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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/20/189

Date: 31.10.2017

Case No. 29/2017

Hearing Dt.06/09/2017

In the matter of wrong bill recovery arrears issued by respondent utility to consumer for amounting Rs. 18,00,000/- wrong bill issued by applying wrong category refund of excess amount tariff difference with interest 18%

M/s. Swaraj Builders and Developers

- Appellant

Through Vinambra Swaraj Hospital

(Consumer)

Plot No 108 &109, Sector -11, Vashi

V/s

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL)

Vashi 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

Mr. Suraj Chakrabourty – Consumer Representative

C - On behalf of Respondent

Shri. R.S. Rathod, Addl. Executive Engineer, Vashi Sub Division.

Consumer Numbers

000488907166/000488906836/000484827923/000488907182/000488907280 CL 20KW, SL-

20KW category LT X (A) date of connection 20.11.2015

1.Above named consumer filed this complaint against this respondent utility alleging that 3 service connections provided to the premises from the date of connection 14.09.2015 which is obtained by consumer in the name of M/s. Swaraj Builders & Developers. The said connection obtained by consumer initially stands in the name of M/s. Swaraj Builders & Developers. Thereafter the said premises occupied by M/s. Vinamra Swaraj Hospital and the activity under the category of Hospital to which proper tariff should have been

applied. Consumer received the said bill by applying category LT II B to the said premises thereafter consumer paid the said bill regularly till. The consumer received the arrears bill by charging as per commercial tariff to the premises. Thereafter on 07.05.2017 consumer applied for application of proper tariff and claim the refund of difference of charges by paid consumer since the date of connection with interest 18% per annum. Initially consumer filed the said complaint before IGRC in Schedule 'X'. After receiving the complaint IGRC registered the Case 012/2017 on 20.06.2017 and opportunity was given to both the parties for hearing. On 17.07.2017 IGRC pronounce the order in favour of consumer directing respondent utility to applied proper tariff from the date of application. Consumer challenged the said order by filing complaint in Schedule 'A' consumer pray that he is occupation of the said premises use for hospital purpose. The respondent utility not applied proper tariff and continued to issue the bill as per commercial tariff which is paid by consumer from date of connection. Consumer prays for refund of tariff difference by application of LT X (B) public purpose and refund of amount with interest 18% per annum. After filing the said complaint notice was issued to the respondent utility on 27.09.2017. Respondent utility appeared and filed their reply it is contention of respondent utility initially the said connection was stands in the name of M/s. Swaraj Builders & Developers which is applied for commercial tariff thereafter M/s. Vinamra Swaraj Hospital enter into agreement with builders and started activities as a Hospital, Pathology Labs Dignotices Centre in the said premises. Even then consumer received bill under the category of 71 LT II commercial three connection used at the premises which was commercial in nature details of consumer No, shop No. and premises given by the respondent utility in reply as per commercial Circular No. 175 and tariff order dated 16.08.2012 new tariff category was introduced came in force . The tariff category applicable for Hospital dispensaries of premises as LT X(A) for connecting load 0 to 20 KW and LT-X(B) for 20 to 50KW. The said premises are use for Hospital, Dispensary, Primary Health Care Centre, and Pathology Lab also among other various public services. Now the said consumer applied for change of category for LT II B to LT-X (B) on dated 31.05.2017 Assistant Ex. Engineer, inspected the premises and confirm the activities being carried out in the premises for hospital and pathology Labs. Thereafter the report is received the category change for LT II B to LT-X (B) since May 2017 onwards. On 20.10.2017 as per order of IGRC the tariff difference was given from the date of application. Consumer praying for retrospective effect of tariff category change and refund which is not available to the consumer the connection stands in the category of

commercial category as from the date of application the category of public services activities which was not available earlier. Respondent utility pray for rejection of application., consumer filed copy of inspection report , copy of receipt certificate of registration dated 16.10.2015, copy of bill, copy of Degree Certificate, copy of IGRC order and all other relevant documents circulars etc.

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

- I. Whether consumer is entitled for retrospective effect for change of tariff category from LT II commercial to LT X (B) since date of registration and date of agreement.
- II. Whether consumer is entitled for refund with interest.
- III. What order?

Reasoning

2. I have given opportunity to the consumer and his representative Mr. Suraj Chakraborty appeared before the Forum on date of hearing. I have given opportunity Nodal officer respondent utility. The matter is heard by this Forum. I have perused the entire document filed by consumer and the nature of dispute rose before consideration for the forum. It appears from the record that original connection stands in the name of M/s. Swaraj Builders & Developers and date of connection is 14.09.2015 if according to consumer the said premises is use by M/s. Vinamra Swaraj Hospital under the agreement. The copy of agreement should have been produced at the time of entering into change of nature of activities but consumer remain silent. The consumer first time approach to the IGRC and made application on 05.05.2017. According to respondent utility after receiving the said application respondent utility additional Executive Engineer visited the premises and found the premises is use for hospital purpose and diagnostics centre. Report prepared on 31.05.2017 which is place on record I have perused the same. IGRC considered the said inspection report and date of application made by consumer for application of proper tariff and therefore the decision was made for application tariff from the date of application. In fact the said change in the category included public services Hospital purpose if the connection is use and activities of this nature are found. The application is proper tariff as per implication of tariff guidelines and advise as per MERC and departmental Circular issued accordingly but respondent utility official not taken enough care to visit the

premises even as earlier time and bill is issued under the commercial category and nature of activities are never verified before the date of inspection.

3. I have considered registration certificate produce by consumer for running the activities as public utility services. Diagnostics Centre Pathology Labs and Hospital purpose. The date of certificate as it is reflected from the record 16.10.2015. The premises address is given of occupation by the said establishment M/s. Vinamra Swaraj Hospital the effect should have been given from introducing of public health utility services introduce from tariff for the first time in 26.06.2015 as per order of MREC after the new tariff come in existence. Therefore observation and reply given by respondent utility cannot sustain the effect of change of proper tariff allowed to the consumer from the date of application. To my view registration of establishment done in the year of 2015 therefore consumer not entitled for benefit of tariff 2 years prior to 2015. In view of said observation the rule of parity even in this case the application of proper tariff should have been allowed from 26.06.2015. When category introduce in the tariff applicable from 01.06.2015. In this circumstances and I am inclined to allow the contention of consumer during retrospective effect from 01.06.2015. Therefore respondent utility hereby directed to calculate appropriate tariff difference and adjust the amount in subsequent bill with interest of 9.5% instead of commercial rate 18.5% as claim by consumer. Prayer of refund with 18% interest cannot be allowed as knowingly consumer never applied for proper tariff in prescribe form to authority and genuinely represent this claim. Therefore I am inclined to proceed to pass following order.

ORDER

- The consumer complaint 29/2017 is allowed.
- The respondent utility shall calculate the appropriate tariff difference from 01.06.2015 till actual change of tariff is applied as per order of IGRC from the date of application
- The difference of amount shall carry by interest of 9.5% and total amount shall be adjusted in future bill. The erring officer concern of not mentioning proper tariff category should be make enquired and necessary action be taken as per regulation

- The respondent utility shall pay Rs1000/- towards compensation to the consumer

Both the parties should be informed accordingly.

Proceeding closed.

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, and 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**