

**CONSUMER GRIEVANCE REDRESSAL FORUM,  
AMRAVATI ZONE, AKOLA.**

*“Vidyut Bhavan”,  
Ratanlal Plots,  
Akola: 444 001  
Tel.No.2434476*

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Dt- 26/06/2013

**Complaint No.31/2013**

**In the matter of The matter of complaint of M/s Ruhatiya Spinners for  
change of tariff, compensation etc.**

**Quorum :**

Shri T.M.Mantri,	<b>Chairman</b>
Shri P.B.Pawar,	<b>Secretary</b>
Shri A.S.Gade	<b>Member</b>

M/s Ruhatiya Spinners Pvt. Ltd. Akola ... Complainant

...VS...

The Superintending Engineer,Circle Offie,Akola ... Respondent

1 The complainant has approached to this Forum in respect of non-implementation of change of tariff from HT-1-C to HT-1-N from 1/8/2012 so also sought relief of credit of difference amount of tariff from 1/8/2012 to 27/2/2013 along with interest at the rate of RBI, compensation and costs. The complainant's case in brief is that the N.A. has failed to implement the tariff order of MERC, though the complainant has submitted application on 4/10/2012 for making applicable non-continuance (HT-1-N) tariff from 1/8/2012 by making reference to circular NO. 88 dated 26/9/2008 and case No.44 of 2008.

2 Reference has been made to provisions of regulation 2006, it is alleged that the complainant is consumer since 8/9/1998 with applicable tariff code 55-HT-1-C. Though the complainant has submitted an application on 4/10/2012 for change in tariff w.e.f. 1/8/2012 as per MERC tariff and alleged that in view of failure to implement, it is liable for compensation at Rs. 100/- per week. The change in tariff effect has been issued in the bill of dated 5<sup>th</sup> April,2013 w.e.f. 27/2/2013 as against from 1/8/2012.

3 Reference has been made to MERC case No.44 of 2008 as well as case No. 72 of 2007 and commercial circular NO.88, it is alleged that the N.A. has not disputed about submission of application by the complainant in time limit, despite thereof the effective change of tariff has been given from 27/2/2013.

4 Reference has been made to alleged correspondence alleging that it was not at all necessary as the MERC has already approved tariff from 1/8./2012 and directed to implement tariff when such choice has been exercised by the consumer. The complainant has therefore aggrieved by the action on the part of the N.A. hence seeking relief.

5 Reference has been made to Section 62.6 of Electricity Act, 2003 in respect of claim of interest which is alleged to be 9.5% and sought reliefs pleaded for. The complainant has filed copies of documents alongwith the complaint.

6 On behalf of the N.A. licensee the reply came to be filed after receipt of the notice from this forum wherein submission of application by the complainant on 4/10/2012 has been admitted. It is stated that for changing the tariff the powers are vested with Head Office and accordingly the application of the complainant was forwarded to the Head Office on 6/11/2012. The competent authority accorded approval by letter dated

6/3/2013 and the change of tariff HT-1-C to HT-1-N w.e.f. 27/2/2013 and it has been given effect accordingly.

7 Reference has been made to letter of Chief Engineer, Mumbai, dated 3/9/2010 and stated that the non-applicant has accordingly changed tariff category. Hence the application is liable to be dismissed. Copies of documents came to be filed with reply.

8. The matter was then posted for argument. However, in view of absence of authorized representative of non-licensee on the date, the matter was adjourned. On next date heard Mr. D.M.Deshpande, the learned representative for the complainant and Shri Anil Kulkarni Asstt. Manager with Mr. P.R.Lahane, Assistant Law Officer on behalf of N.A.licensee. It is admitted position that as per the new tariff order of the MERC the complainant has submitted application of issuing of commercial Circular dated 5/9/2012. The complainant has given his option for making applicable non-continuous HT-1-N category within the time. However it is admitted fact that the said tariff has been given effect to from 27/2/2013 by the N.A. licensee on the pretext that it acted as per the directives of Head Office. The copies of bills from August,2012 to February,2013 have been produced on record, so also commercial Circular NO.88.The order in case No. 44 of 2008 is also filed on record. From the copy of the bill of March,2013 filed on record, it is clear that the change of tariff on HT-1-N has been given effect to.

9 If one considers the material on record, the N.A's defense is that the Head Office is the competent authority and only after its approval the effective change in tariff has been given. On going through the tariff order so also the orders of MERC on record, alongwith commercial Circular NO.88 it is clear that there is nothing in support to the stand/defense taken on behalf of the N.A

licensee. On the contrary, it is admitted position that the tariff order is from 1/8/2012 as per the directives of MERC, the reference of Circular No.563 dated 11/1/1996 on behalf of the N.A. licensee is of no relevance looking to the controversy between the authorities and more particularly the tariff order and circulars referred to above being later in time and applicable to the present case. The letter dated 3<sup>rd</sup> Sept.2010, if one peruses, the recitals therein is also clearly shows that the same does not support the defense of the N.A. licensee. In any case, the order of MERC and directives therein are applicable and binding on the parties. The learned representative of the complainant has pointed out that though some of the consumers did not apply in time as per the requirement of the circular, even they have been given benefit of the new tariff order. This has not been disputed from the side of the N.A. licensee. If one considers the commercial circular NO.88 dated 26/9/2008 it also supports the submission made on behalf of the complainant that the Head Office has no concern in view of the tariff order as well as the said circular and there is no reference of taking prior approval of the Head Office. The change of tariff HT-N-1 has been given effect from 27/2/2013 instead of 1/8/2012 as per the tariff order.

10 If one goes through the order in case No. 44 of 2008 it also supports the submission made on behalf of the complainant. The learned representative of the complainant has also referred to the order of the Hon'ble Electricity OMBUSDMAN in representation No.10 of 2012. This also supports the complainant's submission. There was no effective reply from the side of the N.A. licensee. In view thereof, the complainant's claim for giving effect to the said tariff order HT-1-N from 1/8/2012 has to be accepted. Consequently the

difference amount from 1/8/2012 to 27/2/2013 has to be refunded/adjusted in the forthcoming bills of the complainant.

11 The complainant has claimed interest @ 9.5% in support thereof. Reliance is placed on record the provisions of Electricity Act from Section 62.6 so also on the order in representation 10/12 referred to above stating that interest @ 12% per annum has been given by the Electricity OMBUSDMAN. There was no justifiable submission made on behalf of the N.A. licensee to counter these arguments. Consequently, this forum has to grant appropriate relief in the final order about interest.

12 The complainant has also claimed compensation worth Rs. 2200/- for 22 weeks as per SOP Regulation. On behalf of the NA licensee, the submission is made that proper steps have been taken in obtaining approval of Head Office and as soon as it is received, it has been given effect to from 27/2/2013. As already observed above, though there was no need on alleged action but in view of interpretation on one side from the local authorities, this eventuality has occurred but for that the complainant cannot be deprived of his entitlements as per the SOP. This forum will take care by passing appropriate order towards this. The claim of the complainant for costs of Rs. 5000/- needs appropriate attention as the submission made on its part that it was required to approach the various authorities of the N.A. licensee, time and again, including Head office at Mumbai. Naturally, it consumed lot of time so also spending of the amount. In view of the above observations and conclusions this Forum proceeds to pas the following unanimous order:

## ORDER

- 1) The complaint 31/2013 is hereby partly allowed. The N.A. licensee is directed to change the tariff from HT-1-C to HT-1-N from 1/8/2012 instead of 27/2/2013 and to give credit of difference amount recovered from the complainant till 27/2/2013, by making adjustment there of in the forthcoming bills of the complainant.
- 2) The complainant is entitled for interest @ 9% per annum on the difference amount and this interest amount is also to be adjusted in the forthcoming bills payable by the complainant.
- 3) The complainant is also entitled for compensation amount in lump sum amounting to Rs. 1000/- apart from costs of Rs. 2000/- of the present proceedings.
- 4) Compliance report to be submitted within a period of three months from the date of this order.

Sd/-  
(A.S.Gade)  
Member

Sd/-  
(P.B.Pawar)  
Secretary

Sd/-  
(T.M.Mantri)  
Chairman