

BEFORE THE ELECTRICITY OMBUDSMAN
(For the State of Goa and Union Territories)
Under Section 42 (6) of the Electricity Act, 2003
3rd Floor, Plot No. 55-56, Udyog Vihar - Phase IV, Sector 18,
Gurugram (Haryana) 122015,
Phone No.:0124-4684708, Email ID: ombudsman.jercuts@gov.in

Appeal No.139 of 2021

Date of Video Conferencing: 25.03.2021

Date of Order: 31.03.2021

M/s Mandovi Castings Pvt. Ltd.
Goa

.... Appellant

Versus

The Chief Electrical Engineer,
Electricity Department,
Goa

.... Respondents

Parties present:

Appellant

1. Shri Yogesh V. Nadkarni-Advocate
Appellant's representative

Respondent(s)

1. Shri Stephen Fernandes
Executive Engineer



Date of Order: 31.03.2021

The Appellant has preferred an Appeal against the order of the Hon'ble CGRF-Goa order in CC -14/2020 dated-08.01.2021. The Appeal was admitted on 10.02.2021 as Appeal No.139 of 2021. Copy of the same as received was forwarded to the respondents with a direction to submit their remarks/ counter reply on each of the points. A copy of counter reply was supplied to the Appellant as required.

Settlement by Mutual Agreement

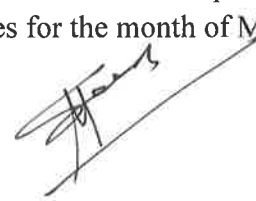
Both the parties appeared before the Electricity Ombudsman through Video Conferencing as scheduled on 25.03.2021 and were heard. Efforts were made to reach a settlement between the parties through the process of conciliation and mediation. However, no settlement mutually agreeable could be reached. The hearing therefore, continued to provide reasonable opportunity to both the parties to put forth their pleading on the matter.

(A) Submissions by the Appellant:

Appellant submitted the brief facts as under: -

1. FACTS OF THE CASE

- (i) The Complainant herein is a Company incorporated under the Companies Act, 1956. The Complainant Company manufactures MS - Billets at, Kundaim Industrial Estate- Goa.
- (ii) An Agreement dated 24th May, 2005 has been executed between the Complainant Company and the State Government for supply of electricity to the factory premises at the Kundaim Industrial Estate.
- (iii) The Electricity Tariff applicable to the factory premises is as per the Tariff Order issued by the Joint Electricity Regulatory Commission (JERC).
- (iv) The sanctioned load to the Complainant is 3300 KVA and is under the Tariff Category: HTIF.
- (v) As provided for in the Tariff Order r/w other applicable Rules and Regulations, in addition to the actual units consumed in a particular month, the Complainant Company is billed Demand / Fixed Charges on the basis of maximum demand recorded during the month or 85% of contracted demand, whichever is higher.
- (vi) The grievance / complaint which is the subject matter of the present Complaint is the billing dispute as regards the Demand / Fixed Charges for the month of March and April, 2020.



- (vii) As per the Tariff Order in force, the Demand / Fixed Charges are billed at the rate of INR 250 / KVA / Month of the maximum demand recorded during the month or 85% of Contracted Demand whichever is higher.
- (viii) An Electricity Bill No. 10025615532 dated 02nd April, 2020 has been issued for the month of March, 2020 viz. 01/03/2020 till 01/04/2020.

As may be seen from the said Bill, the Demand / Fixed Charges are billed at Rs. 7,81,750/-, being calculated at the rate of Rs. 250 per KVA on the basis of the Billing Demand of 3127 KVA.

- (ix) An Electricity Bill No. 10040957488 dated 11th May, 2020 has been issued for the month of April, 2020 viz. from 01/04/2020 till 01/05/2020.

As may be seen from the said Bill, the Demand / Fixed Charges are billed at Rs. 7,61,500/-, being calculated at the rate of Rs. 250 per KVA on the basis of the Billing Demand of 3046 KVA.

- (x) For the month of March 2020, it may be stated that the factory premises of the Complainant Company was running and in operation from 01st March, 2020 till 21st March, 2020.
- (xi) On 22nd March 2020, the Prime Minister of India announced a Janata Curfew in the entire country and, as such, the factory premises of the Complainant was not permitted to be operated. This National Lockdown was continued by the State of Goa for another 02 days till the Ministry of Home Affairs, Government of India vide its Order dated 24th March, 2020 declared a lockdown in the entire country for a period of 21 days with effect from 25th March, 2020 and issued various guidelines as a result of which the business activities of the Complainant at the factory premises came to a complete halt, as it was not one of the industries which was permitted to be operated during the said lockdown. This National Lockdown was subsequently extended from time to time and it was only under the Consolidated Revised Guidelines dated 15th April, 2020 that the Ministry of Home Affairs, Government of India permitted Industrial Establishments in Industrial Estates to operate subject to fulfilling the procedures and safety measures.



- (xii) After issuance of these Revised Guidelines, the Complainant Company was required to seek necessary permissions from the State Government before operating its plant and such a permission was granted by the State Government on 19th April 2020. On obtaining the necessary permission, some reasonable time is always required for a ferro industry to commence its operations, and, as such, the Complainant Company recommenced its operations at its plant on 26th April, 2020.
- (xiii) As such, for the month of March 2020, the plant of the Complainant was not permitted to be operated from 22/03/2020 to 31/03/2020 and for the month of April 2020, it was not operated from 01/04/2020 to 25/04/2020.
- (xiv) Although, as aforesaid, for the days as specified hereinabove, the plant of the Complainant Company was not legally permitted to be operated, as may be seen from the bills for the month of March and April 2020, the Demand / Fixed Charges have been billed for the entire month without giving any pro-rata benefit.
- (xv) It is respectfully submitted that on account of the peculiar COVID pandemic situation and the National Lockdown Orders issued by the Union of India, the Complainant Company is entitled to be levied only such Demand / Fixed Charges on a pro-rata basis during the said lockdown period.
- (xvi) It is highly arbitrary and illegal for the Respondents to bill the Complainant Company the entire Demand / Fixed Charges during the said lockdown period for the months of March and April, 2020.
- (xvii) It is respectfully stated that on account of the COVID Pandemic as also the National Lockdown, the Complainant Company is suffering huge losses and prejudice and this is further triggered by the Electricity Department charging the entire Demand / Fixed Charges during the said lockdown period.
- (xviii) Vide E-mail dated 27th March 2020, the Complainant requested the Electricity Department to, inter-alia, levy Demand Charges for the month of March and April, 2020 on pro-rata basis.
- (xix) However, the Department has not acceded to the said request and on the contrary billed the full Demand / Fixed Charges for the months of March and April, 2020. As stated hereinbefore, the Complainant Company is entitled to be levied the Demand Charges for the months of March and April, 2020 only on pro-rata basis during the said lockdown period. Complainant Company shall rely on the provisions of all the relevant Acts, Rules, Regulations and Statutes including the Electricity Act, 2003, Tariff Order issued by JERC, JERC for the



State of Goa and Union Territories (Electricity Supply Code) Regulations, 2018 and Conditions of Supply of Electrical Energy dated 06th July, 2012.

- (xx) It is also most pertinent to note that most of the States in the Country have either given a complete waiver and / or an appropriate waiver as regards the payment of Demand Charges / Fixed Charges to industries including the States of Gujarat, Uttar Pradesh, Punjab, Tamil Nadu and Chhattisgarh. It is only the State of Goa which is acting in an illegal and dictatorial manner without having any consideration to the lockdown conditions as imposed by the COVID Pandemic.
- (xxi) Although the said Demand Charges as billed in the months of March and April, 2020 are illegal and unwarranted, as aforesaid, the Complainant Company has paid the said bills, under protest on 15th June, 2020.
- (xxii) It is stated that the lockdown period in March, 2020 is 10 days viz. from 22/03/2020 to 31/03/2020. As such, against the Demand Charges billed for the full month of Rs. 7,81,750/-, the pro-rata demand charge ought to have been levied by the Department is only Rs. 5,29,573/-. As such, there is an excess amount of Rs. 2,52,177/- billed for the month of March, 2020.
- (xxiii) It is stated that the lockdown period in April, 2020 is 25 days viz. from 01/04/2020 to 25/04/2020. As such, against the Demand Charges billed for the full month of Rs. 7,61,500/-, the pro-rata demand charge ought to have been levied by the Department is only Rs. 1,26,917/-. As such, there is an excess amount of Rs. 6,34,583/- billed for the month of April, 2020.
- (xxiv) As such, there is an excess billing of Rs. 8,86,760/- for the months of Rs. March, 2020 and April 2020, which has been paid by the Complainant Company, under protest, on 15th June, 2020. The Complainant Company is entitled for an amount of Rs. 8,86,760/- along with interest at the rate of 18% per annum from 15th June, 2020 till actual refund.
- (xxv) In the circumstances, as aforesaid, it is respectfully prayed that :
- (a) This Hon'ble Forum be pleased to direct the Respondents to refund to the Complainant an amount of Rs. 8,86,760/- (Rupees Eight Lakhs Eighty Six Thousand Seven Hundred and Sixty) only along with interest at the rate of 18 % per annum from 15th June, 2020.



(B) Submissions by the Respondents :

Shri Stephen Fernandes, Executive Engineer, on behalf of Respondent Electricity Department, submit the para wise comments in connection with Appeal No.139 of 2021 filed by M/s. MANDОВI CASTINGS PVT LTD as under :-

P. No.	Para wise comments				
1	No comments.				
2	No comments.				
3	M/s Mandovi Casting Pvt Ltd has executed an agreement with Electricity Department, on 24 th May 2005 to avail power supply of 1000KVA and again executed endorsement on original agreement on 24 th September 2014 to avail enhanced load of 3300 KVA and same was found released on 20 th October 2014.				
4	In exercise of the powers conferred under various Sections of the Electricity Act, 2003, on behalf of the Joint Electricity Regulatory Commission for the state of Goa and Union Territories the Tariff Order dated 20 th May 2019 has been issued by the Chief Electrical Engineer vide Notification No.120/03/JERC-MYT 19-20 to 21-22/CEE/Tech. The said Tariff Order was effective from 1 st June 2019 and shall remain valid till issuance of further order of the commission for the Electricity Department Government of Goa. The said Tariff Order was published in Official Gazette Government of Goa vide Series 1 No.23 dtd. 5 th September 2019. Applicable Tariff to the said installation was as per Tariff Order Notified as above.				
5	Yes, The prevailing sanctioned load to the Complainant company is 3300 KVA w. e. from 20 th October 2014 and is under the Tariff Category of HTIF.				
6	Yes/Agreed.				
7	M/s. Mandovi Casting Pvt Ltd, was billed as per the Tariff Order Notified by the Government of Goa vide Notification No.120/03/JERC-MYT 19-20 to 21-22/CEE/Tech dtd. 20 th May 2019 as regards the Demand / Fixed Charges for the month of March and April, 2020				
8	As per Chapter 11 Para 11.3(8) of Tariff Order No.120/03/JERC MYT 19-20 to 21-22/CEE/Tech dtd. 20 th May 2019 the billing of Demand charges of contract demand shall be on the maximum demand recorded during the month or 85% of Contracted Demand whichever is higher effective from 1 st June 2019.				
9	An Electricity Bill No. 10025615532 dated 02 nd April, 2020 has been issued for the month of March, 2020 for the period from 01/03/2020 till 01/04/2020 was issued @ rate of Rs.250 per KVA on the basis of the recorded Demand of 3127 KVA as per the Tariff Order				
10	An Electricity Bill No. 10040957488 dated 11 th May, 2020 has been issued for the month of April, 2020 for the period from 01/04/2020 to 01/05/2020 was issued @ rate of Rs.250 per KVA on the basis of recorded Demand of 3046 KVA as per the Tariff Order.				
11	Total Consumption (KWH) for the month of March 2020 and corresponding month of last year is as follows:				
	<table border="1"> <tr> <td>March 2020</td> <td>Corresponding month of last year</td> </tr> <tr> <td>1338120</td> <td>2041980</td> </tr> </table>	March 2020	Corresponding month of last year	1338120	2041980
March 2020	Corresponding month of last year				
1338120	2041980				

12	No comments.
13	No comments.
14	No comments.
15	The department was not responsible for any loss occurred to the consumer due to pandemic as the department ensured continued power supply to the consumer premise at the point of supply during the month of March 2020 and April 2020 period and consumer was billed as per the Tariff Order in force.
16	The condition No.11 of the Agreement dtd. 24 th May 2005 read as:“The Supplier shall take all reasonable precautions to ensure continuity of supply of power to the Consumer at the point of supply but he shall not be liable to the Consumer for any loss due to the interruption in the supply of power by reason of damage to the equipment of the Supplier during war, mutiny, riot strike or by reason of earthquake, hurricane, tempest or any accident or for routine maintenance of the lines and associated equipment <u>or such other causes as may be beyond the control of the Supplier.</u> In this case continuous power supply was made available at consumer point of supply. Being a revenue matter the department had no authority to bill the consumer on pro-rata basis, and it was for the government of Goa to take decision in consultation with JERC. There is no provision for such request in Electricity Supply Code 2018, Prevailing Tariff Order, The Electricity Act 2003 also JERC order in Petition No. JERC/LEGAL/SMP/27/2020 dtd.10 th April 2020. The complainant was ineligible to avail the concessions and waivers granted by JERC and Government of Goa as such request of applicant for billing demand charges on pro rata basis is not acceptable to the Department.
17	Allegation of arbitrary and illegal for the Respondent to bill the complaint company for the entire Demand / Fixed charges during the said lockdown period for the months of March and April,2020 is not acceptable to Respondent as the Plaintiff was billed as per the Tariff Order in force and all the facilities were made available to consumer of Electricity Department of Goa as per JERC order in Petition No. JERC/LEGAL/SMP/27/2020 dtd.10 th April 2020 during the pandemic period. It is to state here that applicant has to produce documentary evidence under which Rules, Regulations, Acts and Notification of the Government of Goa,if he is entitled for the rebate to prove his allegations.
18	The Electricity department is not responsible for any loss occurred to consumer on account of the COVID Pandemic and National Lockdown, as the Department has maintained continuous power supply to the consumer during entire National Lockdown period.
19	Being a revenue matter this Division has no authority to bill the consumer on pro rata basis and bills are issued as per the tariff order dtd. 20 th May 2019.
20	The Department has not acceded the request of Appellant as there is no rules, regulations and guidelines from the JERC/Government to accede such type of request. However as per Circular No. CEE/PLG/TECH/Cir-22020-2021/534 dtd.20/08/2020 this office had been given credits for demand charges for the month of April 2020 and May 2020 to all eligible consumer in the month of August 2020 bill. Being a revenue matter this Division has no authority to bill the consumer on pro rata basis and bills are issued as per the tariff order dtd.20 th May 2019.



21	Directive given by the JERC as per JERC order in Petition No. JERC/LEGAL/SMP/27/2020 dtd. 10 th April 2020 is being followed by the Electricity Department and all facilities were extended to all consumers of Goa and credits for demand charges for the month of April 2020 and May 2020 had been given to eligible consumer in the month of August 2020 bill as per Circular No. CEE/PLG/TECH/Cir-2020-2021/534 dtd. 20/08/2020. Order of other states are not applicable to the State of Goa.
22	Allegation levelled by the Appellant are denied/not agreed. Demand Charges as billed in the months of March and April, 2020 are as per the tariff order dtd. 20 th May 2019. It is highlighted here that the Appellant has not paid 2 bills with in due date but no delay payment charges levied as the Government of Goa has extended due date till 31 st August 2020 for all the consumers whose due dates of payment of electricity bills falls between 24 th March 2020 to 31 st July 2020.
23	The Electricity department has maintained continuous power supply to the Appellant in the month of March 2020. The bill was issued as per the tariff order dtd. 20 th May 2019 and there is no agreement with consumer to bill on prorated basis during pandemic period as such the appellant claim is unjustified and unacceptable.
24	The Electricity department has maintained continuous power supply to the Appellant in the month of April 2020. The bill was issued as per the tariff order dated. 20 th May 2019 and there is no agreement with consumer to bill on pro-rata basis during pandemic period as such the appellant claim is unjustified and unacceptable.
25	The Appellant has paid bills as per the tariff order as such applicant's company is neither entitled for refund of any money paid towards monthly electricity bill nor any interest as the bills are issued as per the Tariff order.
26	No comments.
27	No comments.
28	The Appellant had filed Complaint /Representation No.15/2020 before the Hon'ble Consumer Grievance Redressal Forum (CGRF), Electricity Department, Government of Goa, VidhyutBhuvan, 4 th floor, Vasco Goa is similar to Appeal No.139 OF 2021 before the Hon'ble Electricity Ombudsman Gurugram Haryana. After hearing the matter the Hon'ble Consumer Grievance Redressal Forum (CGRF), Vasco Goa has dismissed the Complaint /Representation No.14/2020 on 8 th January 2021 with no order as to cost.

In the circumstances, as afore stated counter reply that the Pro rata demand charges can not be accepted , therefore it is prayed to set aside the above Appeal/Representation.



(C) CGRF- Goa order in CC-14/2020 dated-08.01.2021 , preferred for Appeal:

Hon'ble CGRF-Goa, has passed the following order: -

ORDER

“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.”

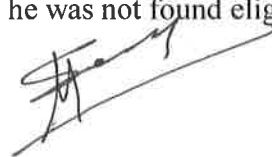
(D) Deliberations during Video hearing on 25.03.2021:

1. Appellant's Submission:

- a. Shri Yogesh V. Nadkarni-Advocate reiterated his version as submitted in appeal.
- b. He submitted that the order of CGRF-Goa is not maintainable as the same has been passed by a single member which is against the provisions of CGRF & Ombudsman Regulations.
- c. He further submitted that due to Nationwide Lockdown he was prevented to operate his factory as per Govt. restriction and therefore the plea of the Electricity Department that they were able to supply the electricity is not tenable, as nobody could move out from their homes.
- d. He added that as per clause-11.3(5) of the Tariff order dated-20.05.2019, he should be charged on pro-rata basis.

2. Respondent's Submission:

- a. Shri Stephen Fernandes, Executive Engineer on behalf of Respondent reiterated his version as submitted in reply to the appeal and requested to dismiss the appeal.
- b. He submitted that fixed charges on pro-rata basis are applicable only while releasing a New connection to other categories than the category of the Appellant. In any case Demand charges are applicable to the Appellant as his category is **Industrial- High Tension-Ferro/SM/PI/SR** and no Fixed charges are applicable to him as alleged.
- c. He further added that Goa is purchasing electricity from Central Generating Stations and they are also required to pay to Fixed/applicable charges as they have entered into long term agreements (25 years). Though Govt. of Goa has introduced a relief scheme to the consumers in respect of Fixed charges/Demand Charges as applicable, for which even budgetary support/subsidiary was provided by the Govt of Goa. The Demand Charges are applicable to the Appellant, however, he was not found eligible to the relief scheme.



(E) Findings & Analysis:-

1. I have perused the documents on record and pleadings of the parties.
2. The issues which have arisen for considerations in the present Appeal are as under: -
 - (a) Whether the order passed by the single member of Hon'ble CGRF is maintainable?
 - (b) Whether the concept of Fixed Charges and associated benefits are applicable to the Appellant?
 - (c) Whether the pro-rata Demand charges and associated benefits can be levied to the Appellant?
3. Following provisions have been provided in the Supply Code Regulations, 2018, notified by the Hon'ble Commission: -

“ CHAPTER-2

DEFINITIONS AND INTERPRETATIONS

2.3(20). “Consumer” means any person who is supplied with electricity for his/her own use by a Licensee or the Government or by any other person engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a Licensee, the Government or such other person, as the case may be including temporarily disconnected premises. A consumer is specified as a:

- a. ‘Low Tension Consumer (LT Consumer)’ if the consumer obtains supply from the Licensee at low or medium voltage;**
- b. ‘High Tension Consumer (HT Consumer)’ if the consumer obtains supply from the Licensee at High Voltage;**
- c. ‘Extra High-Tension Consumer (EHT Consumer)’ if the consumer obtains supply from the Licensee at Extra High Voltage;**

2.3(24). Contracted load” or “Contract demand” means the maximum demand in kW, kVA or HP, agreed to be supplied by the Licensee and indicated in the agreement executed between the Licensee and the consumer;



2.3(27). “Demand charge” for a billing period refers to a charge levied on the consumer based on the contracted/sanctioned load or maximum demand (reference to sub clause 2.3(50) of this Supply Code, 2018) whichever is higher, and shall be calculated as per the procedure laid down in the Tariff Order approved by the Commission;

2.3(40). “Fixed Charges” shall be as per the provisions of the prevailing Tariff Order issued for the Licensee by the Commission;

2.3(50). “Maximum Demand” means the highest load measured in average kVA or kW at the point of supply of a consumer during any consecutive period of 30 (thirty) minutes or as provided by the Commission, during the billing period;

4. Following provisions have been provided in the Tariff order dated-20/5/2019 approved by the Hon’ble Commission for the FY-2019-2020 for the State of Goa: -

“Clause 11.3 (5) (8) GENERAL TERM AND CONDITIONS: -

5) Fixed charges, wherever applicable, will be charged on pro-rata basis from the date of release of connection. These shall be double in case bi-monthly billing is carried out and shall be proportionately calculated as per the number of days of billing, similarly slabs of energy consumption shall also be considered accordingly in case of bi-monthly or periodic billing.

8) Billing of Demand in excess of Contracted Demand:

The billing shall be on the maximum demand recorded during the month or 85% of contracted demand whichever is higher. If in any month the recorded maximum demand of the consumer exceeds its contracted demand, the portion of the demand in excess of the contracted demand shall be billed at double the normal rate. Similarly, energy consumption corresponding to excess demand shall also be billed at double the normal energy rate.

The definition of the maximum demand would be in accordance with the provisions of the Supply Code Regulations notified by JERC. If such over-drawl is more than 20% of the contacted demand than the connection shall be disconnected immediately.....”



5. To mitigate the sufferings of the electricity consumers during Lockdown period, Hon'ble Joint Electricity Regulatory Commission has passed following order: -

**Joint Electricity Regulatory Commission
(For the State of Goa and Union Territories)
CORAM**

SUO MOTU PETITION NO. JERC/LEGAL/SMP/27/2020

M. K. Goel, Chairperson

Date: 10th of April 2020

In the matter of:

Directions to mitigate the hardship of Electricity Consumers and DISCOMs/ EDs in view of nationwide lockdown due to COVID-19.

And in the matter of:

The Commission on its own Motion

Vs

- (1) DNH Power Distribution Corporation Limited (DNHPDCL)
- (2) Electricity Department DD- DNH-Daman & Diu Administration
- (3) Electricity wing of Engineering Department, Chandigarh
- (4) Electricity Department- Govt. of Goa
- (5) Electricity Department- Govt. of Puducherry
- (6) Electricity Department- Andaman and Nicobar Administration
- (7) Electricity Department- Lakshadweep Administration

Suo-Moto Order

Abstract of order

The Commission acknowledges the gravity and unprecedented nature of the situation prevailing in the country affecting on one hand the ability of the DISCOMs/EDs to pay to the generators, maintain the distribution infrastructure and serve bills to the consumers and on the other hand the ability of the consumers to pay the dues on time given the fact that the conventional channels of payment are generally not accessible. Besides, the industrial and commercial consumers are staring at a situation of low production/demand on services which would severely impact their ability to pay Fixed Charges of electricity at this time.

The Commission opines that in the present situation, while some relief has been made available to the DISCOMs/EDs by CERC under the directions of Govt. of India, some respite also needs to be given to the electricity consumers who are adversely impacted by the Lockdown situation. In order to mitigate, to some extent, the difficulties being faced by the consumers of the territories under the jurisdiction of JERC, the Commission has decided as under:



- 1). DISCOMs/EDs shall have the flexibility to raise bills to their consumers in the following manner:
 - a. by direct meter reading wherever possible.
 - b. by provisional billing.
 - c. by encouraging the consumers to take their own meter readings. The DISCOM/ED can make a WhatsApp number available to the consumers to facilitate the same.
 - d. by serving the electricity bills by electronic means such as email, SMS, WhatsApp etc.
- 2). DISCOMs/EDs shall encourage all sorts of digital payments without demanding the Bank transaction charges from the consumer. This amount can be considered as collection expenses for the DISCOM/ED in ARR.
- 3). DISCOMs shall extend the due date for payment of electricity bills (including those already raised) where the due dates fall between 24th March,2020 and June 30,2020 by further two weeks without Late Payment Sur Charge (LPSC). Provided further that if such extended due date falls beyond 30th June, 2020, it will not be extended beyond 30th June, 2020.
- 4). The Commission has powers to modify its tariff orders under Section 62 of Electricity Act 2003. In exercise of this power Commission has reduced LPSC @ 1% p.m. instead of 2% p.m. as provided in its tariff orders dated 20th May 2019. This relaxation is purely of temporary nature for the period starting from 24th March 2020 to 30th June 2020.
- 5). A moratorium on payment of Fixed Charges is provided to all industrial and commercial consumers for the bills raised during the period from 24/3/2020 to 30/6/2020, which they can avail if they so desire. These deferred charges shall be recovered in an equated manner over next three bills to be raised after 30th June'2020.

The Commission hereby directs the DISCOMs/ EDs under the jurisdiction of JERC to strictly comply with the aforesaid decisions of the Commission and further directions, if any, to be issued from time to time.

The Commission further feels that the Distribution Licensees will be required to borrow/avail additional working capital over and above those specified in the Regulations. Also, there will be other additional costs required to be incurred for continuing of operations in the present situation of crisis. Associated with this, there will be an additional working capital interest. The Commission will consider the additional expenses that are likely to be incurred by the Distribution Licensees on all these accounts while evaluating the APR of FY 2020-21.

All the DISCOMs/ EDs will give sufficient publicity to above directions of the Commission for information of all Consumers by publishing it in print media, their website and through all other possible electronic means



6. The Govt. of Goa has further launched a Relief Scheme to provide further relief to the electricity consumers: -

**Office of the
Chief Electrical Engineer
Government of Goa
Electricity Department
3rd Floor, Vidyut Bhawan, Panaji, Goa**

No-CEE/PLG/TECH/Cir-2/2020-21/534

Date: 20/08/2020

Circular

All the Divisional Engineers and Sub Divisional Engineers (Tech/Com) are intimated to take note of the press note release of the Hon'ble Chief Minister dated 12th August, 2020, wherein the Government has decided to give a total rebate of Rs.18.3 Crores to all consumers for the month of April and May, 2020.

The implementation will be done centrally and adjustment of amount shall be done in future bills of consumer as per following.

1. Rebate on the difference of maximum demand charges and actual recorded minimum demand charges for the month of April, 2020 and May,2020 for all HT consumers.
2. Waive off the 50% of fixed charges billed to the LT consumers for the month of April, 2020 and May, 2020 i.e. for the period of lockdown.

It may also be noted that all the consumers whose due dates of payment of electricity bills falls between 24th March, 2020 to 31st July, 2020, are extended till 31st August,2020, without any delay payment charges.

7. Regarding issue at 2(a), I have already interrupted the CGRF and Ombudsman Regulations-2019, in Appeal N0-130/2020 and Appeal No-131/2020(which are available on the website of Joint Electricity Regulatory Commission for the state of Goa and UTs) that a single member of CGRF is competent to hear and pass orders on consumer complaints. Hon'ble Commission has also held the same views and directed the single member to hear and dispose off the consumer complaints independently till the vacancies are filled, so that consumers are not deprived of their legitimate right of 1st Appeal to the Electricity Ombudsman.



8. Regarding issue at 2(b), as per the agreement/supplementary agreements on record, the Appellant M/s Mandovi Casting Industries Pvt. Ltd had got his contract Demand reduced/enhanced from time to time as under: -

Sr.No.	Date	Old Contract Demand (KVA)	Reduction applied (KVA)	Enhancement applied (KVA)	New Contract Demand (KVA)	
1.	24.05.2005	-	-	-	1000	
2.	-	1000	-	2200	3200	
3.	13.05.2010	3200	100		3100	
4.	20.10.2014	3100	-	200	3300	

A perusal of above table clearly prove that Appellant is fully aware that billing of his industry is being done on the basis of Demand Charges in KVA and therefore now relying on the concept of Fixed charges is misconceived. A perusal of the Tariff Schedule notified by Hon'ble Commission will further strengthen that concept of Fixed charges are applicable for Low Tension categories and High Tension/Industrial Loads are regulated by the concept of Demand charges/Maximum Demand as per Tariff order.

Thus, I do not find any merit in the contention that Fixed charges concept is applicable to the Appellant calling for pro-rata fixed charges during which the factory of the Appellant was not functional due to Lock down. Even otherwise the pro-rata basis is applicable at the time of initial release of connection as per clause-11.3(5) of Tariff order.

9. Regarding issue at 2(c), Electricity Department/ Distribution Licensee is obliged to provide and maintain safe, reliable, economical Distribution System and to provide quality of supply to its consumers. Therefore to protect the Distribution System from overloading and to provide quality of power to honest consumers, the Hon'ble JERC (Commission) ,has implemented the Maximum Demand Charges/Demand Charges Metering/Billing for such power intensive industries,

As per tariff notified by the Hon'ble Commission, it has been provided under clause -11.3(8) of the GENERAL TERM AND CONDITIONS that **the billing shall be on the maximum demand recorded during the month or 85% of contracted demand whichever is higher.** If in any month the recorded maximum demand of the consumer exceeds its contracted demand, the portion of the demand in excess of the contracted demand shall be billed at double the normal rate. Similarly, energy consumption corresponding to excess demand shall also be billed at double the normal energy rate.



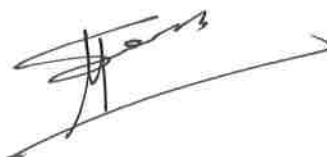
The maximum demand has been described as the highest load measured in average kVA at the point of supply of a consumer during any consecutive period of 30 (thirty) minutes. As per record the Maximum Demand in KVA and total consumption in units (Kwh) of the Appellant for the last Four months from the Lockdown period of April, 2020 is tabulated below: -

S.No.	Month/Year	Sanctioned Contract Demand in KVA	85% of Sanctioned Contract Demand in KVA	Maximum Demand recorded in KVA	Date and time of Maximum Demand recorded	Total Consumption in units(Kwh)	Period of Lockdown
1	January/2020	3300	2805	3118	16.01.2020 00.00 am	21,12,120	--
2	February/2020	3300	2805	3130	05.02.2020 14.30 am	19,33,260	--
3	March/2020	3300	2805	3127	01.03.2020 10.00 am	13,38,120	22.03.2020 to 31.03.2020
4	April/2020	3300	2805	3046	30.04.2020 11.30 am	3,22,740	01.04.2020 to 25.04.2020

A perusal of the above table reveals that though the consumption pattern in the units depends on the energy consumed in a month, but the Maximum Demand of the Appellant is always more than 85% of Sanctioned Demand i.e 2805 KVA, in any month . These factual details clearly established that in January,2020 the Maximum Demand recorded was 3118 KVA when the factory was operational for 31 days whereas in the month of April,2020 , the Maximum Demand recorded was 3046 KVA when the factory was operational for just 05 days . This clearly proves that there is no relation to the measurement of Maximum Demand w.r.t numbers of days the factory operate, because it is a measurement of average Maximum Demand consumed in a period of 30 minutes in a day.

Thus when the Maximum Demand is not dependent on number of days the factory operates, the whole case of the Appellant of charging on pro-rata basis during the shutdown of factory due to Lockdown is totally found to be bereft of merits.

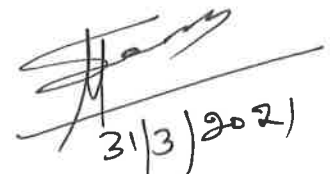
Therefore, I do not find any merit in the contention that pro-rata Demand charges and associated benefits can be levied to the Appellant during which the factory of the Appellant was not functional due to Lock down.



10. The Appellant was also not found eligible to the relief granted by the Regulatory Commission or by the Govt. of Goa to some extent, because he has been able to consume more than 85% of Sanctioned Demand i.e. 2805 KVA, during Lockdown period as enumerated above.

(F) DECISION

- (i) For the reasons discussed above, the appeal of the Appellant is dismissed with no order as to costs, being devoid of merit. The order passed by Hon'ble CGRF-Goa, dated -08/01/2021 in Complaint No- CC-14/2020 is upheld.
- (ii) In case, the Appellant or the Respondents are not satisfied with the above decision, they are at liberty to seek appropriate remedy against this order from the appropriate bodies in accordance with Regulation 37(7) of the Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019.
- (iii) The Electricity Department/Licensee should submit a compliance report to the office of Ombudsman on the action taken in this regard within **30 days** from the issuance of this Order by email.
- (iv) Non-compliance of the orders of the Ombudsman by the Electricity Department/Licensee shall be deemed to be a violation of Regulations and shall be liable for appropriate action by the Commission under the provisions of the Electricity Act, 2003.
- (v) The appeal is disposed of accordingly.



31/3/2021

(M.P. Singh Wasal)

Electricity Ombudsman

For Goa & UTs (except Delhi)

Dated 31.03.2021