

Before the  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 87 of 2007**

In the matter of  
**Complaint filed by M/s. Ramsons Castings Private Ltd. against Maharashtra State  
Electricity Distribution Company Ltd. alleging non-compliance of Ombudsman's  
Order dated November 12, 2007**

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

M/s. Ramsons Castings Private Ltd.

..... Complainant

Vs.

Superintendent Engineer,  
Nagpur Urban Circle,  
Maharashtra State Electricity Distribution Company Ltd.

..... Opponent

**ORDER**

**Date: 14 September, 2010**

M/s. Ramsons Castings Private Ltd., submitted a complaint before the Commission on January 8, 2008, seeking penal action against Maharashtra State Electricity Distribution Company Ltd., ("MSEDCL") under Sections 142 and 149 of the Electricity Act, 2003 ("EA 2003") for contravening the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 ("CGRF Regulations, 2006") by not implementing the Electricity Ombudsman's Order dated November 12, 2007 for refund of excess Additional Supply Charges ("ASC") within the stipulated time frame.



2. The prayers of the Complainant are as follows:

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*Penalise 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 Ombudsman.”*

3. The Complainant has submitted that it is a consumer of MSEDCL having a steel unit at MIDC, Hingna Road, Nagpur and connected at 33 KV voltage. The Complainant had a Contract Demand of 5000 KVA from January 2005 to February 2006. Thereafter, the Contract Demand had been increased to 5300 KVA from March 2006 upto January 2007. It is further submitted that the Complainant stopped working in 3 shifts and started working during off peak hours only to avoid ASC, which was calculated considering the average consumption of the year 2005 (March 2006 to September 2006) as reference consumption.

4. It is submitted that the ASC units charged from October 2006 onwards was not correct and MSEDCL had charged a high ASC consumption. For this reason, the Complainant had approached the Internal Grievance Redressal Cell (“IGR Cell”) on June 13, 2007, but the IGR Cell had not only rejected the case, but said in its order that the reference month for calculation of ASC should be taken as September 2006 in which month, the consumption was 2204860 Kwh only, which is less than the reference consumption considered by MSEDCL for billing of the Complainant. The IGR Cell further said that the bill will be revised considering this consumption as average consumption. Further, the Complainant approached the Consumer Grievance Redressal Forum (“CGRF”) on August 2, 2007. The prayers of the Complainant before the CGRF were: (1) MSEDCL be directed to refund an amount of Rs. 72,12,326.50 being excess amount charged in energy bills; (2) MSEDCL be directed to pay interest at bank rates for the refundable amount as per Section 62(6) of the EA 2003; (3) MSEDCL be directed to pay Rs. 10,000/- under Clause 8.2 of the CGRF Regulations, 2006 towards the legal expenses incurred by the Complainant in pursuing the case with IGRC and CGRF.

5. The Complainant has submitted that while passing the order, the CGRF has referred to the Commission’s clarificatory order dated August 24, 2007, and also stated that Clause (g) of the Commission’s order dated February 26, 2007 is not applicable in the case of the Complainant. But the Complainant here submits that the CGRF did not realize the fact that the Commission’s clarificatory order dated August 24, 2007 is applicable with retrospective effect from May 1, 2007 and not applicable for the period prior to it. It is submitted that the Complainant’s case is for refund of excess charges upto April 2007 only, and therefore the Commission’s order dated August 24, 2007 is not applicable to the present case. The CGRF thereafter passed its order dated September 12, 2007 wherein MSEDCL was directed to revise the Complainant’s bill from October 2006 upto April 2007 considering the consumption of 27,09,058.1 units as the reference consumption for the purpose of computation of ASC w.e.f. October 2006 to April 2007.



6. The Complainant submitted that it being aggrieved by the CGRF Order approached the Ombudsman on September 21, 2007.

7. The Complainant submitted that the Ombudsman in its Order dated November 12, 2007 directed for refund of excess ASC charges considering the bench mark consumption of 30, 00,382 units instead of 27, 09,058 units considered by MSEDCL from the month of October 2006 upto April 2007, and directed MSEDCL to refund the excess amount alongwith interest at bank rate as provided in the EA 2003, and to report the compliance of the Order within 30 days from the date of the said Order. It was directed therein that the amounts should be refunded by adjusting in the ensuing monthly energy bill.

8. The Complainant submits that MSEDCL has not complied with the order and directives of the Ombudsman and had violated Regulation 17.18 of the CGRF Regulations, 2006. Furthermore, MSEDCL is liable for punishment under Section 142 of the EA 2003 for non-compliance of the Ombudsman's Order.

9. The Commission vide its Notice dated January 17, 2008 fixed a hearing in the matter on January 30, 2008.

10. MSEDCL vide its letter dated January 18, 2008 addressed to the Commission, informed about the Order dated January 8, 2008 passed by the Bombay High Court, Nagpur Bench in W.P. No. 6023 of 2007 filed by MSEDCL challenging the aforesaid Ombudsman's Order dated November 12, 2007, in which the High Court placed the matter after two weeks, and directed that the Complainant need not effect coercive recovery.

11. MSEDCL vide its letter dated January 25, 2008 submitted that W.P. No. 6023 of 2007 was listed again before the Bombay High Court on January 24, 2008 when the High Court had granted time of further ten days to the present Complainant to file its reply. MSEDCL submitted that the High Court passed the following order on January 24, 2008-

*“Coram: Sinha & Naik, dated 24.01.2008.*

*Shri Sharma, learned Counsel for Respondent No1, seeks further time of ten days by way of last chance, to file reply and also states that in the meantime, no step will be taken in pursuance to the notice by the MERC in Case No. 87 of 2007 for initiating penalty proceedings.*

*Time is granted by way of last chance. Put up after ten days.”*

12. MSEDCL has, in view of the above, prayed that this case before the Commission be stayed awaiting the orders of the Bombay High Court in the above writ petition (W.P. No. 6023 of 2007) filed by MSEDCL or in the alternative grant one month's time to MSEDCL to file reply.



13. Subsequently, vide email dated January 29, 2008, Shri. RB Goenka, authorized representative of the Complainant requested the Commission to postpone the hearing of this case and keep it pending till the decision of the above writ petition.

14. The Commission vide its Notice dated January 30, 2008 postponed the hearing of the case till further notice.

15. MSEDCL vide its letter dated March 1, 2008 submitted its reply. MSEDCL submitted that the Complainant has himself made a statement before the High Court that it will not take any steps in this matter before the Commission for initiating penal action against MSEDCL. This statement is recorded in the High Court's Order dated January 24, 2008. Further, MSEDCL has submitted that the said Order is still continuing and the matter is likely to be listed before the Bombay High Court, Nagpur Bench in a couple of days, and therefore prayed for stay of the present proceeding till the final disposal of the writ petition. MSEDCL has also prayed in the alternative for grant of a further period of one month to file its reply on merits.

16. The Commission vide its letter dated February 25, 2010 asked MSEDCL to inform the Commission about the present status of the case before the Bombay High Court, Nagpur Bench, within two weeks. Further, vide letter dated March 23, 2010 MSEDCL was reminded to provide the present status of the case pending before the Bombay High Court, Nagpur Bench, within one week.

17. MSEDCL vide its letter dated March 4, 2010 informed that an Order dated January 17, 2009 was passed by the Bombay High Court, Nagpur Bench, wherein the Bombay High Court has admitted the aforesaid writ petition filed by MSEDCL and granted a stay on the Order of the Ombudsman subject to MSEDCL depositing Rs. 39,22,529/- before the Bombay High Court, (amount to be refunded by MSEDCL to the Complainant in accordance with the CGRF Order) within two weeks, after which the Complainant shall be allowed to withdraw the same. It is further stated by MSEDCL that vide letter dated January 29, 2009, they have handed over 4 nos. of A/c Payee cheques amounting to Rs. 39,22,529/- drawn on Corporation Bank, Sadar Branch, Nagpur in favour of the Registrar, Bombay High Court, Nagpur Bench. Further, MSEDCL has submitted that till date, the matter had not been listed before the High Court for final hearing.

18. The Commission vide Notice dated August 23, 2010 fixed a hearing in the matter on September 3, 2010.

19. MSEDCL vide its letter dated August 27, 2010 to the Commission stated that, in view of the Order dated January 17, 2009 passed by the Bombay High Court, Nagpur Bench which has stayed the Order dated November 12, 2007 passed by the Ombudsman, the question of non-compliance of that order does not arise.



20. The Complainant vide letter dated September 1, 2010 submitted to the Commission on September 3, 2010, informed the Commission that the amount of Rs. 39,22,529/- had been deposited by MSEDCL as per the Order dated January 17, 2009 passed by the Bombay High Court, Nagpur Bench, which amount had also been withdrawn by the Complainant.

21. In view of the above, at this stage the Commission does not find any merit in the present complaint since the Bombay High Court, Nagpur Bench is seized with Electricity Ombudsman's Order which has been stayed by the High Court.

Accordingly, the present complaint stands dismissed.

Sd/-  
(V. L. Sonavane)  
Member

Sd/-  
(V. P. Raja)  
Chairman



(K.N. Khawarey)  
Secretary, MERC