



**CONSUMER GRIEVANCE REDRESSAL FORUM**  
**M.S.E.D.C.L., PUNE ZONE, PUNE**

**Case No.27/2015**

**Date of Grievance : 07.10.2015**

**Date of Order : 05.12.2015**

In the matter of recovery of arrears due to change in tariff category.

Flagship Infrastructure (P) Ltd.,  
S.No.123, RGIP, Hinjewadi,  
Pune - 411057.  
(Consumer No.170149075640)

**Complainant**  
(Herein after referred to as Consumer)

**Versus**

The Superintending Engineer,  
M.S.E.D.C.L.,  
Ganeshkhind Urban Circle,  
Pune.

**Respondent**  
(Herein after referred to as Licensee)

**Quorum**

**Chair person**  
**Member Secretary**  
**Member**

**Mr. S.N.Shelke**  
**Mr. D.H.Agrawal**  
**Mr. S.S.Pathak**

**Appearance**

**For Consumer**

**Mr.Vijay Y.Bhosale, Representative**

**For Respondent**

**Mr.S.R.Rinke, Ex.Engr.**  
**GKUC,Pune.**  
**Mrs.Rana**  
**Dy.Manager, (HT Billing)**

- 1) The Consumer has filed present Grievance application under regulation no. 6.4 of the MERC (CGRF & E.O.) Regulations 2006.
- 2) Being aggrieved and dissatisfied by the order dated 03.09.2015 passed by IGRC Ganeshkhind Urban Circle, Pune, thereby rejecting the grievance, the consumer above named prefers this grievance application on the following amongst other grounds.
- 3) The papers containing the above grievance were sent by the Forum to the Superintending Engineer, M.S.E.D.C.L., GKUC, Pune vide letter no. EE/CGRF/PZ/Notice/27 of 2015/283 dtd. 07.10.2015. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 28.10.2015.
- 4) We heard both sides at length, gone through the contentions of the consumer and reply of the respondent and the documents placed on record by the parties. On its basis following factual aspects were disclosed.
  - i) HT Consumer namely Flagship Infrastructure (P)Ltd., having consumer No. 170149075640 is connected on 19.07.2012 in the tariff category HT-VI and was billed in the same category.
  - ii) The MSEDCL Flying Squad visited the premises of the consumer on 11.12.2014.
  - iii) The Flying Squad submitted inspection report. Thereafter the Licensee issued supplementary bill to the consumer for the period from July-2012 to Dec.2014 of tariff difference amounting to Rs.1,37,87,930/-
  - iv) The Licensee changed the tariff category from HT-VI to LT-I of the consumer from Jan.2015.
  - v) The consumer approached the IGRC with grievance dated 01.8.2015 in Form -X.
  - vi) The IGRC, GKUC, Pune rejected the grievance of the consumer vide impugned order dated 03.9.2015 stating that the Licensee has

properly applied the tariff category and the supplementary bill issued by the Licensee was correct.

- 5) The consumer representative Mr. Vijay Y. Bhosale submitted that the Licensee issued supplementary bill to them without any prior notice. All the Electricity Bills received till date have been paid by them without any fault. The Licensee abruptly changed the tariff category from HT-VI to LT-I. The MSEDCL has itself applied tariff category HT-VI since the connection. However they do not understand why the tariff category was changed. Their housing society is under the Blue Ridge township which was created under the Maharashtra special township Act. Therefore the tariff category of their residential complex should not be changed and retrospective recovery be set aside.
- 6) On the other hand, Mr.S.R.Rinke, the Ex.Engineer, GKUC,Pune submitted on behalf of Licensee that the consumer is connected on 19.07.2012. As per the inspection report submitted by Flying Squad dated 11.12.2014, the consumer was using the HT supply for common connection of the Residential Complex which was used for lifts, Water pumps, Street lights, Parking Lights, Security lights etc. As per MERC Case No.19 of 2012 directions are given to apply LT-I tariff category to such type of usage. In the Commission's Order, for 'LT-I Residential' tariff it is mentioned, "Consumers who have taken power supply on high tension for any of the above mentioned purposes shall be applied as per the tariff applicable for power supply on low tension".
- 7) Mr.S.R.Rinke further submitted that the MSEDCL( Licensee) implemented the above mentioned change by its subsequent Commercial Circular No.175 dated 5.9.2012 which is applicable from 1.8.2012 onwards as per the directions. Similarly as per the said circular as per Para 11, HT-VI Group Housing Society Tariff is not applicable to co-operative housing societies. Therefore the Licensee changed the tariff category of this

consumer from HT-VI to LT-I. Thereafter the tariff difference supplementary bills was issued to the consumer for the period from July-2012 to Dec.2014 amounting to Rs.1,37,87,930/- and the consumer has paid one installment of the said supplementary bill. Therefore the tariff applied to the consumer is legal and the said bill amount is recoverable according to law.

- 8) The following points arise for our determination. We give our findings thereon for the reasons stated below.

Points	Findings
1) Whether the Licensee is entitled to change the tariff category of the consumer from HT-VI to LT-I?	In the affirmative.
2) Whether the consumer is liable to pay arrears of Rs.1,37,87,930/- for the period from July-2012 to Dec.-2014? If no, what is the extent of liability of the consumer as per Law?	In the Negative. The extent of liability of the consumer is only for two years as per Sec.56(2) of the Act.
3) What Order ?	As per final order.

9)

#### REASONS

Admittedly, the consumer was billed under tariff category HT-VI from the date of connection i.e. from 19.07.2012. As per the tariff order dated 16.08.2012 in Case No.19 of 2012 of the Commission, the consumers who have taken power supply on high tension shall be billed as per the tariff applicable for power supply on low tension. Hon'ble Commission in Case No.19 of 2012 under caption LT- I Residential has mentioned this category as under.

*1) Consumer who have taken power supply on high tension for any of the*

*above mentioned purpose shall be billed as per the tariff applicable for power supply on low tension.*

- 10) MSEDCL in its subsequent circular No. 175 dated 5.9.2012 in pursuant to Case No.19 of 2012 under the caption LT-I : LT-Residential, has given following guidelines.

LT- I : LT- Residential
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**Applicability**

*Electricity used at low/medium voltage for operating various appliances for purposes like lighting, fitting, cooling, cooking, washing/cleaning, entertainment/ leisure, pumping in the following places :*

*f) Government/ Private/ Co-operative Housing Colonies (where electricity is used exclusive for domestic purpose) only for common facilities, like Water Pumping /Street lighting /Lifts/ Parking Lots/ Fire Fighting Pumps/ Premises (Security) Lighting etc.*

- 11) The Flying Squad inspected the premises of the consumer 11.12.2014 and noticed that tariff category of the consumer should have been reclassified from HT-VI to LT-I and therefore issued the supplementary bill of tariff difference to the consumer. The Licensee has changed/reclassified the tariff category of the consumer as per tariff order dated 16.8.2012 in Case No.19 of 2012 and its subsequent circular bearing no.175 dated.5.9.2012 from Jan.2015. Consumer has taken supply on high tension for its co-operative Housing Socy. where electricity is used exclusively for domestic purpose and only for common facilities like water pumping, lifts, parking, Street light etc. Therefore Licensee is entitled to reclassify the said category as mentioned above. Hence we answer point No.1 in the affirmative.

- 12) Point No.2 : The consumer strongly opposed to supplementary bill of Rs.1,37,87,930/- for the period from July-2012 to Dec.2014 for the tariff difference amount i.e. tariff category from HT-VI to LT-I. According to the consumer all the bills received from the date of connections have regularly paid by them. The HT-

VI category was applied by the authorities of MSEDCL right from the date of connection and the consumer is not at fault. Licensee has not informed them about the change in tariff category as mentioned above. Therefore the consumer insisted to cancel the supplementary bill as mentioned above.

13) As discussed above LT-I : LT- Residential tariff category is applicable to co-operative Housing Society where electricity is used exclusively for domestic purpose only and for common facilities, like water pumping, street lighting, lifts, parking etc. HT-VI tariff category is applicable to the group Housing Society & commercial complex where consumers take supply at HT voltages at single point for consumption within HT Residential Complex. However consumers who have taken power on high tension for common facilities shall be billed as per the tariff applicable for power supply on low tension i.e. in the tariff category LT-Residential. Therefore consumer was wrongly billed in the tariff category HT-VI.

14) Now so far as extent of liability of the consumer is concern. We have to take recourse of section 56 of the Electricity Act. Sub/section 2 of Section 56 provides that no sum due from any consumer under this section shall be recoverable after the period of two years from the date of when such sum became first due. Section 56 (2) reads as under-

*(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.*

15) The Licensee carried spot inspection of the premises of the consumer on 11.12.2014 there after the Licensee served supplementary bill to the consumer amounting to Rs.1,37,87,930/-. As per the law laid down in the case of *Awadesh S. Pandey Vs. Tata Power Co. Ltd., AIR 2007 Bom 52* that only those charges for a period of two years previous to the demand could be recovered and that the

arrears for the consumption prior to that period are not recoverable under the provisions of Section 56(2) of the Electricity Act. Single bench of Bombay High court in WP No.10764 of 2011 vide order dated 17<sup>th</sup> Jan.2012 observed that the earlier judgment of the division bench in the case of Mr. Awadesh Pandey (Supra) was not brought to the notice of the division bench which subsequently decided the case of Rototex Polyester, reported in 2010 (4) and therefore matter was referred to the larger bench consisting of atleast three judges. Therefore as per the existing law on the point of recovery of arrears only those arrears for a period of two years previous to the demand could be recovered. In the present case Licensee made demand of tariff difference in the supplementary bill mentioned above for the month of Jan.2015. Therefore recovery would be for the period from Jan.2013 to Jan.2015 i.e. only for two years previous to demand. Hence we answer point No.2 accordingly.

16) Lastly, we pass the following order:

### **ORDER**

1. Grievance of the consumer is partly allowed.
2. Impugned order dated 3.9.2015 passed by IGRC is hereby set aside.
3. The demand raised by the Licensee quantifying arrears to the tune of Rs.1,37,87,930/- for the period July-2012 to Dec.2014 of tariff difference is hereby set aside.
4. The Licensee to revise the said bill making it limited only for the period of two years i.e. from the billing month of Jan.2013 to Jan.2015 without applying DPC & interest in the said arrears.
5. The arrears amount already deposited by consumer be adjusted against revised arrears bill of the consumer.

6. The licensee to report compliance to this forum within one month from the date of this order.

Delivered on: - 05.12.2015

Sd/-	sd/-	sd/-
<b>D.H.Agrawal</b>	<b>S.S.Pathak</b>	<b>S.N.Shelke</b>
Member/Secretary	Member	Chairperson
CGRF:PZ:PUNE	CGRF:PZ:PUNE	CGRF:PZ:PUNE

Note :- The consumer if not satisfied may filed representation against this order before the Hon.'ble Ombudsman within 60 days from the date of this order at the following address.

Office of the Ombudsman,  
Maharashtra Electricity Regulatory Commission,  
606/608, Keshav Bldg.,  
Bandra Kurla Complex,  
Bandra (E), Mumbai-51.