



**CONSUMER GRIEVANCE REDRESSAL FORUM
KOLHAPUR ZONE : KOLHAPUR**

No. EE/KOPZ/CGRF/case No.44(2018-19) **27**

Date : **31/01/2019**

Order Case No.44(2018-19)

M/s. Ghodawat Agro Pvt.Ltd.
G.No.1304 Kothali Tq. Shirol
Dist. Kolhapur

Applicant

V/s

- 1) The Executive Engineer-cum Nodal Officer
O&M Circle office
Kolhapur
- 2) The Executive Engineer
O&M Division Office
Jaysingapur

Respondent

CORAM:-

- 1) Shri A.V. Deshapande Chairperson
- 2) Shri N.B. Brasing Member/Secretary
- 3) Shri P.S. Pujari Member.

ORDER

(Passed on this **28th** day of January 2019)

1. This is a complaint, filed by the consumer/complainant, named above, for cancellation of supplementary bill issued, demanding arrears of bill amounts, for the period from Nov. 2016 to May 2018, by giving a retrospective effect to change in the category HV-V-A H.T. Agri pump set to HV-V-B H.T. (Agriculture others) as per tariff order passed in case No. 48/2016 dated 3/11/2016 by M.E.R.C.

2. The facts, in nutshell, are that the complainant is a High Tension (Agri) consumer. A sanctioned load of 82 KW/H.P., is sanctioned to it, by a sanction letter dated 6/7/2010. The connected load is also 82 KW/HP, as against Demand Load of 100 KVA. The said connection is actually connected and commissioned on 15/12/2012. The consumer Number of complainant is 252659054210, Jaysingpur sub-Div. 030; Jaysingpur Division 503(C), Kolhapur 500 circle.



28/1/2019

...2 ...

3) It is the case of the complainant that ever since the commencement of electric supply, till May 2018, it was being billed as per HT-V-A category. However, on 15/5/2018, the flying squad of Respondent, visited the site of said electric connection and inspected it and recommended for changing and issuing the bills as per HT-V-B (Agri.others). After the inspection by flaying squad, in the month of June 2018, the energy bill for the said meter was issued as per HT-V-B (Agri.others) category. That, by a letter dated 10/7/2018, the respondent company raised a supplementary Demand of Rs. 18,92,577/-, being the difference of bill amounts, as per old HT-V-A Tariff and new HT-V-B (Agri.others) categories from Nov.2016 to May 2018 i.e. effective from date of tariff order passed in case No. 48/2016.

4) It is the contention of complainant that giving retrospective effect to the change in category is illegal in as much as it is against the orders passed by M.E.R.C. and A.P.T.E.L. in M.E.R.C Case No. 24/2001, dated 11/2/2003 and Appeal No. 131/2013 dated 7/8/2014, respectively. In both these orders, it has been laid down that the changes in categories shall be prospective in effect. They cannot be retrospective in effect and no demand of any past arrears of difference on account of change in categorization can be raised. The demand for bills, as per changed category, can be raised, only from the date on which error in category was detected Even the Electricity Act, 2003, nowhere makes any provision for seeking to recover the alleged arrears of energy charges, on account of change in category. Although, supply code Regulation, Code No.13, empowers the supply company to charge categories or recategorise the consumers, those regulations do not empower the supply company to raise a demand of arrears of difference in old category and changed category. Hence, the supplementary bill dated 10/7/2018, raising a demand of Rs.18,92,577/- being the difference in old as well as new categories w.e.f. Nov. 2016 to May 2018, is illegal.

5) That, the complainant, had filed a complaint, before internal Grievance Redressal Cell, Kolhapur Circle, Kolhapur on 21/7/2018 However, by an order dated 15/9/2018, the Internal Cell has dismissed the said complaint, in its entirety. The complainant contends that the said order is wrong, unjust and illegal, in as much as the said order is based on the dictum of Hon'ble Bombay High Court in Awadhesh S. Pandey Vs. Tata Power Co.Ltd. & Others, reported in AIR 2007 Bom.52 and in Writ petition No. 7015/2008, dated 10/8/2009, in M/s Rototex Polyster & Anr. Vs. Administrator, Administration of Dadra and Nagar Haveli (U.T.) Electricity Department, Silvassa & Ors. In as much as, both these dictums of Hon'ble High Court, are in respect of wrong billing and not in respect of change in categories of consumers. On such contentions, the complainant is praying for setting aside the supplementary demand dated 10/7/2018, on account of arrears of changes in categories, as stated earlier.

6) In support of its contentions, the complainant has filed, the sanction letter dated 6/7/2010, Final bill as H.T.V-A category, for the month of May 2018, Spot Inspection report of Flying Squad dated 15/5/2018; the First bill, as per changed category HT-V-B (Agri.Other) for June 2018; the letter dated 10/7/2018, and supplementary bill raising of demand of alleged arrears, a Notice of disconnection dated 2/8/18, The order dated 11/2/2003, passed by M.E.R.C. in case No. 48/2003, the order passed by Appellate Tribunal of Electricity, New Delhi in Appeal No. 131/2013, dated 7/8/2014. The complaint before Internal Grievance Redressal Cell, Kolhapur Circle Kolhapur and the order passed by said cell dated 15/11/2018 (All copies).



...3 ...

7) On receipt of Notice issued by this Forum, the Respondent, has appeared, through Superintending Engineer (KC), Kolhapur and has filed its say. According to it, the complainant is H.T. consumer, having three HT connections (three stages) (a) M/s Ghodawat Agro Pvt.Ltd., Stage-I, No. 2526590557001 at G.No.1746 (b) M/s Ghodawat Agro Pvt.Ltd., Stage-II, No. 252659054210 at G.No.1304 and (c) M/s Shreya Flora Pvt.Ltd. No. 252539050190 at No.227. The purpose of all these three connections, is for Green House and a cold Storage at M/s Shreya Flora. As per the Tariff order passed by M.E.R.C., No.275, dated 18/11/2016, the applicable tariff should be HT-V-B for all these III stages, mentioned above. All these three connections were checked by Flying Squad and it was found that for the stages 1 and 3 above, the correct tariff HT-V-B was applied but in case of connection at Stage II i.e. consumer No. 252659054210, the applied category was HT-V-A. Accordingly, from Bill Month of June 2018; the tariff for Stage II consumer No. 25265905210, is changed from HT-VA to HT-VB. That as per MERC tariff order No.275 dated 18/11/2016, the consumer's usage falls in the HT-VB category, still the said consumer was billed as per Lower tariff rate (i.e.HT-VA). Hence, the Respondent has issued the supplementary bill, to recover the unbilled amount, as per M.E.R.C. tariff rate. That, as per Regulation 13, as per M.E.R.C. (Supply code and other conditions of supply) Regulations 2005, the Distribution Licensee, may classify or reclassify a consumer into various M.E.R.C. approved categories, based on the purpose of supply and accordingly, M.S.E.D.C.L. has a right to change the category. That, as per Sec.56(2) of Electricity Act; M.S.E.D.C.L. is entitled to recover the amount for the period of two years, when the said amount becomes first due. Therefore, the bill issued for two years is correct and according to the provisions of the Act.

8) It is further contended on behalf of M.S.E.D.C.L. that the Hon'ble High Court has, in Awadhesh S. Pandey Vs. Tata Power Co.Ltd. & Others, reported in AIR 2007 Bom.52 and Writ petition No. 7015/2008, dated 10/8/2009, in M/s Rototex Polyester & Anr. Vs. Administrator, and various other judgments, has upheld the power and authority of the Distribution Licensee to recover escaped billing on account of faulty bills, having been issued to the consumer. That the Hon'ble High Court, has concluded that the amount becomes first due, when a correct bill is issued to the consumer. That there are conflicting judgments on Sec.56(2) of Electricity Act, 2003 and considering those and as per the directions of Hon'ble Supreme Court, Hon'ble Chief Justice, Bombay High Court has constituted a Larger bench, to hear the issue. For clarification of Section 56(2) of Electricity Act, 2003, a writ petition No.10764 of 2011 is placed before a Larger Bench and Larger Bench has heard all these petitions, on 31/10/2018, and the judgment is reserved. That, in the aforesaid writ petition, the question as to the recovery of any sum upto two years is settled and recovery upto two years is permissible. The only question of recovery of any sum due beyond two years, is referred to the Larger Bench. Therefore, the supplementary bill issued to complainant which is for only past 19 months, is correct and according to law. The respondent has relied upon the decisions of (A) Writ petition No. 7015/2008, in M/s Rototex Polyester & Anr. Vs. Administrator, Administration of Dadra and Nagar Haveli (U.T.) Electricity Department, Silvassa & Ors. (b) APTEL decision in Appeal No. 202, 208 of 2006 Ajmer Vidyut Vitran Ltd. Rajasthan Vs. M/s Sisodiya Marble and Granites Pvt.Ltd. (c) High of Punjab and Haryana, Chandigarh in W.P.No. CWP N. 8228 of 2015, Bank of India Vs. Punjab State Power Corporation Ltd. and (d) of Karnataka High Court, Kalbargi Bench, in W.P.No.22710/2017 and 202739/2017, Bajaj Agro Industries Vs. GESCOM and Ors. prayed for dismissing this complaint.

28/11/2019



9) The complaint was taken up for hearing on 18/1/2019. At the time of hearing the complainant was represented by their representatives Shri Pradip Hogade and the Resp. company was represented by Shri Sagar Marulkar, Executive Engineer Kolhapur Circle Office. We have heard their extensive arguments.

10) Shri Pratap Hogade has submitted that while supply code empowers the Distribution Licensee to change the category of any customer, as per approval accorded by Elect. Regulating Commission, at any time, but the law is well settled on the point that no retrospective effect can be given to such change in the categories. Such changes are always prospective in application. The changes in category are to be effected by following the prescribed procedure, otherwise, there would be a failure of justice. He has contended that the complainant does not at all dispute the change in the category of the supply to the Stage II connection mentioned above, from HT V-A to HT-V-B (Agri other) and in fact, the complainant is ready to pay the electric bills as per changed category issued for June 2018 and all the future bills, but the respondent cannot at all raise a demand, seeking to recover the unbilled amounts with effect from Nov. 2016, thereby changing the category of complainants power supply, with retrospective effect. He also submitted that the contention of the respondent that Sec. 56(2) of Electricity Act, 2003, permits the distribution company to recover the due amounts for past two years, is ill-founded. That sub-section 2 of Section 56, prohibits the distribution company to recover any sum due from any consumer, after a period of two years from the date when such sum became first due. That the Hon'ble High court has laid down in Shrihar Mumbai Municipal Vs. Yatish Sharma, reported in AIR 2007 Bom. 73, that the "Due Date" contemplated in Sec.56(2) of Elect. Act, starts from the date of service of bill. That applying the said dictum to the facts of this case, the Due date would start from June 2018, when the first bill as per changed category was first issued. That Sec. 56(2) has no application at all in this case. He also pointed out that in Awadhesh S. Pandey Vs. Tata Power Co. (AIR 2007 Bom 52) and in Awadhesh S. Pandey Vs. Tata Power Co.Ltd. & Others, reported in AIR 2007 Bom.52 and in Writ petition No. 7015/2008, dated 10/8/2009, in M/s Rototex Polyester & Anr. Vs. Administrator, Administration of Dadra and Nagar Haveli (U.T.) Electricity Department, Silvasa & Ors., the Hon'ble High Court was seized of the matter based on supplementary bills, issued on account of mistake in application of multiplying factor, which is quite distinct and different from the change in the category. Hence, the respondent Distribution company and the Internal Grievance Redressal Cell have wrongly relied on these two dictums, which have no application to the facts of this case at all. That, in view of the settled position of law, no retrospective effect could be given to the changed category and no supplementary demand could be raised. He, therefore, prayed that this complaint be allowed and the supplementary Bill of 10/7/2018, be set aside.

11) As against this, Sh. Sagar Marulkar would submit that Hon'ble Bombay High Court in Awadhesh S. Pandey Vs. Tata Power Co.Ltd. & Others, reported in AIR 2007 Bom.52 and in Writ petition No. 7015/2008, dated 10/8/2009, in M/s Rototex Polyester & Anr. Vs. Administrator, Administration of Dadra and Nagar Haveli (U.T.) Electricity Department, Silvasa & Ors. has upheld the power and authority of the distribution licensee to recover escaped billing on account of faulty bills having been issued to the consumer and that the amount becomes first due when an aggregate bill is issued to the consumer. That considering the conflicting judgments on the point of section 56(2) of



the Electricity Act 2003 and as per the directions of the Hon'ble Supreme Court, the Hon'ble Chief Justice Bombay High Court Bombay has constituted a larger bench to hear the issue. Various writ petitions for classification of the escaped billing having been clubbed by Hon'ble High Court where writ petition No. 6783 of 2009, 10764/2011 and 498/09 are pending for disposal. Therefore, it will be premature either for this Forum or the Hon'ble Ombudsman to rush into order and to dispose of the petition or all these appeals. He also contended that Nagpur bench of the Bombay High Court has in a case reported in a case in 2016 (1) Maharashtra Law Journal, has held that when the superior court is seized of the matter, the courts subordinate thereto must wait till the outcome of the said decision. That writ petition No. 6552/2015, 6553/2015 and 6545 of 2015 are pending before Hon'ble High court wherein the Hon'ble ombudsman waits for the final decision of Hon'ble High Court as the matters can be finally disposed of following impending final orders of the Hon'ble High Court. It is also contended that in view of Section 56(2) of the Electricity Act, the distribution licensee i.e. the Respondent company is entitled to recover the amount due for a period prior to demand upto a period of 2 years in the present case as the demand of arrears as per the changed tariff is limited to a period of only 19 months The Respondent company has right to recover the same and therefore, the present complaint does not sustain and it is liable to be dismissed. On such contentions, it was prayed on behalf of Respondent company to dismiss this complaint.

12) Having heard the contentions of the rival parties, the following points arise for our determination.

Points

Findings

1) Whether the Respondent company is entitled to give a retrospective effect to change in the category and is entitled to recover the arrears of the period Nov. 2016 to May 2018, amounting to Rs.18,92,577/- ?

No.

2) What order ?

As per final order.

REASONS

13) The reasons for our findings above are as follows :

Point No.1 & 2

14) We have reproduced the contentions of both the parties in their pleadings as well their submissions before this Forum in extensio. It is not necessary to reproduce them for the sake of brevity. Most of the facts in this case are not disputed. We have also noted that so far as the connection bearing consumer No. 252659054210 is concerned, the complainant has not disputed that as per the tariff order passed by the M.E.R.F. in case No. 48/2016, dated 3rd Nov. 2016, the said connection falls into the changed category HV-V-B (HT Agri others). It is also not disputed that the said connection along with other two high tension connections, mentioned above, is being used for the green house.



Handwritten signature and date: 28/1/2019

The said user falls into the HV-V-B (HT Agri others) and the said electric connection was inspected by the flying squad of the Resp. Company on 15/5/2018. It is also not disputed that till that date, the said connection was billed as per HT-V-A category and till the month of May 2018, the bills for that connection were being issued accordingly. It is also not a disputed fact that after the inspection by the flying squad the category of the said electrical connection was changed and thereafter on 10/7/08, the supplementary bill for the amount of Rs.18,92,577/- was issued by the Respondent company to the complainant being arrears of the tariff w.e.f. the date of tariff order passed by M.E.R.C. and the month of May 2018. The only question in this case, is as to whether the Respondent company was entitled to give a retrospective effect to the change in the category and whether it was entitled to claim the arrears of difference of amount from the consumer, from the date of tariff order passed by the M.E.R.C. and till the date of the inspection. The obvious answer to this question is in negative.

15) The Maharashtra Electricity Regulatory commission (M.E.R.C.) has in case No. 24/2001, by an order dated 11 February 2013 has clearly laid down that no retrospective recovery of arrears can be allowed on the basis of any abrupt reclassification of a consumer, even though the same might have been pointed by the auditor. Any reclassification must follow a definite process of natural justice and the recovery, if any, would be prospective only as the earlier classification was done with a distinct application of mind by the competent people. The same cannot be categorized as an escaped billing in the strict sense of the term, to be recovered retrospectively. (emphasis supplied). The M.E.R.C. has further laid down therein that with the setting up of M.E.R.C., the order of the commission will have to be sought as any reclassification of consumers directly affects if revenue collection has projected in its tariff order. The same could be done either at the time of tariff revision or through a special petition by the utility or through a petition filed by the affected consumer. In all these cases, recovery, if any, would be prospective from the date of order or when the matter was raised either by the utility or the consumer and not retrospective.

16) In Appeal No. 131/13, the Appellate Tribunal for Electricity (Appellate Jurisdiction) New Delhi has clearly laid down that the arrears for the difference in tariff could be recovered from the date of detection of error and the appellant in that case could be charged as per the changed category from the date of detection of the error of application of the category. The appellate tribunal has observed that the retrospective recovery of arrears on account of changed category is contrary to the provision of Regulation No.4(2) of Tariff regulations 2003. No dictum of either the Hon'ble High Court or of the Hon'ble Supreme Court has been brought to the notice of this Forum by the Respondent Distribution company, which has set aside these observations of either the M.E.R.C. or the Appellate Tribunal. Therefore, the law appears to have been well settled that no retrospective effect can be given to the change in the category and no recovery of the arrears of the changed category can be claimed by the Distribution company. Any change in the category of a consumer has to have a prospective effect, in this case from the date of detection of the error by the Flying squad at the time of inspection of the connection in question and that error cannot be corrected from the date of the order passed by M.E.R.C. changing the categories w.e.f. Nov. 2016.

25/1/2019



17) The learned Internal Grievance Cell appears to have been impressed by the submissions of the Respondent Distribution company that as per the Section 56 (2) of the Electricity Act of 2013, it is entitled to recover the arrears of the difference amount for a period of 2 years from the detection of the error and since the period of errors is just 19 months, i.e. from the date of the change of the category by the M.E.R.C. by its order passed in 48/2016 dated 3/11/2016, till May 2018, the Resp. company was entitled to recover the said amount. The internal Grievance Redressal Cell has also observed in its order dated 15/9/2018 that Hon'ble Bombay High Court has in the case of Awadhesh S. Pandey Vs. Tata Power Co.Ltd. & Others, reported in AIR 2007 Bom.52 and in Writ petition No. 7015/2008, dated 10/8/2009, in M/s Rototex Polyester & Anr. Vs. Administrator, Administration of Dadra and Nagar Haveli (U.T.) Electricity Department, Silvasa & Ors. has held that the Distribution licensee has a right to recover the arrears of the electricity bills, which were issued as per the lesser rates than applicable. In these cases, the Hon'ble High Court has also held that when a correct bill is issued to the consumer, the said amount becomes first due and that the said dictum of the Bombay High Court is binding on the quasi-judicial authority like the Internal cell. Relying on those judgments, the internal cell has held that the bill in question is correct and proper and has dismissed the complaint filed by the complainant.

18) We have carefully gone through the dictums of Hon'ble Bombay High Court in case of Awadhesh S. Pandey Vs. Tata Power Co.Ltd. & Others, reported in AIR 2007 Bom.52 and in Writ petition No. 7015/2008, dated 10/8/2009, in M/s Rototex Polyester & Anr. Vs. Administrator, Administration of Dadra and Nagar Haveli (U.T.) Electricity Department, Silvasa & Ors. (cited supra). At the outset, we must mention that both the Internal Grievance Cell and the Respondent company is wrongly relying on these two authorities. Both these judgments of Hon'ble High Court are in connection with the wrong bills issued to the consumer on the basis of changed multiplication factors. In the facts of both these cases, the Hon'ble High Court was never seized of the question about the change in the category and the question whether it can be made effective retrospectively and whether the difference in the bill amount as per the changed category can be recovered for the previous period than the actual date of correct bill issued. The facts of these cases are quite different from the facts of the present case and therefore, these dictums of Hon'ble High Court ~~has~~, in our respectful opinion, have no application to the facts of this case. We have also noted that the Hon'ble single bench of Bombay High Court in Maharashtra State Electricity Distribution Co. Ltd. Vs. the Electricity Ombudsman Mumbai and one anr. (writ petition No. 10764/2011) dated 24/1/12 has noted a conflict of opinion expressed by the Hon'ble High Court in the decisions of Awadhesh S. Pandey Vs. Tata Power Co.Ltd. & Others, reported in AIR 2007 Bom.52 and in Writ petition No. 7015/2008, dated 10/8/2009, in M/s Rototex Polyester & Anr. Vs. Administrator, Administration of Dadra and Nagar Haveli (U.T.) Electricity Department, Silvasa & Ors. (cited supra) and has referred the said conflict to a Larger Bench by requesting Hon'ble Chief Justice accordingly. The issues which are referred by Hon'ble Single bench are questions :-

(1) Whether irrespective of the provision of Section 56(2) of the Electricity Act 2003, the distribution licensee can demand charges for consumption of electricity for a period of more than two years preceding the date of the first demand of such charges.

28/1/2019



(2) Whether the charges for electricity consumer become due only after a demand bill issued by Distribution licensee and whether the distribution licensee can issue a demand bill even for the period of preceding more than two years from the date of issuance of the demand bill notwithstanding the provision of subsection 2 of Section 56 of the Electricity Act ? and

(3) Which of the judgments of the Division Bench namely Awadhesh S. Pandey Vs. Tata Power Co.Ltd. & Others, reported in AIR 2007 Bom.52 and in Writ petition No. 7015/2008, dated 10/8/2009, in M/s Rototex Polyster & Anr. Vs. Administrator, Administration of Dadra and Nagar Haveli (U.T.) Electricity Department, Silvasa & Ors. have correctly interpreted the provisions of Section 56(2) of the Electricity Act ?

19) The conjoint reading of all these three judgments would show that the question involved in all these three cases was quite distinct and different than the question involved in the present case and all these cases have no application to the facts of this case. This Forum is respectfully bound by the decision of Nagpur Bench of Bombay High Court in a case reported in 2016(1) Maharashtra Law Journal Page 382 which is relied upon on behalf of the Respondent company. However, the issue before the Hon'ble larger bench of Hon'ble Bombay High court is quite distinct and different than the issue in this case and therefore, the reliance on that decision by the Respondent Distribution company is also ill founded.

20) The question in all the above cases was whether the distribution company can seek to recover the amounts recoverable for a period of prior to two years as contemplated by Section 56(2) of the Electricity Act. That is not the question before us. On the other hand, it is well settled that any change in the category ought to have a prospective effect. The Resp. company cannot say that the difference of the change in the category for the period prior to the actual detection of the error is a escaped billing and therefore, it is entitled to recover the said arrears. This is one way of trying to cover up the error committed by the distribution company. An application of the correct category for the billing purposes of any consumer based on his usage. It is pertinent to note that a consumer is not expected to know the change in the categories by which his electric connection is regulated. It is for the distribution company to be vigilant and apply the changed categories as per the actual usage of the electricity by any particular consumer. Therefore, the demand of the arrears as done in the letter dated 10/7/18, and the supplementary bill itself is illegal and it cannot be sustained. The submissions advanced on behalf of the Respondent distribution electricity company are erroneous and cannot be accepted. The illegal demand of arrears cannot be sustained in any manner. We, therefore, hold accordingly and hence, we have answered the point No.1 above in the negative and we find and hold that the present complaint is liable to be allowed and the said supplementary bill and the demand contained therein is liable to be struck down. We have noted that the complainant has no objection for paying the bills as per the changed category for the future period starting from July 2018. Therefore, answering the point No.1 in the negative, we proceed to pass the following order.

[Handwritten signature]
28/1/2019



...9 ...

ORDER

- 1) The present complaint is allowed.
- 2) The supplementary bill dated 10/7/18 seeking to recover the alleged arrears of the change in the category for the period November 2016 to May 2018 is hereby set aside being illegal and not sustainable in law.
- 3) If consumer is not satisfied with this judgment and order, he is at liberty to prefer appeal within Sixty days before Electricity Ombudsman.
- 4) Respondent to inform about implementation of this judgment and order, to this Forum; as per Case 8.7 of MERC (CGRF & Elect. Ombudsman) Regulation 2006.



(P.S. Pujari)
Member

(N.B. Brasing)
Member/Secretary

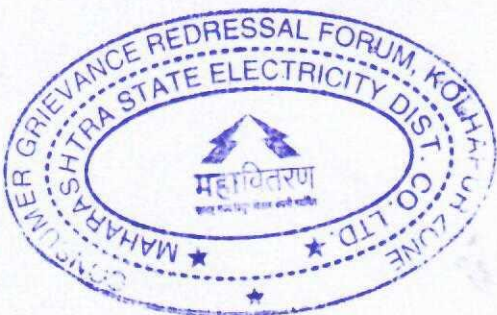


(A.V. Deshpande)
Chairperson

I am not agree with above order
(Case No - 44 (2018-19), the separate
opinion is hereby given & enclosed herewith



N. B. Brasing
Member secretary



Differed opinion of Shri. N.B. Barsing, Member Secretary, CGRF Kolhapur.

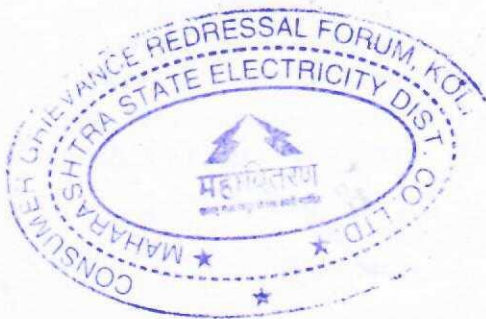
It is admitted fact that, complainant is utilized the electricity for the purpose of Green House. MERC vide its order dtd 03/11/2016 in case No.48 of 2016 issued the tariff order which is applicable from 01/11/2016 in which Agricultural tariff category is classified in two categories of which first is HT V(A) for Ht Agricultural Pump set consumers and second HT V(B) for HT Agricultural other consumers. HT V(A) is applicable for pumping of water exclusively for the purpose of Agricultural and HT V (B) is applicable for other agricultural activities and it basically covers the usage of electricity for High Technology Agriculture activities i.e Green House etc.

Therefore as per MERC tariff order dtd 03/11/2016 consumer usage of electricity for Green House falls in the HT V(B) tariff category however consumer was issued the bills on lower tariff rate (i.e HT V-A) than the MERC approved tariff rate for Green House (HTV-B). Therefore MSEDCL has issued the supplementary bill for the period of Nov.2016 to May 2018 to recover the amount as per MERC tariff rate.

The important point is consumer is well aware of about its connection bearing consumer number 252659054210 is applied wrong tariff and it is under billed with comparing to its other two connections. Therefore Consumer was duty bound to rectify the said mistake and ought to have applied for correction in the tariff applied .

As per the Regulation No.13 MERC (Supply code & other conditions of supply) Regulation 2005 the distribution license may classify or reclassify a consumer into various commission approved tariff categories based on the purpose of supply. Accordingly, considering the usage of electricity by the complainant for Green House MSEDCL changed the Tarff category of the complainant as per MERC tariff order from HT V(A) to HT V(B) and issued the supplementary bill to the consumer according to the provision of Section 56 (2) of EA.

As per the provisions of Section 56(2) of Electricity Act the charges become due for payment only after bill or demand notice for payment is sent by the licensee to the consumer. In the present case MSEDCL has raised the recovery only for 19 months considering the provision of Section 56(2) of EA. Therefore in my opinion the bill issued to the consumer for 19 months is correct and according to the provisions of the Act. Considering the various decision it clears that recovery of any sum due upto two years is permissible to the licensee as per section 56(2) of Electricity Act. Hence bill issued by the MSEDCL is correct and according to law and therefore MSEDCL is entitled to recover the said amount. Hence the complaint is liable to be dismissed.




N.B. Barsing
Member/Secretary