

**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Secretary/MSEDCL/CGRF/BNDUZ/

Date :

Case No. 201

Hearing Dt. 31/07/2008 & 08/08/2008

**In the matter of tariff rate for continuous process industry and refund and
interest thereof**

M/s. Suchak Kraft Paper Industry - Appellant

Vs.

MSEDCL, (Vashi Circle), Navi Mumbai - Opponent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri S.L. Kulkarni, Chairman, CGRF, Bhandup.
- 2) Shri S.B. Wahane, Member Secretary, CGRF, Bhandup.
- 3) Mrs. Manik P. Datar, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri Suchak, owner of the factory.
- 2) Shri B.R. Mantri, consumer representative.

C - On behalf of Respondent

- 1) Shri Sunil Kathale, Ex. Engr & Nodal Officer, Vashi Circle.

Preamble :

Consumer registered his grievance with this Forum on 10/07/2008 vide case No. 201. Consumer was aggrieved with the decision of ICGRU vide letter No. SE/VC/Tech/2388, dtd. 21st May 2008. First hearing was held on 31/07/2008. Consumer remain absent as he did not receive the letter sent by CGRF on 15th July 2008. Hence next hearing was held on 08/08/2008.

Consumer's say :

M/s. Suchak Kraft Paper Industries is situated at plot No. C-21/1, T.T.C. Industrial area, Pawane Village, Thane-Belapur Road, Navi Mumbai, having consumer No.00149008390. The above industry is having HT supply for their paper industry. It is considered to be a continuous process industry from DIC with reference No. DICT/SSI/Continuous Process/07/16122, dtd. 18/09/2007. The second certificate with specific period mentioned was issued by letter reference DICT/SSI/Continuous Process/08/16122, dtd. 28/01/2008. This certificate was issued for the period 1st October 2006 to 30th April 2007 and for tariff purpose only.

As per the tariff order with effect from 1st October 2006 issued by MERC, the tariff decided for continuous process industries at Rs. 2.15 KWh as energy charge. But the consumer did not get the benefit of change of tariff issued by MERC in his energy bills. As per MERC the industries is required to submit a certificate from DIC to avail the tariff for continuous process industry. The consumer submitted required certificate on 03/10/2007 to utility. He also wrote several letters (10) requesting the utility for revision of the tariff and refund the excess amount with interest. But no cognizance was taken by utility's S.E.'s office. Hence he submitted his grievance to ICGRU. According to the decision from ICGRU given on 21st of May 2008, utility accepted the fact that M/s. Suchak Kraft Paper Industries is a continuous process industry and gave the tariff relief and refund the amount for the period 1st October 2006 to 30/04/2007 for Rs. 7,19,538.36. As per the MERC's order the debit or credit should be given in the

next billing cycle after receipt of required certificate. M/s. Suchak Kraft Paper Industries submitted their certificate on 03/10/2006. Hence refund should be given from 03/11/2006 or from bill issued in the month of Nov-2006. However, the refund was given in the month of August 2008. There was a delay of 9 months to effect the refund as per MERC's tariff regulation. Hence the interest should be given @ 12% by MSEDCL. Consumer also stated that utility charged them Rs. 3.40 ps per unit for the period 01/05/2007 to May 2008 instead of Rs. 2.15 per unit, which was applicable to them as it is considered as continuous process industry. Hence excess amount collected by utility should be refunded to them with 12% interest there on. This rejoinder was submitted by consumer on 25th August 2008 to CGRF. Consumer submitted a rejoinder on 14/08/2008 citing MSEDCL circular No. 54, sr. No. 4, which clearly states "The Hon'ble Commission has retained the HT1 category defined in it's tariff order dtd. 20/10/2006."

Utility's Say :

A) The concept of "Continuous" and "Non-Continuous" consumer was introduced in tariff revised from 01/10/2006 by Hon. MERC. The classification as "Cont." or "Non-Cont" was based on load shedding pattern a consumer is subjected to, without considering nature of manufacturing process (Ex. A Com. Circular No. 45)

B) In the absence of details of load shedding pattern of this consumer, he was classified as "Non-Continuous" for the purpose of billing with effect from 01/10/2006.

C) M/s. suchak Kraft Paper Ind. (hereinafter referred to as "Suchak" for the sake of brevity) obtained a certificate No. DICT/SSI/Cont. Process/07/16122, dtd. 18/09/2007 & forwarded the same to this office vide their letter dtd. 03/10/2007 (Ex. B).

D) The Dist. Industries Centre, Thane issued another certificate No. DICT/SSI/Cont.process/08/16122, dtd. 28/01/2008. This certificate was explicitly

issued for the period 01/10/2006 to 30/04/2007 for tariff purpose only. With the issue of 2nd certificate on 28/01/2008, earlier certificate dtd. 18/09/2007 was treated as cancelled (Ex. C)

E) The Xerox copy of 2nd certificate dtd. 28/01/2008 was received in this office on 08/05/2008 and the Xerox copy was verified from original on 21/05/2008 as is clear from Nodal Officer and EE (Adm.) ICGRU Vashi's letter No. SE/VC/Tech/2888, dtd. 21/05/2008 (Ex. D).

F) In view of what has been stated above under Sr. No. E, the action to work out and give the benefit of continuous process could have been taken after 21/05/2008 only by this office and therefore consumer's claim of interest for past period is not acceptable.

G) The next revision of tariff came into effect from 01/05/2007, which clearly says that consumers connected only on "express" feeder shall be treated as continuous (Ex. E-Page No. 18 of MERC order dtd. 30/04/2007).

H) In view of certificate No. 16122 dtd. 28/01/2008 issued by Dist. Ind. Centre, Thane valid upto 30/04/2007 & clear definition of continuous process from 01/05/2007, the benefit of continuous process beyond 30/04/2007 cannot be considered in case of M/s. Suchak. It is also relevant to note that as per record available with us, M/s. Suchak has not been connected on express feeder.

I) In view of our commitment to pass on a credit for 01/10/2006 to 30/04/2006 as per Nodal Officers letter No. 2888, dtd. 21/05/2008, an amount of Rs. 7,19,538.36 has been credited in the bill of July 2008.

Observations :

MSEDCL with approval of commission issued the tariff order for period from 01/10/2006 to 30/04/2007. According to the tariff HT 1 Industrial tariff for continuous industry was Rs. 2.15 per KWh for energy charges. It further directs that the Commission issued an order dtd. 07/02/2007 in case No. 59 of 2006

which states that the continuous and non-continuous categories are differentiated on the continuous and 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. The Commission also clarifies that the Development Commissioner of Industries (DIC) or similar authority designated by the State Government are the appropriate Forum to clarify whether the industry is a continuous or non-continuous process industry. Industries need to submit the required certificate from DIC a district unit of DIC to avail the tariff allocated for continuous process industries. Maharashtra Govt. Industries Power & Labour Department authorized the District Industries Centres to issue continuous process certificate from 04/04/2007.

In this case as per MERC's order dtd. 07/02/2007, M/s. Suchak Kraft Paper Industries submitted the required certificate to utility on 03/10/2007, which was issued to them by DIC on 18/09/2007. Hence it is observed by the Forum that they followed the procedure, which was needed to avail the tariff issued by MERC. MSEDCL had not taken any cognizance of this letter.

When consumer approached IGCRU, they gave refund from October 2006 to April 2007, as per MERC's order. But actual effect was given in the bill of August 2008 (in the bill of July 2008). It was delayed by about eight months.

According to MSEDCL, they received the second certificate directly from DIC which was issued on 28/01/2008 and received in their office on 08/05/2008. This certificate was issued with specific period and the earlier certificate issued by DIC was treated cancelled.

But there is no need of this certificate when the required certificate was already given by the consumer to utility.

Hence Forum came to the conclusion that the first certificate submitted by consumer was enough document to avail the tariff. Consumer submitted his certificate on 03/10/2007 and refund should be given in next billing cycle. Hence consumer is eligible for the interest from Dec 2007 to July 2008 on an refunded

amount of Rs. 7,19,538.36, which was credited to consumer by utility in the month of August 2008. (bill of July 2008).

As per MSEDCL's circular No. 54, it is clearly states that "the Hon.ble Commissions has retained the HT 1 category defined it's tariff order at 20/10/2006. In view of this consumer should get the benefit of continuous process from May 2007 to May 2008. But Forum observes that the next revision of tariff came into the effect from 01/05/2007. In this tariff there was no category for HT 1 consumers.

- 1) Continuous Industry (on express feeder), Energy charges are Rs. 3.10/KWh.
- 2) Non-continuous industries (not on express feeder), Energy charges are Rs. 3.40/KWh.

The above consumer is not on express feeder though he is having continuous process industry. Hence he should charge at the rate of Rs. 3.40/KWh. However, consumer should not get any benefit of continuous process industry from May 2007 to May 2008. Hence consumer is not eligible for any credit according to the tariff issued by MERC on 01/05/2007.

ORDER

As observed in forgoing paragraphs the utility unnecessarily caused the delay in implementation of superior's orders during the period from Dec-2007 to July-2008. The utility officials during this period simply ignored the first certificate issued by DIC and submitted by consumer on 03/10/2007. Hence consumer appellant's request for the interest on refunded amount. He should be paid interest for a period of 8 months at RBI Bank rate.

Compliance of these orders should be reported to the Forum within one month.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 25th of September 2008.

Note : 1) If Consumer is not satisfied with the decision, he may go in appeal 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 go in appeal before the Hon. High Court within 60 days from receipt of the order.

MRS. M.P. DATAR
MEMBER
CGRF, BHANDUP

S.L. KULKARNI
CHAIRMAN
CGRF, BHANDUP

S.B. WAHANE
MEMBER SECRETARY
CGRF, BHANDUP