

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

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

Dt.18/05/2017

Complaint No. 6 / 2017

**In the matter of grievance pertaining to abrupt reclassification in tariff
and billing thereof.**

Quorum

Shri . S. R. Chitale, Member/Secretary

Shri. D. M. Deshpande-Member (CPO)

Shri Nandlal Kantaprasad Kanoj,
Gawalipura, Dhamangaon Rly.,
Dist. Amravati
Consumer No:- LT VB - 367010005257

Complainant

.....Vrs.....

Executive Engineer,
MSEDCL, Rural Division,
Amravati

Respondent

Appearances :

Complainant Representative:- Shri N. K. Kanoj

Non Applicant :- Shri Vikas Bambal,Dy. Manager(F&A),
Rural Division, , Amravati

1. On being aggrieved by the decision of I.G.R.C. Order No. 738 dated 08/02/2017 Complainant Shri N. K. Kanoj who is industrial consumer of non-applicant MSEDCL with applicable tariff LTVB approached this Forum

as per provisions of MERC CGRF Ombudsman regulation 2006. Complainant's case in brief is that, complainant is proprietor of water filling unit which is situated at above mentioned address, to which electricity supply is provided by non-applicant MSEDCL in 2011 with tariff applied as LTV up to 27 HP having sanctioned load of 10 HP. According to complainant Dy. Executive Engineer, Flying Squad, MSEDCL visited the premises on 23/06/2016 and issued spot inspection report wherein at column No. 17 certain irregularities were mentioned which according to complainant are erroneous. It is contended that letter dated 29/06/2016 was received to complainant wherein complainant was asked to deposit Rs. 2,53,180/- .

2. According to complainant, the objection was raised dated 27/07/2016 in respect of change of tariff to commercial before Dy. Executive Engineer (Flying Squad) who held hearing on 30/07/2016, wherein it was contended that all the aqua water refillars in the city are receiving the bills under industrial tariff . By interim order according to complainant Dy. Executive Engineer, Flying Squad set aside action under section 126 and directed complainant to deposit Rs.1,65,870/- . According to complainant they filed review application on 14/12/2016, and in the meanwhile they received letter from Dy. Executive Engineer, MSEDCL. Dhamangaon Rly. to deposit Rs.1,65,870+28175/- and hence complainant preferred appeal before I.G.R.C. and C.G.R.F., Amravati.

3. According to Complainant order passed by Dy. Executive Engineer, Flying Squad is illegal, in competent, perverse against the facts and against the provisions of law hence needs to be quashed and set aside. According to complainant Dy. Executive Engineer, Flying Squad committed error in holding its finding and had ignore the facts that the document A-1 form were not available with Dy. E.E. , Sub-Division, Dhamangaon Rly. at the

time of hearing on 30/07/2016. According to complainant Dy. Executive Engineer , Flying Squad has absolutely made error in converting tariff category to commercial from industrial without any sanction from M.E.R.C. or provision of Electricity Act 2003. According to complainant Dy. Executive Engineer, Dhmangaon Rly. issued letter dated 20/12/2016 to deposit amount Rs. 1,65,870+28175/- without passing final order by Dy. Executive Engineer, Flying Squad and prayed to set aside order passed on 19/11/2016 and requested not to take coercive action till pendency of appeal. Along with complaint documents such as IGRC order dated 08/02/2017, final order passed by Dy. Executive Engineer, Flying Squad dated 19/11/2016, provisional demand note for Rs.2.53,180/- and order dated 29/06/2016 by Flying Squad with spot inspection report are annexed by the complainant.

4. Reply came to be filed by non-applicant MSEDCL after issue of 15 days notice on 06/04/2017. Non-applicant in their reply admitted to have released industrial connection to Aqua water plant of complainant on 9th November 2011. According to non-applicant in absence of clarity in tariff order issued by MERC industrial tariff LTVB was made applicable and energy bills up to 23/06/2016 were issued under industrial category. On inspection by Flying Squad on 23/06/2016, category was changed to commercial and penal assessment bills were issued under section 126 of Electricity Act 2003 for Rs. 2,53,180/- which was revised to Rs.1,65,870/- under plain assessment under commercial category after withdrawal of 126 by Flying Squad and issue of final order dated 19/11/2016. Aggrieved by the decision of Flying Squad complainant approached I.G.R.C., Amravati and the decision of Flying Squad is upheld by I.G.R.C. According to non-applicant after checking the process carried out at plant as per clarification given by Chief Engineer(Commercial) MSEDCL vide

CE/Comm/29611 dated 28/09/2016 though registered under SSI unit , Flying Squad in their letter No. 460 dated 19/11/2016 mentioned about commercial use and accordingly bills issued which are correct and pressed for dismissal of the complaint. According to non-applicant fresh registration submitted by complainant wherein registration is shown as service industry from 17/02/2017 and hence according to non-applicant assessment under commercial category is correct. Non-applicant gave reference of 5 letters in the reply but annexed the copy of IGRC order dated 18/02/2017, final order passed by Flying Squad dated 19/11/2016 registration under Shop Establishment Act and registration dated 17/02/2017 under SSI service industry along with the reply.

5. Heard complainant and Shri Vikas Bambal, Dy. Manager(F&A) for non-applicant MSEDCL complainant urged that said connection was issued by non-applicant MSEDCL under industrial tariff on verification of various documents including SSI registration for the purpose of Aqua mineral water and applied tariff as per MERC order correctly as industrial. Complainant brought on record that the purpose for which the connection was taken, has never been changed and this fact is recorded by Flying Squad in their final order dated 19/11/2016 and hence withdrawn penal action under section 126 of E.A.2003 Complainant brought to the notice of Forum that original documents at the time of connection such as A-1 Form and other documents were ordered to be filed before Flying Squad before passing final order but the same are not filed by non-applicant MSEDCL and Flying Squad passed order without those documents on record.

6. Non-applicant representative urged that the premises is not industrial but is commercial as retail sale is being effected from the plant. Non-applicant MSEDCL representative brought to the notice of Forum

the fresh registration by complainant on 17/02/2017 under service industry and hence argued that their assessment as commercial is correct. As Non-applicant representative could not give proper clarification about original application for new connection with documents, Forum adjourned the hearing on 03/05/2017 and directed non-applicant representative to file on record original documents such as A-1 form, original registration as industry and Chief Engineer(Commercial) letter under reference as per the provisions of MERC CGRF and Obudsman regulation 2006.

7. N.A. MSEDCL have not filed the documents ordered by Forum on 12/05/2017 and urged hat these documents could not be traced but argued that fresh registration is submitted by complainant on 17/02/2017 and is for service industry.

8. Forum have gone through the complaint, verified the documents on record, considered the reply by non-applicant. After hearing both the parties deliberation and material on record Forum is of the view that present dispute is about reclassification of certain category as per purpose of use. It is not disputed that purpose of use at the time of connection is never change by the complainant. It is also not disputed by both the parties that express provisions are not given in any of the tariff orders of MERC to classify Aqua mineral water plant as commercial, industrial or any other category. Forum finds substance in the complainant's pleas that industrial tariff was made applicable as per tariff order in 2011 by non-applicant MSEDCL. Even after directives by Forum, as per the provisions regulation 2006 MSEDCL have failed to file required original documents before Forum which were submitted at the time of connection in 2011. Forum is of the view that Non-applicant MSEDCL have avoided to file those documents and hence adverse inference is drawn that connection

released by non-applicant MSEDCL to complainant's Aqua Plant under industrial tariff and applicable tariff as LTVB was as per MERC tariff order Dy. E.E., Flying Squad also in his final order admitted the fact and recorded that different authorities of MSEDCL at different places are categorizing Aqua mineral plant as industrial or commercial and different tariff commercial or industrial is made applicable. The fact on record about reference to Chief Engineer(Commercial) Dy. E.E., Flying Squad dated 01/08/2016 seeking advice about applicability of relevant tariff to complainant's Aqua mineral water plant speaks fickle mind of Dy. E.E., Flying Squad. Forum is convinced that Dy. E.E., Flying Squad himself was not certain about applicability of proper tariff and his authority to reclassify, which is the cause of reference to Chief Engineer(Commercial) higher authority of MSEDCL at Head Office dealing the subject. Dy.E.E., Flying Squad has taken the decision of application of commercial category in stead of industrial without any documents on record which is mentioned by him in his final order dated 19/11/2016 Forum is of the view that industrial tariff as previously applied by Non-applicant MSEDCL should be continued to be applied till new registration under different category is submitted on record. Forum is of the view that assessment by Flying Squad and issue of bills as per final order for Rs. 1,65,870/- needs to be set aside. However as brought on record fresh registration by complainant as service industry from 17/02/2017 non-applicant MSEDCL is at liberty to reclassify as per tariff order. Forum is of the view that except in penal provisions retrospective recovery towards reclassification in tariff is not permissible and applicability should be prospective only as per the provisions of supply code 2005 from next billing cycle. With such observation Forum proceeds to pass following unanimous order:-

ORDER

1. The Complaint No. 6/2017 is hereby partly allowed.

2. The N.A. MSEDCL is directed to set aside the assessment by Flying Squad issued vide Dy.E.E./460 dated 19/11/2016 for Rs.1,65,870/-.
3. Non-applicant MSEDCL is directed to issue future energy bills as per industrial tariff till reclassification as per fresh registration dated 17/02/2017.
4. Non-applicant MSEDCL is directed to submit compliance report to Forum within a period of one month.

Sd/-
Member/Secretary

Sd/-
Member(CPO)

Contact details of Electricity Ombudsman appointed by MERC (CGRF&EO) Regulations 2006 under Regulation 10:

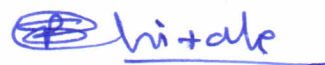
THE ELECTRICITY OMBUDSMAN,
Office of Electricity Ombudsman (Nagpur)
Plot No.12, Shrikrupa, Vijaynagar, Chhaoni,
Nagpur-440 013.
Phone : 0712-2596670

No. CGRF / AZ/ Amravati/ **No 1 4 3 2 /**

Dt. 18/05/2017

TO
The Nodal Officer,
Executive Engineer
MSEDCL, Rural Division,
AMRAVATI

The order passed on 18/05/2017 in the Complaint No. 6/2017, is enclosed herewith for further compliance and necessary action.



Secretary,
Consumer Grievance Redressal Forum,
MSEDCL, Amravati Zone, Amravati

Copy s. w. rs. to:

The Superintending Engineer , MSEDCL, O&M Circle, Amravati

Copy to :-

Shri Nandlal Kantaprasad Kanoj, Gawalipura, Dhamangaon, Dist. Amravati

Consumer No:- LT VB - 367010005257