

(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/ 270

Date: 09.01.2018

Hearing Date: 02.01.2018

CASE NO. 50/2017

IN THE MATTER OF REFUND OF IT/ITES COMMERCIAL TO INDUSTRIAL
M/s. Marathe Infotech Pvt. Ltd.,

Plot No.A/22,Road No.9,

Behind old Passport Office,

Wagle Estate,Thane-400604.

(Consumer No. 000010207452)

. . . . (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution Company Limited

through its Nodal

Officer,

Thane Circle, Thane

. . . . (Hereinafter referred as Licensee)

Appearance : For

Licensee

For Consumer –

Shri. R.K. Marke, AEE, Wagle Estate Sub Division

Shri. G.S.Iyer (Representative)

Shri. Vinay Vasant Marathe (consumer)

[Coram- Shri A.M. Garde- Chairperson, Shri. R.S.Avhad -Member Secretary

and Vacant - 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 sub-section 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] Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. Maharashtra Electricity.

2. Consumer herein bearing consumer No. 000010207452 is an IT unit under name and style Marathe Infotech Pvt. Ltd., It is registered as IT software unit LT Industry i.e. Software Web Development and data distribution and has been granted Registration as IT/ITES under IT policy of the Government. Tariff is categorised as LT- V(B) (ii) (Industrial) and consumer has been paying bills under Industrial category as such since 2004 continuously.
3. A bill dated 13.04.2017 for Rs.11,56,410.00/- came to be issued to the consumer towards the difference of tariff from Industrial to commercial for a period from Jun. 2015 to Feb. 2017.
4. It is the contention of the consumer that they are engaged in the same business of IT to the knowledge of the MSEDCL area section in charge and Additional Executive Engineer Wagle Estate Sub Division.
5. In spite of the above fact supply to consumer was disconnected for non-payment of the said bill. Consumer paid Rs.2 Lac there from as an

instalment under protest and got reconnection. Again vide letter No. Addl.EE/We/001586dt.28.09.2017 consumer has been asked to pay the said bill on the ground that for the said period consumer did not have valid permanent registration certificate.

6. MSEDCL in reply contended that on 22.03.2017 consumer was inspected and it was found that consumer had no valid permanent IT/ITES certificate which is mandatory for being eligible for Industrial tariff. As such commercial tariff was applicable.
7. We have heard both sides. There appears no dispute that the consumer herein has been an IT/ITES unit with permanent registration since 2004 and is being charged under Industrial category since then. It is also true however that in the period from June 2015 to Feb. 2017 the consumer had no such permanent registration certificate. It appears that after detection consumer has obtained the renewal of the registration certificate.
8. There are two things noted. One is that the consumer appears to here not got the renewal done through oversight, because it is not the case of MSEDCL that consumer was doing some other commercial activity there. MSEDCL has also not seen at the time of charging, whether there was any valid permanent registration certificate during the said period.

9. Through there appears to be some negligence both on the part of the consumer is not renewing the registration and on the part of the MSEDCL is not checking whether consumer had valid permanent registration while charging the question here ultimately is of wrong application of tariff by MSEDCL on which are there are several judgment of the Appeal that retrospective recovery of charges is not allowed.

10. There is one judgment of the Bombay High Court in W.P. No. 7015/2008 cited by MSEDCL which we have gone through. The said judgment being on different facts is not applicable here. In that case the question was of wrong calculations. In the present case it is wrong application of tariff.
11. In the above view of the matter the consumer succeeds.

ORDER

1. Grievance is allowed.
2. The impugned bill dated 13.04.2017 for Rs.11,56,410/- is hereby set aside.
3. MSEDCL to refund any instalment paid by consumer towards the said bill.

Both the parties should be informed accordingly.

The compliance should be report within one week.

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

ANANT M. GARDE
CHAIRPERSON
CGRF, BHANDUP

RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP