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Consumer Grievance Redressal Forum

“Vidyut Bhavan”, Gr. Floor,

L.B.S.Marg,Bhandup (W),

Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/

Date

Case No. 105/2016

Hearing DT 14/12/2017

In the matter of application of proper tariff / wrong billing and refund of amount with interest

M/s. Eternity Co-op.Society Ltd.,

- Applicant

Vs.

M.S.E.D.C.Ltd., Gadkarii sub division

- Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.

2) Shri. R.S.Avhad, Member Secretary, CGRF, Bhandup.

3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

Shri.Heman Hadkar consumer representative

C - On behalf of Respondent

Shri. R.B.Kore, Addl. Executive Engineer, Gadkari sub division

Consumer No.400000414539

- 1.** Above named consumer using the supply the Eternity CHS and above named address. Consumer is receiving electricity bill under the category of commercial till date of installation. Consumer received the bill demanding utility wrong tariff and amount is already paid by consumer. Consumer raised the dispute initially before IGRC requesting applying of proper tariff and demanding different of bill under the category of commercial and to

change the category of residential. Consumer also pray for security deposited earlier be credited and benefit should be given accordingly. Consumer also pray for applying proper tariff since 2012 and claiming refund of load penalty since 30.08.2009 to 2011 and adjustment of amount Rs. 38000/- and Rs 20000/- since September 2012. Complainant also pray for refund of excess amount due to charging of wrong tariff for long time. Consumer also submitted that no penalty charge addition in B-80 should be review as per circular and giving proper direction to respondent utility make the payment accordingly Consumer also raised objection of non compliance by utility earlier order pass by this Forum time to time.

2. Initial dispute filed by consumer before IGRC was no case No. 127 on dated 15.03.2016 .IGRC gave opportunity of hearing to both party and dispute was heard on 19.05.2016. IGRC pass order refusing to grant relief of excess amount claim due to wrong tariff as per regulation clause No. 13.3(b) of MERC SOP Regulation 2014. IGRC also given direction to utility to verify the grievance review of load penalty and adjustment in B-80 as dispute is raised by consumer beyond the period of 2 years. Hence IGRC received to entertain the dispute as it is beyond 2 years as per MERC consumer grievance Redressal Forum and Electricity Ombudsman Regulation 2006 as per clause No. 6.6. Being aggrieved by the said order the consumer approach to the Forum and raised the dispute for review of B-80 and refund of load penalty as per reliance of earlier judgment pass by this Forum. Consumer also prays for copy of CPL all 25 consumers since the date of connection 2015.

3. After filing the dispute before the Forum the case is registered and consumer complaint No.105/2016 on 28.11.2016. After the dispute is registered notice was send to respondent utility after service of notice

respondent utility appeared and filed reply on 15.11.2016 and submitted that consumer no.140004139/0 was release on 08.08.87 for club house of Eternity CHS Ltd., with LT II tariff and accordingly till December 2015 the consumer paid the said bill regularly. Utility received application from Eternity CHS Ltd., on 29.12.2015 at that time billing for that month procedure was completed and change of tariff from LT II to LT I of this consumer was change from Jan. 2016. Respondent utility submitted that application for refund of amount recovered due to change of tariff of retrospective period cannot be allowed as per provision of MERC SOP regulation 2014 as the tariff should effected within second billing cycle. This Forum already given judgment in M/s. Balaji Builders and similar other judgment enclosed by the utility. Respondent utility also submitted that as per order of IGRC 19.05.2016 the request of consumer giving refund of retrospective effect cannot be allowed in accordance with 4.13(b) MERC Regulation 2014 and further the complaint is filed beyond period 2 years. As per clause No. 6.6 MERC Regulation 2006 the grievance beyond 2 years period cannot be allowed. Even the consumers fail to apply in Forum against the decision of IGRC within 30 days. However the consumer filed this appeal to CGRF on 18.10.2016 after 5 months delay and therefore the grievance of to consumer liable to be dismiss with cost.

4. Consumer filed complaint in file Schedule 'A' to CGRF on 18.10. 2016 and filed copy of electricity bill, copy of regulation 4.13(b) order pass by IGRC for perusal. In reply utility filed copy of order passes by this Forum in appropriate similar cases.

5. After perusing rival contention of consumer and respondent utility following point arose to our consideration to which I have recorded my finding to the point further reason given below

- A. Whether consumer is entitled for refund of different retrospective period due to application of wrong tariff.
- B. Whether consumer is entitled for refund of load charges and correction in B-80 as prayed
- C. Whether consumer complaint either in IGRC or before this Forum is within limitation.

Reason

I have minutely gone through the dispute raised by the consumer before IGRC .According to consumer application of wrong charging tariff to the club house and mentioning of security deposit at the time of connection and interest was not proper. Consumer also filed copy of bill club house consumer No. 400000414539, copy of registration certificate, statement of 25 consumers. Copy of bill, copy of Pan card of society. I have also perused all the document filed by consumer along with complaint, date of connection as per record provided by consumer on perusal it appears that the supply is obtained by Eternity CHS LTd., initially as per the contention of utility applied LT II commercial tariff. Consumer continues to deposit the bill as per demand of utility till December 2015 and no grievance was made.

Consumer approach to the utility and filed application as mention by utility of dated 29.12.2015 and according to utility the billing procedure for that month was completed. After verification of document and contains of application utility made necessary change of tariff from LT II to LT I and given benefit to the consumer from Jan. 2015. The claim of consumer giving retrospective effect of application of proper tariff since June 2012 and much prior period. It appears that the consumer being dissatisfied by the Act of IGRC view that the dispute raised by consumer on 29.12.2015 and claiming benefit since June 2012 is beyond the period of limitation is 2 years. Secondly the benefit of refund of amount

due to application of wrong tariff claiming retrospective effect prohibited as per Regulation 4.13(b) MERC Regulation 2014 which reads as under "*The Distribution Licensee shall intimate the charges to be borne by an applicant for change of name and change of tariff category within seven (7) days of receipt of an application in this regard and shall give effect to it within the following time limits :—*

(b) Change of category for use of supply in reference of Tariff schedule shall be effected within the second billing cycle on receipt of application and payment of necessary charges."

It is appears that the wrong tariff was applied on the part of utility was never objected till 29.12.2015 and now the dispute was raised by consumer claiming retrospective benefit of wrong tariff recovery made by utility. In APTEL judgment 131/2014 the retrospective recovery benefit cannot be charge by respondent utility against the consumer on the similar line of action the contention of the consumer is not in accordance with law. Benefit of change of tariff as per MERC Regulation is applicable from the date of change of tariff or making appropriate application in format by consumer and according to utility on 29.12.2015 the application was made in format to the utility by consumer.

According to my view the effect of giving benefit change of tariff should be from date of application 29.12.2015 and not prior to that period though the billing procedure was completed consumer should not be prevented from paying appropriate tariff from date of application and therefore utility directed to give the effect from December 2015 and not from Jan. 2016. Therefore the dispute raised by consumer objected by the utility on the ground of limitation the period of giving effect of B-80 and improper benefit is given within the period of 2 years. Further, the IGRC decided the dispute as per record and mention the date the limitation should be applicable from the date of communication of decision and not from the date of decision.

Therefore consumer complaint filed by consumer cannot set to be period beyond period of limitation therefore objection raised by utility not considered by this Forum. There is no record filed by utility about date of communication of IGRC order to the consumer and therefore objection of filing complaint on 18.10.2016 cannot be set to be beyond the period of limitation. However the main relief claim by consumer which is already filed before IGRC is restricted .The relief try to claim for all 25 consumer and non compliance complaint against the utility this Forum is not appropriate to take proper action against the utility. On the merit it appears that earlier decision and order pass by this Forum in various other cases are dependent on fact and circumstances in each case. However in the present case as consumer filed the grievance before IGRC and date of cause of action for applying retrospective tariff recovery dues cannot be considered. I found objection raised by utility is not proper on the point of limitation.

So far as objection for copy of supply of CPL as consumer raised the dispute within the period of 2 years and therefore after the dispute raised before utility office the demand the copy of CPL for the period of 2 years only could be justified. As that consumer is not entitled to claim the copy of CPL form the date of connection it is restricted to the period of 2 years only. Therefore objection raised by the consumer for supplying copy of CPL cannot be allowed. So far as the relief claim complaint by consumer giving load penalty review in B- 80 about correctness as the objection is raise, it appears from the reply of utility the copy of extract and the difference benefit already given is appropriate and proper. The supply as per tariff applicable for the connection to the club house and category decided by MERC shall be maintained. Objection raised by consumer and grant of total relief of refund retrospective period cannot be allowed. Hence consumer complaint deserves to be dismiss. Hence, I proceed to pass following order.

ORDER

1. The consumer complaint no 105/2016 stands dismiss.
2. The respondent utility entitled to recover the bill under the category of club house as per tariff order and shall effect the change of tariff accordingly form date 29.12.2015. Rest of the prayer made by consumer stands rejected.

Both the parties should be informed accordingly.

Proceeding close.

The compliance should be reported within 45 days.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

Note:

- 1) If Consumer is not satisfied with the decision, he may file representation within 60 days from the date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman

The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051

- 2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

(I Agree/Disagree)

(I Agree/Disagree)

DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP

SHRI. ANIL P. BHATHANKAR
CHAIRPERSON
CGRF, BHANDUP

SHRI. R.S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP

