

Before Maharashtra State Electricity Distribution Co. Limited Consumer Grievances Redressal Forum, Baramati Zone, Bhigwan Road, Urja Bhavan, Baramati.

Date:- 25.7.2014

In the matter of

Case No.: 12/2014

Date:21/04/2014

Complainant

M/s. Precision Camshafts Ltd.
D-5, MIDC, Chincholi
Dist. Solapur.

(Here in after referred As Consumer)

Versus

Executive Engineer (ADM)
M.S.E.D.C.L.,
Solapur Circle
Solapur.

Opponent

(Here in after referred As Licensee)

Quorum

Chair person	Mr. S.D. Madake
Member Secretary	Mr. S.M. Akode
Member	Mr. Suryankant Pathak

1. M/s. Precision Camshafts is a company registered as per Companies Act-1956 having office at D-5, MIDC, Chincholi, Dist.Solapur.
2. The complainant Company filed the complaint on 21.4.2014 as per the provisions of Section 42(5) of Electricity Act-2003 being aggrieved that present grievance has been intimated to the Distribution Licensee and to IGRC and no remedy was provided within the period of two months from the date of filing complaint 14.12.2013 received on 27.12.2013. The IGRC decided the grievance application on 22.4.2014 after filing the present complaint before this forum.

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3. The complainant is a 33KV HT consumer of MSEDCL having consumer No.331519050080 having sanctioned load 10167 KW, connected load 10167 KW and contract demand 9550 KVA.
4. The complainant applied for change of tariff from HT-1-C to HT-IN vide application dated 24.1.2013. In the application complainant received on MERC Order in Case No.44 of 2008 dated 12.9.2008 and the Circular No.88 dated 26.9.2008 issued on the basis of said order & according to consumer, as per Circular the consumer getting supply on express feeder may exercise his choice between continuous and non-continuous supply only once in the year, within the first month after issue of the tariff order for the relevant tariff period.
5. According to complainant MERC revised tariff with respect to TOD charges for F.Y.2012-13 dated 26.12.2012, hence consumer is entitle to exercise choice between continuous and non-continuous supply. Consumer averred in the said application, to that the letter as exercising our choice in the light of MERC Order in Case No.44 of 2008 dated 12.9.2008.
6. Complainant alleged that applicant is a single consumer connected on DDF supply emerging directly from Sub/station. The 2% energy charges can only be charged to non-express consumers when more than one consumer is connected on the same feeder. Since applicants feeder is DDF feeder voltage surcharge of 2% cannot be loaded to the applicant.
7. MSEDCL, Executive Engineer S.G. Annadate filed written statement dated 5th May 2014 and specifically denied the claim being barred by limitation. It is contended that application dated 24.1.2013 was received after expiry of one month, therefore consumer was informed that application was not considered as was not filed within prescribed time.
8. MSEDCL,further submitted that consumer issued letter dated 12.2.2013 and requested to consider the application. It is alleged that Chief Engineer(Comm.) H.O. Mumbai directed to submit the proposal of consumer by letter dated 8.3.2013.
9. MSEDCL, submitted proposal for change of tariff from continuous to non continuous as per directives of Head office on 13.5.2013 and Competent Authority accorded sanction dated 31.5.2013.

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10. MSEDCL contended that consumer submitted notarized undertaking on stamp paper accepting all conditions mentioned in Head Office approval letter. The change of tariff from continuous to non continuous implemented in next billing cycle i.e. July-2013 billed in Aug.2013.
11. MSEDCL further alleged that, consumer was connected on express feeder till June-2013. So 2% voltage surcharge was not levied upto June-2013 as per commercial circular No.112.
12. MSEDCL contended that as per commercial Circular No.112, consumer is liable to pay 2% units for levy of voltage surcharge for supply at lower voltage than that prescribed as per SOP regulations.
13. As regarding claim of voltage surcharge, it is admitted position that consumer is connected on express feeder and as on today there is single connection on the said feeder. Therefore, MSEDCL is entitle to claim as per the order passed by MERC in Case No.71 of 2009 dated 5.3.2010. The relevant part of the order is as under :

If the power supply is connected on dedicated feeder (Only one connection on the said feeder). The monthly energy billing is done based on the consumption whichever is higher between the meter installed at source of supply (at EHV level) and at the consumer end (premises). (After ensuring that the metering at both Sub/stn. end and the consumer end are of the same rating and class of accuracy and cost involved is borne by the applicant).

The MSEDCL is therefore entitle to recover the energy bills as per consumption recorded by meter installed at EHV level, and consumer end whichever is higher, MSEDCL therefore is not entitle for 2% units for levy of voltage surcharge so long as there is one consumer only.

14. The second issue is regarding the limitation for exercising the choice between continuous and non-continuous supply. We have heard learned senior consumer representative Shri.R.B.Goenka at length and perused all the documents produced on record. Admittedly consumer is entitle to exercise choice, the only dispute is whether choice can be exercised within one month from the date of original tariff order dated 16.8.2012 and circular based on the

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order issued by MSEDCL dated 5.9.2013 or from the date of supplementary order dated 26.12.2012.

15. The Hon'ble Electricity Ombudsman (Mumbai) laid down the law in Review Application No. 88 of 2013 in the matter of change of tariff in the matter of review of the order passed in respect of representation No.73 of 2013 in case M/s. Nagreeka Exports Ltd. Vs. M.S.E.D.C.L. by order dated 20.11.2013. It is observed in Para-5.

"If the applicant does not submit his application within one month he forfeits his right to claim the benefit of change of tariff category until next tariff order. In case of those who did not apply within the time limit respondent has to take a policy decision after examining the pros and cons which may take more time. Giving effect to the change in tariff before second billing cycle from the date of application cannot be claimed as a matter of right".

16. As per the law laid down by Higher Authority we hold that complainant cannot claim the relief. It was important to file application within one month from the date of original tariff order.

17. MSEDCL is under an obligation to ensure fairness and equality of treatment to consumers. Shri.R.B. Goenka brought to our notice two applications one filed by consumer on 24.1.2013 and application dated 9.1.2012 filed by Gimatex Industries. It is pertinent to note that both applications are filed in the month of Jan.2013 the contents of both the letters are exactly the same. It is important to note that both applications are decided in June-2013.

18. The applicant applied on 24.1.2013 and date of approval is 31.5.2013. The application of M/s. Gimatex Industries is dated 23.1.2013 and effect is given from one month after receipt of application. Admittedly consumers application was effected from July-2013. The learned consumer representative objected for this attitude towards consumer regarding unequal treatment.

19. We are of the opinion that decision maker has the choice in balancing of the pros and cons relevant to change in policy. However justice, equity and good conscience are fundamental for implementing the policy decision. It is also necessary that decision maker must act honestly and impartially and not under the dictation of other persons to whom authority is not given by law.

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20. In the present case complainant contended that equal treatment is denied, in not considering the application from the date i.e. 24.1.2013. Apparently the documents on record indicate that similarly placed consumers were considered giving effect from the date of application.
21. As observed earlier we hold that, consumer is not entitle for relief of right as laid down by Hon'ble Ombudsman in Review Application No.88 of 2013.

ORDER

22. We proceed to pass following order :

- (i) M.S.E.D.C.L. is directed to revise energy bills removing 2% energy charges.
- (ii) The said amount recovered towards 2% voltage surcharge be adjusted in the ensuing electricity bills.
- (iii) No order as to cost.

It may please be noted that an appeal against this decision of Forum lies to "The Electricity Ombudsman" appointed by Hon. Maharashtra Electricity Regulatory Commission under Section 42(6) of Electricity Act-2003 whose contact details are given below :-

Keshava, 606 , Bandra Kurla Complex,
Bandra(East) , Mumbai-400051.

S.Madake
Mr. S.D. Madake
(Chairperson)

S.Akode
Mr. S.M.Akode
(Member Secretary)

S.Pathak
Mr. Suryankant Pathak
(Member)