



Consumer Grievance Redressal Forum, Kalyan Zone

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No.EE/CGRF/Kalyan Zone/

Date of Grievance : 15/11/2016

Date of Order : 20/01/2017

Total days : 67

IN THE MATTER CASE OF GRIEVANCE NO. K/E/1078/1299 of 2016-17 IN RESPECT OF M/S. BOMBAY RAYON FASHIONS LTD., G-95.MIDC, BOISAR TARAPUR, BOISAR, TAL. & DIST. PALGHAR – 401 506 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING REFUND OF TARIFF DIFFERENCE.

M/s. Bombay Rayon Fashions Ltd.
G-95, MIDC,
Tarapur, Boisar,
Tal. & Dist. Palghar,
(Consumer No. 003019036190)

... (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited
through its MSEDCL, Addl. Ex. Engineer,
Palghar Circle,

... (Hereinafter referred as Licensee)

Appearance : - For Consumer : Shri Pratap Hogade -Consumer's representative.
For Licensee :- Shri V.B. Jagtap –Nodal Officer, Vasai Circle.
Shri H.A.Khan- Dy.EE, Vasai Circle

[[Coram- Shri A.M.Garde-Chirperson, Shri L.N.Bade-Member Secretary and
Mrs.S.A.Jamdar- Member (CPO)].

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. Hereinafter referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.’ Hereinafter referred ‘SOP’ for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014’.

2] Brief facts of the grievance application are that, consumer is running a factory, having HT supply bearing consumer No. 003019036190. The consumer submits that there are different categories of HT industrial consumers i.e. Continuous (HT-IC) & Non Continuous (HT-IN) and accordingly separate tariffs are charged since October 2006. CR stated that the consumer may opt his choice between Continuous & Non Continuous as per MERC order in Case Number 44/2208 dated 12/09/2008. MSEDCL has also issued Commercial Circular No. 88 dated 26/09/2008. Also there is a clear provision regarding change of Tariff category in SOP regulations.

3] Consumer further submitted that there was continuous supply till July 2012, they were continuous category consumer of MSEDCL. But due to MERC order dated 16/8/12 there was a huge hike in the tariff which

made us impossible and difficult to survive and run their business. Further inspite of being continuous category consumer paying tariff thereunder, they were not using energy on staggering day (Friday). So as per MERC order , MSEDCL Circular and SOP Regulations, they opted for non - continuous Category and have submitted their written applications to MSEDCL on 04/10/2012.

4] It is further the contentions that as per directions of MERC and SOP regulations, it was binding upon MSEDCL to implement “Non Continuous” Tariff and Charge the consumer accordingly thereunder from 1st of August 2012 or after application but Hon’ble MERC gave the said sanction vide Head Office letter dated 4th July 2013 and even thereafter also continued to apply tariff under continuous category.

5] The consumer prayed as below:

1] It should be declared that consumer is eligible for Non-continuous tariff from 1st August 2012, on the basis of MERC order and MSEDCL Circular or alternatively from ensuing billing cycle after the date of receipt of their application as per Provision of SoP Regulations.

2] From 1st August 2012 or as per SoP Regulations from the ensuing billing cycle after the date of their application, the category change should be allowed and the difference amount in continuous and non-continuous tariff should be refunded or adjusted in their future bills along with the interest thereon as per Bank rate as stipulated in Section 62(6) of the Electricity Act.

3] As per SoP Regulation 2005, an amount of Rs.100/- towards compensation per week for delay period be granted in implementation of change of tariff category.

4] Other necessary just and equitable order be passed.

6] Consumer approached IGRC but not satisfied with the order of IGRC dtd 26/10/2016, hence, the consumer approached to this Forum and this grievance is filed before this Forum on 15/11/2016. His grievance application along with accompaniments sent to the Nodal Officer vide this Office letter No.EE/CGRF/Kalyan/294 dated 17/11/2016.

7] The Licensee appeared and filed reply dated 28/11/16 and denied all statements averments and contentions raised by the consumer, unless specifically admitted that with reference to above correspondence under reference this is to intimate that consumer has submitted application for change of tariff category from continuous to non continuous tariff.

8] The Licensee further contended that on 4/10/2013, the Circle Office sent application of consumer to Chief Engineer (Comm) , Corporate Office, MSEDCL. The Chief Engineer (Comm) allowed his request for change of tariff from July 2013. The effect is given after approval of proposal of Head Office.

9] The Licensee further contends that these consumers may opt, for change o in tariff category option by giving fresh application. However, terms and conditions mentioned in Commercial Circular No.246 did 12/8/15 is to be followed strictly and said circular is in force.

10] The Licensee further contended that consumer is in arrears amounting to Rs.10,90,94,699,87/- till today and therefore, consumer needs to pay the above said amount.

11] Lastly, the Licensee prayed for rejection of the grievance application of the consumer.

12] We have heard the matter, the Licensee has submitted written arguments. We find that the categories of consumers for continuous and non continuous supply were first introduced in 2006, in view of shortage of electricity supply then. As we gather further, inspite of shortage of electricity supply for distribution, some industries were considered to be eligible for continuous supply and were provided with the same on request of course with some higher tariff. Earlier, there was a certificate required from the concerned Competent Authority to the effect that a particular industry falls in continuous category so as to be eligible for continuous supply. Later-on there were some changes made on account of some difficulties in getting the above mentioned certificate from the respective authority whereby the certificate was dispensed with if the industry required continuous supply considering it's activity. Later-on the things changed further and, anybody could change from one category to other. Then it so happened that by reason of sufficiency in power supply there was no more power cut. Power was made continuously available on demand and the consumers preferred to change to non continuous category to avoid excess tariff specially because of alleged increase in tariff. In Tariff order of 2012 a condition was put to make application within one month of the order for change of category. This was made in order that the Licensee should be able to know before hand c

categories so as to manage the supply properly. It so happened , however, that few applications were made within one month of the tariff order for change of category from continuous to non-continuous, which were allowed by the Licensee. Thereafter, applications were made even after one month of the tariff order, the said applications were rejected by the Licensee on the ground that they were not made within one month of the tariff order. However, there were instances in which the applications were granted. There were contradictory interpretation of the tariff order of the condition of one month to make application. Then came the Review Petition moved by Licensee itself before the MERC bearing 94/2015 in which all the questions were set at rest.

13] The Commission in the above said review matter inter-alia held that SOP Regulations 9.2 gives unfettered powers to the consumer to change the category by making an application and the Licensee was bound to change the category from the next billing cycle. That being so Licensee before us in this case had no points to make against the case of consumer. The Licensee practically agreed in principle to the case of the consumer. The only submission made was that the MSEDCL is a body corporate and will frame policy and methodology for implementation of the findings of the Commission in the Review Petition no.94/2015 and issue guidelines. It is, rightly pointed out in this context that those are the internal matters of the Licensee.

14] So-far-as compensation under SOP is concerned, CR Mr. Hogade fairly does not insist.

This matter could not be decided within time as the Hon'ble Chairperson took charge on 20/09/2016 of this Forum and the matter was

reheard.

15] Taking into consideration, all the above points, we find it fit to allow the grievance application of the consumer.

Hence the order.

ORDER

- 1] Consumer's grievance application is hereby allowed.
- 2] The Licensee is directed to apply non continuous tariff to the consumer from second cycle after the application given on **04/10/2012** for change of tariff.
- 3] The Licensee is further directed to refund the differential amount recovered from the consumer due to wrong application of continuous tariff from the second cycle after the application till rectification. The same may be done by adjusting it in the next ensuing bills.
- 4] The Licensee is also directed to work out the amount of interest on the differential amount as per RBI rate and pay the same to the consumer.
- 5] Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Date: 23/01/2017.

(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

(L.N.Bade)
Member Secretary
CGRF, Kalyan.

(A.M.Garde)
Chairperson
CGRF, Kalyan.

NOTE

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or
- c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-
“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”
- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.