

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@mercindia.org.in
Website: www.mercindia.org.in

Case No.114 of 2011

Complaint filed by M/s Gimatex Industries Pvt. Ltd., Hinganghat, Dist. Wardha, against MSEDCL under Sections 142 and 146 of E.A., 2003, alleging non-compliance of the Order dated 6th Oct., 2010, passed by the Electricity Ombudsman.

Shri V. P. Raja, Chairman

M/s. Gimatex Industries Pvt. Ltd
Taluka Hinganghat, Dist. Wardha,

.....Complainant

V/s

Maharashtra State Electricity Distribution Company Ltd.
Through Superintending Engineer, Wardha Circle.

.....Opponent

ORDER

Date: 31st October, 2011

M/s Gimatex Industries Pvt. Ltd., filed a complaint on 8th August, 2011 against Maharashtra State Electricity Distribution Company Ltd. (“MSEDCL”). The Complainant has sought to invoke Sections 142 and 146 of the Electricity Act, 2003 (“EA2003”) on the ground of non-compliance of an Order dated 6th October, 2010, passed by the Electricity Ombudsman.

2. The prayers made by the Complainant are as hereunder:

“ i) *Penalize the Respondent under Section 142 and 146 of the Act for contravening the directions issued in the orders of the Ombudsman.*

ii) *Direct the Respondent to comply with the order of the Ombudsman and refund the excess amount charged with interest for the disputed period of May 07 to May 08.*

iii) Issue any other direction as Commission deems fit as per facts & circumstances of the case. ”

3. Facts of the matter, in brief, are as follows:

- a) The Complainant is a company incorporated under the provisions of Companies Act and having its unit of Textile manufacturing facility at Hinganghat. The Complainant is a consumer of MSEDCL and having a Contract Demand (CD) of 1300kVA and is catered on express feeder.

The Complainant has referred to the Commission's various tariff orders which included the concept of Additional Supply Charge (ASC) in October 2006 and further clarification Orders dated 18/05/2007, 24/08/2007, 11/09/2007, issued in the matter. Further, Clause 7.4(g) of the Commission's Tariff Order dated 18th May, 2007, was modified by the Hon'ble Appellate Tribunal for Electricity vide its judgment dated 12th May 2008, in Appeal no. 135 of 2007.

- b) Due to its expansion plan, the Complainant applied for additional Contract Demand which was increased in April 2007 from 460kVA to 1140kVA and further increased to 1300kVA in April 2009.
- c) The Complainant had been receiving the bills from the Opponent and had duly paid the same. However, on 23rd Sept., 2009, a bill dated 21st Sept., 2009, from the Opponent, was received by the Complainant, with Rs.20,46,306.25/- shown as "Debit Bill Adjustment" towards adjustment of ASC. The Complainant submits that there was no debit or outstanding payment against the supply of power for the period from December 2005. The Complainant on 25th Sept., 2009, also paid this additional debit under protest, and raised the issue with the Opponent by a letter of same date. In response, the Opponent conveyed about the changes in the clause no. 7(4) (g) by the MERC Order dated 18th May, 2007.
- d) As per the Complainant's calculations the Opponent had to refund an amount of Rs.27,80,972/-.
- e) Aggrieved, the Complainant had filed a grievance with CGRF, Nagpur(R) Zone. The Forum rejected the grievance filed by Complainant by its Order on 2nd Aug., 2010. Aggrieved by the Order passed by CGRF, Nagpur (R) Zone, the Complainant filed a representation before the Electricity Ombudsman ("EO"), on 21st Sept., 2010 (No. 125 of 2010).
- f) The Electricity Ombudsman, vide its Order dated 6th Oct., 2010, directed the Opponent, MSEDCL, to revise energy bills for the period between May-07 to May-08, based on revised/ updated calculation of the Benchmark consumption, and consequently the effects on amounts calculated for other incentives, like Load Factor, Power Factor, etc. since these are worked out as a percentage of the total bill. Suitable credit/ debit adjustments were to be carried out accordingly. Refund, if any, were to be given with interest as provided in Section 62(6) of EA 2003.

- g) Compliance was to be intimated within 30 days of the Order.
- h) As per the Complainant's calculations, after adjusting the excess ASC amount already refunded to the Complainant (in line with the MERC order in case 144 of 2008), the revised refundable amount from the Opponent, worked out as Rs.7,14,055.91, but the Opponent issued a credit of Rs.91,218.92 /- dated 30th Nov., 2010. As per the Complainant, this violated the Order passed by the EO, in Representation No. 125 of 2010, by the Complainant.
4. Hence, the Complainant has filed the present complaint before the Commission, alleging non-compliance of the said Order passed by the EO.
5. The Commission vide Notice dated 17th August, 2011, scheduled a hearing in the matter on 16th September, 2011. During the hearing held before the Commission, on 17th Aug., 2011, Shri R. B. Goenka alongwith Shri P. Mohota appeared on behalf of the Complainant, whereas MSEDCL's Shri L. M. Borikar, Superintending Engineer, Wardha Circle, and Shri S. N. Kene, Jr. Law Officer appeared on behalf of the Opponent.
- The Complainant reiterated its submission, and no new fact of the matter was added. The Opponent submitted its written reply dated 14th Sept., 2011. The Opponent submitted that it has recalculated the various incentives etc., as also mentioned in the EO's Order, from October 2006 to May 2008, and that after all calculations the credit amount of Rs.91,218.92 /- has been charged in the bill for Dec., 2010. Also, that it has already complied with the Order passed by the EO, in the matter, and has submitted its report to the Electricity Ombudsman vide its letter No. SE/WRD/A/C/HT/648 dated 9th Feb., 2011.
6. Having heard both the parties and based on the material placed on record, the Commission is of the view that the present complaint is of clarificatory nature, for which the Commission is not the right forum. Both the sides are having different views on the amounts to be charged or refunded as per the Electricity Ombudsman's order dated 6th Oct., 2010. For obtaining clarity in the matter, the Complainant should approach the Electricity Ombudsman asking for clarification on the Ombudsman's Order, impleading MSEDCL as a party.

With above, the Case no. 114 of 2011 stands disposed of.

Sd/-
(V. P. Raja)
Chairman