

**BEFORE THE CONSUMER GRIEVANCES REDRESSAL
FORUM (CGRF), GOVERNMENT OF GOA,
ELECTRICITY DEPARTMENT, VIDYUT BHAVAN,
4TH FLOOR, VASCO, GOA.**

Complaint/Representation No. 14/2020

M/s. Mohit Steel Industries Pvt. Ltd.,
Plot No.342, Kundaim Industrial Estate,
Kundaim, Ponda,
Goa - 403 115.

..... Complainant

V/S

1. The Chief Electrical Engineer,
Electricity Department,
Government of Goa,
Vidyut Bhavan, Panaji, Goa.

2. The Executive Engineer,
Electricity Department,
Div - III, Ponda - Goa.

..... Respondents

Complaint/Representation No. 15/2020/201

M/s. Mandovi Castings Pvt. Ltd.,
Plot No.341, Kundaim Industrial Estate,
Kundaim, Ponda,
Goa - 403 115.

..... Complainant

V/S

1. The Chief Electrical Engineer,
Electricity Department,
Government of Goa,
Vidyut Bhavan, Panaji, Goa.

2. The Executive Engineer,
Electricity Department,
Div - III, Ponda - Goa.

..... Respondents

Complaint/Representation No. 17/2020

M/s. Shraddha Ispat Pvt. Ltd.,
Plot No. M-1, Cuncolim Industrial Estate,
Cuncolim, Salcete,
Goa - 403 703.

..... Complainant

V/S

1. The Chief Electrical Engineer,
Electricity Department,
Government of Goa,
Vidyut Bhavan, Panaji, Goa.

2. The Executive Engineer,
Electricity Department,
Div - XVI, Margao - Goa.

..... Respondents

Complaint/Representation No. 18/2020

M/s. Shirdi Steel Re-Rollers Pvt. Ltd.,
Plot No. L - 8, Cuncolim Industrial Estate,
Cuncolim, Salcete,
Goa - 403 703.

..... Complainant

V/S

1. The Chief Electrical Engineer,
Electricity Department,
Government of Goa,
Vidyut Bhavan, Panaji, Goa.

2. The Executive Engineer,
Electricity Department,
Div - XVI, Margao - Goa.

..... Respondents

Complaint/Representation No. 20/2020

M/s. Global Ispaat Pvt. Ltd.,
Plot No. M – 18-19, L-16,
Cuncolim Industrial Estate,
Cuncolim, Salcete,
Goa - 403 703.

..... Complainant

V/S

1. The Chief Electrical Engineer,
Electricity Department,
Government of Goa,
Vidyut Bhavan, Panaji, Goa.

2. The Executive Engineer,
Electricity Department,
Div - XVI, Margao - Goa.

..... Respondents

Complaint/Representation No. 21/2020

M/s. Shivam Ispat Pvt. Ltd.,
Plot No. 333-335,
Kundaim Industrial Estate,
Kundaim, Ponda,
Goa - 403 115.

..... Complainant

V/S

1. The Chief Electrical Engineer,
Electricity Department,
Government of Goa,
Vidyut Bhavan, Panaji, Goa.

2. The Executive Engineer,
Electricity Department,
Div - III, Ponda - Goa.

..... Respondents

Complaint/Representation No. 22/2020

Shri Balaji Rollings Pvt. Ltd.,
Plot No. M/14-16,
Cuncolim Industrial Estate,
Cuncolim, Goa - 403 703.

..... Complainant

V/S

1. The Chief Electrical Engineer,
Electricity Department,
Government of Goa,
Vidyut Bhavan, Panaji, Goa.

2. The Executive Engineer,
Electricity Department,
Div - XVI, Margao - Goa.

..... Respondents

Complaint/Representation No. 25/2020

M/S Mohit Ispat Private Limited,
Plot No. 1,
Navelim Industrial Estate,
Maina Navelim,
Bicholim - Goa.

..... Complainant

V/S

1. The Chief Electrical Engineer,
Electricity Department,
Government of Goa,
Vidyut Bhavan, Panaji, Goa.

2. The Executive Engineer,
Electricity Department,
Div-V, Bicholim - Goa.

..... Respondents

Dated: - 08/01/2021.

ORDER

Per Smt Sandra Vaz e Correia, Independent Member.

These are complaints u/r 17 of the JERC (CGRF & Ombudsman) Regulations 2019. The complainants are steel manufacturing units located in various parts

of Goa. The content and text of the complaints are largely identical. They all seek refund of the demand/fixed charges paid during the lockdown period from 22.03.2020 to 25.04.2020 alongwith 18% interest from 15.06.2020. Hence the eight complaints are disposed of by a common order.

Case of the complainants

Succinctly, the case of the complainant's as culled from the complaint is that they are companies incorporated under the Companies Act 1956 manufacturing MS billets, structural steel, TMT bars, etc. at their respective factory premises located within various industrial estates in Goa. They have executed agreements with the State Government, copies whereof have been annexed. The applicable tariff is as per tariff order issued by JERC. As per the tariff order read with other rules and regulations, in addition to actual units consumed in a particular month, the complainants are billed demand/fixed charges on basis of maximum demand recorded during the month or 85% of contracted demand, whichever is higher. Their primary grievance is regarding demand/fixed charges for the months of March and April 2020.

Demand/fixed charges were included in electricity bill dated 02.04.2020 for the period 01.03.2020 to 01.04.2020 and in the bill dated 11.05.2020 for the period from 01.04.2020 to 01.05.2020 @ Rs. 250/KVA/month on basis of the billing demand. On account of Janata Curfew and later the State and National Lockdowns due to COVID-19 pandemic, the complainant's unit did not operate between 22.03.2020 to 31.03.2020 in the month of March 2020, and the entire month of April i.e., from 01.04.2020 to 30.04.2020. The complainant's plants were not legally permitted to be operated during this period. However, the Demand/fixed charges have been billed for entire March and April 2020 without giving any pro-rata benefit. In view of the peculiar situation that arose due to the COVID-19 pandemic lockdowns, demand/fixed charges ought to have been charged on pro-rata basis. The complainants also suffered huge losses and prejudices due to the unforeseen pandemic situation, and this was further triggered by the licensee Department charging the entire demand/fixed charge.

The details of individual complainants are summarised and tabulated as under:

| Complaint /Representation no. | Name of Complainant. | Billing Demand March 2020 April 2020 (KVA) | Aggregate excess demand/fixed charges claimed to be paid. (₹) |
|-------------------------------|--|---|--|
| 14/2020 | Mohit Steel Industries Pvt. Ltd., Kundaim Goa. | 4411 4406 | 12,73,641/- |
| 15/2020 | Mandovi Castings Pvt Ltd. Kundaim Goa. | 3127 3046 | 8,86,760/- |
| 17/2020 | Shraddha Ispat Pvt Ltd. Cuncolim Goa. | 4932 4250 | 14,13,000/- |
| 18/2020 | Shirdi Steel Re-Rollers Pvt Ltd, Cuncolim Goa. | 2975 2975 | 9,66,720/- |
| 20/2020 | Global Ispat Pvt Ltd., Cuncolim Goa. | 12935 11050 | 38,05,645/- |
| 21/2020 | Shivam Ispat Pvt Ltd. | 5950 5950 | 24,79,167/- |
| 22/2020 | Shree Balaji Rollings Pvt Ltd, Cuncolim Goa. | 4927 4250 | 14,59,839/- |
| 25/2020 | Mohit Ispat Pvt Ltd., Navelim Bicholim Goa. | 16294 15960 | 40,23,651/- |

The complainant's submitted a representation to the licensee Department requesting to levy demand/fixed charges for months of March and April 2020 on pro-rata basis, but the request was not acceded to and full charges were billed. Most of the States in the country including Gujarat, UP, Punjab, Tamil Nadu and Chhattisgarh have given either complete waiver and appropriate waiver as regards demand/fixed charges. Although the demand/fixed charges were illegal and unwarranted, the complainant's paid the billed amounts on 11.06.2020 under protest.

The complainant's have prayed for a direction to the licensee to refund the excess amount alongwith interest @ 18% p.a. from 11.06.2020.

Case of the licensee Department.

The Department contested the complaints and filed its reply through concerned Executive Engineers that is by and large identical in all matters. In short, it is their case that the complainant was billed as per tariff order dated

20.05.2019 notified by JERC as regards demand/fixed charges for the months of March and April 2020. The billing of demand/fixed charges of contract demand is on maximum demand recorded during the month or 85% of contracted demand whichever is higher. The said charges were calculated at rate of Rs. 250/- per KVA of respective billing demand.

Even though the complainant's claimed that their factories were shut between 22.03.2020 to 31.03.2020, the decline in total consumption YoY for March was negligible. In four cases, the demand recorded was more than 85% in April 2020. In spite of the lockdown, the supplier/Department ensured continuity of supply of power to the consumer's premises during the said period. The Department was not responsible for any loss occurred to the consumer due to the pandemic as it had maintained continuous supply on its part. Being a revenue matter, Department had no authority to bill the consumer on prorated basis, and it was for the Government of Goa to take a decision in consultation with JERC. Receipt of emails and legal notices from the complainant's was admitted, however the requests could not be considered unless there were instructions from the State Government.

To mitigate the difficulties being faced by consumers due to lockdown, JERC notified a relief order vide Suo Moto Petition no. JERC/LEGAL/SMP/27/2020 dated 10.04.2020. The relevant relief for the complainants was in sub-para 5 at page 4 wherein a moratorium on payment of fixed charges was provided to all industrial and commercial consumers for bills raised between 24.03.2020 to 30.06.2020 that they can avail if they desire. These deferred charges shall be recovered in an equated manner over next three bills to be raised after 30.06.2020.

Hearing.

The parties were called for a hearing, at which time the following appeared:

| Complaint/ Representa tion no. | Complainant's representative | Departmental Representative |
|--------------------------------------|---------------------------------|--------------------------------|
| 14/2020 | Mahendra Singh. | Stephen Fernandes EE. |
| 15/2020 | Mahendra Singh. | Stephen Fernandes EE. |
| 17/2020 | Nemo. | R G Sawant EE. |

| | | |
|---------|--------------|--------------------------|
| 18/2020 | Nemo. | R G Sawant EE. |
| 20/2020 | Nemo. | R G Sawant EE. |
| 21/2020 | Nemo. | Stephen Fernandes EE. |
| 22/2020 | Nemo. | R G Sawant EE. |
| 25/2020 | D Bharadwaj. | Sebastião Fernandes, EE. |

I heard each party at length. Essentially, they reiterated their stand taken in the pleadings.

In Complaint/Representation no. 14/2020 - Mohit Steel Industries Pvt. Ltd, and Complaint/Representation no. 15/2020 - Mandovi Castings Pvt Ltd., the complainant's representative Shri Mahendra Singh sought a week's time to advance submissions which request was not acceded to; however, the cases were adjourned to the next day i.e.,08.01.2021. On 08.01.2021, Shri Singh submitted a written representation about sufficient time not having been granted and objecting to disposal of the matter in absence of the Chairperson.

Findings.

I have carefully perused the records and given due consideration to the submissions advanced by the parties.

With respect to the objections of Shri Mahendra Singh, notice of hearing was issued on 01.01.2021; hence there was adequate time for the complainant to prepare. Nonetheless, an additional day's time was given and hearing taken up on 08.01.2021. With respect to disposal of the complaints in absence of the Chairperson, Hon'ble JERC as well as Hon'ble Ombudsman have directed the undersigned to expeditiously dispose all pending complaints singly.

Turning to the merits, in a nutshell, the common grievance of all complainants is that despite their factories remaining shut during the period of COVID-19 Janata curfew, State and National lockdowns between 22.03.2020 to 30.04.2020, the Department unfairly billed demand/fixed charges for entire March and April 2020 without giving any pro-rata benefit. In view of the peculiar situation that arose due to the COVID-19 pandemic lockdowns, demand/fixed charges ought to have been charged on pro-rata basis. On the other hand, the Department stated that there was no interruption in supply

during the lockdown and that the bills had been prepared as per extant tariff orders. They also contended that there was no drastic drop in power consumption of four complainant's during the lockdown period, thereby suggesting that their operations were not affected by the lockdown. Being a revenue matter, Department needed Government's nod to grant any financial relief. The JERC's order in the suo moto petition did not include billing demand/fixed charges on pro-rata basis.

Some of the complainant's relied on Hon'ble Chief Minister of Goa statement made on 11.08.2020 regarding electricity bill rebate that was widely reported in the local media. Complainant Mohit Ispat Pvt Ltd relied on a copy of the statement at page 22 of their compilation. Inter alia it states that "*For high tension consumers the difference of the billed maximum demand charges and actual recorded maximum demand charges for April and May 2020 are waived. The rebate will be adjusted in future bills*". Following this, a circular no. CEE/PLG/TECH/Cir-2/2020-2021/534 dated 20.08.2020 was issued.

The Department clarified that the Government decision related to difference of billed demand charges and actual recorded demand charges. Accordingly, the demand charge calculations were revisited in line with Government decision in four cases, and the surplus amounts were credited in August 2020 bills. The details are as follows:

- 1) 17/2020 Shradha Ispat Pvt Ltd. . . . Rs. 10,15,250/-
- 2) 18/2020 Shirdi Steel Re-Rollers Pvt Ltd. . . . Rs. 8,37,250/-
- 3) 20/2020 Global Ispat Ltd. . . . Rs. 25,92,500/-
- 4) 22/2020 Shree Balaji Rollings Pvt Ltd. . . . Rs. 10,46,000/-

It may be noted that said four complainants did not put up appearance at the final hearing on 07.01.2021 probably as they were satisfied with the redressal of their grievances.

However, in case of the remaining four complainants, the recorded demand had crossed billing demand (85% of contract demand) in both months, thus making them ineligible for any waiver.

In my opinion, the Department's stand in the matter cannot be faulted. The

billing for March and April 2020 was done in accordance with extant tariff orders. Rebates were given to four eligible complainants in accordance with Government decision, and the excess amounts were credited in August 2020. The other four complainants were ineligible to avail the concessions and waivers granted by JERC and Government of Goa. I did not find any defect or deficiency or shortcomings in service rendered by the Department to the complainant consumers that merit intervention of this Forum.

Order.

In view of the foregoing, all above complaints stand dismissed with no order as to costs.

SANDRA VAZ E CORREIA
(Member)