



OMBUDSMAN

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. 10 OF 2005

In the matter of Assessment due to Faulty C.T.P.T. Unit

M/s. Automatic Tiles & Marbles Industries Pvt. Ltd.,
Navghar, Vasai (E).....

Appellant

Versus

The Superintending Engineer,
Maharashtra State Electricity Board,
'Deepashree Bldg.,
Vasai

Respondent

Present:

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

On behalf of the Appellant

3. Shri B.R. Sharma, Managing Director,
4. Shri S.K. Agrawal, Representative,

On behalf of the Respondent

5. Shri D.S. Tayade, Ex Engineer (Adm), M.S.E.B., Vasai
6. Shri V.G. Aute, Asst. Engineer (VL), M.S.E.B., Vasai
7. Shri S.N. Dharamwar, Jr. Engineer (T), M.S.E.B., Vasai
8. Shri S.T. Raut, UDC (Accounts)

Dated: 15th June, 2005

The Appellant, M/s. Automatic Tiles & Marbles Industries Pvt. Ltd. is a small-scale industrial unit located at Sativali village, Vasai district, Thane. It is a high tension consumer of the Respondent Licensee / M.S.E.B. with a sanctioned connected load of 73 kW and 80 KVA maximum demand. The Appellant has filed the representation against the order of Consumer Grievance Redressal Forum, Kalyan in connection with the grievance of high bills charged by M.S.E.B., Vasai Circle (hereinafter called the Respondent) for the period between June 2003 and January 2004. The Forum in its order dated 4th March, 2005 upheld the assessment of energy units by the Respondent during

the period from 11th June, 2003 to 28th December, 2003 as proper. The Forum also issued directions to the Respondent to bill the Appellant for a maximum demand of 56 KVA for six months i.e. July 2003 to December 2003. The Appellant in its representation dated 3rd May, 2005, filed before this office, has stated its case as under:

2. The Appellant states that the officials of the Respondent noticed on 3rd July, 2003 that the C.T.P.T. unit at their premises was faulty. Accordingly, the Appellant approached the Respondent vide letter dated 4th July, 2004 with a request to replace the faulty C.T.P.T. unit. It is, further, stated that during the faulty C.T.P.T. period the Appellant received bills which were exorbitant and the same was brought to the notice of the Respondent vide letters dated 18th August, 2003 and 28th August, 2003. The C.T.P.T. unit was declared failed by the Respondent and was required to be replaced. The Appellant states that the Respondent did not replace the C.T.P.T. unit but instead removed it on 27th September, 2003 and the supply was bypassed without the C.T.P.T. unit in place.

3. The Appellant further states that the Respondent continued to raise exorbitant bills without considering the consumption of the energy, which was between 6000 to 8800 units maximum per month. It has stated that the Respondent raised a bill for 33013 units for the month of July 2003. The Appellant says that between the months of July and October, industries of their type never run for full working days due to shortage of stone grit and claims that its factory was working for 25% of the working days during this period.

4. The Appellant says that average monthly consumption of energy during the months of June 2003 to January 2004 should be 8045 units based on the past average as against the exorbitant consumption shown by the Respondent during the period. The Appellant does not agree with the Forum's conclusion that the meter was slow to the extent of 40% due to the fault in C.T.P.T. unit. The Appellant in its representation has claimed the following reliefs:

- a) Revision of assessed bills from June 2003 to January 2004.
- b) Waiver of late payment and interest charges.
- c) Revision of maximum demand charges and
- d) Not to disconnect electricity supply till the matter is finalised.

5. The Respondent filed the written statement on 19th May, 2005 wherein it has agreed with the decision of the Forum. The Respondent states that the consumer has also agreed with the decision of the Forum as is evident from its letter dated 18th April, 2005. As such, the Respondent prays that the appeal may be dismissed. The Respondent has enclosed copy of the said letter, which is taken on record. The Respondent furnished copies of their internal communication dated 7th October, 2004 from the Executive Engineer (Testing) to the Superintendent Engineer which includes laboratory testing report of the meter tested by reportedly creating the same site conditions as existed in the factory unit. The report states that the meter was recording 40% less units during the period and that Y-Phase PT of the C.T.P.T. unit had failed. Based on this data, the

Respondent reiterated its stand that the meter was slow by 40% and the bills raised on this basis were correct.

6. The matter was heard on 6th June, 2005 when the Appellant stated that consumption during the faulty meter period was wrongly recorded and billed which is exorbitant as compared to the consumption before June 2003 when the meter and the C.T.P.T. unit were working normal. The Appellant has submitted records of consumption during the past one year prior to June 2003 and also the consumption after January 2004 which indicates exact energy consumption in the factory.

7. The Appellant stated that he has been making regular payment of bills and did not default on this account. The Appellant, further, stated that he was not aware of any testing of the meter in his factory and the Respondent did not give any intimation regarding such testing. Copy of the test report carried out by the Respondent is also not received by the Appellant till the day of hearing.

8. The Respondent during the hearing submitted that it was aware of the faulty C.T.P.T. unit since 3rd July, 2003. It is agreed that it was not replaced until 29th December, 2003, although the C.T.P.T. unit was removed on 27th September, 2003. The electricity supply was made direct by passing the C.T.P.T. unit until 29th December, 2003. The Respondent agreed that it was their responsibility to replace the faulty C.T.P.T. unit in time. On asking whether the Appellant was informed regarding the test carried out on the unit, the Respondent replied in negative. It agreed that copy of the test report was not provided to the Appellant although it was required to do so, and mentioned that this is an administrative lapse.

9. On query, the Respondent agreed that the Appellant followed up the matter for replacement of the C.T.P.T. unit on number of occasions and that no action except removing the faulty C.T.P.T. Unit in September 2003 was taken till December, 2003. The Respondent vide their letter dated 22nd December, 2004 informed the Appellant about reassessment of bill for the period between June 2003 to September 2003. There was no communication from the Respondent to the Appellant till then despite constant follow up by the Appellant.

10. The Respondent agreed that Y-Phase PT of the C.T.P.T. unit was faulty and not the B-Phase as was observed by it earlier. It was then brought to the notice of the Respondent that it was not only the Y-Phase voltage which was very low but also the low voltage on R-Phase which was evident from the MRI data retrieved and furnished alongwith the written statement. The Respondent, at this stage, tried to explain that the amount of energy units drawn by the Appellant after June 2003 was steady throughout the day unlike the variance recorded during the day and night shifts earlier. The Respondent argued that consumption of energy in the factory unit between July and December was more as compared to the earlier period. It could not provide any plausible explanation as to why the consumption should suddenly increase only during the period of faulty C.T.P.T. unit and not before or after its replacement.

11. The Appellant, at this stage was asked to clarify whether the factory was run on three-shift basis during June and December, 2003. The Appellant explained that it was not only during this period but also during the earlier periods when load was used on a 3-shift basis. There is no reason why the consumption should go high only during the faulty C.T.P.T. Unit period. The Appellant agreed to provide details of the production before the C.T.P.T. unit was reported faulty and after it was replaced in December, 2003, which could throw some light on the pattern of consumption of energy. The Appellant was directed to furnish the details within a couple of days and give a copy thereof to the Respondent to enable it to file the rejoinder, if any. On query about his letter dated 18th April, 2005 addressed to the Respondent, the Appellant clarified that he did never agree with the decision of the Forum on the bills during the disputed period.

12. The Respondent furnished the meter storage data retrieved by the MRI which reveals the following:

- a) There is a drastic drop in Y phase voltage and also a drop in R phase voltage from 11.06.2003 onwards.
- b) Daily average current during the months of June 2003 and July 2003 and the load drawn is more as compared to earlier period.
On 6th and 7th June, 2003, Maximum Demand is high in one shift while after 11th June (16th, 17th June and 6th and 10th July, 2003) high Maximum Demand is seen in all the three shifts and so also the energy consumption.

13. On the basis of the above meter storage data, the Respondent claims that the consumer was drawing load in only one shift before the failure of C.T.P.T. unit but used full load in all three shifts after failure of the C.T.P.T. unit till the end of July 2003. The Respondent further reiterates that the same phenomenon must have continued until the unit was replaced by new one in December 2003. The Respondent, however, could not explain the correlation if any between the failure of C.T.P.T. unit and high use of energy by the consumer.

14. The Appellant furnished copies of several energy bills prior to June 2003 and also for the period after December 2003 when C.T.P.T. unit was replaced. Records show that average monthly energy units consumed between July 2002 - May 2003 works out at 8002. Similar average between January 2004 and March 2005 is 7650 units. Assessed average between June 2003 and September 2003 is shown as 20908 units when faulty C.T.P.T. unit was in place. Assessed average during October 2003 and December 2003 is shown as 14380 units when the C.T.P.T. unit was bypassed and energy units reportedly billed on the basis of actual consumption recorded in the corresponding month of the last year.

15. The Appellant has furnished a statement of production summary from July 2003 to December 2004. This shows no abnormality in production pattern which could be attributed to excessively high consumption of energy units during June 2003 to September 2003. On the contrary, the average production during this period is lower than the earlier average.

16. MRI data on energy condition on 6th and 7th June and that on 15th and 21st June as well as on 6th and 14th July, 2003 certainly displays a different trend on use of energy at different hours on those days. Similar is the observation about power consumption. However, the Respondent has not explained any valid ground to extrapolate the trend throughout the period between June and September 2003. Further, with this kind of fault in the C.T.P.T. Unit, the PT ratio error and phase angle error in all phases cannot be taken to remain constant at all varying loads and power factors. Therefore, the energy units recorded with the faulty C.T.P.T. unit in place, with 2 phases showing abnormal voltage values and in a situation of varying power factors and loads cannot be treated as accurately 40% less for assessment of energy units for billing.

17. The Respondent in its written statement mentioned that 'Y' phase PT had failed from 11th June, 2003 while it is revealed that both the 'Y' and 'R' phases show abnormal values. The Appellant was constantly after the Respondent to change the faulty C.T.P.T. unit which evoked no response from the licensee until 27th September, 2003 when the unit was merely removed and taken away, by bypassing the supply without the unit.

18. It is stated by the Respondent that it has checked the meter by creating the same as site conditions and declared the meter as 40 percent slow. Earlier the same meter was declared as 50 percent slow by the Respondent. Moreover, the Respondent conceded that it did not give any intimation of testing the C.T.P.T. unit to the Appellant, although it is required to do so. Further, copy of laboratory test report was not given to the Appellant. Assessment of energy units consumed in the aforesaid context, for the period between 11th June and September, 2003, cannot be said to be reliable.

19. As regards the assessment of energy units consumed between October 2003 and December 2003 during which period, the C.T.P.T. unit was not in place, the Respondent mentioned that it was done on the basis of consumption recorded in the corresponding month of the earlier year i.e. 2002. Perusal of the record shows that this is also not done correctly and there are variations in the number of units so assessed. Moreover, such a correlation with the past years' corresponding month would not give proper indication of assessment of consumption in the industrial unit of this type where there is no fixed pattern of consumption and production. It will be in fairness of things if consumption is assessed on the basis of an average of actual consumption recorded in the past 12 months. Same average can hold good for the period between June and September 2003 and through December 2003 when the C.T.P.T. unit was actually replaced.

20. As regard to the prayer of the Appellant for revision of Maximum Demand, the Forum has directed to calculate the Maximum Demand during the period of faulty C.T.P.T. unit, on the basis of 75% of the highest billing demand during last 11 months or 50% of the contract demand whichever is higher. The Appellant argued that during the year 2002, high Maximum Demand was recorded due to lower power factor during certain month. This argument cannot be accepted, as it is the responsibility of the consumer to provide capacitors and to maintain a proper power factor. There appears no reason to interfere in the Forum's order regarding assessment of maximum demand, which is in accordance with the conditions of supply in force.

ORDER

- 1) The Appellant has made constant efforts to get the faulty C.T.P.T. unit replaced. There was no timely response from the Respondent, which delayed the replacement for over six months. No proper assessment was made of the energy units consumed by the Appellant resulting in overcharging him during the faulty C.T.P.T. unit period. Neither the intimation of testing of the meter /C.T.P.T. unit was given nor the test report provided to the Appellant. The assessment of energy units made on the basis of extrapolation of few days consumption trend for June to September 2003, cannot be accepted.
- 2) Assessment of energy units from 27 September to 28th December 2003 during which C.T.P.T. unit remained bypassed is carried out on wrong basis and should be disregarded.
- 3) The Respondent is directed to reassess the energy consumption from 11th June to 29th December, 2003 i.e. The date of installation of new C.T.P.T. unit on the basis of past 12 months average prior to June 2003 and recalculate bills charged earlier and effect necessary corrections. No Delayed Payment charges or interest should be levied on readjusted bills as above till the next due date.
- 4) The Appellant's prayer to reassess the Maximum Demand for the faulty C.T.P.T. unit period is not reasonable and is therefore rejected. There is no reason to interfere in the Forum's order in this behalf.
- 5) This order should be carried out immediately and the compliance reported within a period of 2 months.
- 6) On compliance of the above, the Appellant should make an application for adjustment / refund of the amount of Rs. 25000/- deposited in the office of the Ombudsman.

Sd/
(W.G.Gorde)
Ombudsman

Sd/
(S.N.Yadwad)
Secretary