

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

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

Dt- 29/06/2013

Complaint No.32/2013 and 33/2013

**In the matter of complaint of (1) M/s Omprakash Shivprakash, Dal Mills,
Akola and (2) M/s Shri Vijay Industries, Akola for change of tariff,
compensation etc.**

Quorum :

Shri T.M.Mantri,	Chairman
Shri P.B.Pawar,	Secretary
Shri A.S.Gade	Member

M/s Omprakash Shiv Prakassh Dal Mills	...	Complainant
M/s Shri Vijay Industries, Akola	...	Complainant

...VS...

The Superintending Engineer,Circle Offie,Akola	...	Respondent
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1 These are complaints having same and identical type of grievance, so also the same and identical defense alongwith argument on behalf of the parties and as per the submissions made on their behalf, both these complaints are being heard together and are being decided by this common order.

2. The complainants herein are the H.T. consumer of the N.A. licensee since long, being commissioned on Industrial non-expressed Feeder with seasonal option. That in the beginning of the year 2012, application has been submitted on behalf of the complainants for change in the tariff from HT-1-S

to HT-1-N as per the right of option opted for non-seasonal. It is alleged that, accordingly the N.A. licensee was expected to make changes in the year 2012-2013 from the billing cycle of April-2012. Reference has been made to bill of March-2012 in respect of “Non-expressed Feeder Flag” with further averment that number of other consumers also fed from that feeder and is billed under HT-1-N tariff.

3. According to the complainant Superintending Engineer of N.A. licensee has given effect for change of tariff applicable from 5/3/2013 arbitrarily in the bill dated 6/4/2013 as against 1/4/2012 as applied for by the applicants by referring to the bill of March-2013.

4. According to the complaints, before giving effect to the said change, the SE, NA licensee has indulged in illegal and unlawful activities, initially, by changing the tariff to HT-1-C, though there was no application from the complainant, so also without getting any approval from the Head Office. It is alleged that, though, as per the letter dated 6/3/2013 of Chief Engineer (Commercial), Head Office is the competent authority for changing the tariff HT-1-N to HT-1-C and further alleged that in the bill of April-2012, clause of Express Feeder “YES” is mentioned without making any physical change in the feeder and without the demand of the consumer. Since 1/4/2012, the Superintending Engineer, N.A. licensee has changed the tariff of HT-1-C illegally, instead of HT-1-N. Though the complaints approached time and again to the Superintending Engineer, NA licensee after the said billing of April-2012. So also parties bringing to their notice the mistake, instead of accepting the mistake, refused to correct the same and continued issuing the bills under the said HT-1-C tariff. The complainant has referred to the reminder dated 15/10/2012 in that respect which was acknowledged on 16/10/2012.

5. It is alleged that illegal acts have been continued on the part of the Superintending Engineer, N.A. licensee and the said letter of dated 15/10/2012 has been forwarded to the Mumbai office for approval vide letter dated 6/11/2012, whereas, in fact, the complainants never exercised such option. According to the complainant, it was deliberate and mischievous attempt so as to suppress the mistake in changing the category HT-1-C and for getting approval to the said proposal, which was in fact wrong. The complainants were compelled to issue notice dated 12/2/2013, as the mistake has not been rectified. None of the correspondence made with the Superintending Engineer, MSEDCL was replied. The complainants are seeking relief of change in the tariff from HT-1-S to NT-1-N "Seasonal to non-seasonal" from 1/4/2012 as per the option exercised in the Regulation-2006 so also seeking credit of the excess amount of tariff difference recovered from 1/4/2012 to 5/3/2013 alongwith interest @ 9.5% and costs of Rs.5000/- vide this complaint.

6. The complainants have referred to the bills of M/s Ganesh Cots Spin, Akot and Pramodkumar Pravinkumar Ginning Factory, Hiwarkhed in support of their contention that the Superintending Engineer, MSEDCL, Akola has given approval for change of tariff from 'seasonal to non-seasonal' as powers are vested with him. The complainants have sought relief's prayed for. Alongwith the complaint, copies of bunch of documents came to be filed.

7. On behalf of the N.A reply came to be filed to the complainant, belatedly, after receipt of notice of this Forum, wherein it has been admitted about the submission of application by the complainants for changing of tariff with further averment that the powers of changing the tariff are vested with Head Office, Mumbai. In view thereof, the application of the complainants

dated 15/2/2012 has been forwarded to the competent authority for approval. The said authority accorded approval to change in the category of 'non-continued' vide letter dated 6/3/2013 effective from 27/2/2013. Accordingly, the category has been changed from the bill of month of March-2013 effective from 27/2/2013.

8. Reference has been made to letter dated 3/9/2010 of Chief Engineer, Mumbai with averments that the change in category is to be operated from Head Office and further approval of the competent authority. Accordingly, the change has been made from March-2013, Lastly, justified its stand stating that the complaint of the complainants be disallowed. Copies of certain documents came to be filed with the reply.

9. The matter was then posted for arguments. The complainant's representative has sought for production of certain documents. Heard Shri D.M.Deshpande the learned representative for the complainants and Shri A.S.Kulkarni Assistant Accountant alongwith Shri Lahane, Assistant Law Officer, learned representatives on behalf of the N.A.

10. It is an admitted position that the complainants here in have submitted an application for non-continuous HT-1-N tariff from 1/4/2012 at the beginning of that financial year. It is also admitted fact that the electric bills of the complainants used to mention "NO" in front of "Express Feeder Flag" till April-2012. The complainants never asked for connection from express feeder. However in the bill of April-2012 (**Annexure-4**) it is mentioned "YES" in front of "Express Feeder". The complainants never made any such request but it was done under the tariff head HT-1-C. The complainant's averments in the complaint so also submissions made during the course of argument in that respect have not been denied from the side of the N.A. So, apparently, there is

substance in the complainant's contention/submission that the mistake has been committed on the part of N.A. in making these changes in the bills of the complainants, though the complainants never sought for the same. Here it is pertinent to note that the complainants' further contention and submission that time and again they were approaching the authorities for correcting the said mistake and though it was admitted to be mistake by those authorities but it was not corrected has also remained undisputed/ unrebutted. On behalf of the complainant letter correspondence has been made as referred to above, that has not been disputed but none of these letters have been replied from the side of the N.A. This clearly supports the allegation by the complainants that it was intentionally done so as to harass the complainants. It is, no doubt, true that one can commit mistake but after pointing out the same, the natural course is to correct the said mistake. Here, in the present case, in spite of approaches made by the complainant, letter of correspondence made, the mistake has not been corrected. It leads to only conclusion as alleged by the complainants that harassment to the complainants.

11. The only bone of contention in defense raised from the side of the N.A. is approval of Head Office is necessary for change of tariff. The documents filed on behalf of the complainants clearly shows that it is without any basis. If one peruses the initial application of the complainants it clearly brings on record the commission of series of mistake on the part of N.A. The complainant has never opted for HT-1-C category but bills have been issued as referred to above and in spite of making approaches nothing was done. On the contrary even in letter dated 6/11/2012 sent to the Chief Engineer there has been mis-representation, as if the complainants seeking "change of tariff

from HT-1-C to HT-1-N". By issuing the bills under HT-1-C category tariff, excess amount has been recovered from the complainants. Complainants application and request was for changing the tariff of HT-1-S to HT-1-N 'seasonal to non-seasonal' w.e.f. 1/4/2012. Complainants letter dated 15/10/2012 **Annexure A-06** clearly shows the protest made by the complainants for change of tariff to HT-1-C and it has been clearly pointed out that the supply is from MIDC feeder only. Though the complainants have asked for refund of the excess amount credit, no cognizance there of has been taken. It is clear from the record that as per the letter dated 6/11/2012 wherein facts have been misrepresented, The Chief Engineer, Mumbai has issued letter dated 6/3/2013. In fact, this was futile attempt on the part of the N.A. to suppress its mistake. When the request by other consumers such as M/s Ramdeo Got Spin and Ganesh Cot Spin for change of tariff HT-1-S to HT-1-N has been accepted and their tariffs have been changed to HT-1-N on the industrial feeder only by the N.A., the bills of those parties are on record, establishing the facts. At local level, this was not done in case of the complainants. This clearly supports the contention/submissions made on behalf of the complainants. The learned representative of the complainants has referred to order of MERC in Case NO.44 of 2008 alongwith commercial circular NO.88. On going through the same there is nothing in support of the contention of N.A. On the contrary this is in favour of the complainants.

12. On behalf of the N.A. documents of IT billing system and office note dated 16/4/2012 has brought on record. If one goes through the same, it is clear that at local level itself the request of the complainants has been accepted. There are endorsements of the concerned in respect of approval for change of tariff from April-2012 to HT-1-N tariff. The IT billing system bears

date "18/4/2012" whereas the office note is dated "16/4/2012". When these documents were pointed out to the learned representatives of the N.A. there was no answer from their side. It has been submitted that suitable orders may be passed. The record clearly shows that there is much substance in the contention and submissions of the complainants that there was harassment to the complainants for the reasons best known to the concerned officers. As per the complainants application for HT-1-N category tariff ought to have been made applicable from 1/4/2012. Even as per the office note dated 16/4/2012 whereon there is endorsement "Approved" by the authority concerned. The fact that, the complainant was even thereafter, making correspondence and instead of replying thereto and not correcting the mistake incorrect bills have been issued. Which is apparently supporting the complainants contention and submission. It is a clear case of lethargic attitude. There cannot be discriminatory treatment with the same type of consumers.

13. As is clear from the report that for the mistakes/lethargic attitude on the part of the concerned officers/staff, the complainants have been put to sufferance resulting in monitory liability. The N.A. licensee needs to take appropriate steps for recovery of this monitory liability from the concerned officer/staff. The complainants have succeeded in making the case for getting relief in terms of the following order.

14. In view of the above observations and conclusions the complainant is entitled for change in tariff of HT-1-N (seasonal to non-seasonal) from 1/4/2012. Consequently also, entitled for getting back the excess amount paid from 1/4/2012 till 5/3/2013. Considering the facts as referred to above, this is the fit case wherein the relief of rewarding the interest to the complainant needs to be taken care of. So also to award reasonable costs as time and again

the complainants were required to approach the authorities, making correspondence and ultimately to approach this forum. With such observations this forum proceeds to pass the following unanimous order:

ORDER

- 1) Complaint NO. 32/2013 and 33/2013 are hereby allowed.
- 2) The N.A. is directed to implement the change in tariff from HT-1-S to HT-1-N (seasonal to non-seasonal) from 1/4/2012, so also to refund the excess difference of tariff recovered from the complainants during the intervening period alongwith an interest @ 9% per annum till the payment, by adjusting this amount in the forthcoming bills payable by the complainants.
- 3) Each of the complainant is entitled for costs of the present proceedings amounting to Rs.2000/-.
- 4) The N.A. licensee having been required to incur monitory liability because of mistake/latches on the part of the concerned officers/staff, to recover the same from the concerned officer/staff including the amount of interest and costs.
- 5) 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