

**Before Maharashtra State Electricity Distribution Co. Limited
Consumer Grievances Redressal Forum, Pune Zone,
925, Kasabapeth Building, 11nd flr. Pune-11**

Case No. 31/2012

Date: 28/02/2013

**In the matter of
M/s Syntel International Pvt.Ltd.
SEZ, Plot No.B-1 & B-2,
MIDC Software Park Talwade**

- Complainant

V/S

M.S.E.D.C.L. Ganeshkhind Urban Circle

- Opponent

Quorum

Chair Person

Shri.S.D.Madake

Member/Secretary,

Shri.B.M.Ivare

Member

Shri.Suryakant Pathak

- 1) Consumer M/s. Syntel International Pvt. Ltd. SEZ at plot no. B-1 & B-2, MIDC Software park Talwade, Pune has taken electricity connection from MSEDCL under HTP-N category for software Technology Park vide consumer No. 170149068520 on dt.16/07/2008.The supply was granted as 1800 KVA contract demand and connected load was 1702 KW. Both parties entered into an agreement dt.05/06/2008. The MSEDCL charged bills from time to time as per agreement till April-2012.

- 2) MSEDCL issued letter dt.07/05/2012 to consumer stating that installation is being fed from express feeder, for which the tariff leviable is HT-1C and claimed supplementary bill for a period between April 2010 to March-2012 to the amount of Rs.36,92,560/-(Thirty six lakhs ninty two thousand five hundred sixty rupees only) subject to the decision of the Hon'ble High court in w.p.No.7515 of 2011.
- 3) Consumer denied the liability on the ground that bills are regularly paid on time and as per terms of agreement dt.05/06/2008. Consumer agreed to pay as per the rates applicable to HTP-1C with effect from May-2012 vide letter dt.05/05/2012. Consumer contended that neither MSEDCL nor consumer was aware about the factual position, as to express or non express feeder. Consumer further stated that the change of tariff would be effective from the date 29/03/2012 i. e date of spot verification by Dy.Ex.Engineer of MSEDCL.
- 4) According to consumer there was no breach of observance of staggering day. It is submitted that M/s. Syntel International Pvt. Ltd. works on regular hours on Thursday and power was available on this day as there was no power shut down by MSEDCL. The consumer further alleged, that company was forced to use the diesel generators on large scale. Consumer contended that the D. G. Power supply was never utilized other than sanctioned load of MSEDCL. The consumer alleged that after providing connection officers of utility conducted regular inspections of the premises, however no change at any time was noticed.
- 5) MSEDCL denied the allegations made by consumer in the complaint. The bill is issued as per rules as the supply is on 33KV express feeder, which revealed on the date of spot verification dt.29/03/2012. MSEDCL further contended that consumer committed the breach of agreement dt.19/04/2008 by not observing the staggering holiday as decided by the Govt. which is at present Thursday for Pune district. The spot

verification report of Dy. E. E. Pradhikaran dt.29/03/2012 confirms the utilization of power as continuous industry on express feeder. The annual testing report dt.21/07/2012 confirms that the consumer is availing continuous supply on express feeder.

- 6) According to MSEDCL supplementary bill of Rs. 36,92,560/-(Thirty six lakhs ninty two thousand five hundred sixty rupees only) was issued to consumer due to difference as from HT-I C for two years from April-2010 to March-2012. While sanctioning the additional load, as per load sanction order dt.06/06/2012, as per condition No. 16 it was mentioned that additional load will be released only after the payment of supplementary bill. According to MSEDCL, consumer has paid the amount unconditionally as agreed as per condition No. 16. Hence consumer has no right to create a grievance.
- 7) According to MSEDCL continuous supply was availed by consumer on express feeder during 2010, 2011 & 2012. Utilization of energy from D.G. set was during interruption period which was beyond its control. It is submitted that the concept of continuous and non continuous tariff was introduced from 1st. Oct-2006, which was in force till 07/07/2008. As the consumer was not having certificate from DIC the agreement was based on HT-I-N tariff category.
- 8) On the basis of submission of both sides and documents it is evident that agreement dt.05/06/2008 was based on HTP-1N consumer. Admittedly bill were issued as per the tariff mentioned in the agreement which were paid on time. All these are admitted facts.
- 9) The main issue before this forum is as to whether consumer is liable to pay the supplementary bill. It is also necessary to verify as to whether the supply which was given was on express feeder.

- 10) Both sides produced on record, following documents in order to decide the issues regarding the supplementary bill and nature of feeder etc.
- 1- Copy of agreement dt. 05/06/2008
 - 2- Supplementary bill dt. 07/05/2012
 - 3- Verification report dt. 29/03/2012
 - 4- Annual report dt. 21/07/2012
 - 5- Load sanction order dt. 06/06/2012
 - 6- Copy of order dt.23/08/2012 of IGRC
 - 7- D.G.Set unit consumption
 - 8- Diesel purchase invoices etc.
- 11) Both sides made various submissions in support of their contentions. The main grievance is issuance of supplementary bill and the nature of feeder mentioned in the agreement and found at the time of inspection dt.29/03/2012.
- 12) On rival contentions following point arises for determination of this Forum. Does the consumer prove that MSEDCL is not entitle for issue of supplementary bill for a period prior to 29/03/2012, when the inspection of the premises was made?

Point is answered in the negative for the following reasons

REASONS

- 13) Consumer expressed willingness to pay as per the rates applicable to HT-I continuous category with prospective effect. Consumer admitted that both parties were not aware of the fact that supply to consumer was on express feeder till the date of inspection dt.29/03/2012. Consumer has not denied that supply was not on express feeder as noticed during the inspection dt.29/03/2012. Consumer has not denied that electricity supply was given on Thursday which was observed in

Pune city as staggering day. The facts and circumstance, on record indicate that MSEDCL was not aware of the nature of feeder whether express or non express till the dt.29/03/2012. The issue is whether consumer can take the benefit of wrongs committed by MSEDCL when consumer has availed the advantage of the express feeder.

- 14) It is clear that though consumer was given continuous supply on express feeder the bills, were raised at lower rates. MSEDCL corrected the mistake for the first time on the basis of inspection dt.29/03/2012. Consumer has not denied the correctness of the inspection report. The consumer therefore is under an obligation to pay the charges which already have been paid to MSEDCL. Merely because consumer was regular in payment of bills would not confer any right regarding legal obligations. As per the legal position if any advantage is received due to mistake, it is obligatory to return the money or any benefit to the aggrieved person (section 72 of contract Act) This is based on the principle of "unjust enrichment".
- 15) MSEDCL has issued the bill for a period of two years. The consumer has not disputed the fixation of the quantum of amount of two years. The only contention raised by consumer is that the rates shall be applicable from prospective date and not retrospective which is not legal and valid.
- 16) Consumer vehemently argued that since the date of commencement of supply from 16/07/2008, several visits were made by employees of MSEDCL, however no one has noticed about the nature of express feeder. Further consumer submitted that the load enhancement was made from time to time but no one has brought the said fact to notice of any one. It is obligatory on the part of MSEDCL to take effective steps to ensure that consumer will not be required to pay huge accumulated and high supplementary bills, at once. The consumer is required to pay additional bill for a period between April-2010 to March-2012 as

claimed. In this case, consumer has already paid it, so prayer of refund of said bill is not justifiable by law. Hence, case is liable to be dismissed.

- 17) After the receipt of the complaint, we persuaded both parties for amicable settlement of dispute relating to supplementary bill. Initially both sides agreed for the same on the date of hearing on 21/11/2012. However the settlement was not arrived at. MSEDCL filed additional say with documents on 31/12/2012. Considering the necessity of observing principles of natural justice consumer was allowed to file say on the additional say of MSEDCL. Accordingly consumer filed say on 17/01/2013 with documents. Even after production of say and documents by both sides' efforts were made for amicable settlement, however settlement was not arrived. Therefore the matter could not decided within two months.

ORDER

- 1) Complaint is dismissed.
- 2) No order as to cost.

B.M.Ivare,
Member/Secretary

Suryakant Pathak
Member

S.D.Madake
Chair Person

Date: 28/02/2013