

PHONE NO. : 25664314/25664316

FAX NO. 26470953

Email: [cgrfbhandupz@mahadiscom.in](mailto:cgrfbhandupz@mahadiscom.in)

Website: [www.mahadiscom.in](http://www.mahadiscom.in)

Consumer Grievance Redressal Forum

“Vidyut Bhavan”, Gr. Floor,

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

Mumbai – 400078.

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REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/04/209

Date: 23.11.2017

Case No. 04/2017

Hearing Dt.31.10.2017

**In the matter of refund of assessment bill paid by consumer and restrain from disconnection threat**

M/s. Allied Digital Services Ltd

- Appellant

(Consumer)

V/s

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL)

Vashi Circle

- 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 Chakraborty – Consumer Representative

**C - On behalf of Respondent**

Shri. D.B.Pawar, Executive Engineer (Admin), Vashi Circle.

**Consumer Numbers 0000149026650 recovery bill amounting Rs. 72, 11,272.58/-**

1. Above named consumer filed complaint against the respondent utility stating that the above said premises supply was obtained under the category of industrial connecting load 550KW demand load 500KVA date of connection 17.06.2003. Above said consumer received assessment bill under the misuse of power supply otherwise than the sanction purpose by different occupant between period 10.04.2013 to May 2014 for amounting Rs. 7211272.58 /-. After receiving the said bill consumer approach initially to IGRC and raised grievance that the said

premises is occupied by M/s. X L Dynamics Ltd., under the agreement under the category of IT /ITES category at Plot A-124 sector -1 Mahape. On dated 27.03.2014 the spot inspection was made by vigilance officer and found that M/s. X L Dynamics Ltd. has occupied the premises and running the business activities. Flying squad inspection visited on 04.04.2014 and submits the report finding on inspection report and document available registration document of Excel Dynamic Pvt Ltd running the business under IT/ITES unit on the said address. Therefore assessment bill applied plain tariff from HT industrial to HT commercial on prepared on 04.04.2013 to 31.05.2013 for amounting Rs. 72,11,272.58/- a as tariff applicable to HT installation revise HT commercial from billing June 2014. The correspondence was made to the consumer appeared on the record M/s. Allied Digital Service Ltd is tenant premises which occupied by M/s. X L Dynamics Ltd., under EMA acknowledgement certificate 15.07.2014 and activities register under IT/ITES category. The information submitted on 30.10.2014, after verification of certificate provided of tariff application to HT installation revise to HT industrial to HT commercial billing month December 2014 and tariff difference between 15.07.2014 to Nov.2014 was charge towards HT commercial to HT Industrial. The amount Rs. 3059029 /- was credited and adjusted on the consumer in energy bill for month of Feb. 2015 and balance recovery was paid by M/s. X L Dynamics Ltd., on 20.02.2015, it was inform by letter on 20.02.2015. The consumer was aware regarding this fact and figure the recovery bill difference issued 27.08.2014 but the letter mention the assessment under section 126 E.A. 2003 due to typographical error and assessment under plain tariff different such as respondent hereby express his regards towards the typographical error . Therefore the consumer was charge the bill on 27.08.2014 applying plain tariff from industrial to commercial.

2. Consumer raised the dispute and filed grievance before IGRC claiming that the excess amount is paid and recovered for plain recovery bill should be refund with interest as the guidelines issued as per IT/ITES unit from circular No. 212 actual commencement activity mention in the certificate as applied should have been considered by respondent utility. On this issued the judgments already pronounce

by Hon'ble Ombudsman is 108/2009 and in case of 204/2001 and also refereed in APTEL judgment in Appeal No. 131/2013 in a case of Vinnya. Enterpsies Vs Kerala State Regulatory Commission the retrospective recovery cannot be effected as mention in supplementary bill 27.08.2014. For the period 10.04.2013 to March 2014. Therefore respondent utility is not illegible to claim bill more than two years as per Regulation no 6.6. Consumer prays for refund of excess amount along with interest. After filing the said grievance it is submitted that IGRC not decided the issue within stipulated period on 60 days and therefore consumer approach to the Forum and filed the same grievance mentioning copy of complaint given to IGRC and submitting all necessary document including assessment bill correspondence, Circular certificate issued under IT/ITES in the name of M/s. X L Dynamics Ltd., letter issued to Superintending Engineer, MSEDCL by consumer on dated 29.10.2014. letter issued to consumer by Superintending Engineer dtd. 27.08.2014, copy of assessment bill issued to the consumer for recovery of change of tariff for period 10.04.2013 to May 2014 and details of account extract. After filing the said grievance notice was issued to the respondent utility. After service of notice respondent utility appeared and filed reply on dated 11.07.2017. Respondent utility submitted that as per flying squad inspection the activity found premises occurred by M/s. X L Dynamics Ltd., as per order regulation no 6.8 the assessment bill was charge from industrial to commercial for the period of 2 years. This consumer not filed the grievance with in the period of 2 years and as per regulation no 6.6 the complaints of consumer liable to be dismiss.

3. During verification of fresh certificate provided applicable HT industrial to HT commercial was charge for period 15.07.2014 to November 2017 and amount Rs. 3359019/- was credited and adjusted in the account of consumer since Feb. 2015. The balance amount recovery was paid by M/s. X L Dynamics Ltd., on 20.02.2015. It is inform on 20.02.2015. This fact was known to the consumer M/s. Allied Digital Services Ltd as the dispute was not raised within stipulated period of 2 years. As consumer filed grievance on 27.08.2014 hence there was inordinate delay in filing complaint therefore consumer complaint liable to be dismiss with cost.

During pendency of hearing consumer filed rejoinder application stating that the assessment bill as per plain recovery itself of wrong as it was charge considering retrospective period and therefore the consumer is entitle for refund of excess amount is paid should be refunded. I have perused the grievance raised by consumer M/s. Allied Digital Services Ltd. After perusing document filed by consumer and the respondent utility verification of the document was made following point arose for our consideration to which I have recorded my finding to the point for the reason given below

- i. Whether consumer M/s. Allied Digital Services Ltd., entitle for recover excess amount Paid with interest.
- ii. Whether plain recovery bill issued charging tariff from industrial to commercial for amounting Rs. 7211272/- is legal valid and proper.
- iii. Whether consumer is entitled for any relief for refund.
- iv. What order?

#### **Reasoning**

4. This grievance is filed by consumer on 24.04.2017 mentioning that initial dispute raised before IGRC was not answered by IGRC within stipulated period of 60 days from date of submission. Therefore consumer was approach to the Forum and filed this grievance. The document supplied to the Forum appears that the flying squad inspection was made as per report dated 27.03.2014. The assessment bill issued and prepared to the consumer .After inspection note on 31.05.2014 the revise bill was issued on 27.08.2014 for amounting Rs. 72,11,272/- it further appears that the respondent utility charge under 126 I.E.A. 2003 proceeding against the consumer. As per the reply filed by respondent utility it is revealed that it is error typographical which is charge under 126 of I.E.A. but revise bill was issued applying plain different recovery from industrial to HT commercial as on 27.08.2014.
5. Therefore cause of action arose to consumer on 27.08.2014 there is no document is produced to the Forum by consumer showing he initiated the complaint before IGRC within 2 years from the date of cause action 27.8.2014. In fact the document

produced by consumer revealed that consumer made the complaint in the year 14/2/2017. Therefore the consumer initiated the dispute before lowest authority available after lapse of two years. Secondly it is brought to the notice that the premises occupied by M/s. X L Dynamics Ltd., for which no copy of agreement is produced. Those the document supplied by consumer revealed that the IT/ITES certificate issued by district industrial centre authority Thane stands in the name of M/s. X L Dynamics Ltd., commencement date the date of issued is 15.07.2014. Therefore M/s. X L Dynamics Ltd., occupied and paid the bill is competent to raise the dispute but it as in the appeared the connection stands in the name of M/s. Allied Digital Services Ltd., this consumer complaint filed in the name of M/s. Allied Digital Services Ltd since beginning.

6. It is pertaining to note that during pendency of hearing it was delayed due to non production of proper account in spite of direction given to the respondent utility official to verify the plain arrears recovery bill for the stipulated period which was charge against the consumer for the sack of dispute all the affords was taken by this Forum and direction was given. The respondent utility submitted the extract of account before this Forum and pointed out amount of Rs 30,59,019/- was already adjusted in the bill against the consumer by recovery of appropriate bill which recover for 527681.28/- and there is no amount pending for recovery can be refunded to the consumer it is also submitted by respondent utility official by giving extract of account charging the tariff difference from the period July 2014 to November 2014 and also extract of bill showing adjustment given for amounting Rs. 30,59,019/-. It was verified even by the consumer therefore consumer after thought give application of rejoinder and now raising the claim that retrospective recovery cannot be made and taking different stand. In fact the amount is paid and recovered by occupant M/s. X L Dynamics Ltd., To my view the present consumer M/s. Allied Digital Services Ltd cannot raised the dispute as they are not entitle to refund of any amount. In this circumstances actual and inaction as alleged by the consumer no cause of action survived as properly brought to the notice of this Forum the dispute is not filed within the period of 2 years before this Forum .

Hence I have no other option to dismiss the consumer complaint. Hence I proceed the pass following order.

**ORDER**

- The consumer complaint 04/2017 stands dismissed.
- No order as to the cost.

Proceeding closed.

The compliance should be reported within 30 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**