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Consumer Grievance Redressal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S.Marg,Bhandup (W),
Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/27/215

Date: 23.11.2017

Case No. 27/2017

Hearing Dt. 10/10/2017

**In the matter of wrong tariff label against the consumer commercial LT II instated
of industrial since the date of connection and arrears**

M/s. Himadri Foods Pvt. Ltd., - Appellant

Plot No A-223, MIDC Mahape

Navi Mumbai

(Consumer)

V/s

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL)

Vashi Circle - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.
- 2) Shri. R.S.Avhad, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

1. Mr. Vijaykumar A. Kamanna
2. Mr. Mukund Mahale
3. Mr. H.B.Tripoti – Consumer Representative

C - On behalf of Respondent

Shri. D.B.Pawar, Executive Engineer (Admin), Vashi Circle.

**Consumer Numbers 000119024270 date of connection 18.04.2000 CL 150KW CD-
150KVA**

1. Above named consumer submitted his grievance against the respondent utility alleging that the consumer is occupying in the said premises since the date of connection and have obtained various license for conducting businesses of

production packing and repacking of unit Masal powder in the premises. Above named consumer raised the grievance after the received supplementary bill of plain recovery as per letter of Superintending Engineer , MSDECL Vashi circle for amounting Rs. 6,68,987.78/- . Respondent utility directed to deposit the said bill within 15 days and give threat of disconnection of supply. The said demand bill is along with notice of disconnection and supplementary plain recovery bill giving the particular of calculation and spot verification report held by flying squad on 24.10.2016. There was earlier flying squad inspection report at the time of visit of flying squad in the premises and during the said visit of flying squad on 19.12.2015 made observation that in the said premises no actual production activity in progress found and the power supply is being use for raw material of masal and finish masala powder and ground floor is used for the purpose of FFS machine installed overall observation is found the premises is use and activity conducted for packing of raw masala and finish masala powder. The respondent utility directed consumer to give list of inventory attached to the machinery and unit connected to the load at the time of obtaining connection. The flying squad report on 28.08.2015 found the activity of packaging unit is going on and no activity was found on production and manufacturing for Masala. Therefore other preparation of sketch map of ground floor and first floor giving detail map of premises, list of measuring equipment providing of consumer along with description of certificate of registration, supplementary bill was issued. After receiving the said supplementary bill the consumer raised grievance and requested for additional spot verification and accordingly on 24.12.2016 Superintending Engineer visited the premises the detail inventory of the machinery list provided by consumer and Superintending Engineer observed in the report that grinding machine and alleged machinery for production was installed in the premises prior to that on 08.01.2015 Assistant engineer also visited the premises and made inspection and found no production activity was conducted in the premises. Therefore supplementary bill was issued for amounting Rs. 6,68,000/- against which consumer deposited amount was 1,99,000/- of deposited requested to transfer in the account giving list of deposit of Prayag Food Pvt. Ltd in the name

of Hemandri food the request letter was made to the respondent utility . Thereafter consumer approach to the forum and raised the dispute by attached of demand supplementary bill and contested that the said premises is licence and obtained connection for the purposes of industrial supply and industrial activity of production of masala powder is in progress and activity conducted in the premises.

2. Consumer made serious allegation against the authorized officer additional Engineer flying squad officer alleging that they have not verified the list of inventory properly and never taken inspection of first floor and second floor in details, no document was collected. Connecting load and machinery inspection was not taken and report was erroneously made. Initially the utility made allegation under 126 of I.E.A 2003 and proceeded for action but it was withdrawn at subsequent event. Accordingly to consumer they obtained the said premises in 26.01.2010 from Prayag Pvt. Ltd on execution of agreement and activity is undertaken as a masala Milk and made request to the respondent utility for sanction 150KVA load in May 2017. The connection was provided earlier as a industrial unit but after reliance of erroneous inspection of flying squad and subsequent inspection by respondent utility official wrong erroneous bill prepared for the year August 13 to August 2015 and claim commercial tariff wrongly . Consumer submitted that the activity of consumer undertaken grinding /mixing & packing unit of various type of Masala and uses of different spices like (Coriander, chilly, turmeric ground/blended spices)as a raw material. The activity and the machinery installed for manufacturing and processing unit. Consumer obtained SSI Licenses, factory license, MPCB consent and other authorized license from the authorities. On 24.10.2016 Superintending Engineer visited the premises and submitted verification report. In view of the said report according to consumer industrial category is under taken under the agreement and all relevant paper attached the bill should have been applied to the category of industrial unit but making reliance of wrong report of 28.08.2015 flying squad. The respondent utility claim difference of commercial tariff applied and supplementary bill was issued. Accordingly to consumer the report of flying squad is wrongly believed by the respondent utility and since then the respondent utility charge incorrect and exorbitant bill of

retrospective period in spite of order dated 11.02.2003 in case of 24/2001 by MERC and APTEL judgment under 131/2017 *vinay enterprises Vs Kerala Electricity Regulatory commission*. Consumer submitted that violation of order of MERC and APTEL order respondent utility wrongly charge exorbitant and incorrect bill for amounting Rs. 6,68,987/-. Consumer requested that retrospective recovery made by utility since August 2013 to August 2015 is wrong and erroneous and bill should have been revise and proper category should be applied for as a industrial activity after verification of Superintending Engineer report. Consumer also prays for companion of 30,000/- towards pass and SSE compensation and pray for restrain from disconnection of supply.

3. Consumer attached copy of inspection note of flying squad, copy of agreement, copy of demand bill notice, copy of second inspection of assistant engineer, list of inventory authorization document, copy of bill, copy issued of letter dated 15.07.2016 and all other relevant document. I have verified those documents and gone through carefully. Consideration is given to the dispute.
4. Thereafter the office registered the grievance and case 27/ 2017 notice was issued to the respondent utility and after service of notice respondent utility appeared and filed reply stating that the consumer Himandri foods Pvt. Ltd obtained supply under HT industrial tariff Vashi Circular for packaging of located on above named given address since the date of connection . Respondent utility submitted that the existing applicable tariff of HT industrial was verified and confirm after visiting the flying squad and report, the document was verified and retrospective period of inspection report prior to two years from the date of inspection. The tariff was applied considering activates of consumer observed for the period august 2013- august 2015 charge commercial tariff. The respondent utility verified and given details description of consumer establishment address, connecting and sanction load and pervious sanction category of load 56 LT I on 28.08.2015, report by Addl. Exe. Engineer Flying squad verified the premises and product was found spices readymade pouches, bags which is manufactured in other unit (at rabale

factory) of unit as per report giving reference no DVS -2 DD/MR/Sr. No /B-1380 dtd.28.08.2015. Instruction given of assessment officer the activities confirm on 19.12.2015 for the purpose of utilisation of electric power supply. Accordingly Ex. Engineer administration conducted inspection of consumer premises on 19.12.2015 and gave observation overall premise is used for packing of raw masala as well as finish masala powder. Consumer representative Shri. Sandesh Phadnis production manager M/s. Himandra Foods. Pvt. Ltd was present at the time of inspection signed the inspection report dated 19.012.2015. As per commercial circular 243 the revision of tariff June 1 2015 defined applicability of HT I industrial as Flour mill, Dal mill, Rice mill, poha mill , Masala Mills power looms including other allied activities like warping ,Doubling, Twisting etc and HT II commercial tariff for warehouse /Godowns as per report of dated 19.12.2015 and 28.08.2015 the premises were utilize by raw masala packing only . Therefore supplementary bill of plain recovery of difference for HT industrial to HT commercial for period of August 2014 -2015 for two years earlier to the date of inspection 28.08.2015 was access and charge for amounting Rs. 668987/- and recovery was workout. As the consumer raised dispute for objecting supplementary bill on 21.07.2016. Consumer was called on provisional hearing opportunity given on 03.08.2016 . During the hearing schedule consumer submitted and insisted for premises is being use for masala grinding and other activities which was not considered in site inspection and verification report and gave the details of machinery and return submission. on 24.10.2016 Superintending Engineer conducted consumer site inspection along with Ex. Engineer O&M Division Vashi and Sanction load and activity was verified on 24.12.2016 the report of grinding machine one found rating 40 HP . However the inspection carried out of 28.08.2015 list supplied by consumer to flying squad does not include the grinding machine neither the said machine was found present during flying squad inspection report. The machinery found as per the weighing scale, Different Measuring Meters and automatic Filling machine also the production Flow Chart provided by M/ Himandri Foods Ltd indicated the process executed “Filling of readymade Pouches” at the above mention premises . The office available at the premises

found the change of name from M/s Prayag food product to Himandri Food product Ltd., and the activity was change of label and manufacturing enterprise was found only . The memorandum of acknowledgement provided by Himandri Food Pvt on dated 18.09.2000 to DIC Thane verified by the flying squad officer and found the manufacturing food chilly and turmeric powder work as mention related only to the packing of turmeric and chilli powder but no food proceeding activity including grinding was mention .Similar reference giving to the MPCB licensee authority on 29.10.2015 the activity of packaging of chilli powder and turmeric powder ground spices, blended spices only grinding and cleaning and cleaning <20HP motor. On 24.10.2016 motor of grinding machine rating 40 HP found. The document provided by Himandri Food Product public on web site found the manufacturing unit address located at Rabale Esated ,MIDC thane, related document certificate of registration of manufacturing address was verified at TTC industrial area Rabale Navi Mumbai on different connection in same name bearing consumer no.1109019419 having contract load of 210KVA and connected load 230 KW relevant document is attached . The said unit is use for manufacturing of Masala milk activity are carried out at plot No.A-223 at MIDC , Mahape Navi Mumbai. Even though consumer availing registration from DIC, only Raw Masala Packing unit was found at the premises. Respondent utility further submitted that the reference of MERC case no 24 of 2001 and APTEL appeal no 131 of 2013 decided on 07.08.2014 against reclassification / re categorization of applicable tariff to consumer . In this case consumer was not dealt with classification / re classification of category as consumer previously charge under HT industrial as per document and nature of connection was provided but the activity which was found during inspection report on date 28.08.2015 which was sufficiently investigated and found no manufacturing activity found in premises therefore respondent utility charge HT –II commercial tariff valid for earlier two years from the date of inspection 28.8.2015 and plane recovery bill was prepared and issued as per provision entitlement guideline and circular issue time to time by authority . Respondent utility submitted that consumer has filed frivolous, vexatious claim with malafide intension taking wrong approach and filed his grievance which was not sufficient

cause liable to be dismissed. The respondent utility attaches copy of flying squad report 28.8.2015 and 19.12.2015. The copy of supplementary bill 15.07.2015, Hearing register 03.08.2015, list of machinery 24.10.2016, Change of name proposal, online profile of HIMADARI Masala, relied copy on decision of Kerala ombudsman Appeal Petition no p/339/2013. As such I have verified all detail documents filed by consumer and annexed to consumer complaint I have also carefully gone through detail reply of respondent utility and annexed supplied of relevant documents connected to issue. After perusing the rival contentions of consumer and nature of disputes and action taken by utility against consumer following points arose for our consideration to which I have recorded my findings on the points for the reasons given below

- i. Whether consumer supplementary bill issued by respondent utility for amounting 668668/- is legal, valid and proper.
- ii. Whether consumer is entitled for industrial tariff considering activities carried out in premises at appropriate related proper time
- iii. Whether consumer is entitled for revision of supplementary bill as prayed.
- iv. Whether consumer is entitled to any relief?

Reasoning

5. I have given opportunity to the consumer and his representative on following hearing date. It appears from nature of dispute as premises earlier the activity of M/s Prayag Pvt Ltd was in progress M/s Himadri Foods Pvt. Ltd entered into agreement and obtained the said premises as own contention of consumer on 25.1.2010 on the address given by consumer at factor site by application made by M/s Himadri Food Pvt Ltd for change of name and it was allowed by respondent utility Superintending Engineer Vashi circle vide letter SE/VC/Tec/0675 dated 25.01.2010. The activity which was assigned and approved by respondent utility making Masala mill making reliance on said documents and sanction CL 150KW and CD-150KVA as per latest energy bill may 2017 seen.
6. According to Respondent utility the premises was visited by flying squad earlier on 28.8.2015 and activity was verified the person who represents consumer M/s

Himadri Foods Pvt. Ltd shri Sandesh Phadvnis which is educate and well qualified it appears from the flying squad report the endorsement appears on paper clearly indicate no manufacturing activity found . The allegation made subsequently by thr consumer and his representative which was not recorded and made at appropriate time can labelled as after thoughts the list of inventory provided by consumer is verified by flying squad officer clear fully . The activity which was notice by flying squad officer is clearly mentioning the consumer first time raise the dispute when intimation of supplementary bill and notice issued still then consumer did not raise any objection.

7. The consumer first brief raise objection and demanded inspection by additional Executive Engineer at subsequent date accordingly detail inspection carried out 19.12.2015 by Shri. S. S Patil and Ratanparki . The premise was visited observation made clearly and report indicates that no manufacturing activity was found. The supplementary bill was generated and issued to consumer on 15.7.2015 and consumer challenge the said bill and insisted taking advantage of documentation for which license and nature of unit established on given address . Consumer tries to emphasis this forum by giving documentation of nature of activities under unit at the time of sanction of SSI license and pressing to reliance various licensing authority the copy of documents indicate that M/s Himadri Foods Pvt. Ltd entire unit is meant for manufacturing and product of Masala unit but the list of machinery which is provided two and three occasion firstly at the time of first flying squad visit 28.8.2015. Thereafter subsequent date of visit and lastly at the time of visit by Superintending Engineer the emphasis contention made by the consumer try to establish that machinery related to production including grinding machine and other allied activities try to emphasise that actual production work was in progress . For comparison the respondent utility representative present at the one date of hearing advice to verify the detail of consumption unit for the earlier period and the subsequent period of visit of Superintending Engineer and to calculate MD and day by unit consumption for earlier and subsequent period . The analysis and technical report was produce before forum which is verified by

technical member it reveal that MD which was recorded at the time of inspection was verified of zone wise between 3.3 to 11.36 which was consistently similar as earlier period after visit of the Superintending Engineer for subsequent period one activity was verified and the MD was shoot up to 20.11 which was on higher the reason was assess practically during the hearing period on the given date and found that grinding machine and required load to shoot up MD up to 22KVA which was not in existence at the time of earlier spot inspection report therefore serious doubt created in mind the consumer might have installed production related machinery at the site and manage to get report of inspection of Superintending Engineer for considerably long period. Therefore I come to conclusion when the first inspection report dtd. 28.08.2015 and second inspection report commence no production related activity was found even on 19.12.2015 it cannot be said consumer is justify for claiming benefit of industrial tariff during said period. The reason which was parawise reply indicate activity of production related commence in name M/s Himadri Foods Pvt. Ltd at different address which was notified TTC Industries, Rabale Navi mumbai having different consumer. The document which was relied by respondent utility supported the said contention the same unit undertaken production activity and manufacturing unit is situated different address there is no substance in the allegation of consumer remain the manufacturing activity was under taken on given address beginning. I found consumer is absolutely wrong in saying and making his submission before forum.

8. To my view action taken by respondent utility to charge tariff HT-II commercial making reliance of amended tariff category as per circular No. 243 and revision of tariff June 2015 the activity of production and manufacturing not commence and for other activities HT-II commercial tariff applicable.
9. The consumer made grievance for charging retrospective recovery from August 2013 is seriously question it is replied by utility that there is no change of classification and reclassification event of tariff category applied to consumer but consumer taken disadvantage of documentation and try to mislead the utility and

incorrectly challenge the validity of supplementary bill. The consumer not justified in insisting making emphasises on the event of Masala grinding manufacturing activity was undertaken at the premises which was try to manage subsequently .In this circumstance the retrospective recovery event not due to classification and reclassification against the consumer it plain recovery bill generated and created as per section 56(2) the limitation of claim of arrears of bill up to only two years only. To my view the respondent utility justified in assessing the bill plane recovery for two years. I have summarise my observation on the contention of respondent utility who boldly self reliance on first inspection report 28.8.2015 and second inspection 19. 12.2015 made by qualified and responsible officer of utility both the office have no personal crunch or any sort of complaint against them made therefore we have no reason to act intentionally against the consumer I have sufficient reason to believe that no production or manufacturing related activity was under taken and found by M/s H

10.imadri Foods Pvt. Ltd at the visited site inspection confirm therefore as per reliance on circular no 243 dated 1 June 2015 the activity falls in the category HT - II commercial ,Therefore consumer liable to pay the supplementary bill without charging any interest DPC and penalty in equal six instalment . I am not inclined to grant any relief in favour of consumer hence respondent utility entitled to recover the supplementary bill Rs 6,68,000/- plain recovery bill from August 2013 to August 2015 in six instalments along with current bill. The respondent utility shall not charge any interest DPC and penalty. The grievance and objection raise by consumer dismissed.

ORDER

- The consumer complaint 27/2017 stands dismissed.
- No order as to the cost.

Proceeding closed.

The compliance should be reported within 30 days.

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

Note:

1) If Consumer is not satisfied with the decision, he may file representation within 60 days from the date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman

**The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051**

2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

(I Agree/Disagree)

(I Agree/Disagree)

**DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP**

**ANIL P. BHAVTHANKAR
CHAIRPERSON
CGRF, BHANDUP**

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