

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
AURANGABAD ZONE, AURANGABAD.**

**Case No. CGRF/AZ/ARC/702/2018/42
Registration No. 2018100086**

Date of Admission : 30.10.2018

Date of Decision : 18.12.2018

M/s. Dhoot Compack Pvt. Ltd., : COMPLAINANT
Gut No. 140/143, Bidkin,
Tq. Paithan,
Aurangabad 431 005.
(Consumer No. 493029041980)

VERSUS

Maharashtra State Electricity Dist. Co. Ltd., : RESPONDENT
Nodal Officer, EE(Admn), Rural Circle,
Aurangabad.

For Consumer : Shri Ashok Nagesh Patil, Nashik.

For Licensee : Shri Y. B. Nikam,
EE(Admin), Rural Circle,
Aurangabad.

CORAM

Smt. Shobha B. Varma, Chairperson
Shri Laxman M. Kakade, Tech. Member/Secretary
Shri Vilaschandra S. Kabra Member.

CONSUMER GRIEVANCE REDRESSAL DECISION

1) The applicant M/s. Dhoot Compack Pvt. Ltd., Gut No. 140 / 143, Bidkin, Tq. Paithan, Aurangabad is a consumer of Mahavitaran having Consumer No. 493029041980. The applicant has filed a complaint against the respondent Maharashtra State Electricity Distribution Company Limited through the Executive Engineer i.e. Nodal Officer, MSEDCL, Rural Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 30.10.2018.

BRIEF HISTORY & FACTS RELATING TO THE GRIEVANCE:

2) M/s Dhoot Compack Pvt. Ltd. has applied for change of billing category from continuous to non-continuous by giving consent for changing category on 2nd January, 2013 to The Superintending Engineer, Aurangabad Rural Circle, MSEDCL, Aurangabad Circle which was received to Respondent on 4th January 2013.

3) MSEDCL did not change billing category to non-continuous from February 2013 as per regulation 9.2 of SOP Regulations 2005. MSEDCL has neither changed billing category to non-continuous nor replied anything in writing

4) Regulation 9.2 relates to change of tariff category. It is submitted that the Hon'ble Maharashtra Electricity Regulatory Commission (hereinafter referred as the Commission) issued Order in Case No. 94 of 2015 dated 19 Aug 2016 regarding changes of category from continuous to non-continuous disputes & gave clear guide to finalize pending cases.

5) MSEDCL has not Changed billing category from continuous to non-continuous from February 2013, as per Regulation 9.2. As per Hon'ble Commission's Order in Case No. of 94 of 2015 dated 19 Aug' 2016, MSEDCL Chief Engineer, Commercial Letter No. PR-3/Tariff/no 16403 dated 5 Jul 2017 & PR-

3/Tariff/no 16720 dated 10 Jul 2017, for refunding pending tariff difference between continuous & non-continuous from February 2013 to June 2013 MSEDCL has taken action after very long time without any fault of consumer.

6) The amount of tariff difference refund from February 2013 to June 2013 was credited in September 2017 bill. But the amount is credited after a very long delay without any fault of complainant. Hence, MSEDCL is liable to provide interest on respective monthly tariff difference amounts since February 2013 to June 2013 upto September 2017.

7) It is stated that the Hon'ble Commission in case No. 44/2017 has already stipulated the principle of providing the interest amount applicable for the delay in paying the amount from the due date till the actual date of its payment.

8) In view of settled law by the Hon'ble Commission, MSEDCL is liable to provide interest on respective monthly tariff difference amounts since February 2013 to June 2013 upto September 2017. Hence, interest for such difference for the above period shall be allowed at the same rate, the Hon'ble Commission has allowed carrying cost to MSEDCL in various Tariff Orders.

9) It is stated that moreover, there also has been delay in providing such interest cost, MSEDCL is also liable to pay interest on such delayed payment of interest cost from Feb 2013 till actual date of payment of such interest at the rate of Delayed Payment Surcharge in accordance with principle laid in Case No. 44 of 2017 (interest on the delayed payment from due date till the actual date of payment).

10) It is further stated that a specific timeline should be stipulated as required by Regulation 17.18 of the MERC (CGRF and EO) Regulations, 2006.

11) MSEDCL is liable to pay the interest amount within 15 days from this application's date.

- 12) The complainant has submitted application before IGRC on 16.07.2018, however IGRC has not decided the dispute.
- 13) The complainant has prayed that :-
1. To provide interest on respective monthly tariff difference of amounts since February 2013 to June 2013 upto September 2017 at approved rates of interest,
 2. Also interest on the delayed payment of such interest amounts from Feb 2013 to June 2013 upto September 2017 & till the actual date of payment of such interest.
- 14) The respondent MSEDCL has filed say (Page No. 28 to 29) as follows :
1. That the Respondent has made correspondence to the Head Office on dtd. 16.01.2013, 05.03.2013 about change of tariff category from continuous to non continuous in respect of M/s. Dhoot Compack Pvt Ltd. In this regard, the Head Office vide its letter dtd 26/2/2013 has also communicated, that the consent from other consumers connected on same feeder for change of tariff is required. The Respondent by its letter dtd 26/2/13 informed the consumer, for the said compliance as per Head Office instructions. vide its letter dtd. 26.02.2013.
 2. The contents of Para no. 5/ iii & IV are statutory guidelines.
 3. The contents of Para no. 5 /V are denied as the matter was pertaining to Corporate Office level decision & local office has no any specific authority to deal with the issue.
 4. The contents of Para no. 5/VII, VIII, IX & X are denied, it is submitted that vide letter No. PR-3/Tariff/169 14 dtd 14.06.2013, Chief Engineer (Commercial) has given approval to change of category from continuous to non-continuous with prospective effect from one month

after approval of proposal at Head Office. Hence the category of consumer was changed from July-13.

5. MSEDCL had filed review petition in MERC (Case 94 of 2015), against the tariff order dt.26.06.2015. MERC in its order dt.19.08.2016 has directed to examine and take appropriate action with regard to treatment given to different applications. Vide letter no. PR-3/Tariff/16720 dtd 10.07.2017, Chief Engineer (Commercial) has issued guidelines for implementation of MERC Order in Case No. 94 of 2015 in the matter of Continuous to Non Continuous.

15) Hence as per Guidelines of Head Office, the amount of tariff difference from Feb-13 to June-13 was refunded to consumer in Sept-17 energy bill. In letter no. PR-3/Tariff/16720 dtd 10.07.2017, there were no instructions given to refund the amount with interest; hence this office has only refunded the tariff difference amount to consumer. Ultimately, it is submitted to dismiss the complaint.

16) We have gone through the pleadings, say and all documents placed on record by both the parties. We have heard both parties Complainant's Representative Shri Ashok Patil and Respondent's Representative Shri Y. B. Nikam, Executive Engineer (Admin) Rural Circle, Aurangabad. Following points arise for our determination & its findings are recorded for the reasons to follow :-

Sr. No.	POINTS	FINDINGS
1)	Whether the complainant is entitle for interest on monthly tariff difference amount, since February 2013 to June 2013 till the date of actual payment ?	Yes
2)	What order?	As per final order

REASONS

17) **Point No. 1:-** The complainant has submitted application for change of billing category from continuous to non continuous to the Office of the Superintending Engineer, Rural Circle, Aurangabad on dtd. 02.01.2013

18) Respondent did not change billing category to non continuous from February 2013. As per Regulation 9.2 of SOP Regulation 2005 & Regulation 4.13 of SOP Regulation 2014 for change of name and change of tariff category lays down as under :-

“Change of category for use of supply in reference of tariff schedule shall be effected within the second billing cycle on receipt of application and payment of necessary charges.”

19) Hon’ble Maharashtra Electricity Regulatory Commission (MERC) passed the order in case No. 94 of 2015 dtd. 19.08.2016 and directed to MSEDCL, “while deciding application for change of category from continuous to non continuous to examine and take appropriate action.”

20) Chief Engineer (Commercial) has issued guidelines through Lr. No. PR-3/Tariff/16720 dtd 10.07.2017 for implementation of MERC order in case No. 94 of 2015 in the matter of continuous to non continuous with approval as “All pending as well as already disposed application be considered in accordance with MERC order in case No. 94 of 2015 dtd 19.08.2016 and as per Regulation 9.2 for the approval of change of tariff.”

21) Executive Engineer(Admin) state that correspondence regarding this application was made with Head Office on 16.01.2013 & 05.03.2013 and finally action was taken as per Chief Engineer (Commercial) letter Lr. No. PR-3/Tariff/16720 dtd 10.07.2017 as per MERC directives & refunded tariff difference in the month of September 2017.

22) He has also stated that there was no instruction given to refund the amount with interest, hence office only refunded the tariff difference.

23) As regards interest Section 62(2) of Indian Electricity Act 2003 is material, which is reproduced below :

“(6) If any Licensee or a generating company recovers a price or charge exceeding the tariff determined under this Section, the excess amount shall be recoverable by the person, who has paid such price or charge alongwith interest equivalent to the Bank rate without prejudice to any other liability incurred by the Licensee.”

Therefore, it is logical to allow interest at prime lending rate of the State Bank of India for excess amount paid due to tariff difference of continuous to non continuous for the period February 2013 to June 2013 till the date of actual payment. Considering the delayed payment, the complainant is entitle for amount of interest. As such, we answer point no. 1 in the affirmative. We proceed to pass the following order in reply to point No. 2.

ORDER

The application is allowed in following terms :-

- 1) The Respondent is hereby directed to pay interest at the rate of prime lending rate of State Bank of India on the tariff difference amount for period February 2013 to June 2013 till the date of actual payment.
- 2) Parties to bear their own cost.
- 3) Compliance be reported within 30 days from the date of receipt of the order.

Sd/-
Shobha B. Varma
Chairperson

Sd/-
Laxman M. Kakade
Member / Secretary

Sd/
Vilaschandra S.Kabra
Member