



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

Representation No. 2 of 2005.  
**Order dated 9 March 2005**

Narayanlal D. Thakkar  
Flat No. 161, Narpoli, Bhiwandi-421302..... Appellant

Versus

Maharashtra State Electricity Board,  
Bhiwandi Circle, Sub division no.4,  
Narpoli, Bhiwandi..... Respondents

Present:

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

On behalf of the Appellant:

1. Shri Narayanlal D. Thakkar  
through his authorized representative, Shri Pravin D. Thakkar

On behalf of the Respondents:

1. Shri R.K.Vatsalya, Executive Engineer, MSEB

Shri N. D. Thakkar of Bhiwandi is a L.T. consumer of M.S.E.B. (hereafter called as Respondent) having sanctioned load of 19 H.P. for powerloom unit located at Bhiwandi. The respondent being a distribution licensee issued to the appellant, a bill on 10 March 2003 towards energy consumed by the appellant in his unit. It is mentioned in the said bill that the connected load was observed as 20 H.P. as against the sanctioned load of 19 H.P., the additional load found to be connected thus rendering unauthorized. The respondent raised the bill based on relevant tariff applicable to the appellant including penal charges for unauthorized load.

2. Being aggrieved with the decision of the respondent to levy demand charges for entire connected load including the unauthorized load, at Rs. 60 /H.P. in addition to the penal charge at double the rate of fixed charges i.e. Rs. 120/H.P. for the exceeded load of 1 H.P., the appellant filed his complaint on 26 October 2004 to the respondent for seeking redressal in the matter. According to the appellant there was no relief granted by the respondent, and therefore he filed his complaint to the Consumer Grievance Redressal Forum (hereafter called as Forum) at Bhandup. The Forum heard the matter and dismissed the complaint without any relief to the appellant. The Forum

has held that the respondent licensee has raised the bill in accordance with the applicable tariff and that the appellant has misunderstood the tariff order.

3. Being aggrieved with the order of the Forum dated 19 January 2005, the present appeal / representation is filed by the appellant. The matter was heard at length on 3<sup>rd</sup> March 2005 wherein the appellant was asked to make his submission and justify his stand. It was submitted on behalf of appellant that according to the MERC tariff order for Low Tension power supply, the demand charges should be levied at the rate of Rs. 30/H.P. i.e. 50% of Rs. 60/- for the sanctioned load and the penal charges at the rate of Rs. 120/H.P. (i.e. 200% of Rs. 60/-) should be levied only on the excess of 1 H.P. load found to be connected in the present case. The appellant also relied upon the relevant provision of the tariff order of MERC for H.T. consumers for excess demand recorded wherein charges are levied at the rate of Rs. 150% of prevailing demand charge only for the excess demand over and above the contract demand. During the hearing the appellant agreed that he is neither a H.T. consumer nor a L.T. consumer with optional MD based tariff. Instead, he is L.T. consumer with general motive power i.e. L.T.P.-G category.

4. Relevant provision of L.T.P.-G category tariff approved by MERC indicates that a fixed charge Rs. 60/H.P. is applicable on 50% of the sanctioned load provided the actual drawal is less than or equal to the sanctioned load. In the present case, clearly the appellant has exceeded his sanctioned connected load and as such, he does not fulfil the requirement for levying charge on 50% of sanctioned load. The relevant portions of tariff order applicable in this case is reproduced below:

*“In case of consumers (who do not opt for LTMD based tariff) the demand (fixed) charge will be levied only on 50% of the sanctioned load, provided the actual drawal is less than or equal to sanctioned load.” and “In case of excess connected load, the consumer shall be billed based on actual connected load and shall be levied penal charges for unauthorized connected load at double the rate of fixed charges applicable under tariff applicable to general motive power consumers prevailing from time to time.”*

5. The respondent reiterated the provision of the L.T. tariff order and submitted that the respondent raised the bills correctly in accordance with the said tariff order. The respondent did not make out any fresh point in support of his say. In fact, the Forum had already gone into this issue and came to the conclusion that the respondent has interpreted MERC tariff order correctly and has billed accordingly.

6. A close look at the bill dated 10 March 2003 raised by the respondent shows that the appellant has been billed for 20 H.P. i.e. actually connected load at the rate of Rs. 60/-/H.P. In addition, for 1 H.P. excess load, the respondent have billed the appellant at double the rate of fixed charges i.e. Rs. 120/H.P. These penal charges obviously included the fixed charges at the rate of Rs. 60/- for 1 H.P. at the applicable rate + 100% penalty envisaged under the provision contained in the tariff order. Since fixed charges at the rate of Rs. 60/- for 1 H.P. of unauthorized load are already covered in the bill while charging for 20 H.P. (which includes the unauthorized load of 1 H.P) only penalty of Rs.60/- should have been charged instead of Rs. 120/H.P for exceeded load, as otherwise this would mean levy the fixed charge twice on 1 H.P. of connected load in addition to

the penalty. The respondent should have distinguished between penal charges and penalty. Therefore, fixed charges billed for 1 H.P. of excess load at the rate of Rs. 120/- is not justified and should have been restricted to levy of only penalty at the rate of 100% of the fixed charge.

## **ORDER**

On going through the submissions made by the appellant and the respondent it is evident that the point now raised by the appellant through his representation has already been dealt with by the Forum. Moreover, I find that the Forum based its order keeping in view the relevant provision of L.T. tariff order except the penal charges levied by the respondent on 1 H.P. of excess connected load. The tariff order provides that the penal charges (and not the penalty) should be at double the rate which means that penalty on the excess connected load would be at 100% i.e. Rs. 60/ H.P. in this case. Since the respondent have levied Rs. 120/- as penalty for excess connected load, the difference of Rs. 60/- levied incorrectly should be refunded to the respondent or adjusted in the subsequent bill. The representation of the appellant for levying Rs. 30/H.P. for the sanctioned load of 19 H.P. does not have any merit and is therefore rejected.

**(W. G. GORDE)**  
Ombudsman

Mumbai  
9 March 2005

**(S.N.YADWAD)**  
Secretary