

(A Govt. of Maharashtra Undertaking)

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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/137/600

Date:29.03.2017

Case No. 137/2017

Hearing DT 08/03/2017

In the matter of wrong tariff and faulty reading meter bill issued to the consumer

Mrs. Tanuja Rohit Gokhale

Shop No-3,Near Pratap Cinema,

AgrasenTower,KolbadRoad,

Thane-400099.

- Applicant

Vs.

M.S.E.D.C.Ltd., Vikas S/dn-III

- 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. Hemant Hadkar - Consumer Representative

C - On behalf of Respondent

Shri. G. M.Patil Addl. Executive Engineer, Vikas sub division.

Consumer No. 300000415506

1. Above named consumer occupying the said premises was previously charge commercial tariff by respondent utility and continuously issued the bill under wrong tariff. In the month of July 2016 Respondent utility charge the bill to the consumer for the period June 2015 to July 2016. After receiving the said bill consumer raised grievance before IGRC stating that the said consumer is using the said premises for pathology clinic and hospital. Consumer attaches copy of certificated shop and establishment issued in the name of Wellness Diagnostics Centre on the address Shop No-3, Near Pratap Cinema, AgrasenTower,KolbadRoad,Thane-400099. Its

prayer by the consumer that Additional Executive Engineer Vikas Sub Division inspected the premises and found the said premises was initially charge under commercial tariff. Since the premises was occupied by Mrs. Tanuja R. Gokhale and the purpose of use of the said premises for running Diagnosis and Pathological Clinic. Therefore according tariff policy the proper tariff is LT-(B) category for public utility should have been applied to the said establishment. Consumer prays for revision of the said bill and applied of the proper tariff to the premises was actual use of premises for Pathology and Diagnostic Health Centre. Consumer also prays for revise of the said bill issued August 2013. After filing initially dispute before IGRC the IGRC authority registered the case no 22/23.12.2016 opportunity of hearing given to consumer and respondent utility on 19.1.2017 IGRC decided the said matter and pass order categorization of the said premises under LT –(B) tariff application since the consumer filed application of 19.07.2016. IGRC also directed consumer to filed proper documents and further directed to utility to verify those document and proper action should be taken for change of tariff and revise of bill.

2. Being this satisfied with the decision of IGRC the said consumer approach to the Forum and filed complaint in Schedule A” on dtd.09.02.2017 and pray for application of proper tariff from June 2014 to July 2016 and follow standard of performance of 2005. Consumer also pray for copy of CPL form Jan 2014 to July 2016 and copy of B-80 proposal for amounting Rs. 17695/-. After filing the said dispute notice was issued by the office to the respondent utility on 22.02.2017. After service of notice respondent utility appeared and filed reply on 08.03.2017. Respondent utility submitted that Dr. Tanuja Rohit Gokhale filed application for change of tariff on 19.07.2016 and accordingly the tariff was change to service LT-X(B) from the month August 2016. Respondent utility submitted that as per Regulation 4.13(b) MERC SOP Regulation 2014 and relied the judgment given in the case of 579 **M/s. Balaji Builder Vs MSEDCL** and direction change of tariff form next billing cycle after receipt of application. Respondent utility submitted that consumer given benefit of amount Rs 17695/- wrongly insisted it should have been calculated from June 2015 to July 2016 and further relief already given to the consumer form August 2016 of difference of tariff change public utility given amount of Rs.1051/- and debiting amount 16644/- since June 2015 to June 2016 in the month of September 2016. According to utility the retrospective effect of change of tariff cannot be given and it is only in prospective effect and therefore the effect was given on the date of application of consumer from 19.07.2016. Respondent utility submitted that consumer submitted application on date 19.07.216 along with copy of licenses and other document was produce also earlier consumer never approach to the utility for change of tariff are any application was made earlier to 19.07.2016 and therefore retrospective effect of change of

tariff difference cannot be given. Respondent utility pray for rejection of consumer complaint with cost. Respondent utility filed copy of bill dated. 10.03.2017 copy of document given for running pathologies Centre under premises stands in the name of Dr. Tanuja Rohit Gokhale copy of license shop and establishment and copy of inspection and verification report dtd.26.08.2016.

3. I have perused all the document filed consumer and respondent utility which was place before the Forum was minutely seen by us after perusing the 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 respondent utility entitled to claim supplementary bill issued in August 2016 charging commercial tariff is legal valid and proper.
 - b. Whether consumer is entitled for benefit of difference of change of tariff from commercial category to LT X(B) public utility services tariff from the date of inspection.
 - c. Whether consumer was entitled for any other relief.
 - d. What order?

Reasoning

4. I have given opportunity to consumer and his representative who appears before the Forum for hearing. I also gave opportunity to respondent utility to represent the case and produce the document. The issue arises before us whether the retrospective effect for difference of change of tariff category can be given to the consumer. It appears on the contention of consumer as well as respondent utility and admittedly the application given by consumer for change of tariff on 19.07.2016. The document which is required to be considers for change of tariff pray shop and establishment licensee and verification report 26.08.2016. It is since from the document that the premise is use and occupied by consumer use for Pathology under Welling Pathologies Diagnosis Centre occupied by Dr. Tanuja Rohit Gokhale. In fact the application of change of tariff normally should be effect of date of application 19.07.2016 but in this case the consumer claim since the establishment of the premises the tariff should have been properly charge by respondent utility. After direction from the authority time to time they never inspected the premises and verified the actual use by the premises and no action was taken for change of tariff su-moto. The contention of consumer is proper at the certain point that the tariffs change that month of June 2015 and implement of change of tariff the respondent utility authority should have been access monthly issued bill when it was prepared by the staff. If the monthly bill issued to the consumer minutely verified and seen it appears that the said bill issued in the name of Dr. Tanuja Rohit Gokhale and the premises is used for pathologies

diagnosis center occupied by Dr. Tanuja Rohit Gokhale. Therefore the fault of non visiting the premises periodically and not verification of proper tariff application action done by the respondent utility for the said act consumer cannot be held on responsible. To my view the effect of application of proper tariff when respondent utility entitled to recover the bill as it was issued in the month of august 2015 but application of tariff was not proper. Therefore the bill issued in the month of August 2016 is wrong illegal and improper therefore the demand of the said bill stands quash and set aside. However it is inform by utility the effect was given in the next billing cycle on the date of application 19.07.2016 and revised bill was issued and benefit of Rs 17695/- B-80 effect already given. The respondent utility try to cure the mistake and mention that the credit was wrongly given to consumer to solve the dispute improper reason the act of consumer protection is always in favor of consumer. To my view consumer should not be act and unnecessary liability cannot be fix on consumer. Therefore I am inclined to give effect of change of tariff form the recent tariff order issued by MERC Authority applicable since 30.06.2015 and therefore respondent utility hereby directed to revise and calculated the bill form June 2015 onwards change the tariff as LT X(B) Public utility services. The difference of tariff shall be calculated accordingly the amount payable shall be adjusted in the future bill. Hence I am inclined to allow the consumer complaint and proceed to pass following order.

ORDER

1. The consumer complaint 137/2017 is allowed.
2. The bill issued in the month of August 2015 is illegal stands quash and set aside. The respondent utility directed to revise and recess the bill since June 2015 new tariff order applicable. The effect of change of tariff LT X(B) public utility shall be change and mention in future bill. The amount revise difference shall be adjusted in future bill. The respondent utility shall not charge any penal interest and penalty against the consumer.

No order is the cost.

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**

**ANIL P. BHAVTHANKAR
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**