

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400 005.
Tel. No. 022 22163964/65/69 – Fax 022 22163976
E-mail: mercindia@mercindia.org.in
Website: www.mercindia.org.in

Case No. 48 of 2010

In the matter of
Complaint filed by M/s Shree Steel Castings Ltd., against MSEDCL, alleging non-compliance of the Order dated 10th March, 2010, r/w Corrigendum dated 26th March 2010, passed by the CGRF, Nagpur(U) Zone, within the stipulated time frame.

Shri V. P. Raja, Chairman
Shri Vijay L. Sonavane, Member

M/s. Shree Steel Castings Ltd.Complainant

V/s

Maharashtra State Electricity Distribution Co. Ltd.Opponent

ORDER

Date: 13th December, 2010

M/s. Shree Steel Castings Ltd., the Complainant, filed a complaint against Maharashtra State Electricity Distribution Company Ltd. (“MSEDCL”), on 17th August, 2010, under Sections 142, 146, 151 & 151A of the Electricity Act 2003 (“EA 2003”), alleging non-compliance of the Order of CGRF, Nagpur(U) Zone, dated 26th March, 2010, within the stipulated time frame.

2. The prayers of the Complainant, are as follows:

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1. *Penalize the Respondent under section 142 of the Act and in addition to this direct the Respondent to pay Rs 1 lac as penalty for contravening the directions issued in the order of CGRF.*



2. *File a complaint with the appropriate court under section 151 of the Act for penalizing the Respondent under section 146 of the Act.*
3. *Direct the Respondent to comply with the order of the CGRF.”*

3. The facts of the matter as submitted by the Complainant, are brought out below:
 - A. The Complainant is a consumer of MSEDCL, connected at 33kV with a Contract Demand of 3000kVA, at its premises at Plot No. T-38/1, MIDC, Hingna, Nagpur.
 - B. The Complainant submits that it was being charged HT-I Tariff -applicable for Express feeder- according to the Tariff Order dated 12th September, 2008 in Case No. 44 of 2008, applicable from 1st June, 2008, although its supply is not on an Express feeder. It is a tapped feeder from existing 33kV line on which one more consumer is connected.
 - C. That as per the said Tariff Order, the ‘High Tension Tariff Booklet’ of the Respondent, and the circular no. 88 dated 26th September, 2008, issued by the Respondent, *only HT industries connected on Express feeders and demanding continuous supply, will be deemed as HT continuous industry and given continuous supply while all other industrial consumers will be deemed as HT non-continuous industry.*
 - D. That the Complainant vide its letter dated 30th March, 2009, referring to the Tariff Order, requested Superintending Engineer, MSEDCL, Nagpur (Urban) Circle, to charge the Complainant as per the Non-Express feeder tariff. The Complainant had also conveyed that it would observe one day staggering holiday on Wednesday, as applicable in that Industrial area. But, the Opponent did not take any cognizance of the Complainant’s demand.
 - E. Aggrieved, the Complainant filed a case with Consumer Grievance Redressal Forum (“CGRF”), Nagpur (U) Zone, for revision of energy bills and for considering and applying non-express feeder tariff to the Complainant.
 - F. The CGRF vide its Order dated 10th March, 2010 (modified by a Corrigendum Order dated 26th March, 2010), directed the Opponent to revise the energy bills of the Complainant from 30th March 2009, and to refund the excess amount paid by the Complainant alongwith interest at bank rate, by making adjustments to future bills. Compliance to the Order, as directed in the CGRF’s Order of 10th March 2010, was to be reported by the Opponent, latest by 15th April, 2010.
 - G. By a letter dated 21st April, 2010, the Complainant asked the Opponent to revise its energy bills in compliance with the Order passed by the CGRF. The Opponent vide its letter dated 28th April, 2010, communicated to the Complainant that the said Order of CGRF was not acceptable to the former’s office, and hence, it had asked for legal advice, which was still awaited, and that due to this the Opponent could not enforce the CGRF’s Order, and, had also sought apology for the same.



4. Aggrieved due to the above progress, the Complainant has filed the present complaint with the Commission. In reply to the Commission's letter dated 20th August, 2010, asking the Opponent about the steps taken by it to comply with the CGRF's said Order, the Opponent vide its letter dated 24th August, 2010, communicated that it has filed a Writ Petition (No. 4059 of 2010 dated 16th June, 2010) in the matter, with the Nagpur Bench of Bombay High Court.
5. The Commission vide a Notice dated 27th September, 2010, scheduled a hearing in the matter, on 13th October, 2010, which was postponed on the Complainant's request, and a hearing in the matter was scheduled for 24th November, 2010.
6. In the meantime, the Opponent vide its letter dated 6th October, 2010, made a submission to the Commission, by an affidavit, wherein it reiterated facts as well as its stand in the matter, as discussed earlier, and submitted that the Hon'ble High Court in its Interim Order dated 3rd September, 2010, had ruled that the Complainant *shall not take any coercive steps in the matter* till a final judgment is issued by the Hon'ble High Court. The Opponent also made its prayers to the Commission, as follows:
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 - i. *Reject the instant petition as the Respondent has filed the Writ Petition before the Hon'ble High Court, Nagpur and challenged the order.*
 - ii. *Stay the present petition till the decision of the Writ Petition No. 4655/10 pending before the Hon'ble High Court in the light of the Order dated 03.09.10.*
 - iii. *Stay the present petition till the decision of the interim Stay application in the Writ petition.*
 - iv. *Grant such other relief which this Hon'ble Commission deems fit and proper to protect the Respondent.*”
7. During the hearing, held on 24th November, 2010, Shri R. B. Goenka, was present on behalf of the Complainant, and, the Opponent was represented by Shri M. S. Kele, S.E., MSEDCL and Sau. S. O. Janorkar. During the hearing, both the parties reiterated their respective stand in the matter. The Complainant does not dispute that the CGRF's Order is challenged in Writ Petition No. 4059 of 2010 before Nagpur Bench of Hon'ble Bombay High Court and the matter is sub-judice.

On an enquiry by the Commission with the Opponent about the reasons for not complying with the CGRF's Order under-reference, the Opponent mentioned that there were certain errors in the CGRF's Order dated 10th March, 2010, which were corrected by the CGRF by issuing a Corrigendum Order dated 26th March, 2010. However, the Opponent is of the view that the said Corrigendum Order still contains some mistakes. The CGRF in its Order directed the Opponent to revise its electricity bills from 30th March, 2009, onwards, as the Complainant has first filed an application for change to the Non-Express feeder tariff and refund of the excess amount. Next hearing in the Hon'ble High Court in the matter is scheduled on 7th December, 2010. MSEDCL also



submitted that the amount to be refunded is on a very high side, and hence, it is not possible to first comply with the CGRF's Order and then go to court for its recovery.

8. Since, based on information available with the Commission, the Hon'ble High Court in its Interim Order dated 3rd September, 2010, has directed that the Complainant *shall not take any coercive steps in the matter* till a final judgment is issued by the Hon'ble High Court, seeking an order of penalty under section 142 and institution of proceedings under section 151 for penalizing the Opponent under section 146 of the Act, or pursuing compliance of the said Order of the CGRF, Nagpur (U) Zone, dated 10th March, 2010 before this Commission, does not arise. The Commission is of the view that since the matter is sub-judice before Hon'ble High Court, at this stage neither would it be proper nor be judicially respectful to precipitate any action as sought for by the Complainant.

Matter stands dismissed in light of the above.

Sd/-

(Vijay L. Sonavane)
Member

Sd/-

(V. P. Raja)
Chairman



Sd/-
(K. N. Khawarey)
Secretary, MERC