

ग्राहक गा-हाणे निवारण मंच
महाराष्ट्र राज्य विद्युत वितरण कंपनी मर्यादित
औरंगाबाद परिमंडळ, औरंगाबाद.

Old Power House Premises, Dr.Ambedkar Road, Aurangabad. Phone: 0240 - 2336172

No, CGRF/AZ/ U / 250 / 2009 /84 /

Date :-

To,
The Executive Engineer (Administration)
O/O Superintending Engineer ,
O&M Urban Circle , M.S.E.D.C.L.,
Aurangabad.

Sub:- Forwarding of grievance in respect of M/s Khorakiwala Holdings
& Investment Ltd., Gut No.117/P, Nakshtrawadi, Paithan Road,
Aurangabad. (Consumer No. 490019008727)

Dear Sir,

Please find enclosed herewith a copy of the grievance application
received by the Forum from forwarding of grievance in respect of M/s
Khorakiwala Holdings & Investment Ltd., Gut No.117/P, Nakshtrawadi,
Paithan Road, Aurangabad.

You are requested to submit your para wise reply on the grievance
at the time of hearing. The hearing in the matter will be held on 10.11.09
at 11=30 Hrs .onwards

Encl: As above

Member/Secretary
CGRF(AZ) MSEDCL
Aurangabad.

Copy to:
M/s Khorakiwala Holdings & Investment Ltd.,
Gut No.117/P, Nakshtrawadi,
Paithan Road,
Aurangabad.

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

(Case No: CGRF/ AZ / U / 250 / 2009 / 84)

Date of Filing: 27.10. 2009

Date of Decision: 2512. 2009

M/S Khorakiwala Holdings & Investment Ltd.
Gut No.117/P.Nakshetrawadi,Paithan Road,
Aurangabad
(Consumer No. 49001900727)

Consumer Complainant.

V/s

**MAHARASHTRA STATE ELECTRICITY DISTRIBUTION
COMPANY LTD. URBAN CIRCLE AURANGBAD.**

The Distribution Licensee.

Coram:

Shri V.A.Hambire	President
Shri V.S.Kabra	Member
Shri P.A.Sagane	Member secretary

Sub:- Grievance under the Maharashtra Electricity Regulatory Commission, (Consumer Grievance Redressal Forum and Ombudsman) Regulations 2006.

The consumer complainant M/s Khorakiwala Holdings & Investment Ltd., Gut No.117/P, Nakshtrawadi, Paithan Road, Aurangabad. has filed his grievance in Annexure "A" before this Forum on **27.10.2009**, under Regulation No. 6.10 of the Regulations 2006. The grievance of the consumer was forwarded to the Nodal Officer, (Adm.) in the office of the Superintending Engineer, O&M Urban Circle, Aurangabad and hearing in the matter was kept on 10.11.2009

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1. The complainant has taken H.T. electricity supply from MSEDCL (hereafter called as D.L.) during May 1999 at Gat No.117/P, Nakshatrawadi, Paithan Road, Aurangabad for purpose of providing educational training for the employees of WOCKHARDT GROUP of Company. As per consumer M/s Khorakiwala Holding & Investment Ltd., is the sister concern of WOCKHARDT group of companies. The D.L. has charged the Residential tariff after inspection of then concerned S.E. After release of supply during year 1999 the D.L. officials visited the premises every month for taking meter readings and not objected for residential tariff. The consumer states that on 12.05.2009 Dy. EE Flying Squad (Beed) visited the premises for routine checkup and found that there is no abnormality about meter and electrical installation. After the four months from the date of inspection a bill amounting Rs.56,11,578/- was send to the consumer towards the difference of tariff from residential to Commercial for period 1999 to 2009.

2. The consumer further contended that he has engaged services of M/s Carol Info Services Ltd., on contract basis, for maintenance of residential area as well as for providing food to the employees of WOCKHARDT. As per mandatory and statutory requirement the service contractor obtained license and registration under Shop and Establishment Act from concerned Govt. Department. He is using the electric power for domestic purpose from the date of supply. The consumer states that as per I.E Act 2003 Section 56(2), no amount from the consumer shall be recovered after the period of two year, as such recovery of difference of tariff for the period 1999 to 2009 is against the provision of above Act. Further the Commercial tariff was applied to all Educational Institutions, Restaurants, Hotels etc. after the clarificatory order of Hon'ble Commission dated 24.08.2007. The consumer requested to the Forum to quashed the supplementary bill of Rs. 56,11,578/- and direct the D.L. not to disconnect the electricity supply on account of above bill.

3. On dated 10.11.2009 Nodal Officer Shri I.G.Borade, Shri P.R.Taur and consumer representative Shri H.A.Kapadiya was present .Consumer stated his grievance as above Nodal Officer submitted his reply and stated that previously the consumer was billed as pr the H.T.VI residential tariff as the supply was demanded for purpose of residential complex. Thereafter consumer has changed the purpose from residential to training research centre without intimation to D.L. office. The Dy.EE Flying Squad Beed inspected the consumers premises on dated 12.0-5.2009 and found that the supply is utilized for Commercial purpose and premises is registered under Shop and Establishment Act 1948 with No.11718. The supplementary bill amounting Rs. 56,11,578/- was issued to the consumer on dated 29.09.2009. for the period May 1999 to April 2009. The Nodal Officer also submitted the copy of Commercial Circular No.72 dated 13.12.2007 and states that the bill is correct as per the above circular. Forum directed Nodal Officer not to disconnect the electric supply of the consumer for above supplementary bill till the decision of the Forum and matter kept on dated 17.11.2009.

4. On dated 17.11.2009 consumer submitted application for postponement of date due to absence of his representative. Nodal Officer submitted his reply along with the copy of Section 56(2) of I.E. Act 2003, matter postponed upto 24.11.2009.

5. On dated 24.11.2009 Nodal Officer Shri P.R.Taur, JE , Jadhau A.A. and consumer's representative Shri H.A.Kapadia was present. Consumer representative states that H.T.-II commercial tariff is not applicable to him and as per the provision of Section 56(2) of I.E. Act 2003 assessment of difference of tariff w.e.f. 1999 is not justified. Nodal officer submitted his reply and states that as per the MERC condition of supply condition No.13 D.L. has power to classify or reclassify the consumers tariff as approved by commission. Nodal Officer further contended that the consumer has unauthorisely changed the purpose of supply so the matter comes under Section 126(6b) IV of I.E.Act to 2003 and assessing Officer Superintending Engineer has rightly assessed the bill from the date of connection..So as per Section 126(4) consumer should pay the bill within 7 days or approach to the appellate authority i.e. the Electrical Inspector as per Sec.127. He states that the provision of Sec.56(2) is not applicable to this case. Heard both the sides in length and matter kept for decision.

6. Documents on record and proceedings during hearing reveals that the consumer has obtained H.T. supply for residential complex with connected load 399 KW and contract demand 450 KVA during May 1999. The consumer has clearly mentioned the purpose of supply as “ **for residential complex** “. on application form and agreement is also executed for the purpose of residential complex. Accordingly the HT VI residential tariff is applied to him. It is not disputed from both the sides that presently the premises is used for providing training to the employees of WOCKHARDT GROUP of Industries. The consumer have engaged the services of M/s Carol Info Services Ltd. on contract basis for providing food arrangement to the employees of WOCKHARDT. The consumer in his written statement submitted that as per the mandatory and statutory requirement the service contractor has to obtain license for providing above mentioned services, therefore he obtain registration under Shop and Establishment Act 1948. The perusal of the registration certificate reveals that the premises of consumer is registered under Shop and Establishment Act 1948.

7. Nodal Officer submitted the Commercial Circular No.72 dated 13.12.2007 which is issued after clarificatory order of Hon'ble Commission dated 24.08.2007 in case No.26 of 2007 & 65 of 2006. According to the para 2 of above circular instructions were issued to filed offices as follows:-

2 The Tariff of H.T. connections of Educational Institutions are to be changed as under:

- (a) ***Educational Institutions managed by Government recognized Educational/Registered Charitable institutions, are to be billed as per HT VI Group of Housing category.***
- (b) ***Educational Institutions which are run purely on Commercial basis managed by private Engineering/Medical Colleges as such are to be billed as per HT VI commercial complex category.***

In view of the above, the action of D.L. in application of Commercial tariff is justified and correct. It has to be understood that the D.L. is required to observe the provisions in the tariff order approved by the Commission. Unless and until some specific concession or relief is provided for in any tariff, the D.L. is not authorized to extend any concessional tariff which is not provided in the approved tariff order. The Nodal Officer contention regarding the assessment under Sec.126(1) is vogue and illogical, as case is not registered under Sec.126 nor the procedure is followed.

The consumer is aggrieved with the assessment of supplementary bill from the date of connection i.e. May 1999 to April 2009. The Dy. E E Flying Squad inspected the consumer's premises on 11.05.2009 and found that the consumer using electric supply for their training center and rest house. However the tariff applied is H.T.VI residential i.e. for Group Housing Society. He therefore proposed the tariff HT-II commercial from June 2008 and prior to it HT-VI commercial. The consumer quoted the Sec.56(2) of I.E.Act 2003 and states that the action of D.L. is totally wrong and against the provision of electricity Act 2003. The Nodal Officer states that the above section can not be implemented to this case. Since the matter involves inter pretation of Section 56(2) of I.E.Act 2003. It will be useful to recite the said provision which reads:-

“ 56. Disconnection of supply in de fault of payment : - (1)

.....
(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such some has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of electricity.”

8) It is on the record that the officials of D.L. visiting frequently to the consumers premises for taking meter reading etc., they could have rectify the purposes of electric supply and activity of the consumer well in advance and could issue the supplementary bill. In such a situation, it would be unreasonable to give blanket authorization to the D.L. without any time limit to claim the old arrears, here in this case the arrears more than ten years (May 1999 to October 2009).

Hon'ble Electricity Ombudsman also considered the provision of Section 56(2) as above in representation No.60 of 2009 in the matter of request for revision of supplementary bill in accordance with section 56(2) of I.E. Act 2003. It is also seen that the D.L. had not raised the said amount by way of supplementary bill earlier and not shown the same in any bills or in any other document signed or served on the consumers showing amount as recoverable from the consumer as arrears of charges for electricity supplied until the 29.10.2009. In view of above this Forum has no hesitation to conclude that the D.L. is free to recover the arrears upon correction of the bills as per the commercial tariff but limited to only two years past as provided in Section 56(2) of I.E. Act 2003. In the present case the D.L. has raised the bill on **29.09.2009**. It would therefore, perfectly be in order to claim the arrears which becomes first due from 29.09.2007 onwards and not before.

ORDER

1) D.L. is entitled to raise and recover the change of tariff arrears for the period of two years only i.e. 29.09.2007 to 29.09.2009 .

The D.L. & the consumer shall comply with the above order and report compliance to the Forum within 30 days.

(V.S. Kabra)
Member

(P.A.Sagane)
Member Secretary

(V.A.Hambire)
Chairman

ग्राहक गा-हाणे निवारण मंच
महाराष्ट्र राज्य विद्युत वितरण कंपनी मर्यादित
औरंगाबाद परिमंडळ, औरंगाबाद.

जुने पावर हाऊस परिसर.डॉ.बाबासाहेब आंबेडकर रोड, मिल कॉर्नर, औरंगाबाद. - ४३१ ००१, दुरध्वनी व फॅक्स -०२४० - २३३६१७२.

Case No.CGRF/AZ/U/250 / 2009 / 84/

Date:-

To,

- 1. The Executive Engineer (Adm.)
O/O Superintending Engineer
O& M, Urban Circle, M.S.E.D.C.L.
Aurangabad.**
- 2. M/s Khorakiwala Holdings & Investment Ltd.,
Gat NO.117/P. Nakshetrawadi, Paithan Road,
Aurangabad**

(Consumer No. 49001900727

Sub: Grievance incase No. (Case No:CGRF/ AZ/ U/250/2009 /84)

Please find enclosed herewith a copy of order passed by the Forum in the case mentioned above. Please note that as per the Regulations laid down by M.E.R.C. , the decision passed by the majority member is enforceable.

The consumer, if not satisfied with the decision of the Forum , is at liberty to make a representation to the Electricity Ombudsman, the contact details of whom is as under, within a period of 60 days from the date of this order.

Member/Secretary,
CGRF(AZ) MSEDCL,
Aurangabad

Copy submitted w.r.to:-
The Chief Engineer(AZ)
MSEDCL, Aurangabad.

Encl: A/A

Contact Details of Electricity Ombudsman:
The Electricity Ombudsman

Maharashtra Electricity Regulatory Commission

606-608, Keshava Building
Bandra-Kurla Complex, Mumbai 400 051
Tel.No. 022-26590339