

**Before Maharashtra State Electricity Distribution Co. Limited
Consumer Grievances Redressal Forum, Baramati Zone,
Baramati**

Case No.03/2012

Date: 30/08/2012

**In the matter of
M/s.Bharat Petroleum
Corporation Ltd. Solapur**

- Complainant

V/S

**Executive Engineer, M.S.E.D.C.L.
Barshi Division**

- Opponent

Quorum

| | |
|------------------|----------------------|
| Chair Person | Mr. S.D.Madake |
| Member/Secretary | Mr. D.U.Ghatol |
| Member | Mr. Suryakant Pathak |

- 1) The consumer M/s.Bharat Petroleum Corporation Ltd. is a public sector enterprise under the aegis of the ministry of petroleum and Natural Gas Government of India. The consumer is having LPG bottling plants at various parts in Maharashtra. The LPG bottling plant at Katichincholi, savaleshwar District Solapur is getting electricity from MSEDCL. The MSEDCL started claiming bill from HT-I Industrial to HT-II commercial with effect from June-2008. The intimation of tariff change was communicated to consumer by letter dt. 31/07/2009. The bills were issued as per HT-II commercial tariff rate from March-2009. The MSEDCL raised the demand of Rs.18,55,802.00 (Rs. eighteen lakhs fifty five thousand

eight hundred and two) towards differential amount during the period between June-2008 to Feb-2009)

- 2) The consumer lodged protest by letter dt. 18/08/2009 against the sudden change of tariff rates and requested to adjust excess payment in future bills. The licensee replied to consumer through letter dt. 11/09/2009 stating that as per the commercial circular No. 81 dated 07/07/2008 the bills are issued in pursuance of Maharashtra Electricity Regulatory Commission's orders dt.31/05/2008.
- 3) The consumer vide letter dt. 09/10/2009 submitted to licensee that its bottling plant does not come under the category of HT-II but comes under category HT-I . The nature of activities being performed in LPG bottling plants is industrial, however licensee has not considered the submission. The consumer submitted that licensee company is not entitle for claiming charges as per HT-II commercial tariff and is liable to refund excess payments.
- 4) On the basis of contentions, the points that arise for consideration, are as under.
 - 1) Whether LPG bottling plant at Katichincholi P.O. Savaleshwar Dist. Solapur undertaken by M/s. Bharat Petroleum Corporation Ltd. is a manufacturing process to classify the activity as industry?
 - 2) Whether consumer is entitle for the relief?

3) What Order?

The findings are as under.

- 1) In the affirmative.
- 2) In the affirmative
- 3) As per final order.

REASONS

- 5) Admittedly, consumer filed writ petition No. 9056 of 2010 against MSEDCL before Hon'ble Bombay High-court which was dismissed . The consumer filed review petition No. 133 of 2011 which came to be dismissed on 10/02/2012 . The Hon'ble High Court directed the consumer to avail proper remedy as per Section 42 (5) of the electricity Act-2003 and there after under section 42 (6) of the said Act. Accordingly consumer moved to Internal Grievance Redressal Cell, however the forum vide order dt.13/04/2012 dismissed the complaint observing that there is no manufacturing process.
- 6) The present application is filed on 18/05/2012 under section 42 (5) of Electricity Act-2003 read with Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006.
- 7) During the pendency of this case Executive Engineer, MSEDCL Solapur vide letter dt. 16/06/2012 submitted that consumer will be charged as per the rates applicable to Industry. The consumer claimed that the charging of rates shall be on the basis of industrial rates w.e.f. June-2008 . The reliance was placed on the decision. (The Hon'ble Ombudsman in case No. 12 of 2012 in the case of M/s. Hindustan Petroleum Corporation Ltd. V/S

Maharashtra State Electricity Distribution Co.Ltd. in 20/03/2012
Para – 7 observed.

- 8)** At this stage, the respondents submitted that their competent authority at management level has accorded approval to charge pro " HT I Industrial tariff to the appellant with effect from June-2008 , when the new tariff came into force. The appellant stated that if this is so nothing survives from the grievance/Representation.
- 9)** Considering the observation by Honorable ombudsman in the case regarding the charging of Industrial tariff to petroleum. Both parties do not dispute that issue involved in case No. 12 of 2012 the present case is similar. Hence we hold that consumer is entitled for the relief. The amount paid by consumer on the basis of HT-II may be adjusted in the future bills in the interest of justice. The bills with effect from June-2008 shall be charged at the rate applicable to industrial tariff.

ORDER

- 1_) The consumer's application is allowed.
- 2) The MSEDCL is directed to charge HT-I Industrial tariff and revise the bills of consumer with effect from June-2008
- 3) The differential amount recovered by MSEDCL be adjusted in future bills
- 4)No order as to cost.

Mr.D.U.Ghatol
Member/Secretary

Mr.Suryakant Pathak
Member

Mr. S.D.Madake
Chair Person

Date:30/08/2012