



MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO. LTD.

(A GOVT. OF MAHARASHTRA UNDERTAKING)

CIN: U40109MH20005SGC153645

PHONE No. 26474753 (P)/26474211 (O)

FAX No. 26472366

Email: cecomm@mahadiscom.in

Website: www.mahadiscom.in

PLOT No. G-9, PRAKASHGAD

Prof. ANANT KANEKAR MARG

BANDRA (East)

MUMBAI-400051

No.PR-3/TARIFF/No 09466

Date:

5 APR 2019

To,

The Secretary,

Maharashtra Electricity Regulatory Commission,

World Trade Centre No.1,

13th Floor, Cuffe Parade;

Mumbai.

Subject: Petition filed for grant of clarification about Interest on refund of Change in tariff from HT Continuous to HT Non Continuous.

Ref: MERC Order in Case 94 of 2015 dt.19.08.2016.

Respected Sir,

Please find enclosed herewith the Petition, on affidavit, in respect for grant of clarification about Interest on refund of change in tariff from HT Continuous to HT Non Continuous.

The requisite fee of Rs. 10,000/- (Rupees Ten Thousand Only) is submitted through Demand Draft No.709990 dated. 05.04.2019 (in favour of MERC FUND A/C****, Bank of Maharashtra, Bandra (E)).

Submitted for your further needful please.

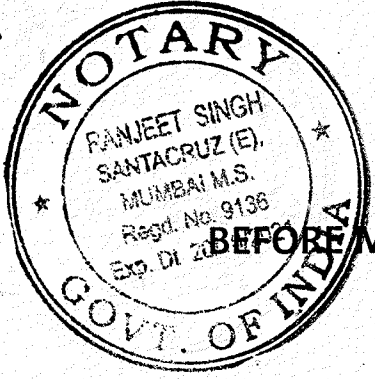
Thanking you.

Encl.: As above

Yours faithfully,


Superintending Engineer (Commercial)

Copy s.w.rs. to-
The Director (Commercial), MSEDCL, Mumbai.



**BEFORE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION,
MUMBAI**

Filing No.: _____

Case No.: _____

IN THE MATTER OF

**GRANT OF CLARIFICATION ABOUT INTEREST ON REFUND ON
ACCOUNT OF CHANGE IN TARIFF FROM HT CONTINUOUS TO HT NON-
CONTINUOUS CONSUMERS**

AND

IN THE MATTER OF

**REGULATION 15 OF MAHARASHTRA ELECTRICITY REGULATORY
COMMISSION (STANDARDS OF PERFORMANCE OF DISTRIBUTION
LICENSEES, PERIOD FOR GIVING SUPPLY AND DETERMINATION OF
COMPENSATION) REGULATIONS, 2005;**

AND

IN THE MATTER OF

**REGULATION 92 R/W 94 OF THE MAHARASHTRA ELECTRICITY
REGULATORY COMMISSION (CONDUCT OF BUSINESS) REGULATIONS,
2004**

AND

IN THE MATTER OF

MAHARASHTRA STATE ELECTRICITY

DISTRIBUTION COMPANY LTD;

PRAKASHGAD, PLOT NO. G – 9,

ANANT KANEKAR MARG,

BANDRA (EAST), MUMBAI

– PETITIONER;

Affidavit on behalf of Maharashtra State Electricity Distribution Company Limited.

I, Ajay Uttamrao Shinde, S/o Uttamrao Shinde age 46 Years, having my office at MSEDCL, Prakashgad, Plot No.G-9, Anant Kanekar Marg, Bandra (E), Mumbai - 400051 do solemnly affirm and say as follows:

I am Superintending Engineer of Maharashtra State Electricity Distribution Co. Ltd., the Petitioner in the above matter and duly authorized by the said Petitioner to make this affidavit.

The statements made in the enclosed Petition for grant of clarification about common policy for interest on refund, on account of change in tariff from HT-continuous to HT- non-continuous consumers, are true and correct to the best of information received by me in the official capacity.

I say that there are no proceedings pending in any court of law/tribunal or arbitrator or any other authority, wherein the Petitioner is a party and where issues arising and/or relief sought are identical or

similar to the issues arising in the matter pending before the Commission.

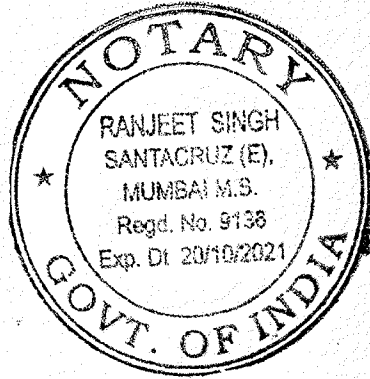
I solemnly affirm at Mumbai on this day of 05th April 2019, that the contents of this affidavit are true to my knowledge, no part of it is false and nothing material has been concealed there from.

[Signature]

Deponent

Superintending Engineer (Commercial)
M.S.E.D.C.L. Prakashgad, 5th Floor,
Prof. Anant Kanekar Marg, Bandra (E),
Mumbai-400 051.

Identified before me

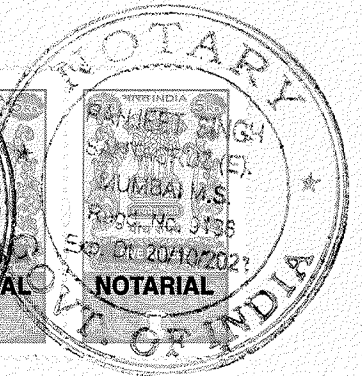
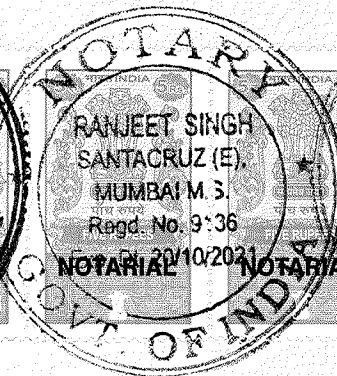
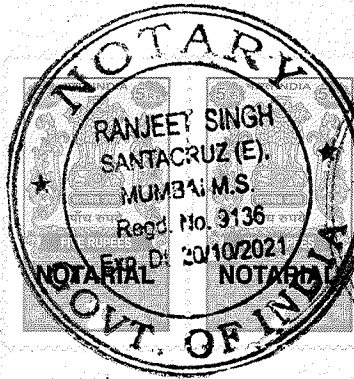
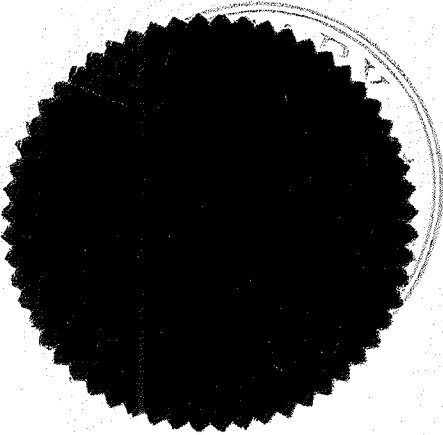


BEFORE ME

[Signature]

RANJEET SINGH
M.Sc.LL.B.
NOTARY
MAHARASHTRA
GOVT OF INDIA

- 5 APR 2019



BEFORE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION, MUMBAI

Filing No.: _____

Case No.: _____

IN THE MATTER OF

GRANT OF CLARIFICATION ABOUT INTEREST ON REFUND ON ACCOUNT OF CHANGE IN TARIFF FROM HT CONTINUOUS TO HT NON-CONTINUOUS CONSUMERS

AND

IN THE MATTER OF

REGULATION 15 OF MAHARASHTRA ELECTRICITY REGULATORY COMMISSION (STANDARDS OF PERFORMANCE OF DISTRIBUTION LICENSEES, PERIOD FOR GIVING SUPPLY AND DETERMINATION OF COMPENSATION) REGULATIONS, 2005;

AND

IN THE MATTER OF

REGULATION 92 R/W 94 OF THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION (CONDUCT OF BUSINESS) REGULATIONS, 2004

AND

IN THE MATTER OF

**MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD;
PRAKASHGAD, PLOT NO. G – 9, ANANT KANEKAR MARG,
BANDRA (EAST), MUMBAI**

– PETITIONER;

1 BACKGROUND:-

- 1.1 Maharashtra State Electricity Distribution Co. Ltd. (hereinafter to be referred to as "MSEDCL" or "the Petitioner") has been incorporated under Indian Companies Act, 1956 pursuant to decision of Government of Maharashtra to reorganize erstwhile Maharashtra State Electricity Board. The Petitioner is a Distribution Licensee under the provisions of the Electricity Act, 2003 (EA, 2003) having license to supply electricity in the State of Maharashtra except some parts of city of Mumbai.
- 1.2 The Petitioner is a Company constituted under the provisions of Government of Maharashtra, General Resolution No. PLA-1003/C.R.8588/Energy-5 dated 25th January 2005 and is duly registered with the Registrar of Companies, Mumbai on 31st May 2005.
- 1.3 The Petitioner is functioning in accordance with the provisions envisaged in the Electricity Act, 2003 and is engaged, within the framework of the Electricity Act, 2003, in the business of Distribution of Electricity to its consumers situated over the entire State of Maharashtra, except Mumbai City & its suburbs (excluding Mulund & Bhandup).
- 1.4 The Petitioner had filed petition vide Case No. 94 of 2015 for review of Tariff Order in Case No. 121 of 2014 with regard to disallowances relating to exercise of choice between Continuous and Non-Continuous supply.
- 1.5 Hon'ble Commission has issued Order in the said matter vide Order dated 19.08.2016. The Hon'ble Commission's Ruling in case No. 94 of 2015 is attached herewith as **Annexure-A**.
- 1.6 The MERC Order dated 19.08.2016 stated that change of tariff category shall be effected before expiry of second billing cycle after date of receipt of application. Thus, the ambiguity over time period for application to tariff change was conclusively cleared in the said order.

2 DEVELOPMENT SUBSEQUENT TO ORDER IN CASE NO. 94 OF 2015

- 2.1 The petitioner submits that in response to the above directives of Hon'ble Commission, MSEDCL has submitted the revenue impact of the aforesaid order in case No. 94 of 2016 vide letter dated 19.11.2016. Through this

letter, the petitioner has communicated to the Hon'ble Commission, the total financial impact of consumer applications by invoking the provision of clause 9.2 of MERC SoP Regulation 2005. MSEDCL Submitted that as per initial estimate the financial impact was evaluated at approximately Rs. 152 Crs.

- 2.2 Having regard to the importance of the matter petitioner devised a methodology for implementation of the said order and communicated the same to field offices vide various letter. (These letters collectively at **Annexure-B**).
- 2.3 Petitioner submits that in view of the Hon. Commissions Order dt. 19.08.2016 as above, it was decided that all pending as well as already disposed of applications to be considered in accordance with said order and MERC SoP Regulation cl.9.2.
- 2.4 A committee was directed to be formed at various field offices to be headed by Chief Engineer (O&M Zone) with Superintending Engineer (Circle), Superintending Engineer (Neighboring Circle), Legal Advisor (Zone) and Senior Manager (Circle Office) as its members. The authority to decide that proposals finalized by aforesaid committee were given/bestowed upon Joint Managing Director/Regional Director.
- 2.5 The petitioner submits that so far as the various cases pending before varied forums, including High Court, Supreme Court etc. directions were issued to field offices to initiate immediate actions such as withdrawal / disposal of the legal cases pending to the extent of applicability of Regulation 9.2 of SoP 2005 and to stop further legal expenses on such cases.

3 **ORDER IN CASE NO. 12 OF 2017 (Karamtara Engineering Pvt. Ltd)**

- 3.1 The Hon'ble Commission vide its order dated 03.01.2018 in case No. 12 of 2017, filed by Karamtara Engineering Pvt. Ltd. for non-compliance of Electricity Ombudsman order, directed that ***"MSEDCL shall submit within 45 days, with details, the status of withdrawal or otherwise of cases pending in the Supreme Court and High Court covered by the Order in Case No. 94 of 2015"***.

3.2 Accordingly Petitioner vide it's letter dated 21.03.2018, while informing the status of various cases before different Forums, including Hon'ble Supreme Court and High Courts, communicated that ***"there is no directives for passing of refund of interest in order in case no 94 of 2015, MSEDCL is not paying the interest (centralized refund processed through IT) and will abide by the directions, if any, as may be given by the Hon'ble Commission"***. The Hon'ble Commission is silent on the interest part. The Petitioner has also communicated to the Hon'ble Commission the approximate burden of Rs.60 Crs towards payment of interest on refunded amount.

4 ORDER IN CASE NO. 121 OF 2017 (Tulsi Casting and Machining Ltd)

4.1 It is to submit that, a petition was filed by M/s Tulsi Casting and Machining Ltd. regarding non-compliance of the Hon'ble Commission's directives in Case No. 94 of 2015 dated 19.08.2016.

4.2 In this regard, Hon'ble Commission pleased to decide the matter in Case No. 121 of 2017 dated 31.01.2018. The relevant portion of said order is as follows:

12. The Commission notes that the instant case is about nonpayment of interest on the amount already refunded towards tariff difference and hence it falls strictly under the purview of grievance. There is grievance redressal mechanism available for redressal of individual consumer grievances. The Commission therefore is of the view that the Petitioner in the first place should have approached such mechanism available to it. The Commission therefore directs the Petitioner to agitate the issue before the appropriate Forum.

5 CGRF ORDERS IN CASE NO. 188 OF 2018 & 28 OF 2018.

5.1 It is to humbly bring to the notice of the Hon'ble Commission that, CGRFs are passing orders in the similar matters with varied interest rate and from varied dates.

5.2 CGRF Bhandup in Case No. 188 of 2018 order, in the grievance filed by M/s. Allana Investing Trading Co. Pvt. Ltd on 08.10.2018 has granted interest @

6% p.a. on the refund of tariff difference amount for the period September 2011 to 2016. (Copy of the order is annexed herewith at **Annexure-C**)

5.3 Similarly, CGRF, Amravati vide its order dated 28.12.2018 in the grievance filed M/s. Raymond UCO Denim Pvt. Ltd in case No. 28/2018, has awarded interest @ 12% p.a. on tariff difference amount for the period October 13 to Aug 15 upto Oct 2017 and on Sept-2013 difference from Sept 13 to Aug-18. (Copy of the order is annexed herewith at **Annexure-D**).

5.4 It is most humbly submitted that, Hon'ble Commission in Case No. 94 of 2015 has not awarded interest on the tariff difference amount from continuous to Non-Continuous.

5.5 On the other hand, the Forums established under the Act are introducing their own interpretation, rate of interest and reasoning to award interest retrospectively for the cases filed belatedly and without regard to limitation.

5.6 The actions by the Forums are ultimately causing dent in the precarious financial status of the petitioner and compelling it to invoke the writ jurisdiction of Hon. High Courts in individual orders passed by the Forums which involves unnecessary and unending legal expenses.

5.7 Therefore, the petitioner through this clarificatory petition is praying for finally and conclusively decide the issue of interest to be the awarded, if any, on the tariff difference amount for shifting from HT-Continuous to HT Non –Continuous.

5.8 Further the Petitioner requests Hon'ble Commission that if at all it is decided to pay the interest on tariff difference amount to be paid to consumers, then allow the same to be claimed through ARR.

6 REGULATORY PROVISIONS

6.1 The Hon'ble Commission under Regulation 92 r/w Regulation 94 of the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004, has inherent powers to make orders to meet end of justice. The Regulations are reproduced below:

92. Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as

may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Commission.

94. Nothing in these Regulations shall bar the Commission to deal with any matter or exercise any power under the Act for which no regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

6.2 The Hon'ble Commission under **Regulation 15 'Power to Remove Difficulties'**, of "Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005" *the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.*

6.3 The Petitioner therefore most humbly submits that the Hon'ble Commission has powers to issue the Orders in the subject matter.

7 The petitioner states that though MSEDCL has been approaching before Hon'ble High Court to challenge individual CGRF / EO orders awarding interest, the proceeding for common policy on refund of tariff difference from Continuous to Non-continuous is not pending in any court of law/ tribunal or arbitrator or any other authority, wherein the Petitioners are a party and where issues arising and/or reliefs sought are identical or similar to the issues arising in the matter pending before the Commission.

8 PRAYERS:-


8.1 In view of the above the Petitioner most respectfully prays to the Hon'ble Commission:

- a) To admit the Petition as per the provisions of the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005;

- b) To clarify about the interest on refund on account of change in tariff from HT -continuous to HT - non-continuous consumers and approve the same in ARR.
- c) To pass any other order/relief as the Hon'ble Commission may deem fit and appropriate under the circumstances of the case and in the interest of justice;
- d) To condone any error/omission and to give opportunity to rectify the same;
- e) Permit the Petitioner to make further submissions, addition and alteration to this Petition as may be necessary from time to time.

Place: Mumbai

Date: 05/04/2019


Superintending Engineer (Commercial)

INDEX

Sr.No	Nature of Document	Date	Annexure	Page No.
1	Copy of MERC Order in Case 94 of 2015.	19.08.2016	A	1-30
2	Copy of Letters communicated to Field Offices	-Nil-	B	31-45
3	Copy of CGRF Bhandup Order in r/o M/s Allana Investing Trading Co. pvt.ltd (Case 188/2018)	08.10.2018	C	46-59
4	Copy of CGRF Amravati Order in r/o M/s Raymond UCO Ltd (Case 28/2018)	28.12.2018	D	60-67

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@merc.gov.in
Website: www.mercindia.org.in/ www.merc.gov.in

CASE No. 94 of 2015

And

Miscellaneous Application Nos. 5, 6 and 7 of 2015

In the matter of

Petition of Maharashtra State Electricity Distribution Co. Ltd. for review of Tariff
Order dated 26.6.2015 in Case No. 121 of 2014 with regard to disallowances relating to
exercise of choice between Continuous and Non-Continuous supply

Coram

Shri. Azeez M. Khan, Member
Shri. Deepak Lad, Member

Maharashtra State Electricity Distribution Co. Ltd.	Petitioner
Shri. Ashish S. Chandarana	Respondent
M/s Ruhatiya Group of Industries	Interveners
Maharashtra Veej Grahak Sanghatana	

Appearance

For Petitioner:	Adv. Ms. Deepa Chawan
For Respondent:	Shri. Ashish S. Chandarana
For Interveners:	Shri. Pratap Hogade, MVGS Shri. Ajayprakash Agrawal, RGI
Consumer Representative:	Shri. Ashok Pendse, TBIA

ORDER

Dated: 19 August, 2016

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) has filed a Petition on 21 August, 2015 under Section 94 (1) (f) of the Electricity Act (EA), 2003 read with Regulation 85 of the MERC (Conduct of Business) Regulations, 2004 for review of the Commission’s Multi Year Tariff (MYT) Order dated 26 June, 2015 in Case No.121 of 2014 (‘MYT Order’ or ‘impugned Order’) regarding the exercise of choice between Continuous and Non-Continuous supply and the applicable Tariff.

2. MSEDCL’s prayers are as follows:

- a) *“That this Hon’ble Commission be pleased to expeditiously hear the above matter.*
- b) *This Hon’ble Commission be pleased to call for the records and proceedings relating to the order dated 26.06.2015 passed by this Hon’ble Commission in Case No. 121 of 2014, and after going through the legality and propriety thereof and appreciating the facts narrated in the Petition, be pleased to review and modify the same, to the extent of the Grounds enumerated herein above.*
- c) *To admit the Petition under Section 94 (1) (f) of the Electricity Act 2003 read with Regulation 85 (a) of the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations 2005;*
- d) *This Hon’ble Commission be pleased to call for the records and proceedings relating to the order dated 26.06.2015 passed by this Hon’ble Commission in Case No. 121 of 2014, and after going through the legality and propriety thereof and appreciating the facts narrated in the Petition, be pleased to review and modify the order dated 26.06.2015 to the extent said order denies the MSEDCL revenue on account of permitting the Consumers to exercise choice by applying for change of tariff category from continuous to non-continuous and denying the revenue by computing the revenue collection on the basis of prior tariff category.*
- e) *This Hon’ble Commission be pleased to call for the records and proceedings relating to the order dated 26.06.2015 passed by this Hon’ble Commission in Case No. 121 of 2014, and after going through the legality and propriety thereof and appreciating the facts narrated in the Petition, be pleased to review and modify the order dated 26.06.2015 to the extent said order denies the MSEDCL revenue on account of permitting the Consumers to exercise choice by applying for change of tariff category from continuous to non-continuous and considering the amounts of Rs. 85.07 crores in F. Y. 2013 - 14 and Rs. 102.06 crores in F. Y. 2014 – 15 as deemed revenue of MSEDCL for the respective years.*
- f) *For such further and other consequential reliefs, as in the nature and circumstances of the case may require.*

- g) *To condone any error/omission and to give opportunity to rectify the same;*
- h) *To permit the Petitioner to make further submissions, addition and alteration to this Petition as may be necessary from time to time."*

3. In its Petition, MSEDCL has stated that:

- 3.1. The Petition is for review of the Commission's ruling in the MYT Order regarding the exercise of option by consumers for shifting from Continuous to Non-Continuous tariff category. MSEDCL may file a substantial review Petition on other issues relating to that Order separately.
- 3.2. MSEDCL has briefly set out the relevant facts relating to the option to consumers to the exercise a choice between Continuous and Non-Continuous supply since January, 1996.
- 3.3. The ruling in the impugned MYT Order regarding the exercise of choice by consumers between Continuous and Non-Continuous categories has its genesis in an objection raised during the public consultation process in Case No. 121 of 2014 leading to that Order. The objection was that MSEDCL has allowed change of tariff category from Continuous (HT-1 C) to Non-Continuous (HT-1 C) to several applicants after the period of 30 days from the issue of the relevant Tariff Order as stipulated by the Commission. Hence, MSEDCL has served the Objector (Shri. Ashish Chandarana) notice of the present proceedings.
- 3.4. MSEDCL has also submitted before the Nagpur Bench of the Bombay High Court in Public Interest Litigation (PIL) No. 22 of 2015 that MSEDCL would be filing a review Petition before the Commission.
- 3.5. Review of the impugned Order lies on the following grounds, and specifically the grounds at 'a' below, relating to the Tariff Order dated 16 August, 2012 in Case No. 19 of 2012 ('2012 Tariff Order'):
 - a. Paragraph 2.32.1 of the impugned MYT Order shows that the Objector, Shri Chandarana, had made submissions on the basis of the 2012 Tariff Order. In fact, that Tariff Order does not contain any directive relating to the exercise of option to shift from the Continuous to Non-Continuous tariff category within 30 days from the Order. The impugned MYT Order relies heavily on this assertion of the Objector, and consequently came to the conclusion that there was a revenue loss. Therefore, the impugned Order needs to be reviewed on this error of fact.

- b. It is the settled position in law that every Tariff Order is a separate and distinct Order. Thus, reliance on the Order dated 12 September, 2008 in Case No. 44 of 2008 to conclude that, after passing of the subsequent 2012 Tariff Order, the earlier Order continues to operate is an error of law.
- c. Regarding the choice of a consumer/applicant to seek change of tariff category, the MERC (Standards of Performance (SoP) of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations ('SoP Regulations'), 2005 permits it as an option to be exercised by the consumer without any fetters. These Regulations have been infringed by the stipulation in the Order dated 12 September, 2008. The Commission is bound by the Regulations, and the Order dated 12 September, 2008 cannot be read in isolation from and in contradiction to them.
- d. MSEDCL had pointed out in the MYT proceedings in Case No. 121 of 2014 that the matter was sub-judice. The same Objector, Shri. Ashish Chandarana, has himself treated the Order dated 12 September, 2008 as directory in PIL No. 22 of 2015.
- e. The direction given in the Order dated 12 September, 2008 is directory in nature to ensure proper planning and in the light of the then prevailing load shedding. The directory nature of the Order is evident from the applicable SoP Regulations, 2005 and the use of word 'may' in the Order dated 12 September, 2008.
- f. The ambit of the MYT proceedings in Case No. 121 of 2014 did not include and was not otherwise relatable to the Order dated 12 September, 2008. That Order was passed on a clarificatory Petition filed by MSEDCL under the then applicable Tariff Regulations of 2005, which were in force for the period from FY 2006-07 to FY 2010-11.
- g. Upon passing of the 2012 Tariff Order, the effect, operation and implementation of the Order dated 12 September, 2008 did not survive. Any action by MSEDCL of adhering to the one month option contained in the earlier and subsequently inapplicable Order dated 12 September, 2008 does not result in making the same operative after passing of the subsequent 2012 Tariff Order by the Commission.
- h. The scope and ambit of Case No. 121 of 2014 related to MYT proceedings under the Electricity Act (EA), 2003. The suggestions and objections received from the public, including the objection relied upon at paras.2.32 and 3.29 of the

impugned MYT Order, were in the course of proceedings conducted under Section 64(3) of the EA, 2003. Thus, the issue of the nature of the option to be exercised within one month of the Tariff Order conflicts with the SoP Regulations and the liberty granted by the Bombay High Court in WP No. 5437 of 2013, wherein the exercise of option within one month did not find favour of the High Court, needed to be considered and adjudicated, which was beyond the scope of the proceedings under Section 64(3).

- i. The impugned Order reveals an error which is apparent on the face of the record in as much as it mistakes the opportunity loss as a revenue loss.
- j. MSEDCL was not given an opportunity to rebut the applicability or consequential impact of mandatory compliance with the stipulation of exercising option within one month of the Tariff Order, as contended by relying upon the Order dated 12 September, 2008. It was not put to notice of the fact that reliance would be placed on the Order dated 12 September, 2008 passed in the earlier MYT Control Period to deny MSEDCL the revenue to which it is legitimately entitled.
- k. The impugned Order penalizes MSEDCL by treating a direction, which under law was directory, as mandatory, though it was applicable in an earlier (first) Control Period.
- l. The categorization of Continuous and Non-Continuous created at a time when load shedding was prevalent has to be considered in the light of reduced load shedding since 2012. With reduction in load shedding since 2012, the right of the consumer to decide the kind of supply being supreme, the need for MSEDCL to reduce migration of consumers with the ushering in of Open Access to safeguard subsidised consumers are issues which need to be deliberated to appreciate the bonafide actions of MSEDCL in permitting change of Tariff category by applicant consumers.
- m. The rationale for Continuous / Non-Continuous tariff was availability of power in a shortage scenario. Once 24x7 power was available to all consumers, a considered, fair and bonafide view on tariff category was adopted. MSEDCL has taken this action in the letter and spirit of the EA, 2003, the Regulations and Commission's directives. This was one of the actions necessary to retain cross-subsidizing consumers who might otherwise leave MSEDCL by availing power through Open Access from other suppliers, and hence the Recovery Committee took the decision to protect the interest of MSEDCL. This action has helped industry to survive in the recession period, and MSEDCL to earn revenue for the subsidised categories of consumers.

4. On 7 August, 2015, MSEDCL submitted an Addendum to the present Petition seeking review of certain other issues relating to the MYT Order. The Addendum was subsequently withdrawn, after the Commission allowed MSEDCL to agitate those issues separately.
5. Shri. Ashish Chandarana, of 21, Shrikrupa Colony, Akola Road, Akot, District Akola, has been impleaded by MSEDCL as he was the Objector who had raised the issue at hand in the MYT proceedings. At that time, and during these proceedings, he was also an Authorised Consumer Representative. Shri Chandarana filed a Miscellaneous Application (M.A.) No. 5 of 2015 on 4 August, 2015 seeking additional documents from MSEDCL relating to consumers' applications for change of category and the action taken on them. He pointed out that, in the present proceedings, MSEDCL has taken a view which is contrary to its earlier stand. Moreover, he had received only a soft copy of the Petition, and no hard copy with annexures.
6. Vide e-mail dated 10 August, 2015, Shri Ashok Pendse on behalf of Thane-Belapur Industries Association (TBIA), an Authorised Consumer Representative, stated that MSEDCL did not inform the Commission about the proceedings pending before the Nagpur Bench of the Bombay High Court with similar prayers. The arguments put forward and grounds pleaded by MSEDCL do not constitute new and important matters or evidence or otherwise meet the conditions for review. Hence, the Commission may reject the review Petition.
7. Ruhatiya Group of Industries (RGI), through Shri. Ajayprakash Agrawal, Kirana Bazar, Akola, filed an Intervention Application on 10 August, 2015 opposing MSEDCL's Review Petition. The intervention sought has been granted, and is being considered as M.A.No. 6 of 2015 in these proceedings. RGI has stated as follows:

7.1 MSEDCL has filed a false affidavit stating that it has not filed any Petition before any Court involving a similar or identical issue. Hence, the review Petition is not maintainable.

7.2 MSEDCL has filed a SLP before the Supreme Court against the Order dated 10 September, 2014 of the Bombay High Court. The High Court had granted relief to the Applicant, observing that the application for change of category, which was filed within 30 days from the date of the MSEDCL Commercial Circular, was within the stipulated time frame as the same practice was adopted by MSEDCL following past Tariff Orders.

7.3 The issue of applicability of the SoP Regulations is being raised for the first time before the Commission through this review Petition. This stand is contrary to the Petition in Case No. 219 of 2014, in which MSEDCL had referred to the clarificatory Order dated

12 September, 2008 and concluded that the option of shifting from Continuous to Non-Continuous category was available only for one month from the date of the Tariff Order.

7.4 The issue of Regulation 9.2 of the SoP Regulations, 2005 is raised as an afterthought by MSEDCL considering the following:

a. Only a few select consumers were given the benefit of change from Continuous to Non-Continuous supply from the second billing cycle, and the rest were all given the benefit prospectively. Thus, only about 5% of the consumers were benefited retrospectively, for which MSEDCL is claiming lawful applicability of the SoP Regulations, 2005.

b. MSEDCL has filed more than 75 Writ Petitions in the Bombay High Court against the Orders of the Electricity Ombudsman and the Consumer Grievance Redressal Forum (CGRF), Kolhapur. The appeals are on the ground that SoP Regulation 9.2 is not applicable to the present issue. On this ground also, the Petition of MSEDCL cannot be entertained as the relief sought is subjudice before the High Court.

c. MSEDCL has filed a SLP before the Supreme Court against the Order of Bombay High Court granting relief to the RGI Group Company Ruhatiya Spinners Pvt. Ltd. and observing that the application for change of category, which was filed within 30 days from the Commercial Circular, was within the stipulated time.

8. The Maharashtra Veej Grahak Sanghatana (MVGS), 16/581, Momin Mill Stores, Opp. Shahu High School, Shivaji Nagar, Ichalkaranji, District Kolhapur, through its President Shri. Pratap Ganpatrao Hogade, filed an Intervention Application on 10 August, 2015. The intervention sought is granted by the Commission, and is being considered as M.A.No. 7 of 2015 in these proceedings. MVGS has stated as follows:

8.1 MSEDCL has for the first time taken a considered and reasoned view that all the applications seeking change in tariff are eligible for prospective effect as per SoP Regulation 9.2.

8.2 Vide Tariff Order dated 20 October, 2006, the Commission created two different categories in the HT Industrial consumer category, i.e. Continuous and Non-Continuous. The Commission issued its last clarification in the matter in Case No.44 of 2008, which was moved by MSEDCL itself seeking clarification on this and some other issues. Thereafter, from 12 September, 2008 to 26 June, 2015, this clarification was in existence. In the last MYT Order dated 26 June, 2015, the Commission has given a new clarification.

8.3 MSEDCL has taken different stands as per its own convenience in different cases. As per Sections 45(4) and (5) of the EA, 2003, such discrimination is not permissible.

8.4 All the applications are eligible on the basis of Regulation 9.2 of the SoP Regulations, 2005, and of Regulation 4.13 (b) of the subsequent SoP Regulations, 2014 in case the applications are after 20 May, 2014. It is necessary to clear all the pending applications on the basis of the SoP Regulations.

9. In its submission of 11 August, 2015, Vidarbha Industries Association (VIA), an Authorised Consumer Representative, stated as follows:

9.1 In the context of Regulation 85 (a) of the Commission’s Conduct of Business Regulations governing review, there is no error apparent on the face of the record in the impugned MYT Order, nor is there discovery of any new or important matter. Hence, the review Petition is not tenable.

9.2 A similar matter is pending before the Nagpur Bench of the Bombay High Court, i.e. a PIL filed by Shri. Ashish Chandarana in which the Commission and MSEDCL are Respondents. During the pendency of that similar matter, MSEDCL cannot file this review Petition. Further, since the Commission is also a Respondent in that PIL, it will not be proper and legal on the part of the Commission to issue any Order on this review Petition.

9.3 MSEDCL had taken a different stand in WP No. 5437 of 2013. At para. 4 of its Order, the Nagpur Bench of the Bombay High Court stated that

“4] Shri S. V. Purohit, learned counsel appearing for petitioner submitted that under the terms of the tariff order dated 16.08.2012 it was incumbent upon the respondent no.1 to have applied within a period of one month from said date if it desired change in category from continuous to non continuous supply. However, said choice was exercised by the respondent no. 1 on 04.10.2012. As the same was beyond the period of one month the respondent no.1 was not entitled to the requested change from continuous to non continuous supply. He submitted that the Forum without considering the effect of order dated 12.09.2008 passed by the MERC has directed said change to be effected from 01.08.2012. He further submitted that the Circular dated 05.09.2012 did not state that the choice was to be exercised within a period of one month thereof and hence the Forum erred in relying upon the aforesaid Circular while partly allowing the claim. He further submitted that grant of interest at the rate of 9% p. a. was not in accordance with the provisions of Section 62 of the Electricity Act, 2003 (for short the said Act). He further urged that no case was made out for awarding compensation and costs.”

Hence MSEDCL is taking two different stands before two different authorities.

9.4 In reply to a query raised by VIA during the Technical Validation Session of the last MYT proceedings, MSEDCL had stated that the tariff category of 174 consumers was changed to Non-Continuous even though they had applied after 16 September, 2012, i.e. beyond one month of the Tariff Order, and its annual impact on MSEDCL's revenue is Rs. 155.71 crore. About 2 years have passed after the change in this consumer category, and hence the impact on revenue is more than 300 crore.

9.5 All the interim tariff charges like Additional Energy Charge (AEC), IC charges, Mahagenco charges, revision in Time of Day (ToD) Tariff, etc. amount to revision in tariff, and applications submitted by consumers for change of tariff category within one month of the Orders relating to such charges should have been considered by MSEDCL, and all other applications should have been rejected.

9.6 MSEDCL should submit details of all appeals before the Supreme Court and High Court against the CGRF and Electricity Ombudsman's Orders in which relief in change in tariff from Continuous to Non-Continuous or related refunds have been granted.

9.7 MSEDCL should also submit the impact on its Aggregate Revenue Requirement (ARR) if SoP Regulation 9.2 is applied in respect of all the consumers whose applications have been kept pending or are under litigation before the High Court or Supreme Court.

10. At the hearing on 12 August, 2015, MSEDCL reiterated its arguments in support of the admissibility of the review Petition, while Shri. Ashish Chandarana opposed its admissibility. On the Miscellaneous Application No. 5 of 2015 filed by Shri.Chandarana seeking certain documents, MSEDCL stated that it is not denying any documents to him, but would like to restrict it to the legal requirements of the present Case. Intervention Applications filed by MVGS through Shri Hogade.(in MA NO. 7 of 2015) and by RGI through Shri. Agrawal (in MA No. 6 of 2015) were allowed.

11. In its Reply dated 24 August, 2015 to MA No.5 of 2015 (of Shri Chandarana), MSEDCL stated as follows:

11.1 Review proceedings specifically entail limited and specific jurisdiction to point out the error of law. MSEDCL would be primarily pointing out the error apparent from the face of the record, and cannot be non-suited in the proceedings by calling upon the entire proceedings to be a detailed re-hearing and appreciation of facts.

11.2 MSEDCL has undertaken a complete overview of the legal provisions and taken an informed view in the matter. The right of the consumer to seek a particular supply from a Distribution Licensee is conferred by the EA, 2003 and the Constitution of India. That right cannot be denied on the basis of what is an opportunity cost and terming it erroneously as a revenue loss. MSEDCL has also been made aware of the correct legal

position on the issue and would, therefore, be taking steps in consonance and in conformity with the law in respect of the pending litigations before various legal forums.

11.3 The additional documents sought by Shri Chandarana have been made available to him independently of the present proceedings. However, as the review Petition goes to the root of the legality or otherwise of a direction issued contrary to the statutory Regulations, these documents are irrelevant for adjudication of the review Petition.

12. In his Rejoinder dated 26 August, 2015, Shri Chandarana has stated as follows:

12.1 In the context of the requirements for review, MSEDCL has failed to establish what is the discovery of new and important matter or new evidence which was not within its knowledge or that it could not produce at the time when the Order was passed. MSEDCL has also failed to explain what is the mistake or error apparent on the face of the record in the impugned Order.

12.2 MSEDCL is trying to bring on record new material by virtue of annexures which was not placed before the Commission during the MYT proceedings of Case No. 121 of 2014 to have the Commission's ruling reversed.

12.3 The present Petition is totally contradictory to submissions made by MSEDCL in Case No. 219 of 2014, quoted below:

"Para 6:- The tariff order 19 of 2012 is in effect since August 2012. MSEDCL has not filed ARR in consequent years and new tariff order was not issued within a year. In view of present risk of shifting the industries to nearby state, it was decided to consider consumers request for change in tariff categorization from Continuous to non Continuous for those consumers who opt for change in tariff even after one month from the date of issue of tariff order. This policy is extended benefit to the consumers for processing the application after the period of one month from the date of issuance of existing tariff order.

Para 10:- Further MSEDCL has always taken due note of submission made by consumers and initiated the appropriate action on case to case basis.

Para 12:- MSEDCL process the consumers application opting for change of tariff from continuous to non continuous tariff category and allows the change in tariff. The piling up of applications for change of tariff from continuous to non continuous and the appropriate action initiated by MSEDCL cause huge Financial Burden on MSEDCL. The Govt. Audit has also raised an objection on the same issue. Thereafter from dated 28.01.2014, MSEDCL has decided not to entertain such application for change of tariff from continuous to non continuous received after one month from date of issue of tariff order and discontinued this Practice.

Thus, when no PIL was pending against MSEDCL and no adverse observation was passed by the Commission, MSEDCL's stand was as quoted above. Now, after filing of the PIL in the Bombay High Court (Nagpur Bench) and the adverse observations of the Commission on the revenue loss of Rs. 187 crore, MSEDCL has come up with a different stand on the same issue. Therefore, it is an afterthought, and hence the review Petition is not maintainable.

12.4 MSEDCL has suppressed the fact that the identical issue is sub judice before the Supreme Court in SLP 1911 of 2015 in which it has challenged the Order dated 10 September, 2014 of the Nagpur Bench of the Bombay High Court.

12.5 MSEDCL is now trying to rely on Regulation 9.2 of the SoP Regulations, 2005 to justify its actions. This does not fall within the meaning of something new being brought on record so as to justify review. Otherwise also, the Commission cannot adjudicate on issue as it has been disputed by MSEDCL by filing a large number of Writ Petitions before the Bombay High Court against similar orders of the Electricity Ombudsman, Mumbai.

12.6 The SoP Regulations are a kind of citizens' charter notified by the Commission as a Regulator after consultation with stake-holders for the execution of lawful work so as to provide quality services to consumers. Under Regulation 9.2, provision has been made to apply the lawful tariff to any consumer upon his application and for lawful change of name within the second billing cycle from the receipt of application. While doing so, the applicability of Tariff has to be imported from the prevailing Tariff Orders of the Commission. This Regulation does not empower Utilities to apply any Tariff as desired by an applicant consumer or Utility or State Government. The Commission's Tariff Order is binding while effecting a change of Tariff for any consumer. In the present instance, all applications received within 30 days from the date of the Tariff Order or Circular have to be processed within the time limit of the second billing cycle, when read with Regulation 9.2, for maintaining the standards of performance, which is also not done.

12.7 As regards the continuation of the clarificatory Order dated 12 September, 2008 in the 2012 Tariff Order, during the proceedings of that Case many Objectors had sought merger of the Continuous and Non-Continuous tariff categories in view of the withdrawal of load shedding. However, MSEDCL had opposed this stating that its system needed to get stabilized and that would require time. MSEDCL had submitted that the consumer had an option to switch to non-express feeders within a month of the Tariff Order. This submission of MSEDCL was inconsonance with the clarificatory Order dated 12 September, 2008. In that Order, the Commission allowed MSEDCL's prayer regarding applicability of tariff and made it clear that:

“It should be noted that all previous clarifications given by the Commission through its various Orders continue to be applicable, unless they are specifically contrary to anything that has been stated in this Order, wherein the clarifications given in this order shall prevail.”

Thus, the Commission allowed MSEDCL’s prayer and rejected the suggestion to merge the Continuous and Non-Continuous tariffs. The Commission also continued its past clarification with regard to the option of migrating from HT-1 Continuous to HT-1 Non-Continuous and vice versa as per the submission made by MSEDCL.

12.8 Hence, the review Petition may be dismissed, and non-compliance proceedings may be initiated against MSEDCL for violating the Tariff Order and thereby causing the financial loss as assessed by the Commission.

13. Vide e-mail dated 7 October, 2015, Shri Ajayprakash Agrawal, for the Intervener RGI, sought adjournment of the hearing scheduled on 8 October, 2015 for personal reasons, and also stated that, even after the directions in the Daily Order dated 12 August, 2015, MSEDCL has not provided the requisite documents.

14. At the hearing on 8 October, 2015, Shri. Chandarana and Shri. Hogade stated that they are yet to receive the documents as directed by the Commission. MSEDCL assured that the copies of the Petition would be served within a day and that it would also file its Reply to the Intervention Applications. The Commission adjourned the hearing with directions to the concerned Parties to list the documents sought by them and whether they have been provided by MSEDCL or otherwise.

15. In reply to the submission of Shri Pendse for TBIA, MSEDCL stated as follows:

15.1 The review Petition clearly discloses the pendency of PIL No. 22 of 2015 before the Bombay High Court, in which MSEDCL is a party. That PIL, which was filed on 20 March, 2015, is not related to the impugned MYT Order. The issue may be the same but, upon passing of the MYT Order, the present review Petition has been filed under the legal remedy provided in Section 94 of the EA, 2003, which cannot be denied to MSEDCL.

15.2 As regards the maintainability of the Petition, the Commission in its impugned MYT Order had overlooked an applicable statutory provision, which is a ground for review.

15.3 The contention that Continuous and Non-Continuous supply is a type of load and not a tariff category is factually a misreading of this aspect. Undoubtedly, an industrial process may be Continuous or Non-Continuous. The tariff categorization was evolved on the basis of the industrial process and related to the nature of load. Thus, the tariff

categorization was effected upon considering the factor of industrial processes being Continuous or Non-Continuous.

16. In its Reply dated 13 October, 2015 to MA No.6 of 2015 (of RGI), MSEDCL submitted the following:

16.1 It is denied that MSEDCL has moved the present review Petition for deletion of the adverse observation in the impugned MYT Order. The Petition arises from the binding statutory Regulations, namely Regulation 9.2 of the SoP Regulations, being infringed by the Order dated 12 September, 2008 and by the impugned MYT Order.

16.2 In its Petition, MSEDCL has disclosed the pendency of the PIL proceedings pending before the Nagpur Bench of the Bombay High Court.

16.3 RGI has contended that MSEDCL has preferred various proceedings, including moving a SLP against it which is pending in the Supreme Court, in which MSEDCL has supported the Order dated 12 September, 2008. In the present review Petition, MSEDCL has considered the entire picture and taken an informed decision, including the legal perspective of the Tariff-related Order and the applicability of the statutory Regulations. It is the settled position in law that, once statutory Regulations are in place and in force, they cannot be disregarded and are binding on all concerned, including the Commission. There cannot be estoppels against law.

17. In its Reply dated 16 October, 2015 in MA No.7 of 2015 (filed by MVGS), MSEDCL stated as follows:

17.1 A clarification would always revert to the main Order and not otherwise. The Tariff Order dated 16 August, 2012 did not continue the earlier clarificatory Order of 2008. Procedural directions issued in any Order cannot interpret substantive orders or law. It is in this context that, after taking a completely informed view of the legal matrix, technical ambit and the financial aspects, including the various problems associated with these aspects and orders adverse to the direction contained in the clarificatory Order dated 12 September, 2008, MSEDCL has submitted before the Commission a complete picture for a review of the matter.

17.2 As regards the various stands taken by it earlier or elsewhere, MSEDCL has presently taken an informed and studied view on the legal aspects. The Commission in its dispensation may allow it to be applied uniformly, including in matters pending before judicial forums.

17.3 The review Petition relies on Regulation 9.2 of the SoP Regulations, and perusal of the Order dated 12 September, 2008 would reveal that the direction contained therein clearly infringes that Regulation.

17.4 On various representations, the Electricity Ombudsman has upheld the rights of the consumers to change their tariff category. The High Court has also taken the view that the Regulations prevail.

17.5 As regards the denial of revenue / deemed revenue of Rs. 187 crore in the MYT Order, MVGS has made no suggestions. However, MVGS seeks to uphold the right of the consumer to the type, nature and purpose of supply, which is in accordance with Constitutional provisions. Once the choice of the consumer is upheld, then financially what is computed is the opportunity cost and cannot be deemed as a revenue loss.

17.6 The subordinate/ delegated legislation prevails over any directions contained in the Order dated 12 September, 2008. Therefore, the said directions should be treated as void ab initio. The Commission as the Regulator would then issue consequential directions in respect of the pending matters, which would avoid multiplicity of litigation.

18. At the hearing on 24 November, 2015, the Parties were informed of the Chairperson of the Commission having demitted office on 9 November, 2015, consequent to which the matter would now be heard by the two remaining Members. The Parties gave their consent to further hearing of the matter as being in continuance of the earlier proceedings. Shri.Chandarana had earlier requested adjournment of the hearing due to his inavailability for personal reasons. MSEDCL submitted that it would be appropriate to argue the matter when Shri. Chandarana is present, with which Shri. Pratap Hogade (MVGS) and Shri Ashok Pendse (TBIA) also agreed. The Commission adjourned the hearing accordingly.
19. In his additional written submission filed on 1 December, 2015 (on the date of the subsequent hearing), Shri Ashish Chandarana stated as follows:

19.1 The present matter relates to an alleged multi-crore scam already vetted by the Commission and admitted by MSEDCL in a separate Petition in Case No. 219 of 2014, which was subsequently amended. The irregularity of violating the Tariff Order by allowing change in the tariff even after a month and thereby causing revenue loss has also been confirmed by the Comptroller & Auditor General (CAG) in his final Report after rejecting MSEDCL's explanation. The justification then provided by MSEDCL to CAG and its present submissions before the Commission are altogether different. The law of estoppel (Section 115 of the Indian Evidence Act, 1872) bars MSEDCL from doing so:

“Estoppel: - When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true

and to act upon such belief, neither he nor his representative shall be allowed in any suit or proceedings between himself and such person or representative, to deny the truth of that thing.”

19.2 In this context, MSEDCL has already admitted in Case No. 219 of 2014 the fact of revenue loss and the circumstances which compelled it to allow consumers migrate from HT-1 C to HT-1 N even after one month. In SLP Civil No. 1911 of 2015 pending before the Supreme Court also, MSEDCL has contended that a consumer cannot opt for such change after a month of the 2012 Tariff Order. In the office notes leading to filing of the SLP, all the senior MSEDCL officials had agreed with this stand, even though several applications had been sanctioned earlier in violation of this.

19.3 Even prior to the filing of the SLP, MSEDCL had also taken a similar stand before the Bombay High Court (Nagpur Bench). The High Court had agreed with MSEDCL and granted relief limited only to M/s Ruhatiya Spinners Pvt. Ltd. considering the facts and circumstances of that case, and stated that it could not be treated as a precedent.

19.4 MSEDCL has also challenged many Orders of the Electricity Ombudsman and CGRF, Kalyan Zone holding that the change in Tariff from HT-1 C to HT-1 N cannot be effected as per the SoP Regulations provision. In Case No. 19 of 2012 leading to the 2012 Tariff Order, MSEDCL in its Petition accompaniments (replies to data gaps, etc.) also recognized that

“the consumers have option to switch to non-express feeders within one month of the Tariff Order of the Commission.”

19.5 The copies of MSEDCL office notes (summarized and annexed to the additional submission) show that, in 2013, different treatments were adopted for applications received within a month of the 2012 Tariff Order (effect to be given within a month of application) and those received thereafter (prospective effect to be given within a month of Head Office approval). There are several other such notings from 2012 onwards.

19.6 Therefore, MSEDCL’s stand now that the one month criterion is not applicable is not maintainable.

19.7 In practice, the office notes show that 16 applications for change made within a month of the 2012 Tariff Order were sanctioned in February, 2015, and 23 out of 234 applications beyond one month were also sanctioned. Thus, the 16 valid applications were also not sanctioned within the time-frame of the SoP Regulations. In the case of M/s Jindal Poly Films, which applied beyond the period of a month of the 2012 Tariff Order (in November, 2012 and submitted for Head Office sanction in December, 2012), sanction was granted retrospectively in January, 2013, when 250 similar applications

were pending. In fact, the notes show that, even in the 1st MYT Control Period prior to the 2012 Tariff Order, 10 consumers were allowed such change although they had applied after a month, inspite of MSEDCL's instructions to field offices dated 3 September, 2010 to the contrary.

19.8 Review lies if there is an error apparent on the face of the record. If any material was not placed before the Commission during the MYT proceedings in Case No. 121 of 2014, it cannot now be claimed as part of the record. Alternatively, there should be a new discovery which was not within the knowledge of MSEDCL inspite of due diligence. The decisions taken by six of its top officials on the basis of the detailed office notes cannot besaid to not have been within MSEDCL's knowledge during the proceedings leading to the impugned MYT Order. There is no question of an opportunity loss having been erroneously treated as a revenue loss in the impugned MYT Order, as claimed by MSEDCL: the actions of MSEDCL were an attempt to bypass the Commission's Order.

19.9 MSEDCL's present stand is that, every Tariff Order being separate and distinct, the Order in Case No. 44 of 2008 cannot be cited to claim that it continues to operate even after the subsequent Tariff Order of 2012. In fact, the 2012 Tariff Order explicitly states that

"...all previous clarifications given by the Commission through its various orders continue to be applicable, unless they are specifically contrary to anything that has been stated in this Order, wherein the clarifications given in this Order shall prevail."

19.10 In fact, MSEDCL was entitled to seek review or appeal against the Order in Case No. 44 of 2008. It is not known whether it did so. The present proceedings do not relate to a review of that Order, which MSEDCL has accepted for the last 7 years.

19.11 The time limit for change in the tariff as per the SoP Regulations, read with Section 57 of the EA, 2003, has to be read with the provisions of the Tariff Orders. For instance, if the Tariff Order stipulates a Below Poverty Line (BPL) consumer criterion of upto 0.10 kW sanctioned load with upto 20 kWh monthly consumption, a BPL Card holder cannot cite the SoP Regulations to compel MSEDCL to change his tariff to the BPL category even though his consumption parameters are higher.

19.12 It is urged that Commission Member Shri Deepak Lad may recuse from these proceedings since he is a former employee of MSEDCL and had worked under the officials whose acts are under question.

20. At the hearing on 1 December, 2015,

20.1 MSEDCL stated that every Tariff Order is a separate and distinct Order, and needs to be read as per the conditions mentioned in that Order. Even though the Order dated 12 September, 2008 in Case No. 44 of 2008 is titled as a clarificatory Order, for the purpose of deciding the period in which consumers had the option to avail Non-Continuous supply, it has to be treated as a procedural Order. Thus, the reliance on the procedural directions in the Order dated 12 September, 2008 to conclude that they are in force even after the passing of the subsequent Tariff Orders is an error in law. MSEDCL itself had implemented the Order dated 12 September, 2008 till the issue of the impugned MYT Tariff Order dated 26 June, 2015. However, MSEDCL has now taken a re-look at the issue and found that the procedural direction dated 12 September, 2008 is not legally tenable as it contravenes Regulation 9.2 of the SoP Regulations and Article 19 (1) (g) of the Constitution of India. Hence, MSEDCL has taken a conscious decision to change the previous stand taken by it in various forums. Without prejudice to its stand on the legality of the Order dated 12 September, 2008, the revenue loss of Rs 187 crore calculated by the Commission in its impugned MYT Order should be treated as an opportunity loss instead of a revenue loss.

20.2 Shri Ashish Chandarana summarized the main contentions in his latest submission. He stated that MSEDCL had failed to cite any mistake or error apparent on the face of the record in the MYT Order. He gave details of the discriminatory approach adopted by MSEDCL in permitting change of category, and sought an investigation of these irregularities. The SoP Regulations have been notified in accordance with Section 57 of the EA, 2003. They can be invoked only for the purpose of lawful requests of the consumer. If the option of change of category is limited by the Commission through a special dispensation to one month from the date of Tariff Order, the SoP Regulations cannot be invoked after the lapse of such period.

20.3 Shri Pratap Hogade (MVGS) stated that the Commission's Order dated 12 September, 2008 in Case No. 44 of 2008 and the provisions of the SoP Regulations needs to be read harmoniously. The Order dated 12 September, 2008 gives retrospective effect, whereas Regulation 9.2 gives prospective effect to a change of category. He supported the stand of MSEDCL, and sought that the change of category from Continuous to Non-Continuous be allowed in accordance with the SoP Regulations after the lapse of the period of one month stipulated by the Commission.

20.4 Shri. Agrawal (RGI) stated that different stands have been taken by MSEDCL in different forums. He elaborated the stand taken by MSEDCL in support of the Order dated 12 September, 2008 before the Supreme Court. He added that MSEDCL is deliberately forcing small consumers into legal tangles, and requested the Commission to penalize it.

20.5 Shri Ashok Pendse (TBIA) contended that this is not a fit case for review as there is no error on the face of the record.

20.6 MSEDCL reiterated its position, and stated that it is in the process of communicating to the various forums its changed stand on the applicability of the Order dated 12 September, 2008.

Commission's Analysis and Ruling

21. In his additional and last written submission dated 1 December, 2015 (though not at the hearing held the same day nor in earlier written submissions in these proceedings), Shri Chandarana has urged that one of the Commission Members recuse from this Case since he is a former employee of MSEDCL, and had worked under the officials whose acts are in question. The Commission notes that the present review Petition arises from MSEDCL's grievance against the impugned MYT Order (para. 3.29) dated 26 June, 2015 on the issue raised by Shri Chandarana (cited at para. 2.32 of that Order). The Member concerned was on the Bench which passed that MYT Order with which MSEDCL is aggrieved, and Shri Chandarana did not object to his association with the original proceedings. That being the case, raising this objection at the stage of review and at the fag end of these proceedings is not tenable. The Commission notes, moreover, that Shri Chandarana has himself participated as an Authorised Consumer Representative or on behalf of Petitioners in several Cases involving MSEDCL in which the concerned Member was on the Bench, without seeking that he recuse. As such, the Commission finds no merit in the present plea for recusal of the concerned Member.

22. In the impugned MYT Order, the Commission recorded that, by its Order in Case No. 44 of 2008, it had allowed HT-I Continuous consumers to exercise their choice between Continuous and Non-Continuous supply within the first month of the Tariff Order for the relevant Tariff Period. In this context, on the issue raised by Shri Ashish Chandarana during the MYT proceedings, the Commission held in its impugned MYT Order as follows:

"3.29.4 While MSEDCL's allowing switch over for an extended period has benefited some consumers, the consumers at large cannot be made to bear any additional burden on account of its discretionary and unsanctioned act.... From the data submitted, the Commission observes that 28 consumers were granted permission for change in category within the stipulated period. However, MSEDCL received applications from 280 consumers thereafter, out of which it granted permission to 132 consumers, and the remaining 148 are pending.

3.29.5 Based on the above, the Commission has worked out the approximate loss of revenue on account of allowing such shifting even after the time limit stipulated by

it, at Rs. 85.07 Crore and Rs. 102.06 Crore in FY 2013-14 and FY 2014-15, respectively. The Commission decided to consider these amount as the deemed revenue of MSEDCL for the respective years. However, MSEDCL is directed to submit the actual loss of revenue on this account for the respective years in its next ARR Petition.”

The present Petition seeks a review of these provisions of the impugned MYT Order as set out in the prayers (b), (d) and (e) quoted at para. 2 above.

23. Regulation 85(a) of the Commission’s Conduct of Business Regulations, 2004 governing review of its Orders specifies as follows:

“Review of decisions, directions, and orders:

85. (a) Any person aggrieved by a direction, decision or order of the Commission, from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order, within forty-five (45) days of the date of the direction, decision or order, as the case may be, to the Commission.”

Under these Regulations, the ambit of review is limited, and MSEDCL’s Petition has to be evaluated accordingly. Thus, the Commission has to determine whether the grounds raised by MSEDCL meet the above criteria for review, quoted above, and the principles of Order 47 Rule 1 of the Code of Civil Procedure, 1908 underlying Regulation 85 of the Conduct of Business Regulations.

24. MSEDCL’s review Petition cites the following main grounds and issues:

- A) Every Tariff Order is separate and distinct. Hence, reliance on the Order dated 12 September, 2008 to conclude that, after passing of the subsequent Tariff Order, the earlier Order continues to operate is an error of law. In fact, the 2012 Tariff Order does not contain any directive on the exercise of the option to shift from Continuous to Non-Continuous tariff within 30 days of the Order.
- B) The SoP Regulations, 2005 permit a consumer to seek change of tariff category without any fetters. These Regulations have been infringed by the Order dated 12 September, 2008, and there can be no estoppel against the operation of law.

C) Allowing change from Continuous to Non-Continuous supply ought to be treated as a bonafide action of MSEDCL for retaining consumers from leaving through Open Access and thereby safeguarding the interests of its cross-subsidized consumers.

25. **ISSUE A** – *The time limit for applying for change from Continuous to Non-Continuous supply and applicable tariff stipulated in Case No. 44 of 2008 cannot operate after the 2012 Tariff Order since each Tariff Order is separate and distinct:*

25.1 In Case No. 44 of 2008, MSEDCL had sought clarification regarding the categorization of HT industries contained in the Tariff Order dated 20 June, 2008 in Case No. 72 of 2007. In its Order dated 12 September, 2008 in Case No. 44 of 2008, the Commission stated that

“the HT industrial consumer connected on express feeder should be given the option to select between continuous and non-continuous type of supply, and there is no justification for removing the clause “demanding continuous supply” from the definition of HT-I continuous category. However, it is clarified that the consumer getting supply on express feeder may exercise his choice between continuous and non-continuous supply only once in the year, within the first month after issue of the Tariff Order for the relevant tariff period. In the present instance, the consumer may be given one month time from the date of issue of this Order for exercising his choice. In case such choice is not exercised within the specified period, then the existing categorization will be continued.”

25.2. The Commission notes that, as in the earlier tariff determination to which the Order in Case No. 44 of 2008 is related, the 2012 Tariff Order continued to make a distinction between the tariff for Continuous and Non-Continuous supply, and HT Industrial consumers on express feeders could opt to change to Continuous Supply or vice versa. While MSEDCL contends that the 2012 Tariff Order did not stipulate any time frame for exercising such option, the phrase *“within the first month after issue of the Tariff Order for the relevant tariff period”* makes it clear that the clarification given in Case No. 44 of 2008 was intended to be generic in nature unless revised in future. Moreover, the 2012 Order itself explicitly states that

“all previous clarifications given by the Commission through its various Orders continue to be applicable, unless they are specifically contrary to anything that has been stated in this Order, wherein the clarifications given in this Order shall prevail.”

Hence, the Commission finds no merit in this contention of MSEDCL.

25.3 This is apart from the fact that, until this review Petition, MSEDCL had accepted the applicability of this stipulation since 2008, though it implemented it only selectively. Its Petition in Case No. 219 of 2014 had the following prayer:

“The consumer getting supply on express feeder and who have already applied for change of tariff from Continuous to Non-Continuous after one month of tariff order, Hon’ble Commission may confirm MSEDCL action rejecting of all such request/objection & further not to entertain any petition in this regard without hearing us.”

In its Petition in that Case, MSEDCL had referred to the clarification given in Case No. 44 of 2008, and stated that it had been following it even after the subsequent Tariff Order in Case Nos. 111 of 2009 and the 2012 Tariff Order. In its Order dated 9 July, 2015 in Case No. 219 of 2014, the Commission stated that:

“5. In the present Petition, MSEDCL has itself quoted the conditions that had been laid down by the Commission for exercising the option of shifting from the HT – I Industrial - Continuous to the Non-Continuous sub-category. There is no ambiguity or scope for different interpretations of those conditions, nor has any been claimed by MSEDCL. The stipulations are self-explanatory, and no confirmation is required from the Commission of any action taken by MSEDCL in conformity with them.”

Thus, at all times MSEDCL was fully aware and accepted that the earlier Orders contained a demarcation between continuous and non-continuous industries, and also a clear directive that a shift from the Continuous to the Non-Continuous category or vice-versa was to be sought within one month of a Tariff Order.

26. ISSUE B – *The SoP Regulations, 2005 permit a consumer to seek change of tariff category without any fetters. The Regulations have been infringed by the Order dated 12 September, 2008, and there can be no estoppel against the operation of law:*

26.1 It is worthwhile setting out the evolution of the tariffs applicable to HT-Industrial consumers over time. The Commission, in its Order dated 20 October, 2006 in Case No. 54 of 2005, had for the first time sub-classified industries based on their nature in terms of requirement of continuous supply or otherwise, as quoted below:

“CHAPTER 7 (A): DETERMINATION OF TARIFFS FOR RETAIL SALE OF ELECTRICITY

...2)Change in Tariff Categories / Slabs

The Commission has made the following changes to the existing categories and sub categories/slabs:

...b) Consumer categories comprising HTP I-Industries (BMR/PMR) and HTP II – Industries (Non BMR/PMR), have been historically differentiated based on geographical location. The Commission has combined these two into one consumer category (revised HT-I) as the nature of supply and purpose for which supply is provided do not change on geographical basis. However, as per section 62 (3) of E Act 2003, this combined category has been sub-classified based on the nature of industry viz. Continuous and Non Continuous Industries to promote energy efficiency and demand side management measures....

3. Revised category-wise tariffs

...HT Category

h) HT I – Industries

HT I – Industries	Fixed Charge (Existing) Rs / kVA/ mth	Fixed Charge (Revised) Rs / kVA/ mth	Energy Charge (Existing) p / kwh	Energy Charge (Revised) p / kwh	Revenue p.u (Revised) Rs. / unit	Cross Subsidy (Revised)
Continuous	330 – 350*	350	210-215*	215	3.26	(1%)
Non Continuous	330 - 350*	350	210-215*	285	3.99	21%

* Earlier categorisation was BMR/PMR and Non BMR/PMR, Annexure II provides the detailed comparison of exiting & Revised Tariff

As per the uniform load shedding protocol considering only the availability of non-costly power, the consumption of costly power by continuous industries in the HT-I category will be significant. Because of this, they are likely to have a significant impact on their effective tariffs. Further, the continuous industries have limited scope to respond to time of day tariffs. The Commission has therefore not increased their base tariffs for this year. The tariff for non-continuous industries has been fixed so as to limit the cross subsidy support to around +20% and also to provide economic signals for energy conservation and time of day consumption. The Commission also opines that continuous industries whether connected to express feeder or non-express feeder, would be charged the base tariff of continuous industries. The Commission also opines that same principle would be to non-continuous industries.”

Thus, while distinguishing between HT-I Industries on the basis of Continuous and Non-Continuous supply, the Commission had ruled that Continuous process industries would be charged at the Continuous category tariff irrespective of their connection to express feeders or otherwise.

26.2 The above aspect of sub-classification was further clarified in Order dated 7 February, 2007 issued on a review Petition in Case No. 59 of 2006 as follows:

“(iii) Categorization of Continuous and Non-Continuous consumers:

...The Commission clarifies that the Continuous and Non-Continuous categories are differentiated based on the continuous or non-continuous nature of the process adopted in the industries and not based on whether the industries are connected to express feeders or non-express feeders. It is obvious that a certified continuous process industry availing of uninterrupted power supply and paying additional supply charge (ASC) of 42% cannot be on a mixed non-express feeder subjected to load shedding. The Commission clarifies that the Development Commissioner of Industries (DCI) or similar authority designated by the State Government are the appropriate forum to certify whether an industry is a continuous process industry or a non-continuous process industry. Industries need to submit required certifications from State Industrial Development Authorities to avail the tariff allocated for continuous process industries.”

26.3 However, after considering the difficulties faced by consumers in obtaining Continuous process industry certification, the Commission, in its next Tariff Order dated 18 May, 2007 in Case No. 65 of 2006, simplified the tariff categories as follows:

“6.2 TARIFF PHILOSOPHY

HT Industrial consumer categorization

...The Commission observed that on account of the classification of consumers as continuous and non-continuous industries in the Tariff Order, the HT industrial consumers had to go through unnecessary hardship to obtain the requisite certification, and were unable to benefit from the Order. Moreover, the Commission is very clear that it does not want to have a situation wherein the industries have to undertake a lot of trouble to obtain the certification.

Hence, the Commission has simplified the tariff categories in the case of industries, and only HT industries connected on express feeders and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while all other HT industrial consumers will be deemed as HT non-continuous industry. This has become necessary in view of the prevailing uncertainty and absence of clarity as regards certification of industries as ‘continuous’ by the relevant authorities.

... HIGH TENSION TARIFF

1. HT I - Industries:

<i>Applicability:</i>	<i>This tariff is applicable to all High Tension industries under MSEDCL.</i>
-----------------------	---

BASE TARIFF:

<i>Consumer Category</i>	<i>Demand Charges (Rs/kVA/month)</i>	<i>Energy Charge (Paise/kWh)</i>
<i>HT I – Industries</i>	<i>1.1.1</i>	<i>1.1.2</i>
<i>Continuous Industry (on express feeder)</i>	<i>300</i>	<i>310</i>
<i>Non-continuous Industry (not on express feeder)</i>	<i>300</i>	<i>340</i>

...NOTE:

...8. Only HT industries connected on express feeders and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while all other HT industrial consumers will be deemed as HT non-continuous industry.”

Thus, in view of difficulties in obtaining certification as Continuous process industries, the option of availing Continuous supply was given to industrial consumers connected on express feeders. Those who exercised this option were eligible for Continuous supply at the tariff applicable to it.

26.4 In Case No. 44 of 2008, MSEDCL sought clarification on this Tariff Order, with regard to the categorization of HT Industries. Vide Order dated 12 September, 2008, the Commission ruled as follows:

“Applicability of HT-I (Continuous Industry)

In the Tariff Order, the Commission has specified that "only HT industries connected on express feeder and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while all other HT industrial consumers will be deemed as HT non-continuous industry.”

MSEDCL Submission

MSEDCL submitted that due to the removal of ASC and the reduction in the tariff differential between continuous and non-continuous industries, many industries may shift from HT-I continuous to HT-I non-continuous, which would adversely affect MSEDCL consumer mix and revenue. Moreover, express feeders are linked to zero load shedding and load shedding cannot be optional. Hence, MSEDCL requested the Commission that: a) the clause "demanding continuous supply" may please be removed from the definition of HT-I (Continuous Industry); b) Existing Consumers categorized under HT-I Continuous as on April 1 2008 should be continued under same category; c) HT-I (Continuous) tariff category should be applicable to all industries connected on express feeder irrespective of whether they are continuous or non-continuous process industries.

Commission’s Ruling and Clarification

The Commission is of the view that MSEDCL should not ignore the benefits of load relief that could be achieved, in case certain HT-I continuous industries, who are presently not subjected to load shedding, voluntarily agree to one daystaggering like other industries located in MIDC areas. Hence, the HT industrial consumer connected on express feeder should be given the option to select between continuous and non –continuous type of supply, and there is nojustification for removing the clause “demanding continuous supply” from the definition of HT-I continuous category. However, it is clarified that the consumer getting supply on express feeder may exercise his choice between continuous and non-continuous supply only once in the year, within the first month after issue of the Tariff Order for the relevant tariff period. In the present instance, the consumer may be given one month time from the date of issue of this Order for exercising his choice. In case such choice is not exercised within the specified period, then the existing categorization will be continued.”

Hence, the Commission distinguished, within HT-I Industry, between industries requiring Continuous and Non-Continuous supply. However, the Commission also restricted the period within which such industrial consumers could exercise their option to shift from one to the other.

26.5 In this background, MSEDCL now contends for the first time that the Order dated 12 September, 2008, by requiring that the option to shift from Continuous to Non-Continuous supply and the applicable tariff be exercised within a month of a Tariff Order, contravenes Regulation 9.2 of the SoP Regulations, 2005. MSEDCL has stated that, although it had acknowledged this restriction in the past, it had now concluded that it is bad in law and is informing various forums about its present stand on the issue, there being no estoppel against law. On the other hand, Shri. Ashish Chandarana has contended that the SoP Regulations are a set of standards specified by the Commission for the performance of the Distribution Licensees. Distribution Licensees are obliged to comply with these Regulations only upon receipt of applications or requests that are otherwise valid. Once the Commission has restricted the period within which the option for change from Continuous to Non-Continuous has to be exercised, an application seeking such change which is made beyond that period is not a valid application and MSEDCL cannot process it as such. RGI and the Authorised Consumer Representatives have essentially supported Shri Chandarana’s stand and also contend that the matter is beyond the scope of review. However, Shri. Pratap Hogade, for MVGS, has argued that the restriction in the Commission’s Order dated 12 September, 2008 and the SoP Regulations need to be read harmoniously, and operate independently. According to him, that Order allows retrospective effect to the change sought, while Regulation 9.2 enables prospective effect to be given to applications for such change in category.

26.6 Regulation 9.2 of the SoP Regulations, 2005 reads as follows:

“9.2 Any change of name or change of tariff category shall be effected by the Distribution Licensee before the expiry of the second billing cycle after the date of receipt of application.”

The subsequent SoP Regulations, 2014 also specify the maximum period following receipt of an application within which a desired change has to be effected.

26.7 It will be seen from the foregoing that the Commission provided for payment of a premium in the form of a higher tariff for those industries who seek Continuous power supply in the context of power shortage and consequent load-shedding, even though such industries may otherwise be similar in terms of location, nature, voltage level, quantum or purpose of usage to those industries not seeking such supply and who are also on express feeders. In that sense, this differentiation made between industries on the basis of Continuous or Non-Continuous supply is not based on the usual kind of distinctions that normally define tariff categorizations or sub-classifications. In the background of the sequence of the Commission’s decisions described in earlier paragraphs, the rationale for restricting the option to change from Continuous or Non-Continuous supply to within a month of the Tariff Order, stipulated in Case No. 44 of 2008, has also been brought out in that Order. Keeping in view the power procurement and other considerations involved in providing Continuous supply to those opting for it, albeit at a higher tariff, the Commission had restricted the exercise of the option to a single occasion and upon application within a month of the Tariff Order.

26.8 Thus, that restriction was neither unexplained nor arbitrary. However, notwithstanding that fact, the question remains as to whether or not the restriction on the period within which such choice may be exercised, first contained in the Order in Case No. 44 of 2008 and continued in the 2012 Tariff Order, is inconsistent with Regulation 9.2 of the SoP Regulations, 2005 quoted above; and whether mere Orders of the Commission could so restrict the right of consumers in the absence of any such restriction in either the SoP Regulations or the Electricity Supply Code Regulations, 2005. MSEDCL’s related contention is that there can be no estoppel against the law if it is found that that the restriction stipulated by the Commission is inconsistent with the SoP Regulations and is, therefore, bad in law.

26.9 In PTC India Ltd. vs. CERC ((2010) 4 SCC 603)), the Supreme Court has held that the Regulations made in exercise of a Commission’s powers to frame subordinate legislation override existing and future contracts, which the regulated entities are required to align with such Regulations:

"A regulation under Section 178, as a part of regulatory framework, intervenes and even overrides the existing contracts between the regulated entities in as much as it casts a statutory obligation on the regulated entities to align their existing and future contracts with the said regulations."

The Appellate Tribunal for Electricity (ATE), in its Judgment dated 9 October, 2012 in Appeal No. 114/2012 (JVVNL vs. Kalpataru Power Transmission Ltd.) upholding the Order of the Rajasthan Electricity Regulatory Commission deciding the tariff as per its Tariff Regulations instead of the Power Purchase Agreement entered into between the parties, has stated that:

"25. According to the Ld. Counsel for the Appellants, the State Commission has nullified the provisions of the PPA by not determining the project specific tariff. We find that the State Commission has given the findings following its Tariff Regulations. Regulations are subordinate legislation and their provision will prevail over the provisions of the PPA. When the Regulations specify the tariff in a particular manner, the same will prevail over the provisions of the PPA."

From the above Judgements, it is clear that the SoP Regulations being in the nature of subordinate legislation, an Order issued in contravention of these Regulations is not tenable. It will also be clear from the wording of Regulation 9.2, quoted above, that it sets the period within which a Licensee has to dispose of an application for change of tariff category, but places no restriction on when such an application can be made. The provisions of the subsequent SoP Regulations, 2014 are similar. The Commission notes that its Electricity Supply Code Regulations, 2005 also do not circumscribe applications in this manner. Hence, the Commission is of the view that the restriction stipulated by it earlier is inconsistent with the SoP Regulations.

26.10 That being the case, there can also be no questioning the principle that there cannot be any estoppel against law, as contended by MSEDCL. However, that does not mean that a Licensee, MSEDCL in this case, can take upon itself the prerogative of deciding which Order of the Commission it shall follow and which it will disregard. While, as the Commission has held above, its earlier Orders of 2008 and 2012 put fetters on the right given to consumers in the SoP Regulations to apply for change in tariff category at any time, MSEDCL was not entitled, in law, to take upon itself to ignore or violate such Orders. Even if these Orders were invalid, being contrary to the Regulations, it is well settled that any such Order has to be obeyed notwithstanding that it may be wrong in law or may even be void. In its Judgment in the Case of *Krishnadevi Malchand Kamathia vs. Bombay Environmental Action Group & Ors.* ((2011) 3 SCC 363), the Supreme Court held as follows:

“16. It is a settled legal proposition that even if an order is void, it requires to be so declared by a competent forum and it is not permissible for any person to ignore the same merely because in his opinion the order is void. In State of Kerala v. M.K. Kunhikannan Nambiar Manjeri Manikoth Naduvil [(1996) 1 SCC 435 : AIR 1996 SC 906] , Tayabhai M. Bagasarwalla v. Hind Rubber Industries (P) Ltd. [(1997) 3 SCC 443 : AIR 1997 SC 1240] , M. Meenakshi v. Metadin Agarwal [(2006) 7 SCC 470] and Sneh Gupta v. Devi Sarup [(2009) 6 SCC 194] , this Court held that whether an order is valid or void, cannot be determined by the parties. For setting aside such an order, even if void, the party has to approach the appropriate forum.

17. In State of Punjab v. Gurdev Singh [(1991) 4 SCC 1 : 1991 SCC (L&S) 1082 : (1991) 17 ATC 287 : AIR 1991 SC 2219] this Court held that a party aggrieved by the invalidity of an order has to approach the court for relief of declaration that the order against him is inoperative and therefore, not binding upon him. While deciding the said case, this Court placed reliance upon the judgment in Smith v. East Elloe RDC [1956 AC 736 : (1956) 2 WLR 888 : (1956) 1 All ER 855] , wherein Lord Radcliffe observed (AC pp. 769-70)

“... An order, even if not made in good faith, is still an act capable of legal consequences. It bears no brand of invalidity [on] its forehead. Unless the necessary proceedings are taken at law to establish the cause of invalidity and to get it quashed or otherwise upset, it will remain as effective for its ostensible purpose as the most impeccable of orders.”

18. In Sultan Sadik v. Sanjay Raj Subba [(2004) 2 SCC 377 : AIR 2004 SC 1377] , this Court took a similar view observing that once an order is declared non est by the court only then the judgment of nullity would operate erga omnes i.e. for and against everyone concerned. Such a declaration is permissible if the court comes to the conclusion that the author of the order lacks inherent jurisdiction/competence and therefore, it comes to the conclusion that the order suffers from patent and latent invalidity.

19. Thus, from the above it emerges that even if the order/notification is void/voidable, the party aggrieved by the same cannot decide that the said order/notification is not binding upon it. It has to approach the court for seeking such declaration. The order may be hypothetically a nullity and even if its invalidity is challenged before the court in a given circumstance, the court may refuse to quash the same on various grounds including the standing of the petitioner or on the ground of delay or on the doctrine of waiver or any other legal reason. The order may be void for one purpose or for one person, it may not be so for another purpose or another person.”

26.11 Such being the position, it was not open to MSEDCL to treat on its own the directions of this Commission as merely ‘directory’, and even less so as being in contravention of the SoP Regulations. If MSEDCL had any grievance, it ought to have initiated appropriate proceedings to have the stipulations laid down by the Commission corrected, if at all it found any fault in its Orders. Without taking any such steps, it was

not open to MSEDCL to take it upon itself to violate the Orders of the Commission and to accept applications for change of category beyond the stipulated period. Moreover, as brought out in this Order, till the present review Petition MSEDCL has acknowledged and accepted the restriction on applications stipulated by the Commission. That stipulation, first introduced in 2008, was not challenged in review or appeal. At the same time, as brought out in the MYT Order as well as in these proceedings, MSEDCL has implemented that stipulation selectively and inconsistently.

27. ISSUE C: Allowing change from Continuous to Non-Continuous supply ought to be treated as a bonafide action of MSEDCL for retaining consumers from leaving through Open Access, and thereby safeguarding the interests of its cross-subsidized consumers:

27.1 Independently and without prejudice to its main contention, MSEDCL has sought to justify having allowed some HT Industry category consumers (who cross-subsidise lower-end consumers by paying a higher tariff) to shift from Continuous to Non-Continuous supply, even though they applied after the stipulated period, on the ground that they might otherwise have taken recourse to other suppliers through Open Access. The Commission has set out the rationale for its disallowance in its impugned MYT Order (quoted at para. 22 above), and stated that

“While MSEDCL’s allowing switch over for an extended period has benefited some consumers, the consumers at large cannot be made to bear any additional burden on account of its discretionary and unsanctioned act...”

27.2 Moreover, Regulation 86.3 of the Commission’s MYT Regulations, 2011 specifically enable Distribution Licensees to offer rebates in the applicable tariff, provided that they entirely bear the impact of such rebates, and that such rebates are not offered selectively but to the entire consumer category/sub-category/ consumption slab in a non-discriminatory manner. The subsequent MYT Regulations, 2015 also have a similar provision. These provisions have not been invoked by MSEDCL.

27.3 Hence, this ground now cited by MSEDCL for the first time cannot justify violating the Commission’s stipulation by implementing it in a selective and inconsistent manner. In any case, that ground is irrelevant now that the Commission has held that the restriction stipulated by it is inconsistent with the choice available to consumers under the SoP Regulations.

28. At para 3.29.5 of the impugned MYT Order (quoted at para. 22 of the present Order), the Commission provisionally worked out Rs. 85.07 Crores and 102.66 crores as liable to be disallowed in respect of FY 2013-14 and FY 2014-15, respectively. These were only estimates of the Commission, and MSEDCL was directed to furnish the actual loss of revenue on this account (i.e. allowing shifting from Continuous to Non-Continuous Supply to those applying after the stipulated time) with its next Tariff Petition. However, in its current MYT Petition dated 7 June, 2016, which is separately

under the Commission’s consideration, MSEDCL has stated with regard to compliance of that direction that

“the matter is under consideration and appropriate compliance is being submitted shortly.”

No subsequent submission has been received.

29. In these proceedings, Shri. Ashish Chandarana has cited several specific instances of irregularities committed by MSEDCL while deciding applications for change of category from Continuous to Non-Continuous. While these alleged irregularities cannot be a ground for rejection of MSEDCL’s claim for review and the Commission has already held that its earlier stipulation is inconsistent with the SoP Regulations, MSEDCL has admitted during these proceedings that it had taken an ad hoc and inconsistent approach not only on such applications but also in different judicial forums with regard to individual cases, and that it had revised its stand in these forums after filing this Petition. The Commission directs MSEDCL to examine and take appropriate action with regard to such selective, inconsistent and discriminatory treatment given to different applicants.

30. In view of the foregoing, the review Petition is allowed. The Commission directs MSEDCL to asses the impact of this Order after examining all the applications received by it which merit revision, based on the principles settled in this Order, including the impact on account of any selective, inconsistent or discriminatory treatment given to different applicants, and submit it to the Commission within three months.

The Petition of Maharashtra State Electricity Distribution Co. Ltd. in Case No. 94 of 2015 and Miscellaneous Application Nos. 5, 6 and 7 of 2015 stands disposed of accordingly.

sd/-
(Deepak Lad)
Member

sd/-
(Azeez M. Khan)
Member

Annexure B

MAHAVITARAN
Maharashtra State Electricity Distribution Co. Ltd.

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO. LTD.

(A GOVT. OF MAHARASHTRA UNDERTAKING)

CIN : U40109MH20005SGC153645

PHONE No. 26474753 (P)/26474211 (O)

FAX No. 26472366

Email: cecomm@mahadiscom.in

Website: www.mahadiscom.in

PLOT No. G-9, PRAKASHGAD

Prof. ANANT KANEKAR MARG

BANDRA (East)

MUMBAI-400051

PR-3/Tariff/No. **No 16403**

Date: **5 JUL 2017**

To,
The Superintending Engineer,
MSEDCL, All O&M Circles.

Sub: To initiate immediate action such as withdrawal/dropped off the legal cases pending before Hon'ble Court/ Forum in the matter of tariff change from Continuous to Non Continuous.

Ref: 1. MERC Order in Case No.94 of 2015 dt.19.08.2016.
2. T.O.L: PR3/Tariff/17646 dt.31.05.2016.

MSEDCL had filed review petition in MERC (Case 94 of 2015), against the tariff order dt.26.06.2015. MERC vide its order under ref. No.1 ruled that the restriction stipulated by it for tariff change application to be submitted within one month of tariff order is inconsistent with the MERC SoP regulation, 2005. It is settled law that Regulation prevails over Tariff Order. Various legal proceedings are pending before various Court/Forums and field offices were seeking guidelines regarding MSEDCL stand in the said matters. In order to have a common stand, the matter was appraised before the MSEDCL Board.

The Board has accorded approval as follows:

The Concerned Hon'ble Court/ Forum be informed about common stand to be taken by MSEDCL, to effect the tariff change as per Regulation 9.2 of SoP regulation, 2005, requesting for necessary and suitable action such as withdrawal/dropped off the order and legal cases will be withdrawn to that extent (As per mandate of MERC order in case 94 of 2015 dt.19.08.2016).

In view of above, you are hereby directed to inform various Courts/Forums that MSEDCL is bound by mandate of Regulation 9.2 of SoP Regulation 2005 i.e. change of tariff category shall be effected before the expiry of the second billing cycle after the date of receipt of application in all cases including change from Continuous to Non-Continuous. The proceedings which are decided by Courts/Forums based on Regulation 9.2 of MERC but challenged by MSEDCL shall be withdrawn.

This is for your information and further needful action.

Encl: A/A

[Signature]
Chief Engineer (Commercial)

Copy s.w.r. to :

1. The Hon'ble Chairman & Managing Director, MSEDCL, Mumbai.
2. The Director (Finance), MSEDCL, Mumbai.
3. The Director (Operations), MSEDCL, Mumbai.
4. The Joint Managing Director/Regional Director (Aurangabad/Nagpur/Pune/Konkan)
5. The Executive Director (Dist-I/II/III/IV), MSEDCL, Mumbai.

Copy s.w.c.to :

1. The Chief Engineer, MSEDCL, All Zone offices.
2. The Superintending Engineer (Tariff Regulatory Cell), MSEDCL, Mumbai.



MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO. LTD.

(A GOVT. OF MAHARASHTRA UNDERTAKING)

CIN : U40109MH20005SGC153645

PHONE No. 26474753 (P)/26474211 (O)
 FAX No. 26472366
 Email: cecomm@mahadiscom.in
 Website: www.mahadiscom.in

PLOT No. G-9, PRAKASHGAD
 Prof. ANANT KANEKAR MARG
 BANDRA (East)
 MUMBAI-400051

PR-3/Tariff/No.

No 16720

Date:

10 JUL 2017

To,
 The Superintending Engineer,
 MSEDCL,
 All O&M Circles,

Sub: Implementation of MERC Order in Case No. 94 of 2015 in the matter of Continuous to Non Continuous.

Ref: 1. MERC Order in Case 94 of 2015.dt.19.08.2012.
 2. T.O.L: PR3/Tariff/No.17646.dt.31.05.2016.
 3. MSEDCL Board Resolution dt.01.06.2017.

MSEDCL had filed review petition in MERC (Case 94 of 2015), against the tariff order dt.26.06.2015. MERC in its order dt.19.08.2016 had directed to examine and take appropriate action with regard to treatment given to different applications. In context of above mentioned order and in addition to letter under reference (2), the matter of Continuous to Non Continuous was appraised before the board. The board vide resolution under reference (3) has accorded approval as follows:

1. *All pending as well as already disposed of applications be considered in accordance with the MERC order in case 94 of 2015 and as per Regulation 9.2, for the approval of change of tariff category.*
2. *The Method of approval :-*
 - i. *In case of dispute on the date of application/submission of application for tariff change, the same may be verified by Committee headed by Chief Engineers (O & M Zone) and SE (Circle office), SE (Neighbor Circle office), Legal Advisor (Zonal Office) and Senior Manager (Circle Office) as other members of the committee.*
 - ii. *The verified proposal shall be submitted by this committee to Joint managing Director/ Regional Director within a period of one week. The said proposal shall be decided upon by Jt. MD/RD within a period of one week from the date of receipt of proposal.*

3. The complete details and effect of said tariff changes be given to consumers through MSEDCL IT system only in transparent manner.

The same is shown by way of illustration for reference:

Eg: The Consumer application for change of tariff from Continuous to Non- continuous receipt dated 01.01.2014. The receipt date shall be verified by circle office in concurrence with date of receipt of application at corporate office. If the receipt date is confirmed as 01.01.2014, then tariff change shall be effective from Feb2014 billing, else in case of dispute on the date of receipt of application follow the method of approval as above (Point No.2).

The list of request/proposals mentioning date of application received at Corporate Office is uploaded on Rapdrp web portal at url http://10.0.2.156:8380/Tariff_Cons/ for verification and confirmation. It is hereby instructed to verify the uploaded lists and update the same within 05 days.

In case of point no.2 (i) mentioned in Method of approval, just feed date of receipt of application and consumer number along with scan copy of Jt. MD/RD approval. All calculations will be done by HO (IT) System only.

In view of above, all the Circle offices are hereby instructed to take appropriate action of passing the benefit of tariff conversion from Continuous to Non- continuous in this regard strictly as per above guidelines.

This is for your information and further needful action.

Encl:

1. List of Pending/Approved applications.
2. MSEDCL B.R.dt.01.06.2017.

[Signature]
Chief Engineer (Commercial)

Copy s.w.r. to :

1. The Director (Operations/Finance),MSEDCL, Mumbai.
2. The Joint Managing Director/Regional Director (Aurangabad/Nagpur/Pune/Konkan)
3. The Executive Director (Dist-I/II/III/IV),MSEDCL, Mumbai.
4. The Chief Legal Advisor,MSEDCL,Mumbai.
5. The CGM (IT),MSEDCL,Mumbai.

-----You are requested to make necessary changes in the billing software for calculation and refund to the consumers through incoming bill.

6. The OSD to CMD MSEDCL,Mumbai.

Copy s.w.c.to :

The Chief Engineer, MSEDCL, All Zone offices.

Instructions:

1. The list of request/proposals mentioning date of application received at Corporate Office is uploaded on Rapdrp web portal at url http://10.0.2.156:8380/Tariff_Cons/ for verification and confirmation
2. The SE O & M are authorized for login through the above with their login Id and password.
3. After Login through the link, the date of receipt of application shall be confirmed and entered in the Application receipt date.
4. In case of dispute for the date of application/submission of application then default tag of "No dispute" shall be edited and updated on the portal and saved.
5. All the entries shall be updated and saved.



(A Govt. of Maharashtra Undertaking)

PHONE NO. : 26470953
 .. - : 26472131 / 26474211 (Extn.2556)
 FAX NO. : 26470953

Registered Office :
 PLOT NO. G - 9, PRAKASHGAD,
 Prof. ANANT KANEKAR MARG,
 BANDRA (E), MUMBAI - 400 051.

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD. HELD AT ITS 195th MEETING OF THE BOARD OF DIRECTORS OF MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED HELD ON THURSDAY, 1st JUNE, 2017 AT 11.00 A.M. AT HSBC BANK BUILDING, 3rd FLOOR, FORT, MUMBAI-400001

Item 8: Appraisal and approval for implementation of MERC Order in continuous and non continuous case (94 of 2015).

Resolution 908: The Board considered the note submitted by CE (Commercial) seeking appraisal and approval for implementation of MERC Order in continuous and non continuous case (94 of 2015).

The Board took note of the following:

- 1) MSEDCL had filed the review petition in MERC (Case 94 of 2015), against the MERC tariff order dt.26.06.2015 wherein MERC has denied Rs.187 Crs., on account of tariff change (Continuous to Non-continuous). This amount was considered by MERC as deemed revenue of MSEDCL.
- 2) MERC in its order on the Review Petition of MSEDCL dt.19.08.2016 Ruled that earlier restriction stipulated by it for tariff change applications to be submitted within one month of tariff order is inconsistent with the MERC SoP Regulations 2005. As per MERC SoP Regulation 2005 tariff change is to be effected within second billing cycle from the date of receipt of application and it is settled law that Regulation prevails over tariff order.
- 3) The Commission allowed MSEDCL review petition with the directives to take appropriate action with regard to selective, inconsistent and discriminatory treatment given to different applications received by it which merit revision, based on the principles settled in this Order.
- 4) Public Interest Litigation (PIL) has been filled in Hon'ble High court, Nagpur bench wherein petitioner prayed to set aside the above MERC order. However, hon'ble High Court has not given any relief to the Petitioner.
- 5) Fact Finding Committee has been constituted by MSEDCL Holding Company Limited for investigating MSEDCL's actions of tariff change. Mrs Anuradha Bhatia, Director-Finance (MSEBHCL) is the Chairperson of the Committee.

Anuradha

- 6) Various forums (CGRF/ EO) are giving judgments in line with MERC SoP Regulation and directing MSEDCL to refund the tariff difference amount along with interest.
- 7) The Board also noted that of the above MERC order dt. 19.08.2016 is not challenged in APTEL by anyone and the said period for filling Appeal is lapsed (sixty days form the date of Order).

After taking note of the details explained, the board resolved as under:

“Resolved that all the pending as well as already disposed of applications be considered in accordance with the MERC order in case 94 of 2015 and as per the provisions of Regulation 9.2, for the approval of change of tariff category.

Resolved further that the concerned Hon. Court/ Forum be informed about common stand to be taken by MSEDCL, to effect the tariff change as per Regulation 9.2 of SoP regulation-2005, requesting for necessary and suitable action such as withdrawal/disposed off the order and legal cases be withdrawn to that extent (As per mandate of MERC order in case 94 of 2015 dt.19.08.2016).

Resolved further that approval be and is hereby accorded for Method of approval:-

- a) In case of dispute on the date of application/submission of application for tariff change, the same may be verified by Committee headed by Chief Engineers (O & M Zone) and SE (Circle office), SE (Neighbour Circle office), Legal Advisor (Zonal Office) and Senior Manager (Circle Office) as other members of the Committee.
- b) The verified Proposal shall be submitted by this Committee to Joint Managing Director /Regional Director within a period of one week. The said proposal shall be decided upon by Jt. MD/ RD within a period of one week from the date of receipt of proposal.

Resolved further that approval be and is hereby accorded to implement MERC order (94 of 2015) in respect of consumers.

Resolved further that action if any, in respect of MSEDCL's employees be decided on receipt of report of fact finding committee constituted by MSEB Holding Company.”

The Board further directed that the complete details and effect of said tariff changes be given to consumers through MSEDCL IT system only in a transparent manner.

For Maharashtra State Electricity Distribution Company Ltd.


Anjali Gufekar
Company Secretary

APPROVED LIST

SERIAL NUMBER	CIRCLE	CONSUMER NUMBER	CONSUMER NAME	DATE OF APPLICATION	Date of Receipt of Application
1	AKOLA	310019002534	M/S SHRI VIJAY INDUSTRIES	15-Oct-12	
2	AKOLA	310019002712	M/S OMPRAKASH SHIVPRAMASH DAL MILL	15-Oct-12	
3	AKOLA	311039001468	M/S RUHATIA SPINNERS PRIVATE LIMITED	04-Oct-12	
4	BULDHANA	297019003313	BIRLA COTSYN INDIA LTD.	01-Nov-12	
5	BULDHANA	297079084520	M/S BIRLA COTSYN (INDIA) LTD. MIDC KHA	01-Nov-12	
6	BULDHANA	297079085910	M/S DEOKI AGRO INDUSTRIES	16-Nov-12	
7	BULDHANA	297209085930	M/S. LEELOTTAM INDUSTRIES PVT. LTD.	03-May-13	
8	A'BAD (R)	490019004161	M/S VIDEOCON INDUSTRIES LTD	29-Aug-12	
9	A'BAD (R)	493029041980	M/S DHOOT COMPACT LTD	04-Jan-13	
10	JALANA	510019005435	M/S BHOOMI REROLLS PVT LTD	09-Oct-12	
11	JALANA	510019008150	M/S GIRIRAJ REROLLES PVT LTD	08-Oct-12	
12	JALANA	510019008590	M/S KALIKA STEEL JALNA PRIVATE LIMITED	26-Mar-13	
13	BARAMATI	173519045070	M/S. MALAWA MIRAGE CERAMICS PVT. LTD	18-Jul-13	
14	SOLAPUR	331519004875	M/S BANG DATA FORMS PVT LTD	03-Oct-12	
15	SOLAPUR	331519050080	M/S PRECISION CAMSHAFT LTD.	24-Jan-13	
16	SOLAPUR	331519050590	M/S SUPREME POLYWARE PVT. LTD.	03-Oct-12	
17	SOLAPUR	331519051930	BANG DATA FORMS(P) LTD. (UNIT II)	03-Oct-12	
18	WASHI	000149038760	MATCHWELL DIE CASTERS	30-Apr-13	
19	WASHI	000299011437	THE ADMINISTRATIVE MANAGER CETP	30-Apr-13	
20	KALYAN-I	020169009679	M/S CENTURY RAYON	23-Jan-13	
21	KALYAN-II	015589050900	M/S J.DUNCAN HEALTHCARE PVT.LTD	13-Jun-13	
22	KALYAN-II	015589051050	M/S.POLY FILMS	13-Jun-13	
23	KALYAN-II	015589051070	M/S.POLY BAG	13-Jun-13	
24	KALYAN-II	015589051080	M/S.VINYL PLAST	13-Jun-13	
25	KALYAN-II	015589051410	M/S.ZECO AIRCON INDUSTRIES PVT.LTD.	13-Jun-13	
26	KALYAN-II	015589020040	M/S GLOBAL WOOL ALLIANCE PVT. LTD.	13-Jun-13	
27	KALYAN-II	015589019984	M/S MAHALAXMI PACKAGING	13-Jun-13	
28	KALYAN-II	015589020249	M/S MILI STEELS PVT LTD	13-Jun-13	
29	KALYAN-II	015589050540	M/S.WHITCOAL INDUSTRIES	13-Jun-13	
30	KALYAN-II	015589050860	M/S.SAI INDUSTRIES	13-Jun-13	
31	KALYAN-II	015589050990	M/S.SANTO PSR PROTECTORS PVT.LTD.	13-Jun-13	
32	KALYAN-II	015589051310	M/S.PLUS BARRELS	13-Jun-13	
33	KALYAN-II	015679020002	M/S INTERCOOL WESTERN REFRIGERATION	13-Jun-13	
34	KALYAN-II	015749019945	M/S LALIT PROFILES & STEEL IND LTD	13-Jun-13	
35	KALYAN-II	015789050630	M/S.KRISHNA PROMOTION PRIVATE LTD.	09-Jan-13	
36	VASAI	003019009075	M/S G.M.SYNTAX PVT.LTD.	04-Oct-12	
37	VASAI	003019009181	M/S BALKRISHNA SYNTHETICS LIMITED	04-Oct-12	
38	VASAI	003019011894	M/S VALIANT GLASS WORKS LTD	04-Oct-12	
39	VASAI	003019013579	M/S D C POLYSTER PVT LTD	23-Apr-13	
40	VASAI	003019022430	M/S D'DECOR HOME FABRICS PVT.LTD.	23-Apr-13	
41	VASAI	003019024100	M/S D'DECOR HOME FABRICS PVT.LTD.	23-Apr-13	
42	VASAI	003019024840	M/S D'DECOR EXPORTS	23-Apr-13	
43	VASAI	003019030640	M/S D'DECOR HOME FABRICS PVT. LTD.	23-Apr-13	
44	VASAI	003019031300	M/S. D'DECOR EXPORTS	23-Apr-13	
45	VASAI	003019034160	M/S D'DECOR HOME FABRICS PVT. LTD.	23-Apr-13	
46	VASAI	003019038440	M/S D'DECOR EXPORTS	23-Apr-13	
47	KOLHAPUR	250029051350	M/S SHREE BIRLA RICE MILL	04-Oct-12	
48	KOLHAPUR	250179053270	M/S ARVIND DYEING & BLEACHING MILLS	15-Oct-12	
49	KOLHAPUR	250179053640	M/S SOUND CASTING PVT LTD --	28-Sep-12	
50	KOLHAPUR	250179305115	M/S CHAIRMAN DATTA S V S SOOT GIRANI	04-Oct-12	
51	KOLHAPUR	250229305103	M/S PRANAVADITYA SPINNING MILLS LTD	06-Oct-12	
52	KOLHAPUR	250309050210	M/S THE CH. SHIROL MAGASVARGIYA SAH.	17-May-13	
53	KOLHAPUR	250389304235	M/S ICHALKARANJI COOP SPINNING MILLS	04-Oct-12	
54	KOLHAPUR	250389304928	M/S F I E SPHEROTECH PLOT NO II D 678	03-Oct-12	
55	KOLHAPUR	250479053710	ICONIC CASTINGS PVT LTD -	04-Oct-12	
56	KOLHAPUR	250499006670	M/S SHRINIWAS INDUSTRIES PARTENER SA	03-Oct-12	
57	KOLHAPUR	250499006760	M/S MAGNA INDUSTRIES	28-Sep-12	
58	KOLHAPUR	250499006820	M/S NETMECH FOUNDERS PVT. LTD.	03-Oct-12	
59	KOLHAPUR	250499007390	M/S SHREE GANESH FOUNDRY PVT. LTD.	04-Oct-12	
60	KOLHAPUR	250499050250	M/S TECHNOVISION AUTO COMPONENTS F	03-Oct-12	
61	KOLHAPUR	250499050480	M/S PARVATI FOUNDRY	05-Oct-12	
62	KOLHAPUR	250499051070	M/S VED INDUSTRIES	03-Oct-12	
63	KOLHAPUR	250499051180	SAMRAT MAGASVARGIYA AUDYOGIK UTPA	24-Sep-12	
64	KOLHAPUR	250529304443	M/S NAV MAHARASHTRA SAHAKARI S GIRA	04-Oct-12	
65	KOLHAPUR	251019006460	M/S MENON ALCOP PVT. LTD.	24-Sep-12	
66	KOLHAPUR	251019006580	M/S MARVELOUS METALS	01-Oct-12	
67	KOLHAPUR	251019006710	M/S RAYMONDS ZAMBAITI PVT. LTD.	05-Oct-12	
68	KOLHAPUR	251019006940	M/S KARVEER NIVASINI MAHALAXMI ISPAT	05-Oct-12	

69	KOLHAPUR	251019007070	M/S SOUND CASTNG PVT. LTD.	23-Oct-12
70	KOLHAPUR	251019007880	M/S INDO COUNT INDUSTRIES LTD.	06-Oct-12
71	KOLHAPUR	251019050450	M/S NILANJAN IRON PVT. LTD.	23-Oct-12
72	KOLHAPUR	251019050460	M/S SAM FLOWTECH PVT. LTD.	01-Oct-12
73	KOLHAPUR	251019050990	M/S PRECAST PLANT 2	03-Oct-12
74	KOLHAPUR	251019051260	M/S SHIVANJALI ISPAT PVT LIMITED	23-Oct-12
75	KOLHAPUR	251019052820	M/S.ALTECH ALLOYS INDIA PVT.LTD.	01-Oct-12
76	KOLHAPUR	251019053630	M/S SYNERGY GREEN PVT LTD -	01-Oct-12
77	KOLHAPUR	251019054190	M/S KOLHAPUR OXYGEN AND ACETYLENE P	30-Apr-13
78	KOLHAPUR	251019402315	M/S SAMIR CASTING PVT LTD	01-Oct-12
79	KOLHAPUR	251019402501	M/S KARVIR NIVASINI MAHALAXMI ISPAT P	05-Oct-12
80	KOLHAPUR	266779100871	M/S SB RESHELLAR PVT LTD	28-Sep-12
81	KOLHAPUR	251019402510	M/S EUROTUX INDUSTRIES & EXPORTS LTD	05-Oct-12
82	KOLHAPUR	251019402668	M/S M.D.EUROTUX INDUSTRIES & EXPORT	05-Oct-12
83	KOLHAPUR	251599006770	M/S MAYURA STEELS PVT. LTD.	03-Oct-12
84	KOLHAPUR	252529301510	M/S CHAIRMAN CHOUNDESHWARI S.S.GIRI	03-Oct-12
85	KOLHAPUR	252559304866	M/S INDIRA GANDHI MAHILA S SOOT GIRN	04-Oct-12
86	KOLHAPUR	252589007550	M/S SWIFT ENTERPRISES PVT. LTD. UNIT NO	04-Oct-12
87	KOLHAPUR	252589007820	M/S SWIFT ENTERPRISE PVT. LTD.	04-Oct-12
88	KOLHAPUR	252589050340	M/S SWIFT ENTERPRISES PVT. LTD. UNIT NO	04-Oct-12
89	KOLHAPUR	252589301489	M/S SUPER CRAFT FOUNDERY	04-Oct-12
90	KOLHAPUR	252829006520	M/S GHODAWAT INDUSTRIES (INDIA) PVT.	11-Oct-12
91	KOLHAPUR	252829007490	M/S SIDDHI VINAYAK COTSPIN PVT. LTD.	06-Oct-12
92	KOLHAPUR	252859004040	M/S STAR FLEXI PACK INDUSTRIES	11-Oct-12
93	KOLHAPUR	262079206151	M/S NAGREEKA EXPORTS LTD	04-Oct-12
94	KOLHAPUR	266519006220	M/S KUSUM CASTINGS PVT. LTD.	01-Oct-12
95	KOLHAPUR	266519007250	M/S RUSHIKESH PAPER MILL PVT. LTD.	03-Oct-12
96	KOLHAPUR	266519100095	M/S MENON AND MENON LTD VIKRAMNAG	03-Oct-12
97	KOLHAPUR	266549006100	M/S ADITEK	03-Oct-12
98	KOLHAPUR	266549100040	M/S GHATGE PATIL INDUSTRIES UNCHAGA	03-Oct-12
99	KOLHAPUR	266549401317	M/S PARTNER METAL FINISHERS & ENGRS I	03-Oct-12
100	KOLHAPUR	266779004740	THE DIRECTOR YASH METALLICS PVT LTD(U	28-Sep-12
101	KOLHAPUR	266779006780	M/S TULIP CASTINGS PVT. LTD.	28-Sep-12
102	KOLHAPUR	266779007130	M/S SAROJ FOUNDRY PVT. LTD.	28-Sep-12
103	KOLHAPUR	266779007310	M/S MANOJ INDUSTRIES	27-Sep-12
104	KOLHAPUR	266779007840	M/S HUDLI & SONS METALLICS PVT. LTD.	04-Oct-12
105	KOLHAPUR	266779007950	M/S K & K FOUNDRY PVT. LTD.	05-Oct-12
106	KOLHAPUR	266779050910	M/S NEETA INSTRUMENTS	28-Sep-12
107	KOLHAPUR	266779050580	M/S SIDDHARTH CASTINGS	28-Sep-12
108	KOLHAPUR	266779051310	M/S SHRI SPHERO TECH PVT. LTD.	03-Oct-12
109	KOLHAPUR	266779051710	M/S DHAVALIKAR ENGINEERING WORKS	26-Feb-13
110	KOLHAPUR	266779053060	M/S K & K CRAFTSMAN PVT LTD	28-Sep-12
111	KOLHAPUR	266779101096	M/S SHRIRAM FOUNDRY PRIVATE LIMITED	28-Sep-12
112	KOLHAPUR	266779101452	M/S SOUND CASTING PVT LTD	28-Sep-12
113	KOLHAPUR	266779101584	M/S SAROJ CASTINGS PVT LTD	28-Sep-12
114	KOLHAPUR	266819050100	M/S SWAMI DAYANAND SPINNERS PVT. LT	28-Sep-12
115	KOLHAPUR	267419004210	THE PROPRIETER JADHAV INDUSTRIES	05-Oct-12
116	SANGALI	279019006110	M/S MAHABAL METALS PVT. LTD.	01-Oct-12
117	SANGALI	279019007620	SUPER CRAFT FOUNDRY UNIT 2	04-Oct-12
118	SANGALI	281729005620	M/S KRISHNA VERLA MAG. SAHAKARI SOO	01-Jul-13
119	NAGPUR (R)	410039007180	M/S VAISHNAVI ROLLING MILLS PVT LTD. BI	06-Oct-12
120	NAGPUR (U)	410019003021	M/S NECO CASTINGS PVT LTD.	30-Oct-12
121	CHANDRAPUR	452029008190	M/S RAJURI STEELS AND ALLOYS PVT LTD	12-Jul-13
122	CHANDRAPUR	461219008030	M/S VIDEOCON INDUSTRIES LIMITED	01-Apr-13
123	WARDHA	510019001146	M/S GIMATEX INDUSTRIES PVT. LTD.	23-Jan-13
124	WARDHA	510019005920	M/S GIMATEX INDUSTRIES PVT. LTD.	23-Jan-13
125	WARDHA	510019007850	MAHALAXMI TMT PVT LTD DEOLI	04-Jan-13
126	AHMEDNAGAR	162039005580	M/S. K.C.TOOLROOM PVT LTD	13-Oct-12
127	AHMEDNAGAR	800019000401	M/S POLMAN INDIA LTD.	24-May-13
128	AHMEDNAGAR	800019000501	M/S KJKREJA OIL INDUSTRIES	25-Sep-12
129	NASIK	052789010129	M/S JINDAL POLY FILMS LTD	15-Nov-12
130	NASIK	075949020840	M/S KARTIK ISPAT PVT LTD	28-Sep-12
131	GANESHKHIND	170149002009	M/S CENTURY ENKA LTD	04-Feb-13
132	PUNE RURAL	176089030570	M/S AHMEDNAGAR FORGINGS LTD	05-Dec-12

PENDING LIST

SERIAL NUMBER	CIRCLE	CONSUMER NUMBER	CONSUMER NAME	DATE OF APPLICATION	DATE OF RECEIPT OF APPLICATION	Remarks
1	WASHIM	326019025170	M/S NARMADA SOLVEX PVT LTD	19-Jun-13		
2	YAVATMAL	370019004790	M/S PRIYADARSHANI SAHAKARI SOOT	24-Sep-13		
3	YAVATMAL	370019006820	M/S Raymods UCO Denim Pvt.Ltd.	02-Mar-15		
4	YAVATMAL	370019002626	M/S Raymods UCO Denim Pvt.Ltd.	02-Mar-15		
5	A'BAD (R)	490039044080	M/S COSMO FILMS LTD	06-Dec-13		
6	A'BAD (U)	490019009073	M/S RUCHA ENGINEERS PVT LTD	05-Apr-14		
7	BARAMATI	184819036690	M/S. RUSHABH INVESTMENT PVT.LTD	28-Feb-14		
8	SATARA	190129024730	M/S Ajinkyatara Sahakari Soot Girani Ltd	12-Sep-13		
9	SATARA	190569021850	M/S SHREE BHIMESHWARI ISPAT PVT	15-Oct-13		
10	SOLAPUR	340019008687	M/S SHETAKARI SAHAKARI SOOT GIR	28-Oct-14		
11	SOLAPUR	331519004484	M/S CIMMCO SPINNERS (DIV OF SPEN	24-Jan-13		
12	KALYAN-II	015599020192	M/S KARYAVAHU CONVEYOR CO PVT.	30-Apr-14		
13	KALYAN-II	015599021640	M/S BHARAT WIRE ROPES LTD	30-Jan-14		
14	PEN	031069019300	M/S VIPRAS CASTINGS LTD	21-Jan-14		
15	VASAI	003019013501	M/S EVEREST KANTO CYLINDER LTD	26-Feb-14		
16	VASAI	003019018155	M/S SAMRUDH PHARMACEUTICAL (P)	26-Feb-14		
17	VASAI	003019018244	M/S AARTI DRUGS LTD	26-Feb-14		
18	VASAI	003019019143	M/S KRIPLON SYNTHETICS(P) LTD	22-Oct-13		
19	VASAI	003019022690	M/S DICITEX FURNISHING P.LTD	26-Feb-14		
20	VASAI	003019024930	M/S DICITEX HOME FURNISHING PVT.	26-Feb-14		
21	VASAI	003019025410	M/S PANTALON INDUSTRIES LTD.	16-Aug-13		
22	VASAI	003019035080	M/S MUDRA LIFE STYLE LTD.	11-Mar-14		
23	VASAI	003019035240	M/S NAHAR TEXTILES PVT. LTD	05-Mar-14		
24	VASAI	003019036420	M/S JAKHARIA FABRICS PVT.LTD.	26-Oct-14		
25	VASAI	003019038300	M/S Manas Coslyn Pvt Ltd LTD.	24-Oct-13		
26	VASAI	003019019151	M/S AARTI DRUGS LTD.	26-Feb-14		
27	VASAI	003209025580	M/S AARTI DRUGS LTD.	26-Feb-14		
28	VASAI	003659022361	M/S AXIOM CORDAGES LTD.	28-Nov-13		
29	VASAI	003659022370	M/S RESPONSIVE INDUSTRIES LTD	28-Nov-13		
30	VASAI	001519036390	M/S SUBIR PRECISION PVT. LTD.	15-Jul-14		
31	KOLHAPUR	257219805056	M/S EXECUTIVE ENGINEER TILLARI D.	23-Dec-13		
32	KOLHAPUR	250499005740	M/S MAHALAXMI CO-OP YARN PROCE	30-Dec-13		
33	KOLHAPUR	2504990053870	M/S TRIMURTI SPINNING MILS PVT LT	27-Dec-12		
34	KOLHAPUR	252599304966	M/S AWADE INDUSTRIES PVT LTD	10-Jan-14		
35	KOLHAPUR	250229007570	CH. BHIMASHAKTI MAGASVARGIYA A	27-Nov-13		
36	KOLHAPUR	250229305146	M/S DHANLALXMI STEEL INDUSTRIES	04-Dec-13		
37	KOLHAPUR	251599302215	M/S R M MOHITE INDUSTRIES LTD.	12-Mar-14		
38	KOLHAPUR	250519401246	M/S SHREE VYANKTESH SHET V S SO	18-Nov-14		
39	KOLHAPUR	266849401238	M/S AMIT SPINNING INDUSTRIES LT	30-Sep-13		
40	KOLHAPUR	251019006990	M/S INDO COUNT INDUSTRIES LTD.	15-Apr-14		
41	KOLHAPUR	251019007000	M/S INDO COUNT INDUSTRIES LTD.	26-Mar-14		
42	KOLHAPUR	251019007430	M/S APPLE SPONGE AND POWER LTD	27-Nov-14		
43	KOLHAPUR	251019007760	M/S OSWAL F. M. HAMMERLE TEXTILE	10-Apr-14		
44	KOLHAPUR	251019053220	M/S OSWAL F. M. HAMMERLE TEXTILE	10-Apr-14		
45	KOLHAPUR	266519007690	M/S SHILP ENTERPRISES	20-Oct-13		
46	SANGALI	284109005610	M/S KASTURI FOUNDRY PVT.LTD.	20-Nov-13		
47	SANGALI	284019005290	M/S SHETKARI VINKARI SAH. SOOT G	27-Sep-13		
48	SANGALI	279249007920	M/S BASHKO ENGINEERING UNIT 2	17-Jun-13		
49	SANGALI	279249990099	M/S PARVATI AGRO PLAST	15-Feb-13		
50	SANGALI	275269009534	M/S SAGARESHWAR SAHAKARI SOOT	16-Oct-13		
51	LATUR	610609004160	M/S AMBIKA PRINTERS	01-Mar-13		
52	OSMANABAD	594019001072	M/S KATHARE SPINNING MILL TAMAL	30-Dec-13		
53	OSMANABAD	594019001242	M/S BALAJI AMINES LTD TAMALWADI	18-Oct-12		
54	NAGPUR (R)	430019004141	M/S BHAGIRATH TEXTILES INDS PLTD	05-Mar-14		
55	NAGPUR (R)	410039007670	M/S S.M.T.C. POWER & INDUSTRIES P	11-Nov-13		
56	NAGPUR (R)	430019003412	M/S SURYAAMBA SPINNING MILLS LT	06-Mar-14		
57	NAGPUR (R)	420819007240	M/S PUROHIT & CO.	13-Sep-13		
58	NAGPUR (R)	430019003439	M/S TRIMURTI ISPAT PVT LTD	27-Dec-12		
59	NAGPUR (R)	430019003927	M/S NICE PAPERS LIMITED AT GHOGA	31-Mar-14		
60	NAGPUR (U)	420819006010	M/S SHILPA STEEL AND POWER LTD.	18-Apr-13		
61	NAGPUR (U)	420819006130	M/S RUCHI SOYA IND. LTD	24-Jun-14		
62	NAGPUR (U)	420819007380	M/S SUNDER ROLLING MILLS	21-Jan-15		
63	NAGPUR (U)	420819007680	M/S INVENTYS RESEARCH CO PVT.LT	03-Jul-13		
64	NAGPUR (U)	420819010630	M/S G G DANDEKAR MACHINE WORK	03-Jul-13		
65	NAGPUR (U)	430019003382	M/S HINDUSTAN UDYOG LTD	24-Jun-14		
66	NAGPUR (U)	430019003510	M/S UNIWORTH TEXTILES LTD.	03-Jul-13		
67	NAGPUR (U)	430019003684	M/S PREMIER IRRIGATION ADRITEC P	19-Apr-14		
68	NAGPUR (U)	430019004460	M/S Jayaswal Neco Industries Ltd.	24-Jun-14		
69	CHANDRAPUR	450019005910	M/S GRACE INDUSTRIES PVT.LTD	28-Mar-14		
70	WARDHA	510019000077	M/S GIMA MANUFACTURING PVT. LTD	29-Jun-13		
71	WARDHA	510019000085	M/S GIMATEX IND. Pvt. Ltd. Pt. No. 3	29-Jun-13		
72	WARDHA	510019001219	M/S PEE VEE TEXTILES PVT.LTD.	01-Apr-14		
73	HINGOLI	530029004350	M/S ROKDSHWAR SAHAKARI SOOT G	17-Oct-13		
74	NANDED	550029005620	M/S NARSINHA SOOT GIRANI KHANAF	02-Dec-13		
75	PARBHANI	530019004820	M/S RAMAN AGRO INDUSTRIES MIDC	05-Aug-14		
76	AHMEDNAGAR	162019005650	M/S. HINDUSTAN DISTILLERIES	21-Sep-13		
77	NASIK	073039020570	M/S SHRI VAISHNAV CASTING P. LTD	22-Jun-14		
78	NASIK	052089006996	M/S THYSEEN KRUPP ELECTRICAL S	17-Jul-14		
79	NASIK	075949006646	M/S JINDAL SAW LTD	05-Apr-14		
80	PUNE RURAL	181029042400	M/S. SHRINIWAS ENGINEERING AUTC	20-Jul-13		

81	NAGPUR (U)	420819006870	M/S VENUS ROLLING MILLS (P)LTD	22-Jan-13	
82	NAGPUR (R)	410039005220	M/s HALDIRAM FOODS INTERNATIONAL	01-Mar-13	
83	NAGPUR (R)	410039006810	M/S HALDIRAM FOODS INTERNATIONAL	01-Mar-13	
84	NAGPUR (R)	410039010980	M/S HALDIRAM FOODS INT. PVT. LTD.	01-Mar-13	
85	NAGPUR (R)	410039010490	M/S HALDIRAM KRUSHI UDYOG PVT LTD	01-Mar-13	
86	NAGPUR (R)	410039006800	M/S CENTRAL FOOD PRODUCTS (NAGPUR)	01-Mar-13	
87	NAGPUR (U)	430019003421	M/S INDORAMA SYNTHETICS LTD	01-Apr-14	
88	NAGPUR (R)	410039009080	M/S JAMNADAS STEEL PVT. LTD. AT K	01-Apr-14	
89	WARDHA	510019005860	RSR MOHTA SPINNING & WEAVING M	07-Oct-13	
90	KALYANI	015599019925	M/s VIJAY IND.LTD	29-Aug-13	
91	WARDHA	510019000107	M/S GIMATEX INDUSTRIES PVT. LTD.	29-Jun-13	
92	WARDHA	510019000140	M/S GIMATEX INDUSTRIES PVT. LTD	29-Jun-13	
93	WARDHA	510019000042	M/S R S R MOHTA MILLS	08-Oct-13	
94	KOLHAPUR	250389304065	M/S KOLHAPUR Z SHETAKARI V SAH S	12-Aug-13	
95	SATARA	190568021870	M/S COOPER CORPORATION PVT. LT	06-May-14	
96	SATARA	190569022330	M/S COOPER CORPORATION PVT. LT	06-May-14	
97	SANGALI	284109007119	M/S ASHTA LINERS PVT LTD	20-Nov-13	
98	SOLAPUR	331519051930	M/S BANG DATA FORMS PVT LTD	04-Nov-14	
99	SOLAPUR	331519004375	M/S BANG DATA FORMS PVT LTD	04-Nov-14	
100	SOLAPUR	311519050590	M/S SUPREME POLYWEAVE LTD	17-May-14	
101	WARDHA	510019005980	M/S PEE VEE TEXTILES LTD JAMB	01-Apr-14	
102	NAGPUR (U)	420819006290	M/S SALASAR ALLOYA & STEEL IND (P	24-Sep-14	
103	NAGPUR (U)	420819011460	M/S TAPADIA POLYETERS PVT LTD BU	23-Jan-13	
104	VASAI	003019019151	M/S RUPAL CHEMICAL INDUSTRIES L	24-Feb-14	
105	KALYANI	018019020157	M/S TARAPUR CABLES INDIA LTD	29-Nov-13	
106	KOLHAPUR	250229305154	M/S GANGOTRI TEXTILE LTD	08-Jul-13	
107	NAGPUR(U)	420819009120	M/S TENICO BEVERAGES IND	14-Nov-13	
108	VASAI	003209023440	M/S PANTALOON RETAIL (INDIA) LTD	16-Aug-13	
109	SANGALI	279249005280	M/S TULSI FOUNDARIES LTD	03-Oct-13	
110	BARAMATI	186849005533	M/S GTN ENGINEERING (INDIA) LTD.	02-May-13	
111	KOLHAPUR	267419004050	M.D. ABHISHEK COTSPIN MILLS LTD.	12-Sep-13	
112	KOLHAPUR	250249302232	M/S MENON ANCILLARIES (AUTO) LTD	26-Aug-13	
113	SANGALI	279249007640	M/S PARVATI AGRO PLAST	15-Feb-13	
114	NASIK	057559006884	M/S SAPTASHRINGI STEEL ROLLING M	26-Aug-13	
115	NAGPUR(R)	420819005280	M/S SHRIDHAR CASTING LTD	08-Jan-14	
116		075949018840	M/S S K STEEL	03-Feb-14	
117	NAGPUR(U)	430019002254	M/S BABASAHEB KEDAR SHETKARI S	11-Dec-14	
118	NAGPUR(R)	420819008800	M/S NAGPUR ZILLA KAPUS UTPADAK	25-Oct-14	
119	JALGAON	137789002930	M/S SAGAR & ROHIT ENG.IND PALDHI	30-Oct-14	
120	KOLHAPUR	251019054050	M/S INDUS FERROTECH LTD	28-Dec-14	
121	AURANGABAI	490019001625	M/S NATH PULP & PAPER MILLS LTD	29-Oct-12	
122	NASIK RURAL	052089010357	M/S THYSEEN KRUPP ELECTRICAL S	17-Jul-14	
123	KOLHAPUR	025259304968	M/S AWADE INDUSTRIES PVT LTD	27-May-14	
124	KOLHAPUR	252539053900	M/S GANESH BAKARY	25-Jun-14	
125	NRC	420819005990	M/S LOKMAT MEDIA LTD	03-Jul-13	
126	NRC	430019003803	M/S KEC INTERNATIONAL LTD	03-Jul-13	
127	KOLHAPUR		M/S SHIROLI MANUFACTURERS LTD	06-Feb-13	
128	VASAI	003019009181	M/S BALKRISHNA SYNTHETICS LTD	06-Mar-13	
129	VASAI	003019035330	M/S BOMBAY RAYON FASHION LTD	06-Mar-13	
130	VASAI	003019036190	M/S BOMBAY RAYON FASHION LTD	06-Mar-13	
131	AHMEDNAGAI	850719010430	M/S VEEKAY DISTILLERIES LTD	23-Jun-14	
132	DFAURANGA	490019040540	M/S ROHIT EXHAUST SYSYTEM	13-Jan-14	
133	DFAURANGA	490019044560	M/S ROHIT EXHAUST SYSYTEM	13-Jan-14	
134	KOLHAPUR	267249050740	M/S RAJIV SS GIRNI	04-Jul-14	
135	KOLHAPUR	266779051120	M/S NATIONAL PAPER IND LTD	08-Jul-14	
136	PARBHANI	530019004160	M/S S P AGRO IND. LTD	02-Mar-15	
137	KOLHAPUR	250229007570	M/S BHEEMSHAKTI MAGASVARGIYA A	30-Dec-13	
138	KOLHAPUR	250499053600	M/S SHAHU RAJE MAGASVARGIYA AU	29-Jan-15	
139	KOLHAPUR	251019102510	M/S EUROTEx IND & EXPORTS LTD	20-Dec-14	
140	KOLHAPUR	251019054760	M/S GHATGE PATIL IND LTD	26-Dec-14	
141	KOLHAPUR	251019054880	M/S MENON & MENON LTD	01-Jul-14	
142	KOLHAPUR	252829005710	M/S GHODAWAT FOOD INT. LTD	24-Mar-14	
143	KALYAN-1	020609004763	M/S NATIONAL PEROXIDE LTD	23-Dec-14	
144	KOLHAPUR	251019054070	M/S NAGAREEKA EXPORTS LTD	10-Jul-14	
145	PARBHANI	530019004220	M/S OMKAR GINING FACTORY	02-Mar-15	
146	BARAMATI	186849005533	M/S SOMA TEXTILES LTD	02-May-13	
147	KOLHAPUR	262079006430	M/S SHREE KHANDOBA RICE LTD GR	15-Nov-14	
148	BARAMATI	184819041970	M/S WESTERN INDIA FORGING PVT L	28-Mar-14	



MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO. LTD.

(A GOVT. OF MAHARASHTRA UNDERTAKING)

CIN : U40109MH20005SGC153645

PHONE No. 26474753 (P)/26474211 (O)

FAX No. 26472356

Email: cecomm@mahadiscom.in

Website: www.mahadiscom.in

PLOT No. G-9, PRAKASHGAD

Prof. ANANT KANEKAR MARG

BANDRA (East)

MUMBAI-400051

PR-3/Tariff/No. **No 21400**

Date:- **1 SEP 2017**

To,
The Superintending Engineer,
MSEDCL,
All O&M Circles,

Sub: Effecting the change of tariff from Continuous to Non Continuous as per MERC Order in Case No. 94 of 2015.

Ref: 1. MSEDCL Board Resolution dt.01.06.2017.
2. T.O.L: PR3/Tariff/No.16403.dt.05.07.2017.
3. T.O.L: PR3/Tariff/No.16720.dt.10.07.2017.

As you may be aware that MERC in its order dt.19.08.2016 has directed to examine and take appropriate action with regard to treatment given to different applications. It was informed vide letter ref 2 above to initiate immediate action such as withdrawal/disposed off the legal cases pending before Hon'ble court/forum in the matter of tariff change from Continuous to Non Continuous. The necessary action in the matter at earliest shall be taken.

Also, this office vide letter ref 3 above had informed circle offices to verify and confirm the date of receipt of approved as well as pending applications for tariff change from Continuous to Non Continuous. This office had provided url link on Rapdrp portal for verification and confirmation of these dates. This office is now in receipt of verified and confirmed date of receipt of applications from circle offices.

The consumers whose dates are matching with the Circle offices and with no dispute tag fed by circle offices are sorted out from the list which is enclosed. The consumers whose application dates are not matching and which are tagged as disputed by circle offices shall be dealt as per directives given in clause No. 2 of Board resolution which is already circulated through letter ref 3 above. The copy of letter ref 3 and BR is once again enclosed for your ready reference.

It is presumed that the dates of receipt of application are verified and confirmed at your end. Accordingly, you are informed to check from which date change of tariff is effected to these consumers (Provided No credit B80, on account of tariff change). The applicability of eligible tariff

change shall be effected from second billing cycle of date of receipt of application till the tariff change is already effected. The concerned circle office shall feed month/period in the list uploaded on RAPDRP web at portal at url http://10.0.2.156:8380/Tariff_Cons/. The eligibility period of tariff difference ascertained by the circle offices shall be treated as final and differential amount shall be passed on to these consumers through IT system. All calculations shall be done by IT system only. Also, it shall be ensured that no undue benefit is passed to the consumers.

The same is shown by way of illustration for reference:

Eg: The date of receipt of application of consumer for change of tariff from Continuous to Non-continuous is confirmed, verified and fed by circle office. The date of receipt of application eg. 01.01.2014 is fed on Rapdrp web portal by circle office. The consumer is effected tariff change from August 2015 then; circle office has to feed the balance eligible period due for tariff difference .i.e in this case is from Feb 2014 to July 2015 (Provided No credit B80, on account of tariff change). After feeding the eligible period by circle office the tariff difference amount will be calculated by IT system and amount shall be passed on to the consumer directly through IT system.

In view of above, all the Circle offices are hereby instructed to ensure correct finalization of the due period for refund of tariff difference and take appropriate action of passing the benefit of tariff conversion from Continuous to Non- continuous in this regard strictly as per above guidelines. The claims of other Consumers than above list are to be settled by circle office as per Clause No.2 of BR.

This is for your information and further needful action.

Encl:

As Above.


Chief Engineer (Commercial)

Copy s.w.r. to :

1. The Director (Operations/Finance), MSEDCL, Mumbai.
2. The Joint Managing Director/Regional Director (Aurangabad/Nagpur/Pune/Konkan)
3. The Executive Director (Dist-I/II/III/IV), MSEDCL, Mumbai.
4. The Chief Legal Advisor, MSEDCL, Mumbai.
5. The CGM (IT), MSEDCL, Mumbai.

-----You are requested to make necessary changes in the billing software for calculation and refund to the consumers through incoming bill.

6. The OSD to CMD MSEDCL, Mumbai.

Copy s.w.c.to :

The Chief Engineer, MSEDCL, All Zone offices.

C:\Users\Neharika\Desktop\117\Release\Report\Implementation of 5544\14_MIS_NCR\14_Letter to field offices_MIS_NCR_26.08.2015.docx



MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO. LTD.
(A GOVT. OF MAHARASHTRA UNDERTAKING)
CIN : U40109MH20005SGC153645

PHONE No. 26474753 (P)/26474211 (O)
FAX No. 26472366
Email: cecomm@mahadiscom.in
Website: www.mahadiscom.in

PLOT No. G-9, PRAKASHGAD
Prof. ANANT KANEKAR MARG
BANDRA (East)
MUMBAI-400051

PR-3/Tariff/No. **26345**
To,
The Superintending Engineer,
MSEDCL,
All O&M Circles.

Date: **27 OCT 2017**

Sub: Implementation of 94 of 2015.

- Ref: 1. MERC Order in Case No.94 of 2015.dt.19.08.2016.
2. MERC Daily Order in Case No.12 of 2017.dt. 12.05.2017.
3. T.O.L: PR_3/Tariff/No/16403.dt.05.07.2017.
4. T.O.L: PR_3/Tariff/No/16720.dt.10.07.2017.
5. T.O.L: PR_3/Tariff/No/21400.dt.01.09.2017.

In view of MERC order under Ref. No.1. This office has given clear instructions for implementation of said order vide letter at ref.No.4 and 5 .It was also directed vide letter under ref.No.3 to initiate immediate action such as withdraw/dispose off the legal cases pending before various court/forums based on MERC SoP Regulations 9.2 in the matter of tariff change from Continuous to Non-Continuous.

In spite of clear instructions, it is observed that the field officers are acting to the contrary interpretation of basic principle settled in the Case 94 of 2015 in some instances and causing to incur unnecessary legal expenses.

Hon. MERC has taken note of the same and ruled that even after clear order in case No. 94 of 2015, MSEDCL is still incurring legal expenditure on such litigation. The Hon`ble Commission has stated that it may take serious view on this at the time of the Midterm review proceedings.

Therefore, you are directed to take necessary actions to follow the directives in regard to references above, failing which will attract stringent action.

Encl: A/A

[Signature]
Chief Engineer (Commercial)

Copy s.w.r. to :

1. The Hon`ble Chairman & Managing Director, MSEDCL, Mumbai.
2. The Director (Finance), MSEDCL, Mumbai.
3. The Director (Operations), MSEDCL, Mumbai.
4. The Joint Managing Director/Regional Director (Aurangabad/Nagpur/Pune/Konkan)
5. The Executive Director (Dist-I/II/III/IV), MSEDCL, Mumbai.

Copy s.w.c.to :

The Chief Engineer, MSEDCL, All Zone offices.

Maharashtra State Electricity Distribution Co. Ltd.

(A GOVT. OF MAHARASHTRA UNDERTAKING)

CIN : U40109MH20005SGC153645

PR-3/Tariff/No. **No 27394**

Date:

9 NOV 2017

To,
The Joint MD/Regional Directors,
MSEDCL,
Aurangabad/Konkan/Nagpur/Pune Region.

Sub: Instructions for tariff category conversion as per MERC Order in Case 94/2015 and action thereof.

- Ref:**
1. MERC Order dt.19.08.2016 in Case No.94 of 2015.
 2. MSEDCL Board Resolution No.908 dt.01.06.2017.
 3. T.O.L: PR3/Tariff/16403.dt.05.07.2017.
 4. T.O.L: PR3/Tariff/16720.dt.10.07.2017.
 5. T.O.L: PR3/Tariff/21400.dt.01.09.2017.
 6. T.O.L: PR3/Tariff/26345.dt.27.10.2017.

Pursuant to MERC Order at Sr. No.1, Corporate office has communicated procedure vide letters at Sr. No. 3, 4, 5 and 6 to be followed for implementation of direction of Hon'ble Commission in case No. 94/2015 for change of tariff.

The field offices were directed to:

1. Withdraw/ Get cases disposed off to the extent mandated in MERC Order in case 94/2015.dt.19.08.2016.
2. To Effect change in tariff category as per MERC Regulation 2005, cl.9.2.

Further, the Method of approval was also given vide letter at Sr. No. 4 and 5. The compliance of implementation of the said MERC order is required to be submitted to Hon'ble commission and amount is also required to be claimed in ARR of MSEDCL.

The Competent Authority has expressed displeasure over the issue and has directed me to convey the following directives:

- a) Joint MD/RD's are requested to kindly issue a certificate confirming 100% compliance of the said order so as to enable this office further action.
- b) The certificate for whole region (Circle wise) may be please sent through Email (eddistribution2@gmail.com / cecommho@gmail.com) by dt.13.11.2017.

The matter is extremely serious and may be treated urgent.

Encl: As Ref.

Ammal SS
Executive Director (Dist-II) 9/11

Copy s.w.r. to :

1. The Hon'ble Chairman & Managing Director, MSEDCL, Mumbai.
2. The Director (Finance), MSEDCL, Mumbai.
3. The Director (Operations), MSEDCL, Mumbai.
4. The Executive Director (Dist-I/III/IV), MSEDCL, Mumbai.

Copy to: The Chief Engineer, MSEDCL, All Zone offices.

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO. LTD.

(A GOVT. OF MAHARASHTRA UNDERTAKING)

CIN : U40109MH20005SGC153645

PHONE No. 26474753 (P)/26474211 (O)

FAX No. 26472366

Email: cecomm@mahadiscom.in

Website: www.mahadiscom.in

PLOT No. G-9, PRAKASHGAD
Prof. ANANT KANEKAR MARG
BANDRA (East)
MUMBAI-400051

PR-3/Tariff/No. **No 03076**

Date: **30 JAN 2019**

To,
The Superintending Engineer,
MSEDCL, O&M Circle,
Sangli.

Sub: Guidelines for payment of interest on the refund amount for change in tariff category from Continuous to Non-Continuous.

- Ref:**
1. Y.O.L: SE/SC/Tech/Accts./Legal/No.401.18.01.2019.
 2. MERC Order in Case 94/2015.dt.19.08.2016.
 3. This office E-mail on dt.19.04.2018.
 4. Letter to MERC: PR-3/Tariff/No.5990.dt.21.03.2018.

This office is in receipt of your letter ref 1 above requesting to provide guidelines in the order passed by CGRF, Kolhapur on 31.07.2018 in Case No.18/2018-19 in r/o M/s Tulsi Casting & Machining Ltd Vs. MSEDCL.

It is brought to your notice that, this office vide letter ref 4 above has submitted before the Hon'ble commission that as there is no directives for passing of refund of interest in order in Case 94/2015.dt.19.08.2016, MSEDCL is not paying interest and will abide by the directions, if any, as may be given by the Hon'ble commission.

Further, this office vide mail ref 2 above has already communicated your office, the directives of competent Authority to contest the cases regarding refund of interest.

In view of above, you are hereby informed to take necessary action accordingly.

Encl: A/A


Superintending Engineer (Commercial)

Copy s.w.r. to :

1. The Executive Director (Dist-II), MSEDCL, Mumbai.
2. The Director (Operations), MSEDCL, Mumbai.

Copy f.w.c.to:

1. All Chief Engineers, Zonal Offices, MSEDCL.
2. All Superintending Engineers, Circle Offices, MSEDCL.

EE-2/Revise Petition/INTEREST/Convey Letter_interest Tulsi casting_sangli.docx



(A Govt. of Maharashtra Undertaking)

CIN : U40109MH2005SGC153645

PHONE NO. : 25664314/25664316

FAX NO. 26470953

Email: cgrfbhandupz@gmail.com

Website: www.mahadiscom.in

Consumer Grievance Redressal Forum

"Vidyut Bhavan", Gr. Floor,

L.B.S.Marg,Bhandup (W),

Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/

Date:

Hearing Date: 27/11/2018

CASE NO.188/2018

In the matter of refund of tariff difference amount with interest

M/s Allana Investing & Trading Co. Pvt Ltd..... (Hereinafter referred as Applicant)

Plot No M-41/42

MIDC INDUSTRIAL AREA ,TALOJA

DIST –RAIGAD (MAHARASHTRA),INDIA

Vs

Maharashtra state Electricity Distribution Company Ltd

Through its Nodal Officer,

Vashi Circle,Vashi

..... (Hereinafter referred as Respondent)

Appearance

For Consumer :- A. N. Patil

Representative for Respondent :- D. B. Pawar Executive Engineer Vashi Circle

[Coram- Dr. Santoshkumar Jaiswal- Chairperson, Shri. R.S.Avhad -Member Secretary and Sharmila Ranade - Member (CPO)].

1. Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the

grievances of consumers vide powers conferred on it by Section 181 read with subsection 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005] Here in after referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

2. The present consumer had filed grievance before IGRC, Vashi Circle but the IGRC did not decide the said grievance within stipulated period of two months, therefore the consumer filed grievance before this forum on 08.10.1.2018.

3. The case of the applicant is as below

The applicant M/s Allana Investment Trading Co. Pvt Ltd is HT consumer at 22KV level bearing consumer no 028619021217 at plot No M-41 , MIDC Taloja Navi Mumbai with contract Demand 2956KVA and connected load 4655KW and date of connection as 10.01.1997 under HT-C tariff Category.

4. The applicant had applied for change billing category from continuous to non continuous by giving consent for changing billing category on 3rd august 2011 to the Superintending Engineer Vashi circle ,MSEDCL but not changed as per regulation 9.2 of 2005 SOP

"Any change of name or change of tariff category shall be effected by the distribution Licensee before the expiry of the second billing cycle after the date of receipt of application"

- 5. The applicant submitted letter 8/10/2011, 27/01/2012, 06/3/2012,19/07/2012, 03/10/2012, 15/01/2013, 08/04/2013, 08/08/2013 for change of tariff category from express feeder to non express Feeder.

- 6. The applicant further submit that in the list of consumer ,whose applications were pending for change of category from continuous to non continuous given in MEDCL letter PR-3/Tariff/no 16720 dated 10 July 2017, the name of their connection not included.

- 7. The Hon'ble Maharashtra Electricity Regulatory Commission issued order in case no 94 of 2015 on date 19/08/2016 regarding change of category from continuous to non-continuous. The amount of tariff difference refund from September 2011 to October 2016 has been neither refunded nor credited in our bill whereas for some other industries as per letter PR-3/Tariff/no 16720 dated 10 July 2017 refund is credited in their bills in October 2017.The Respondent has not followed the guidelines given by Chief Engineer commercial in letter No PR-3/Tariff/no 16720 dated 10 July 2017 and No PR-3/Tariff/no 16403 dated 5 July 2017.

- 8. The Respondent has not taken action for refund of tariff difference between continuous & non continuous from September 2011 to October 2016 and action of refunding is over delayed. Hence, the Respondent liable to provide interest on tariff difference The applicant prayed for refund of tariff difference continuous to non-continuous for period September 2011 to October 2016 with interest.

9. The notice issued to the Respondent to appear before forum. The Respondent MSEDCL has filed reply dated 27/11/2018. The Respondent Stated as M/s Allana Investment & Trading Co. Pvt. Ltd is HT consumer at 22 KV level bearing consumer no. 028619021217 at Plot No. Plot No. M-42, MIDC Talaja Navi Mumbai, Navi Mumbai with Contract Demand 2950 KVA and Connected Load 4655 KW and date of connection as 10.01.1997 under HT-I C tariff category.
10. M/s Allana Investment & Trading Co. Pvt. Ltd letter dtd. 08-10-2011, 27-01-2012, 06-03-2012, 19-07-2012, 03-10-2012, 15-01-2013, 18-04-2013, 08-08-2013, requested for change of tariff category from express feeder to non-express feeder. Further the consumer stated that their name was there in the list of consumers, whose applications were pending for change of category from continuous to non-continuous, given in MSEDCL letter PR-3/Tariff/No. 16720 Dtd. 10.07.2017 Consumer stated that MSEDCL is liable to provide interest on respective monthly tariff difference amounts since September 2011 to October 2016 till month of actual credit /payment. Further consumer has given citation of Hon'ble commissions case No.44 of 2017 for payment of interest applicable for the delay in paying the amount to petitioner in giving connection by MSEDCL to petitioner.
11. It is most respectfully submitted that the consumer has not followed the procedure by filing the grievance within 02 yrs from the date on which the cause of action has arisen. As per Regulation 6.6 of MERC (CGRF & Ombudsman) Regulation 2006, the forum shall not admit any grievance unless it is filed within 2 years from the date on which the cause of action has arisen. Further in the commercial circular 246 it is also stated that Superintendent Engineer is the competent authority to permit consumer to switchover from continuous tariff to HT non-continuous tariff. The circle office shall be competent only to permit prospective implementation & shall

ensure that no retrospective effect is given to any consumer without prior approval of Head office .So, as per this circular competent authority of circle is not empowered to give retrospective effect.

12. Commercial circular 246 also states that the consumer connected on express feeder having continuous supply if demands non-continuous option, shall submit an undertaking on Rs. 200 stamp paper from consumer thereby agreeing to not to utilize power supply during the period as may be informed by MSEDCL, so as to cope the situation of Load Shedding/staggering day if the situation arise. In case consumer defaults in his undertaking he will be treated as HT continuous consumer & will be billed accordingly w.e.f such change has been implemented. So, now question arises whether such undertaking was given by the consumer when he has submitted application for changing tariff from continuous to non-continuous and after receipt of application whether he was disconnected from express feeder and only feeding was done by non-express feeder.
13. C.E(Commercial) vide letter 16403 Dtd. 5-07-2017 directed S.E O&M Circle to withdrawal/disposed off the legal cases pending before court/forum in the matter of tariff change from continuous to non-continuous. Further C.E(Commercial) vide letter 16720 Dtd. 10.07.2018 informed that list of pending /approved applications mentioning date of application received at corporate office is uploaded on RAPDRP Portal for change of category from continuous to non-continuous. This office vides Ltr. No. SE/VC/T/HT/2018-19/007155 Dtd. 26.10.2018 has forwarded the matter Of M/s Allana Investment & Trading Co. Pvt. Ltd. to C.E (Commercial) for guidelines and necessary action.

14. The Respondent prayed that it is to bring out those commercial circular 246 states that Superintendent Engineer is the competent authority to permit consumer to switchover from continuous tariff to HT non-continuous the circle office shall be competent only to permit prospective implementation & shall ensure that no retrospective effect is given to any consumer without prior approval of Head office. All calculation will be done by HO(IT) systems only Further C.E(Commercial) vide letter 16720 Dtd. 10.07.2018 informed that list of pending /approved applications mentioning date of application received at corporate office is uploaded on RAPDRP Portal for change of category from continuous to non-continuous . Thereafter, the consumer whether the consumer enquired in the office of C.E (Commercial) to know the reasons for pendency of their case at that time is also not clear. After August 2013, consumer has not approached with his grievances to any office of MSEDCL and now in the month of August 2018 filed an application before IGRC and Oct.2018 before CGRF for refund of tariff difference between continuous and non-continuous from September 2011 to October 2016. Therefore this office has forwarded the matter to Chief Engineer (Commercial) for guidelines and necessary action to be taken and reply in this regard is awaited.

After perusing the rival contentions of consumer and respondent utility, following points arose for our consideration to which I have recorded points with reason given below

- 1] Whether the applicant proved that demand of refund of tariff difference continuous to non continuous with interest legal, valid and proper? YES
- 2] Whether consumer complaint is tenable? YES
- 3] What order?

Reasons

15. I have given opportunity to the consumer and his representative who appears before this Forum and also gave the opportunity the Respondent representative to submit their say. Admittedly, there are some issue on which both parties agreed that M/s Allana Investment Trading Co. Pvt Ltd is HT consumer at 22KV level bearing consumer no 028619021217 at plot No M-41, MIDC Talaja Navi Mumbai with contract Demand 2956KVA and connected load 4655KW and date of connection as 10.01.1997 under HT-C tariff Category. Also, the applicant has submitted application dated 08/10/2011, 27/01/2012, 06/3/2012, 19/07/2012, 03/10/2012, 15/01/2013, 08/04/2013, 08/08/2013 to the Respondent requested for change of tariff category from express feeder to non express Feeder.

16. The Maharashtra State Electricity Commission had determined the tariff for supply of electricity by MSEDCL through its Order dated 16 August, 2012, in Case No. 19 of 2012, which came into effect from 1 August, 2012. High Tension consumer divided into Continuous (HT-I-C) and non continuous (HT-I-N). And this is not disputed by the Respondent. As per tariff schedule in tariff order HT-I high Tension (industrial) divides in sub category Continuous, Non Continuous and seasonal. Under HT category note has given that d) Only HT industries connected on express feeders and demanding continuous supply will be deemed as HT Continuous Industry and given continuous supply, while all other HT industrial consumers will be deemed as HT Non-Continuous Industry. If it's assumed that feeder is express feeder then after consumer request/Demand for non continuous tariff to should have to be considered.

17. I have gone through the documents submitted by the applicant that he has submitted application for change of tariff from continuous to non continuous on date 8/10/2011, 27/01/2012, 06/3/2012, 19/07/2012, 03/10/2012, 15/01/2013, 08/04/2013, 08.08.2013 which is not disputed by the Respondent. It is observed that the Respondent never gave reply to the applicant application.

18. In case no 44 of 2008 order dated 12 September 2008 Commission's Ruling and Clarification as below

The Commission is of the view that MSEDCL should not ignore the benefits of load relief that could be achieved, in case certain HT-I continuous industries, who are presently not subjected to load shedding, voluntarily agree to one day staggering like other industries located in MIDC areas. Hence, the HT industrial consumer connected on express feeder should be given the option to select between continuous and non-continuous type of supply, and there is no justification for removing the clause "demanding continuous supply" from the definition of HT-I continuous category. However, it is clarified that the consumer getting supply on express feeder may exercise his choice between continuous and non-continuous supply only once in the year, within the first month after issue of the Tariff Order for the relevant tariff period. In the present instance, the consumer may be given one month time from the date of issue of this Order for exercising his choice. In case such choice is not exercised within the specified period, then the existing categorization will be continued.

19. The Hon'ble Maharashtra State Electricity Commission order, it is clarified change of category option only binding to High Tension consumer on express Feeder. As per MERC tariff order dated 16.08.2012 clearly noted under HT-I category as below

Only HT industries connected on express feeders and demanding continuous supply will be deemed as HT Continuous Industry and given continuous supply, while all other HT industrial consumers will be deemed as HT Non-Continuous Industry.

20. Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 Clause 2(1) in the definition of express feeder is given (m) "Express Feeder" is a feeder emanating from the Licensees substation to connect to a single point of supply, which also includes dedicated distribution facility (DDF) ; (l) "Dedicated distribution facilities" means such facilities, not including a service line, forming part of the distribution system of the Distribution Licensee which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises

21. As per MSEDCL commercial circular no 124 dated 14.10.2010, point no 5 new sub-categories for Express and Non-express feeders under HT II Commercial Category: The Commission has created two sub-categories for Express and Non-express feeders under HT II Commercial, the revised consumer categorization under HT II Commercial, will be as under: HT II Commercial (A) Express Feeders (i) Educational Institutions and Hospitals (ii) Others (B) Non-Express Feeders (i) Educational Institutions and Hospitals (ii) Others As per directives given by Hon. Commission, HT II Commercial consumers connected on express feeder will be given continuous supply without any load shedding and will be charged as per HT II Commercial (Express Feeder) tariff w.e.f. 01/09/2010. In case any HT II Commercial (on express feeder) consumer communicates in writing that he does not want continuous supply, then load shedding should be undertaken in accordance

with the prevalent load shedding protocol for such consumer and levy the tariff applicable for non-express feeder under HT II commercial category, for such time, as the non-continuous supply is continued. Individual correspondence with all existing HT II Commercial (Express Feeder) and HT II Commercial (Non-Express Feeder) may be undertaken at Circle level to cover the above aspect for change from Express to Non-Express & vice versa. Load shedding protocol should be quarterly monitored by Superintending Engineer and such report to be submitted to the Chief Engineer (O & M) for scrutiny. The proper categorization of HT II consumers under HT II - A (Express Feeder) and HT II - B (Non-Express Feeder) should be carried out carefully to avoid revenue loss and Load Shedding Protocol be strictly implemented for all non-express category feeder

22. The Commission, in its order dated 19th August, 2016 in Review Petition No. 94 of 2015 has held as under:-

- a. *“26.9 From the above judgements, it is clear that the SOP Regulations being in the nature of subordinate legislation, an Order issued in contravention of these Regulations is not tenable. It will also be clear from the wording of Regulation 9.2, quoted above, that it sets the period within which a Licensee has to dispose of an application for change of tariff category, but places no restriction on when such an application can be made. The provisions of the subsequent SOP Regulation, 2014 are similar. The Commission notes that its Electricity Supply Code Regulations, 2005 also do not circumscribe applications in this manner. Hence, the Commission is of the view that the restriction stipulated by it earlier is inconsistent with the SOP Regulations.”*
- b. *“29. In these proceedings, Shri Ashish Chandarana has cited several specific instances of irregularities committed by MSEDCL while deciding applications for change of category from Continuous to Non – Continuous. While these alleged irregularities cannot be a ground for rejection of MSEDCL’s claim for review and the Commission has already held that its earlier stipulation is inconsistent with the SOP Regulations, MSEDCL has admitted during these*

proceedings that it had taken an adhoc and inconsistent approach not only on such applications but also in different judicial forums with regard to individual cases, and that it had revised its stand in these forums after filing this Petition. The Commission directs MSEDCL to examine and take appropriate action with regard to such selective, inconsistent and discriminatory treatment given to different applicants.

- c. 30. *In view of the foregoing, the review Petition is allowed. The Commission directs MSEDCL to assess the impact of this Order after examining all the applications received by it which merit revision, based on the principles settled in this order, including the impact on account of any selective, inconsistent or discriminatory treatment given to different applicants, and submit it to the Commission within three months."*

23. The Chief Engineer (commercial) of The Respondent issued guidelines vide letter MSEDCL letter PR-3/Tariff/No. 16720 Dtd. 10.07.2017 for implementation of MERC order in case 94 of 2015 in the matter of continuous to non continuous.. In this letter point no 1 says " All pending as well as already disposed of application be considered in accordance with the MERC order in case 94 of 2015 and as per Regulation 9.2 for the approval of change of tariff category" therefore clause of limitation not applicable therefore the applicant application is tenable.

24. It is admitted fact that the application for change of tariff from continuous to non continuous was filed application to the Respondent by their application vide letter 08.10.2011, 27-01-2012, 06-03-2012, 19-07-2012, 03-10-2012, 15-01-2013, 18-04-2013 but the Respondent have not taken any action for conversion from non-continuous to continuous for long period up to issuance of circular MSEDCL letter PR-3/Tariff/No. 16720 Dtd. 10.07.2017 till this period. The Respondent made communication to their H.O for grant permission continuous to non continuous tariff for refund. Lastly after issuance of circular MSEDCL letter PR-3/Tariff/No. 16720

Dtd. 10.07.2017 the Respondent have agreed to grant the difference tariff but sent letter for clarification whether to grant retrospective effect or not it is clear from reading Regulation 9.2 of SOP Regulations 2005 stipulates as below “Any Change of name or change of tariff category shall be effected by the distribution Licensee before the expiry of the second billing cycle after the date of receipt of application.”

25. From the clear wording of 9.2 SOP regulation it is duty of distribution licensee to grant the relief of change of tariff before expiry of second billing , Hence , on hearing both sides and going through circular vide letter PR-3/Tariff/No. 16720 Dtd. 10.07.2017 . It is clear that the relief for change of tariff from continuous to non – continuous to be grant by considering their first application 3.08.2011 in line with Regulation 9.2 of the SOP regulation “*Any change of name or change of tariff category shall be effected by the distribution Licensee before the expiry of the second billing cycle after the date of receipt of application*” Accordingly the applicant consumer entitle for relief of refund from Sept 2011 till the applicant has received the change of tariff along with interest as per section 62(6) of electricity act 2003 at the rate 6% P.A from Sept 2011 to Oct 2016 as per rule. Hence, I proceed to pass following order

Order

- a. The applicant application is allowed in case 188 of 2018.
- b. The applicant eligible for non- continuous tariff from September 2011. The applicant entitle for refund of tariff difference between Continuous (HT -1-C) to Non continuous (HT-I-N) for the period September 2011 to 2016. The Respondent MSEDCL is accordingly directed to work out the amount

of refund along with interest payable for above period @ 6% P.A as per Section 62 (6) of the Electricity act 2003.

- c. The Respondent MSEDCL shall be at liberty to adjust the refund amount together with interest payable in the energy bills of the Appellant consumer.
- d. Compliance be reported within one months from the date of this order

I Agree/Disagree

I Agree/Disagree

**MRS. SHARMILA RANADE,
MEMBER
CGRF, BHANDUP**

**Dr. SANTOSHKUMAR JAISWAL
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, and Bhandup.

Note:

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address. " Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606, Keshav Building, Bandra - Kurla Complex, Bandra (E), Mumbai - 400 051"
- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non-compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission (consumer Redressed Forum and Ombudsman) Regulation 2003" at the following address:-

"Maharashtra Electricity Regulatory Commission, 13th floor, world Trade Center, Cuffe Parade, Colaba, Mumbai 05"

d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.

**CONSUMER GRIEVANCE REDRESSAL FORUM
AMRAVATI ZONE, AMRAVATI**

'Vidyut Bhavan', Shivaji Nagar, Amravati: 444603, Tel. No. 0721 2551158

Dt: 28.12.2018

ORDER

Case No. 28/2018

In the matter of grievance pertaining to interest on amount of tariff difference arising out of change from continuous to non continuous category .

Quorum

Dr. Vishram Nilkanth Bapat
Miss.M.H.Ade, Member Secretary
Sau. Sushama Joshi, Member (CPO)

Complainant

M/s Raymond UCO Denim Pvt Ltd,
Plot.No C-1, MIDC, Lohara
Yavatmal.
Consumer 370019002626

Versus

Respondent

The Superintending Engineer ,
MSEDCL, O&M Circle, Yavatmal.

Appearances:-

Complainant Representative :- Shri. Ashok Nagaji Patil.

Respondent Representative :- Shri R.V Bommi, Jr.Law Officer,
O&M Circle , Yavatmal.

Being aggrieved by IGRC, Yavatmal's Order Dt.31.08.2018 applicant complainant approached to CGRF, Amravati for redressal of his grievance on Dt 29.10.2018 and filed his complaint as Case No 28/2018.

The complainant submits his grievance as under :-

- 1) The complainant M/S Raymond UCO Denim Pvt Ltd, C-1, MIDC, Lohara, Yavatmal is an HT industrial connection connected on 33 KV level, Consumer no 370019002626, Contract Demand-5000 KVA.
- 2) Raymond UCO Denim Pvt. Ltd. had applied for change of category from continuous to non-continuous by giving consent for changing billing category on 31st July, 2013 to the Superintending Engineer, MSEDCL, Yavatmal Circle received by MSEDCL on 1st August 2013 . MSEDCL has not changed billing category to non-continuous from September 2013 to August 2015 as per Regulation 9.2, which reads as,
“Any change of name or change of tariff category shall be effected by the Distribution Licensee before the expiry of the second billing cycle after the date of receipt of application.”
- 3) The Hon'ble Maharashtra Electricity Regulatory Commission (hereinafter referred as the Commission) issued Order in Case No. 94 of 2015 regarding finalizing dispute cases for changing of billing category from continuous to non-continuous & gave guidelines for refunding tariff differences to consumers whose applications were kept pending by MSEDCL.
- 4) MSEDCL has not changed billing category to non-continuous from September 2013 to August 2015. As per
 - a) Regulation 9.2 of the SOP Regulations, 2005,
 - b) As reaffirmed by the Hon'ble Commission's Order in Case No. of 94 of 2015 dated Aug 2016,
 - c) MSEDCL Chief Engineer, Commercial Letter No. PR-3/Tariff/no 16403 dated 5th Jul 2017
 - d) Letter PR-3/Tariff/no 16720 dated 10 Jul 2017, tariff difference between continuous & non-continuous should have been given from September 2013 to August 2015.
- 5) MSEDCL first gave tariff difference between continuous & non-continuous from October 2013 to August 2015 instead of September 2013 to August 2015 in the bill issued in October 2017.

- 6) The complainant approached IGRC Yavatmal on date 23-07-2018 for
- a) For pending tariff difference for one month September 2013,
 - b) To provide interest on respective monthly tariff difference of amounts since September 2013 to September 2015 upto October 2017 as per regulation 60(6) and also interest on the delayed payment of such interest amount from October 2017 till the actual date of payment of such interest at the rate of delayed payment surcharge
- 7) IGRC Yavamal vide order in case no 9/18 Dated 31 Aug 2018 granted one month tariff difference of September 2013. This tariff difference has been credited in bill of complainant consumer no 3700019002626 of August 2018 but has not given interest on tariff difference amounts. The amount of tariff difference refund from October 2013 to August 2015 has been credited in our bill of October 2017. One month tariff difference has been granted in the bill of August 2018. But the amount is credited after a very long delay and actually it is done in October 2017 & August 2018. Hence, MSEDCL is liable to **provide interest** on respective monthly tariff difference amounts since October 2013 to September 2015 till October 2017 as per regulation 60 (6). Also interest on September 2013 tariff difference amount till August 2018.
- 8) The Hon'ble Commission has already stipulated the principle of providing the interest amount applicable for the delay in paying the amount from the due date till the actual date of its payment. The relevant extract of the Order of the Hon'ble Commission in **Case No. 44 of 2017** reproduced as under:
- The connection has now been provided, though belatedly. However, MSEDCL did not pay the amount of penalty to the Petitioner as directed by the EO. The Commission directs MSEDCL
- (1) To pay to the Petitioner the amount of Rs. 500 per day accruing from 1st April, 2016 to 27 April, 2017 (the date of the connection);
 - (2) To pay to the Petitioner the interest applicable for the delay in paying that amount from 27 April, 2017 till the date of its payment;
 - (3) To pay these amounts directly to the Petitioner within one month, or through adjustment in his electricity bill for the ensuing billing cycle, if not already paid by the time of this Order; and

- (4) To recover the interest paid from the official(s) responsible for the delay in payment (it appears that the field officers had sought sanction from the MSEDCL HO, but there was no timely response), and report such recovery to the Commission within 3 months.”
- 9) In view of the above settled law by the Hon’ble Commission, MSEDCL is liable to provide interest on respective monthly tariff difference amounts since October 2013 to August 2015 up to October 2017 & on tariff difference amount of September 2013 since September 2013 upto August 2018. Hence, interest for such difference for the above period shall be allowed at the same rate, the Hon’ble Commission has allowed carrying cost to MSEDCL in various Tariff Orders.
- 10) There also has been over delay in providing such interest cost to the complainant. MSEDCL is also liable to pay interest on such delayed payment of interest cost from September 2013 to August 2015 till actual date of payment of such interest at the rate of Delayed Payment surcharge in accordance with principle laid in Case No. 44 of 2017 (interest on the delayed payment from due date till the actual date of payment.
- 11) The complainant further requested that a specific timeline should be stipulated as required by Regulation 17.18 of the MERC (CGRF and EO) Regulations, 2006
 “ An order passed or direction issued by the Electricity Ombudsman shall be binding on the parties so named in the order or direction and such order or direction shall be implemented or complied with by the Distribution Licensee or the person required by the order or direction to do so and within the time frame stipulated therein and further intimation of such compliance shall also be made to the Electricity Ombudsman within the time frame stipulated in that regard therein.”

Prayer of the complainant before the Forum:

M/s Raymond Uco Denim Pvt. Ltd. prays to the Forum to;

- 1) Provide interest on respective monthly tariff difference of amounts since October 2013 to August 2015 upto October 2017 & on monthly tariff difference amount of September 2013 since September 2013 to August 2018 at the rate the Hon’ble Commission has allowed carrying cost to MSEDCL in various Tariff Orders,

- 64
- 2) Also interest on the delayed payment of such interest amounts from September 2013 to August 2015 till the actual date of payment at the rate of Delayed Payment Surcharge,
 - 3) All above amounts to be credited in monthly electric bill of November 2018 billed in Dec 2018,
 - 4) Allow additional submission if any.

Reply Filed by N.A.MSEDCL before the Forum:

The respondent submits its Reply as under;

1) It is important to note that as soon as the application is given by the consumer it doesn't become eligible directly since the option was made available only once after the tariff order and that too within one month of the tariff order. The reason and the base for filing of MERC Case No.94 of 2015 on behalf of MSEDCL was the same that since consumers were not allowed to switch to non-continuous tariff in between and the same rule was inconsistent with Regulation 9.2 of SOP Regulations. Again it is clarified that MERC case No.94 of 2015 was filed in order to allow consumers to change the tariff from continuous to non-continuous and vice versa since at that time MSEDCL was facing the problem of consumers switching to Open Access. The details mentioned in the MERC case No. 94 of 2015 are to be read in the present matter and therefore this respondent is annexing the order dated 19/08/2016 in MERC Case No.94 of 2015.

2) This answering respondent specifically submits that after the passage of order by MERC in Case No.94 of 2015 dtd 19/08/2016 there was a thorough and detail analysis of the same and the Board of Directors of MSEDCL was pleased to pass a resolution on 01/06/17 wherein it was decided to comply the order of Hon'ble MERC in Case No.94 of 2015 and a mechanism was devised as per Board Resolution and instructions were given vide Lr.No.PR-3/Tariff/No.16720 dtd 10/07/2017 issued by Corporate Office

3) The complainant consumer is not eligible for any interest in the present matter. Each and every matter is to be decided according to the merits of the same. The present matter is not a routine one and just because MSEDCL has filed the Case No.94 of 2015 considering the genuine problems faced by the consumers at large on the issue of continuous and non-continuous tariff which is in the interest of the consumers and finally in the interest of MSEDCL. . The point noted by Hon'ble MERC while passing the order is quoted here for kind perusal of the forum.

That being the case, there can also be no questioning the principle that there cannot be any estoppel against law, as contended by MSEDCL. However, that does not mean that a Licencee, MSEDCL in this case, can take upon itself the

prerogative of deciding which Order of the Commission it shall follow and which it will disregard. While, as the Commission has held above, its earlier Orders of 2008 and 2012 put fetters on the right given to consumers in the SoP Regulations to apply for change in tariff category at any time, MSEDCL was not entitled, in law, to take upon itself to ignore or violate such Orders. Even if these Orders were invalid, being contrary to the Regulations, it is well settled that any such Order has to be obeyed notwithstanding that it may be wrong in law or may even be void. In its Judgment in the Case of *Krishnadevi Malchand Kamathia vs. Bombay Environmental Action Group & Ors.* ((2011) 3 SCC 363), the Supreme Court held as follows.

“It is a settled legal proposition that even if an order is void, it requires to be so declared by a competent forum and it is not permissible for any person to ignore the same merely because in his opinion the order is void. In *State of Kerala v. M.K. Kunhikannan Nambiar Manjeri Manikoth Naduvil* [(1996) 1 SCC 435 : AIR 1996 SC 906] , *Tayabhai M. Bagasarwalla v. Hind Rubber Industries (P) Ltd.* [(1997) 3 SCC 443 : AIR 1997 SC 1240] , *M. Meenakshi v. Metadin Agarwal* [(2006) 7 SCC 470] and *Sneh Gupta v. Devi Sarup* [(2009) 6 SCC 194] , this Court held that whether an order is valid or void, cannot be determined by the parties. For setting aside such an order, even if void, the party has to approach the appropriate forum”.

In *State of Punjab v. Gurdev Singh* [(1991) 4 SCC 1 : 1991 SCC (L&S) 1082 (1991) 17 ATC 287 : AIR 1991 SC 2219] this Court held that a party aggrieved by the invalidity of an order has to approach the court for relief of declaration that the order against him is inoperative and therefore, not binding upon him. While deciding the said case, this Court placed reliance upon the judgment in *Smith v. East Elloe RDC* [1956 AC 736 : (1956) 2 WLR 888 : (1956) 1 All ER 855] , wherein Lord Radcliffe observed (AC pp. 769-70)

“An order, even if not made in good faith, is still an act capable of legal consequences. It bears no brand of invalidity [on] its forehead. Unless the necessary proceedings are taken at law to establish the cause of invalidity and to get it quashed or otherwise upset, it will remain as effective for its ostensible purpose as the most impeccable of orders.”

In *Sultan Sadik v. Sanjay Raj Subba* [(2004) 2 SCC 377 : AIR 2004 SC 1377] , this Court took a similar view observing that once an order is declared non est by the court only then the judgment of nullity would operate erga omnes i.e. for and against everyone concerned. Such a declaration is permissible if the court comes to the conclusion that the author of the order lacks inherent jurisdiction/competence and therefore, it comes to the conclusion that the order suffers from patent and latent invalidity. Thus, from the above it emerges that even if the order/notification is void /voidable, the party aggrieved by the same cannot decide that the said order/notification is not binding upon it.

4) Here it is important to note that this case was an exception to all other cases because the issue was taken up by the commission and clarified that MSEDCL cannot randomly allow consumers to switch from Continuous to non-continuous and therefore present Complainant Consumer is not eligible for any kind of interest on the amount refunded to him. The refund was eligible only after the order passed by Hon'ble MERC.

It is specifically submitted herewith by this answering respondent that though consumer has availed Continuous supply for the period September 2013 to August 2015 he has now paid as per non continuous tariff and has enjoyed continuous tariff and therefore interest cannot be awarded to the complainant consumer as already we have refunded the whole amount by applying non-continuous tariff. The basic principles of natural justice don't allow double benefit in like matters.

5) In the present case since this complaint is totally different and refund of tariff difference is given after the clarifications and interpretations given by Hon'ble MERC in Case No 94 of 2015

Submission during the hearing:

By the Applicant :

Nil.

By N.A. MSEDCL:

Nil

Having heard both the parties and examining record placed before this forum, the Forum holds the following opinion.

- 1) It is admitted position by both the parties that the N.A. MSEDCL released the supply to the complainant M/S Raymond UCO Denim Pvt Ltd on 33KV express feeder and the same was billed as per continuous tariff category.
- 2) Regarding the complainant's claim of tariff difference from Sep-13 to Aug -15 the Non Applicant MSEDCL has already passed the credit of differential amount from Continuous to Non continuous from Oct 13 to Aug 15 in the energy bill for the month of Oct 17. As per IGRC Yavamal's order in case no 9/18 Dated 31 Aug 2018 granted one month tariff difference of September 2013. This tariff difference has been credited in bill of complainant consumer no 3700019002626 of August 2018 but has not given interest on tariff difference amounts. Hence there is no dispute left on the question of refund of differential amount.

- 3) The complainant's claim for interest on delayed payment of differential amount is found valid. The carrying cost relates to determination of tariff and has no relevance in the present case. The Forum feels that the interest to be paid on the delayed payment of tariff differential amount should be 12% p.a in the light of order by Hon'ble MERC in case no 23 of 2004.
- 4) The Forum finds no merit in the claim of the complainant for interest on delayed payment of interest as it would amount to paying compound interest on the amount of tariff difference.

In view of the proceedings before the Forum and on the basis of the records placed before, the Forum unanimously passes the following order.

ORDER

- 1) The complaint number 28/2018 is partly allowed.
- 2) N.A MSEDCL is directed to pay interest to the applicant as follows:
 - a) On tariff difference amount for the period Oct 13 to Aug 15 @ 12% per annum from Oct-13 to Oct 17 when this principal amount was actually refunded.
 - b) On the amount of tariff difference for Sep 13 @ 12% per annum from Sep-13 to Aug 18 when this principal amount was actually refunded.
- 3) The compliance of this order shall be done within 30 days from the date of receipt of the said order.

Sd/-
M.H.Ade)
Member Secretary

Sd/-
(Smt. S.P.Joshi)
Member (CPO)

Sd/-
(Dr.V.N.Bapat)
Chairman

Contact details of Electricity Ombudsman appointed under regulation 10 of MERC(CGRF & EO) REGULATIONS 2006:

THE ELECTRICITY OMBUDSMAN,
Office of Electricity Ombudsman (Nagpur)
Plot No.12, Shrikripa, Vijay Nagar, Chhaoni,
Nagpur-440013.
Phone:-0712-25966