



(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/138/0050

Date:09.05.2017

Case No. 138/2017

Hearing Dt. 21.03.2017

In the matter of illegally charge of 2 % voltage surcharge FAC and other charges from September 2012 to May 2014

M/s. Galaxy Surfactances Pvt. LTd.

- Applicant

Vs.

M.S.E.D.C.L. Vashi Circle

- Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.
- 2) Shri.Ravindra S. Avhad, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Archana Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri.T.N.Agrawal – Consumer representative
- 2) Satish Shah

C - On behalf of Respondent

- 1) Shri. D.B. Pawar, Executive Engineer, Vashi Circle.

Consumer No.028619021110 category HT supply at 22KV level

1. Above named consumer using the said power supply to his establishment since the date of connection. The said consumer was paying regular bill time to time from September 2012 to May 2014. Consumer filed initially dispute before IGRC on 13.12.2016 alleging that as per MERC order 71/2009, 52/2010 and letter of superintending Engineer Vashi letter dated 13.10.2016. The consumer was charge illegally by respondent utility in monthly bill and liable to pay and deposit 2% additional voltage surcharge. According to consumer the said voltage surcharge is without any authority as per section 45 I.E.A. 2003. As per MERC order respondent utility not authorized to claim excess unit consumption exceed the tariff under section 62 of I.E.A...As per tariff order dated 2014 even then 2% additional surcharge was claimed by respondent utility it is contravention of clarificatory order of MERC in case 71/2009 dated. 5.03.2012. Consumer also relied on other judgment in case No. 31/2011 and also case No.20/2013. Consumer pray for refund of 2% surcharge along with interest which is illegal recovered for the period Sep. 2012 to May 14. After filing the said dispute before IGRC. IGRC registered the case vide case no 115/2016-17 IGRC gave opportunity for hearing on 03.01.2017 and on 23.1.2017 IGRC pass order dismissal of complaint as it is time barred not filed within period of 2 years from the date of cause of action and it is contravention of Regulation No.6.6 of Ombudsman Regulation 2006. Therefore being aggravate by the said order of IGRC present consumer approach to the Forum and filed complaint in Form No.'A' on dtd.06.02.2017 Consumer pray that refund of additional 2% surcharge claim by respondent utility. Consumer attaches the schedule of payment additional surcharge paid during month from September 2012 to May 2014 letter issued to Superintending Engineer dated. 13.10.2016., copy of bill issued by respondent utility for the month May 2014. After filing the said complaint

notice was issued to the respondent utility. It is seen from the record respondent utility failed to file any written statement, copy of IGRC order also indicate that respondent utility appeared but not filed any written reply to the complaint . However IGRC proceed to dismiss the complaint on the point of limitation violation of regulation No 6.6 of Ombudsman Regulation 2006.

2. I have perused all the document and contention of consumer complaint in this reference to the subject refund of 2% additional surcharge claim refunded admittedly for the period September 2012 to May 2014 the cause of action arise to the consumer when the last bill issued in the month of May 2014 within that period the complaint ought to have been filed within the period of 2 years. Admittedly the consumer complainant chooses to file initially litigation before Superintending Engineer, Vashi on 13.10.2016 and raise the grievance of illegal charge of 2% voltage surcharge. On the fairness of merit it is necessary to mention that recent tariff order issued by competent authority MERC 2% surcharge already withdrawn. There are so many litigation filed by various consumers claiming 2% additional surcharge is illegal and not maintainable. The said issue is under consideration of Hon'ble High Court and therefore unless the said issue is decided the present consumer cannot raise the objection much more important after the period of 2 years which is outstare of limitation as per Regulation NO.6.6.I gave opportunity to the consumer and representative and also gave opportunity to respondent utility. To my view consumer can exercise the right of filing claim of refund of 2 % surcharge subject to decision of Hon'ble High Court at this time consumer complaint is liable to be dismiss as find beyond the period of 2 years. Hence I proceed to pass following order.

ORDER

1. Consumer complaint No.138/2017 stands dismissed.
2. No order as to the cost.

Proceeding close.

Both the parties be informed accordingly.

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

Note:

1) If Consumer is not satisfied with the decision, it may proceed within 60 days from 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