

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION 169 OF 2019

In the matter of refund of Security Deposit

Indus Towers Ltd. Appellant
(C.No.177450042720)

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Rajgurunagar (MSEDCL) Respondent

Appearances

For Appellant : 1. Dharendra Shrivastav
2. D. S. Talware, Representative

For Respondent : Kishor Gorde, Ex. Engineer, Rajgurunagar

Coram: Deepak Lad

Date of Order: 31st October 2019

ORDER

This Representation is filed on 13th September 2019 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the Order dated 30th May 2019 passed by the Consumer Grievance Redressal Forum, MSEDCL Pune Zone (the Forum).

2. The Forum, by its Order dated 30th May 2019 has dismissed the grievance application in Case No. 12 of 2019 by majority.

3. Not satisfied with the order of the Forum, the Appellant has filed this representation stating as below: -

- (i) The Appellant is a LT consumer (No.177450042720) at House No.876, Rakshewadi, under Rajgurunagar subdivision, district Pune.
- (ii) The Appellant prays for condonation of delay in filing the representation as order of the Forum was received late.
- (iii) The Appellant had applied for permanent disconnection of the said consumer and refund of Security Deposit (SD) of Rs.15410/- vide its letter dated 08.01.2018 and has requested to adjust the amount of SD in the bill of Appellant's other live consumer in the same subdivision having consumer No.177320001584. The application has been acknowledged by the Respondent. Indemnity bond and copy of the bill is also submitted with the said application. The indemnity bond is in lieu of non-availability of original receipt of the SD.
- (iv) The Respondent has not yet reverted on this issue.
- (v) The Appellant filed common grievance with Internal Grievance Redressal Cell (IGRC) and then the Forum. The Forum by its order dated 30.05.2019 has dismissed the grievance application.
- (vi) The Appellant prayed for refund of SD, grant of compensation under Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 (SOP Regulations) and award of Rs.10000/- towards mental harassment and agony.

4. The Respondent, in its reply dated 29.09.2019 has stated as below: -

- (i) The Appellant is a LT consumer (No.177450042720) at House No.876, Rakshewadi, district Pune from 07.09.2006.
- (ii) The supply of the Appellant was permanently disconnected on 20.01.2018 as per request of the Appellant. The Appellant was in arrears of Rs.4489.70 in January 2018 when the connection was physically disconnected however, the permanent disconnection code was fed into the billing system in March 2019. SD of Rs.15410/- was on the record for refund however no proper documentation was done by the Appellant.
- (iii) The outstanding arrears of Rs.4489.70 as on January 2018 was adjusted in SD of Rs.15410/-. The balance amount of Rs. 10920.30 (15410-4489.70) is to be refunded.
- (iv) The delay for adjustment is not deliberate but for want of proper documentation on the part of the Appellant.

(v) Therefore, the Respondent prayed that the Representation of the Appellant be rejected.

5. The hearing was held on 23.10.2019 at the CGRF Pune office. Delay in filing the representation is hereby condoned. During the hearing, the Appellant and the Respondent argued in line with their written submissions. The Appellant argued that the supply of the Appellant was disconnected on 20.01.2018, however the Respondent has billed the Appellant up to March 2019 without any reason. The fictitious billing from January 2018 to March 2019 need to be withdrawn in toto. The Appellant requested for adjusting arrears against SD. The balance SD was requested to be transferred to other live consumer of the Appellant having consumer No. 177320001584 along with interest. The Appellant's other point of argument was that the Respondent did not act even though the grievance was under process in grievance mechanism.

6. The Respondent stated that the balance amount of SD after adjusting arrears will be transferred to Consumer No.177320001584 of the Appellant which is in the same subdivision.

Analysis and Ruling

7. I perused the documents on record and the arguments advanced by both the parties. The Appellant's connection No.177450042720 has been physically disconnected on 20.01.2018. Its balance security deposit has not been adjusted against another live connection of the Appellant in the same subdivision. The Respondent informed that the fictitious billing post disconnection has been withdrawn and balance SD after adjusting the arrears has been transferred to other live consumer of the Appellant having Consumer No.177320001584.

8. I understand that the issue of application of appropriate tariff to such businesses is under adjudication at the Appellate Tribunal for Electricity (ATE) through Appeal No. 337/2016 and batch of matters. In the interim judgment dated 12.09.2017, the Hon. ATE directed that the Appellants (in ATE Appeal) shall pay to Maharashtra State Electricity Distribution Co. Ltd., the tariff in terms of industrial category including all outstanding and current dues, without prejudice to the rights and contentions of all the parties. The Appellant in the instant representation has also filed IA Nos. 1090, 1089 & 1091 of 2017 in DFR No. 3976 of 2017. The ATE passed interim judgment on dated 13.12.2017. In this judgment it is ordered that the judgment dated 12.09.2017 in Appeal No. 337/2016 and batch of matters shall apply to

the Appellant in the instant representation. Accordingly, provisional bills are issued by the Respondent at the tariff applicable for LT Industrial.

9. If the outcome of the appeals at ATE mentioned at paragraphs above, goes in favour of the Respondent i.e. MSEDCL, then the recovery of tariff difference between LT Commercial and LT Industrial would be evident. Then in the instant case, it will be a big question as to how such recovery would be done in a permanently disconnected connection.

10. In view of this, I, therefore, direct the Appellant to submit a suitable indemnity bond (as may be drafted by the Respondent) in favour of the Respondent to take care of the above eventuality by consenting for such recovery through other live connection of the Appellant. The Respondent may even think of a common indemnity bond as the Appellant have many connections for the same purpose throughout the State of Maharashtra. This part needs to be completed within one month.

11. In view of the above, I pass the following order: -


The Respondent is directed

- (a) to withdraw fictitious billing from February 2018 onwards of the Appellant.
- (b) to pay interest on the SD at the rate which is applicable to SD of other consumers.
- (c) The outstanding arrears to be adjusted against SD. Balance SD to be transferred to Appellant's another connection No.177320001584.
- (d) It goes without saying that the outcome of the appeals at ATE mentioned above shall apply in the instant case.

12. The representation is disposed of accordingly.

13. Compliance is to be reported by the MSEDCL within two months from the date of this order.

Sd/-
(Deepak Lad)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

