



(A Govt. of Maharashtra Undertaking)

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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/136/41

Date :28.04.2017

Case No. 140/2017

Hearing Dt.22/03/2017

In the matter of supplementary bill difference between H.T Industrial to H.T

commercial

M/s. Tyrocare Ltd.

Plot No:- D37/3,TTC Industrial Area

Turbe,Navi Mumbai-400705

- Applicant

Vs.

M.S.E.D.C.L. Vashi Circle

- Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.

2) Shri.Ravindra S. Avhad, Member Secretary, CGRF, Bhandup.

3) Dr. Smt. Archana Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

1) Shri. Sachin Salve – Consumer representative

C - On behalf of Respondent

1) Shri. D.B. Pawar, Executive Engineer, Vashi Circle.

Consumer No. 000079038400 date of connection 02.11.2011 Contract

Demand-967KVA Connected Load 1160KW

1. Above named consumer filed this complaint against respondent utility for change and application of proper tariff to his premises as service connection is use on given address for the purpose activity falls under IT/ITES also earlier the said connection was used and occupied by M/s Dynamic Reality Pvt. Ltd., and the category of the said supply was HT- I industrial. Thereafter the present consumer M/s. Tyrocare Technology Ltd occupied the said premises. It is contention of consumer that since the said establishment occupied the premise which was issued valid licenses by MIDC having certificated dated 10.08.2016. Thereafter consumer received bill from respondent utility after the threat inspection was made by the flying officer and accordingly in view of report of flying squad the respondent utility issued difference of arrears from HT I industrial to HT II commercial charges and issued supplementary bill for amounting Rs. 31,89,625/-along with notice. A letter issued by Superintending Engineer, the contention and demand of recovery of the said bill was challenge by the consumer and accordingly the consumer filed for grievance before IGRC. On dated 3.09.2016 in application form no 'X' consumer pray that withdrawal of supplementary bill and grant of proper tariff under IT/ITES category as **per MERC Regulation** and directives to the premises occupied by him. The demand notice charge accumulated bill since 30.06.2015 the difference was calculated and supplementary bill issued was also challenge by the consumer. This consumer filed all necessary document, MIDC certificate, certificate issued by competent authority in Form No. '2' and copy of application given in form No. 'X'.

2. Thereafter the consumer approach to the Forum and filed grievance in form No. 'A' on dated 17.02.2017. After filing the said grievance notice was issued

to the respondent utility. After service of notice respondent utility appeared and filed reply on dated 22.03.2017.

3. It is contention of respondent utility that M/s Tyrocare Technology is HT consumer situated on given address date of connection 02.11.2011 contract Demand 967KVA and connected load 1160KW. According to utility there was change in establishment name M/s Dynamic Realty Pvt. Ltd. which was granted HT industrial tariff on the same premises and thereafter right, title, and interest was transfer the preset consumer M/s. Tyrocare Technology Pvt. Ltd., as per execution of deed of assignment date 28.04.2013. Thereafter the present consumer requested for change application of tariff for that charges recovered and fresh supply was given on 21.05.2014. Thereafter fresh supply under the agreement was given to present consumer.

4. It is submitted by respondent utility on 25.02.2016 present consumer M/s. Tyrocare Pvt. Ltd., filed proposal for change of name medium service category activity and submitted no objection certificate of MIDC and letter of intent thereafter consumer filed certificate of MIDC validity 29.11.2015 Thereafter proposal and application filed by consumer for approval of change of name in H.T installation on 24.03.2014. Thereafter the letter was issued to the consumer on 30.05.2016 for payment of agreement cost and directed to submitted permanent registration certificate of IT/ ITES unit along with application letter dated 03.05.2016. Accordingly the consumer paid cost of process and charges on 04.05.2016. Thereafter as per decision of hon'ble commission in Case No.121/2014 the MSEDCL approved tariff for the year 2013-2014, 2015-2016 and submission rule that applicability of tariff for

mobile tower in referred Para No. 6.24.4/page no 247 and which was reproduce as below

*“the Industrial tariff will apply to Mobile Towers or other activities cited by MSEDCL **only if they are covered as IT/ITES and the provisions of GOM’s policy apply to them**”*

in view of the said applicability of the tariff unless valid registration certificate the applicant consumer inform permanent registration certificate vide letter 03.05.2016 and thereafter the consumer was inform for change of tariff HT industrial to HT commercial was applicable since 01.06.2015. After give revised tariff till be in existence for the year 2015 - 2016 and in view of said effect of tariff difference from 01.06.2015 as per revised tariff order 2015.-2016 came in effect in the month of March 2016. The bill issued in month of April 2016 was revised tariff under HT commercial difference was claim for the period 01.06.2015 to March 2016 which was worked and calculated 31,89,625/- thereafter applicant made payment against the recovery bill under protest on 16.09.2016. Thereafter applicant issued letter dated 12.08.2016 sent to the office of respondent utility on 23.08.2016 having reference the copy of permanent registration certificate which was issued on 10.08.2016 for the purpose of activities allowed and thereafter the revised tariff effected in the bill of October 2016 as per IT/ITES certificate . The difference claim due of Rs 31, 89,625/- charge as per HT commercial due to effect of non production of permanent registration certificate as per direction and order under 121 as define by MERC for the period 01.06.2015 to March 2016 for 10 month. According to utility tariff difference bill is legal valid and correct and consumer is liable to pay the same. Respondent utility pray for rejection of complaint with cost.

5. After perusing the rival contentions of consumer and respondent utility, following points arose for my consideration to which I have recorded my finding to the point further reasons given below

1] Whether respondent utility entitled to recover tariff difference form HT I industrial to HT II commercial for the period 01.06.2015 to March 2016 as per commercial rate bill amount Rs. 31,89,625/-

2] Whether supplementary bill issued is legal valid and proper.

3] Whether consumer is entitled for any relief.

4] What order?

6. Consumer also attach the copy of IGRC order which was rejected by IGRC on the ground that no permanent registration certificate was filed and the complaint was stands dismiss and due amount Rs 31,89,625/- shall be paid by the consumer. Being aggravated by the said order consumer filed this complaint before this Forum. I have carefully examine the dispute raised by consumer before this Forum it's contention of respondent utility in there reply that calculation of tariff form 01.06.2015 to March 2016 was calculated as per HT II commercial tariff applicable to the consumer and bill generated supplementary bill issued along with demand notice was verified and made scrutiny by this Forum. So far as the production of certificate which was not produce when the application was made while the consumer for change of tariff and change of name to his establishment at that time SSI certificate on given address produce by the consumer dated 10.08.2016 given permanent registration subsequently produce before this Forum was made minute scrutiny .Since the date of application of proper tariff the certificate issued dated 29.11.2012 also produce by the consumer but admittedly there was no

permanent registration certificate was produce along with the application given even though the demand is made by respondent utility while issuing the letter dated 13.05.2016. The question arose before this Forum whether the respondent utility can recover HT II commercial tariff difference from 01.06.2015 when admittedly the date of application and compilation of process of request of change of name is must later. Respondent utility filed details of demand from June 2015 to March 2016 the reason for claiming for HTII commercial rate difference charge against the consumer was satisfactory explain. As subsequent production of certificate gives date of commencement from 01.06.2013 the certificate part-2 subsequently produced by consumer is perused by this Forum those certificate are issued by competent authority on given address even much prior certificate dated 01.11.2012 is produced. Therefore contention of respondent utility for recovery of commercial tariff cannot be paid to be legal valid and proper give to effect of subsequent production of certificate validate date of commencement between disputed period against which the demand is raised by respondent utility charging HT II commercial tariff. In this circumstances I come to conclusion the supplementary bill was amounting Rs.3189625/- is bad in law illegal and not proper as consumer entitled to has benefit of IT/ITES tariff benefit during the said period and therefore I found there is substance in the contention of consumer complaint as validly raised the grievance before this Forum. In this reference I would like relied following decision given by Hon'ble Ombudsman which are as below.....

1. After considering the effect of issuing supplementary bill found false, incorrect and not in accordance with law therefore the demand is liable to be set aside. I proceed to pass following order.

ORDER

1. The consumer complaint No. 140/2016 is allowed
2. Respondent utility hereby directed to revise and reassess the bill application of IT/ITES certificate tariff to the consumer from 01.06.2015 to March 2016.
3. The bill already submitted and deposited by consumer shall be refund with interest 9% p/a the date of deposit till revitalization of amount.
4. No order as to the cost.

Proceeding close.

Both the parties be informed accordingly.

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

Note:

1) If Consumer is not satisfied with the decision, it may proceed within 60 days from 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**

I Ravindra S . Avhad , Member secretary as member of Forum disagree with opinion of other members point wise clarification for that as given below

M/s Thyrocare Technologies Ltd is HT consumer having HT Consumer no 000079038400 located at plot No D—37/3,TTC Industrial Area, Turbhe, Navi Mumbai

AS per MSEDCL Commercial circular No243-Revision in Electricity Tariff & Implementation Thereof Dtd 03.07.2015 & defined applicability of Tariff for IT/ITES units as under

15. Applicability of Tariff for IT/ITES Units

“HT Industrial tariff category shall also be applicable for use of electricity/power supply to IT/ITES units covered under IT Industry and IT enabled Services(as defined in the Policy of Government of Maharashtra as may be prevailing from time to time).Till the establishment does not receive permanent registration certificate as may be applicable; Tariff shall be as per HT-II category and after receipt of permanent registration certificate HT-I category shall be applicable till the validity of the certificate”

Respondent utility was informed applicant consumer M/s Thyrocare Technologies Ltd to produce valid permanent Registration certificate for IT/ITES and also informed regarding Change of Tariff applicable from existing HT Industrial to HT commercial & recovery of Tariff difference From 01.06.2015.Applicant M/s Thyrocare Technologies Ltd submitted permanent Registration certificate for IT/ITES reference no */(SW)/ Registration /11/24/MIDC/0062 dtd 10.08.2016 for Data Mining. Data Entry, Website Services, BPO vide letter dated 12.08.2016*

So as per above provision to my view supplementary bill (From HT Industrial to HT commercial)for period 01.06.2015 to March 2016 of Rs 31,89,625/-is legal and valid

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