



Consumer Grievance Redressal Forum, Kalyan Zone  
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**EE/CGRF/Kalyan/**

Date of Registration: 25/11/2016

Date of Order : 13/04/2017

Total days. : 139

**IN THE MATTER OF GRIEVANCE NO. K/E/1082/1303 OF 2016-2017 OF  
CIPLA LIMITED , A-37/2/2, MIDC, PATALGANGA TAL. KHALAPUR, DIST.  
RAIGAD, PIN 410220, CONSUMER NO. 031129021550, REGISTERED WITH  
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN  
ABOUT BILLING DISPUTE.**

Cipla Limited,  
A-37/2/2,MIDC,  
Patalganga, Tal. Khalapur,  
Dist. Raigad, Pin Code 410220  
(Consumer No. 031129021550) .

(Hereinafter referred as Consumer)

V/s.

Maharashtra State Electricity Distribution  
Company Limited  
through its MSEDCL, AEE,  
Pen Circle,

... (Hereinafter referred as Licensee)

Appearance : For Consumer - Shri Anil Pendse - CR.

For Licensee - Shri R.B.Mane-Executive Engineer.

[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] The matter in brief is that consumer has a factory in two plots bearing Nos. A/33/2 and A/37/2/2 separated by a road lying in between them. They have production process on plot No. A/33/2 while a warehouse for storing raw material on plot No. A/37/2/2. There are two separate HT (I) power connections for both the plots.

3] It is the case that the premises at plot No. 37/2/2 forms a part of the manufacturing plant wherein there is a warehouse. The said premises has HT (I) power connection bearing consumer No. **31129021550**.

4] In the year 2009 Distribution Licensee changed the tariff of consumer No.031129021550 (warehouse) from Industrial to commercial and also sought recovery of amount on account thereof. Consumer raised a grievance with distribution Licensee whereupon Dy. Executive Engineer of Distribution Licensee visited the premises of the consumer at plot No. A/37/2/2 for carrying out spot inspection. A report was accordingly made that consumer was using electricity for storing raw material being needed for production in the unit at plot No. A/33/2, no activity was noticed for which commercial tariff would be applicable. Consumer moved IGRC which in turn by order dated 3<sup>rd</sup> February 2010 granted the relief observing that facility for storage at plot no. A/37/2/2 was a part of manufacturing activity of original plot at Plot No. A/33/2.

5] Above being the state of affairs on 29<sup>th</sup> of March, 2016 a representative of Distribution Licensee as flying squad visited the premises of consumer at plot No. A/37/2/2 and after inspection changed the tariff to commercial observing that the use seems to be of warehouse / godown. Consumer was thereafter, called upon to produce the order of IGRC dated 3<sup>rd</sup> February 2010. Thereafter consumer received a letter dated 14<sup>th</sup> June 2016 from Distribution Licensee calling upon it to produce certain documents viz, 1] letter by consumer given on 27<sup>th</sup> November 2009, 2] Correspondence with respect to change of tariff , 3] Representation given with respect to meeting held on 16<sup>th</sup> May 2016. The consumer vide letter dated 21<sup>st</sup> June 2016 submitted the said documents. Thereafter consumer received a letter dated 10<sup>th</sup> August, 2016 from Distribution Licensee informing inter-alia, that plot no. A/37/2/2 has storage / warehouse activity and therefore instead of industrial tariff commercial tariff is applicable. It was further stated therein that the tariff of the said connection has been changed from Industrial to Commercial with effect from August 2016. Distribution Licensee called upon consumer to pay Rs.1,08,87,728/- towards the tariff difference for the period from June 2008 to July 2016.

6] It is further the case that consumer preferred the said action of Distribution Licensee by letter dated 22/8/2016, but / to no response. The IGRC also turned down the plea of the consumer. Consumer prays that the industrial tariff be restored to his connection at plot No. A/37/2/2 bearing consumer No. 031129021550. Further that the demand of Rs.1,08,87,728/- be set aside. Further that the excess recovery on account of change of tariff from industrial to commercial from July 2016 be refunded. There were some alternative relief also claimed.

7] There is no reply filed by the Distribution Licensee but exhaustive arguments were advanced by Executive Engineer- Shri Mane- for the Licensee. The Tariff Circular is produced. It is pointed out that separate connection is taken

by the consumer for warehouse on plot No. A/37/2/2 for which commercial tariff is applicable. The error was detected by the flying squad and accordingly tariff is changed and recovery of dues is claimed.

8] We have heard both the sides. At the outset there is no dispute that as per the circular storage/warehouse falls in commercial category. A quarry was raised and submissions were heard, but there is clearly mentioned in the circular dated 3<sup>rd</sup> July 2015. The effect that warehouse falls in commercial category. In the present matter there is separate ( HT ) power connection obtained for storage / warehouse on plot No. A/37/2/2. There is a separate e HT power connection for the factory situated on plot No. A/33/2. Thus on plain application of the circular the connection at plot No. A/37/2/2 for warehouse falls in commercial category. The consumer here seeks to crave out on exception in this case contending that the warehouse on plot no. A/37/2/2 though on an independent property is a part of the manufacturing unit as such it should be categorized on industrial. The said proposition apparently logical though does not have any basis of Law on regulations. At least nothing has been shown by the Licensee in that regard.

9] One proposition came up before us was that the warehouse is an integral part of the production process i.e. storing, manufacturing and issuing raw material for manufacturing process. Further that as per tariff order dated 26/6/15 in case No. 121/2015, Commercial tariff is applicable for those units which run an exclusive bussiners of warehouse / godown. We have discussed the said propositions. The germane question is, who has to speak on that contingency and make an exception in the Regulation. When there is no provision in tariff order or other Regulation/ direction of Hon'ble MERC carrying out an exception in such contingency whether CGRF can do so through its order by arrogating / usurping the process of Hon'ble MERC.

10] There is also a point about earlier IGRC decision raised by which the connection was considered as falling in commercial category. This contention

of the consumer is not acceptable, IGRC being not a Court. It is merely an internal mechanism of the Licensee for granting relief. It is not an order of a Court. That being so, the flying squad was within its right to detect the error and Licensee had right to correct the error. The relief given by IGRC by its order dtd. 3/2/2010 has no bearing on the action taken by the Flying Squad and the order passed by Licensee thereupon for change of tariff from Industrial to Commercial.

11] There is another point however which requires consideration in favour of the consumer and that is in respect of arrears claimed from June 2008 to July 2016 amounting to RS.1,08,87,728/-. It is to be noted that the Licensee itself had categorized the consumer here as Industrial and the same was confirmed by IGRC when dispute arose. That being so consumer is not responsible for such in correct categorization and in correct billing till 10/8/2016. As such the arrears claimed from June 2008 to July 2016 amounting to RS.1,08,87,728/- cannot be recovered from the consumer. Commercial Tariff can be applied in this case only after detection i.e. from 29/3/2016.

This matter could not be decided within time as hearing was going on each and every date and parties wanted to produce some documents and therefore, delay is caused.

Hence the order.

### **ORDER**

- 1] Grievance application is partly allowed.
- 2] Prayer for restoring industrial tariff for the HT power connection having consumer No. 031129021550 on plot No. 37/2/2 is rejected.
- 3] However, the claim for arrears of bills from June 2008 to July 2016 amounting to RS.1,08,87,728/- is set aside.
- 4] Commercial tariff be applied to this consumer from the date of detection i.e. 29/3/2016.

- 5] Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Date: 13/4/2017.

(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.