Sharma Industrial Estate, Mumbai – Nashik Road, Asangaon, District Thane. The consumer has filed its representation on 19<sup>th</sup> January, 2006 against the order of the Consumer Grievance Redressal Forum, Kalyan. The Forum by its order dated 19<sup>th</sup> November, 2005, has directed quashing of the assessment of Rs. 3,82,190/- made by the Maharashtra State Electricity Distribution Co. Ltd (hereinafter referred to as the Respondent). The Forum, further directed the Respondent to make a fresh assessment in respect of two meters at the Appellant's premises on the basis of the test result of the meters which were tested at site. The Forum also awarded penalty of Rs.50/- per person on the Respondent's officials for not wearing identification badge during the hearing.

2. M/s. Raman Thermosets Pvt. Ltd, the Appellant in this case, is aggrieved with the order of the Forum in so far as it relates to additional demand of charges made by the Maharashtra State Electricity Distribution Co. Ltd. towards slow meter recovery. It has requested reversal of

the amount already paid to the Respondent and sought compensation for the loss of time and money. It also seeks action against the Respondent's officials for their lapses. The Appellant, in the representation, has stated his case as under.

3. It is an industrial unit having Low Tension supply given by the Respondent. The energy meter installed at the factory unit was reportedly tested and found slow on 17<sup>th</sup> October, 2000 by the Respondent and it was replaced in February, 2001. New meter was also found slow by the Respondent during the inspection on 24<sup>th</sup> October, 2001. The same was again replaced in the month of August, 2002. The Respondent also observed that the factory unit has 98 H.P. as connected load as against the sanctioned load of 67 H.P. Based on these observations, the Respondent raised an exorbitant bill of Rs. 4,43,136/- sometimes in the month of March or April, 2003. The Appellant did not agree with the observations of the Respondent and the bills raised. It approached the Electrical Inspector on 2<sup>nd</sup> June, 2003 requesting him to stay the disconcertion threat given by the Licensee. The Electrical Inspector sought the information and clarification from the Respondent and advised the Respondent to hear the matter and take necessary action. The meters were not tested by the Electrical Inspector. The Electrical Inspector directed the Respondent to accept the current bills from the Appellant.

4. The Superintending Engineer heard the matter on 4<sup>th</sup> July, 2005 and revised the bill on 18<sup>th</sup> July, 2005 to Rs. 3,82,190/-. The Appellant says that it did not agree with the said bill and filed the grievance with the Forum on 20<sup>th</sup> September, 2005. The Forum, although quashed the bill of Rs. 3,82,190/-, made an order allowing the Respondent to raise a fresh bill on the assumption and the observation of the Respondent that the meter was found slow by 37.5% from July, 2000 to February, 2001 and by 38% from July, 2001 to August, 2002.

5. The Appellant does not agree with this order of the Forum. It contends that regular demands of bills were made from time to time which was paid by the Appellant. The Respondent replaced the meter on two occasions within a period of nine months. No details of testing as well as of the bills were made available and the Respondent keeps on harassing the Appellant. It is also contended that there is no proof provided by the Respondent for slow meters and further that the said meters have been destroyed. There is no consistency in the demand amount made by the Respondent. As such, it has prayed for reversal of the amount raised by the Respondent on account of so called slow meter. It has also sought compensation for loss of time and money and action against the officials for subjecting it to harassment.

6. Notice was issued to both the parties on 20<sup>th</sup> January, 2006. They were requested to explore the possibility of conciliation or mediation in the case and furnish a proposal if any. There is no response from either the Respondent or the Appellant. The matter was posted for hearing on 17<sup>th</sup> February, 2006.

7. The Appellant was represented by Shri J. K. Raman, Director, Shri Ravi Anand and Shri S. S. Mirje, Shri Wagambhare, Executive Engineer, Shri Randive, Executive Engineer and Shri Pai, Divisional Accountant were present on behalf of the Respondent, Maharashtra State Electricity Distribution Co. Ltd.

8. The Appellant during the hearing filed its additional say in support of his case. According to him, the Forum did not go into the details of the case matter from the date the cause of dispute, which occurred on 17<sup>th</sup> October, 2000. The Forum did not take cognizance of the important fact that both the meters, which were reportedly slow, were not tested. Moreover, these meters are already destroyed by the Respondent and are no more available for inspection.

The Forum did not consider the Maharashtra Electricity Regulatory Commission's order issued in the matter of supplementary bills while dealing this case. The Appellant adds that the Consumer's Personal Ledger (CPL) was not properly analysed which shows many discrepancies in terms of credit given to the Appellant and the consumption of energy units. It was highlighted that the credit of Rs. 9,14,582/- is seen to be given in the month of February, 2001. Similar credits are seen in the ledger in the month of December, 2001, April, 2002 and January, 2003. Total of unexplained credits seen in the CPL amount to Rs. 27.66 lakhs. The Appellant states that since the seal of the meter inspected on 17<sup>th</sup> October, 2000 was intact. It was the duty of the Respondent to maintain the meters in correct condition and to test them if and when reported slow. Supplementary bills were issued without any test report of the meters and it is in violation of various orders of the Maharashtra Electricity Regulatory Commission. It has prayed that the Respondent should give them credit of Rs. 27 lakhs in addition to the credit for wrongly charged units as seen from the CPL.

9. The Appellant submitted during the hearing about inspection of the meter on 17<sup>th</sup> October, 2000 and 24<sup>th</sup> October, 2001 that he was not satisfied with the test at site and requested the Respondent to carry out the test as required under Section 26 of the Indian Electricity Act, 1910. It had informed the Respondent that consumer has capacitors of adequate capacity and there is no question of any penalty on account of low power factor. The Appellant further informed the Respondent that it does not have any excess connected load as contended by the Respondent after inspection on 24<sup>th</sup> October, 2001. It reiterated that the few machines in the factory were lying without any use and not connected and they do not form part of the sanctioned load. Summing up his arguments, the Appellant prayed that the supplementary bill issued in accordance with the Forum's order is not proper and therefore should be withdrawn.

10. The Respondent filed its statement of defence on 15<sup>th</sup> February, 2006. It says that the Sub Engineer, MTU, Kalyan carried out inspection in the Appellant's factory and observed by accucheck meter that the meter no. 6010001903 slow by 37.5%. Similarly, officials of the flying squad during the inspection on 24<sup>th</sup> October, 2001 observed the meter no. 60104168 slow by 38% and that there was excess connected load by 32 H.P. beyond the sanctioned load. This was inferred on observing that the meter stop on y-phase. The Dy. Ex. Engineer of the flying squad recommended that the meter should be removed for testing. Based on these reports, the Respondent issued the supplementary bill in July, 2003 for Rs. 443163.14 on account of recovery due to slow meters and excess connected load.

11. The Respondent agreed that the consumer had approached the Electrical Inspector raising the dispute about the correctness of the meter under Section 26(6) of the Indian Electricity Act, 1910. The Electrical Inspector sought information of the above consumer from the licensee Respondent on 3<sup>rd</sup> June, 2003. The Respondent narrated the chronology of events and correspondence exchanged with the Electrical Inspector and the consumer till the consumer approached the Forum for redress. The Superintending Engineer, on behalf of the Respondent, heard the matter on 4<sup>th</sup> July, 2005 and passed the order on 18<sup>th</sup> July, 2005 to effect recovery for 3 months for both the events when the meter was found slow. The Superintending Engineer passed the fresh order on 11<sup>th</sup> November, 2005 to recover the amount from the consumer for slowness of meter. Upon filing the grievance by the consumer, the Forum considered the matter and issued the order on 19<sup>th</sup> November, 2005 to work out the assessment of charges for slow meters covering the period of 3 months prior to detection of slowness of meters and upto the replacement of meters, on both the occasions. Based on the Forum's order, the Respondent issued the revised supplementary bills from July, 2000 to February, 2001 and from April, 2001 to

August, 2002 considering the meters to be slow by 37.5% and 38% respectively, on two occasions.

12. During the hearing, the Respondent was asked to explain as to why, on both the occasions, the meters were not tested before the assessment is carried out. There was no plausible explanation. It conceded that both the meters are already destroyed and are no more available for inspection or test. The assessment of charges was made on the basis of the observations at site by the Sub Engineer, MTU on 17<sup>th</sup> October, 2000 and by the flying squad officials on 24<sup>th</sup> October, 2001, without subjecting the meters to test as required under Section 26(6) of the Indian Electricity Act, 1910. The Respondent conceded during the hearing that the flying squad had recommended the meter to be removed and tested. The Respondent deposed that fresh supplementary bill of Rs. 2,82,839.52 is prepared in accordance with the Forum's order and after adjustment of Rs. 50,000/- payment made by the consumer, the Appellant is asked to pay Rs. 2,32,439.52. The Respondent, however, did not comment on the argument of the Appellant on issue of supplementary bills without testing of the meters and reports given to the consumer. The Appellant stated that this action is violative of the Maharashtra Electricity Regulatory Commission's orders and the provisions of the Indian Electricity Act, 1910.

13. On the issue of excess connected load observed during the inspection on 24<sup>th</sup> October, 2001, the Respondent brought to our notice, the inspection report of the squad showing the machines with a total connected load of 97.7 H.P. but it did not make any comments on the observations made by the Appellant that there were few extra machines which were just lying and not connected. Moreover, the Appellant referred to letter dated 6<sup>th</sup> December, 2004 from the Executive Engineer, Kalyan addressed to the consumer clearly showing that there was no excess connected load and therefore no penalty on this account would be charged.

14. The Forum had directed the Respondent to pay Rs. 50/- as penalty per person, for not displaying their identity badges during the hearing. The Respondent brought to the notice that it has already complied with the order of the Forum and paid compensation of Rs. 50/- per person for the default of not wearing their badges during the Forum's hearing. But, it prayed that the order in this behalf should be reviewed in the light of the provisions contained in the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005. The Respondent agreed that it would be necessary for their staff and officials to wear the proper identity badge while interacting with the consumer. It should not be required to observe these provisions while attending the meetings and hearings, etc.

15. Submissions made by both the parties and the documents on record bring out certain facts, which are clearly undisputed. The Respondent concedes that it did not carry out the test on the meters, which were reported to be slow. This was despite the specific request made by the Appellant on both the occasions when the meters were reportedly slow. The officer of the flying squad had specifically recommended to remove the meter for testing. It is also agreed that the Appellant brought to the notice of the Respondent, the provisions under Section 26(6) of the Indian Electricity Act, 1910 that it is the responsibility of the licensee to maintain the meters accurate and to test them to ascertain their accuracy or otherwise. Reference was specifically made by the Appellant to the Electrical Inspector prior to 3<sup>rd</sup> June, 2003. The Respondent was aware of the provisions and was duty bound to get the meters tested before any corrections are effected and supplementary bills issued based on its own assumption of slowness. It has clearly failed in its obligations and instead resorted to raise the supplementary bills assuming the meters to be slow merely on the observations made at site. The Respondent is not entitled to raise any

supplementary bill without following the provisions then prevailing under Section 26(6) of the Indian Electricity Act, 1910. Same thing is true even under the current statute i.e the Electricity Act, 2003. The revisions in the bills made from time to time before 10<sup>th</sup> June, 2003 and thereafter on account of the assumed slowness of the meters are, therefore, clearly in violation of the provisions of the Indian Electricity Act, 1910 and the Electricity Act, 2003, and the orders in Case No. 19 of 2004 dated 23<sup>rd</sup> February, 2005 issued by the Maharashtra Electricity Regulatory Commission, in this behalf. The Respondent, is therefore, directed to withdraw the said supplementary bills raised on the basis of assumed slowness of the meters.

16. The Forum, in its order, allowed the Respondent to make the assessment in case of each of the two meters, on the basis of the observations / test carried out by the staff of the Respondent at site. This is not in consonance with the provisions of the Section 26(6) of the Indian Electricity Act, 1910 or the Electricity Act, 2003 and the order of the Commission. As such, the Forum's order does not meet the test of the provisions under the relevant Acts and as such cannot survive. The same is, therefore, liable to be and is hereby set aside.

17. On the issue of discrepancies noticed in the CPL, the Respondent explained that there are some printing mistakes in showing credit. The figures, depicting the credit amount are in paise with leading digits not displayed due to computer display error. However, calculation of net bill and further accounting are correct and tallying. It assured to rectify the display error to show correct printout as early as possible. Appellant's demand to give credit of Rs. 27.00 lakhs based on the errors in the printing has, therefore, no merit.

18. On the issue of the penalty of Rs. 50/- per person levied by the Forum for not displaying the identification badges during the hearing, it would be worthwhile to have a look at the provisions contained in Maharashtra Electricity Regulatory Commission (Standard of Performance of Distribution Licensees, period for giving supply and determination of compensation) Regulations, 2005 which stipulate this requirement.

*8.1 Every Authorised Representative of the Distribution Licensee shall visibly display his name-tag and, if so required by such consumer, produce for scrutiny, proof of identity and authorization of the Distribution Licensee for the purpose of any interaction with a consumer.*

Perusal of the above provision shows that the authorised representative of the licensee should display nametag / proof of identity for the purpose of interaction with the consumer. In default a penalty of Rs. 50/- is leviable. It does not mandate that the licensee's representative should also wear a badge during the meetings and hearings, etc. This does not appear to be the spirit behind the Regulation. I believe that the identity badge is meant to display and demonstrate the authenticity of the officials / representative visiting the consumers for interaction regarding services to be provided. It will neither be fair nor reasonable to expect the officials to wear the badge during the hearings. It is in this background that I am inclined to agree with the prayer made by the Respondent in this behalf and set aside the order of the Forum imposing penalty on the Respondent.

19. As regards the excess connected load observed by the flying squad on 24<sup>th</sup> October, 2001, the Forum has already considered the matter and has not passed any order in this behalf due to contradictions displayed by the Respondent in their submissions. In fact, the Appellant cited the letter dated 6<sup>th</sup> December, 2004 issued by the Executive Engineer of the Respondent, confirming

that there is no excess connected load. It is, therefore, not necessary to deal this aspect during the appeal.

20. The Representation is disposed off with the directions appearing in the preceding paragraphs. The Respondent should comply the order immediately and report the compliance thereof within a period of one month from this date.

Sd/  
(W. G Gorde)  
Ombudsman

Sd/  
(S. N. Yadwad)  
Secretary