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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/32/228

Date: 24.11.2017

Case No. 32 /2017

Hearing Dt.04/10/2017

In the matter of application of proper tariff and refund of excess amount paid

Rs.817840/-

M/s. Royal Inn (Hotel Royal Classic)- (Consumer)

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL)

Shil Sub Division 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. Sanjay D. Singh

– Consumer Representative

C - On behalf of Respondent

Shri. A.R. Rathod, Addl. Executive Engineer, Shil Sub division.

Consumer No. 00270053840 Billing unit 4643 SI-140Kw, CD 185KVA date of supply 20.06.2015

1. Above named consumer filed this complaint against the respondent utility stating that on dated 06.03.2016 officer of the respondent utility visited the premises, known as flying squad, Thane for checking of the meter. Accordingly the submitted the report and found the amount of Rs. 8, 17,841/- provisional bill was issued to the consumer on assessment done charging commercial tariff. Instead of industrial tariff which was earlier charge against the consumer form date of connection 20.06.2015. Consumer submitted that the supplementary bill which was issue

charging commercial tariff is along with additional amount Rs. 8,17,841/- is for the period of 10 months. Consumer also received the provision bill along with notice of disconnection dated 21.07.2017 under section 56 (1) of E.A. The consumer was directed to the amount 18,37,320/- up to month July 2017 within 15days. After service of notice of disconnection provisional bill Consumer approach to this Forum and filed consumer complaint in form Schedule 'A' on dated 07.08.2017. Consumer pray that respondent utility issued incorrect and exorbitant bill for ten months and arrears charging with commercial tariff without their mistake as consumer executed agreement on 25.05.2015 with respondent utility and occupies the premises. Consumer made application to the respondent utility on 30.03.2015 for installation of supply to his premises occupying under the agreement and also deposited estimate cost which was issued by respondent utility along with the proposal. Consumer also received list of material and thereafter material purchase as per specification and direction. Thereafter consumer was sanctions connection additional 148KW under the category of commercial Hotel tariff. Respondent utility issued sanction letter on 09.04.2015 along with administrative approval and technical estimate sanction also given to the consumer as per attach list of certificate. Consumer attach with sanction order, administrative sanction, approval letter and estimate and material purchase bill form Sagar Electrical date 21.03.2015. Consumer submitted that the inappropriate tariff was previously charge against the consumer by utility issuing successive bill under the category of applying industrial tariff which is brought to the notice of respondent utility at appropriate time. Thereafter the change of tariff detected after the flying squad inspection report and provisional bill was issued along with notice of disconnection under section 56(1) of E.A. Consumer pray for exorbitant bill which was wrongly issued to the consumer which is not legal valid and proper. The supply of the consumer was disconnected by respondent utility in spite of consumer deposited amount proportionate to the respondent utility but the supply was disconnected and consumer sustain monitory loss for amounting Rs. 3,00,000/- which at the cost of respondent utility. Consumer also prays

compensation and additional cost of litigation and penalty against the respondent utility for illegal disconnection of supply.

2. After filling the said complaint notice was issue to the respondent utility on dated 13.11.2017. After service of notice respondent utility appeared and filed reply on dated 14.11.2017. Respondent utility submitted that the premises was occupied by consumer M/s. Hotel Royal Inn at given address the connection 148KW which was ready on 20.06.2015. The estimate issued by letter 09.06.2015 along with sanction 4, 39243/- amount was deposited and the construction and work to be carried out at the cost of consumer as per provisional consume of estimate. The cost as per sanction was to be refunded to the consumer through energy bill.
3. It is submitted that respondent utility that however by mistake of IT staff thane the refundable amount was shown in crores instead of lacs in the energy bill and excess amount was refunded to consumer 7,79,033/- instated of 4,39,243/- which was corrected by preparation of B-80 debit amount was shown Rs. 7,79,033/- + interest 22,676.66/-
4. It is further submitted by respondent utility on 16.03.2016 Addl. Executive Engineer Flying squad, Thane visited the premises of consumer and investigation meter installation was verified. It is observed bill issued to the consumer by application of IT tariff instated of commercial and it was reported by flying squad Addl. Executive Engineer Thane provisional bill demanded 8,79,841/- applying commercial tariff which was denied by the consumer objecting wrong and erroneace bill and since consumer was called two-three time in office to discuss the matter but consumer was not ready to understand the matter denied to pay the bill. Therefore demand notice and provisional bill corrected was demanded against which consumer gave cheque of 10,00,000/- through two cheque it has been paid out of two cheques one cheque of 600000/- was dishonour and therefore the supply was disconnected in the month of August 2017. Respondent utility submitted that the supply was sanction under the tariff category of commercial purpose and as per uses consumer was erroneously bill earlier applying industrial tariff from the period 20.06.2015 to 16.03.2016 and therefore arrears of 9 months recovery bill was issued to the consumer which was legal and properly. Respondent utility relining

on the judgment of Hon'ble electricity Ombudsman in order case No.54/2017 dtd. 12.0.2017 and also attached copy of judgment Aurangabad High Court order dtd.01.07.2011 on the point of refund of infrastructure cost and submitted that the consumer complaint is wrong and fabulous the consumer is liable to pay the bill of Rs 817841-/ which utility entitled to recover the said bill. Respondent utility pray for dismissal of complaint with cost.

5. After perusing the contention of consumer and respondent utility following point arose for our consideration to which I have recorded my finding to the point further the reason given below
 - a. Whether bill issued to the consume charging commercial tariff from 20.06.2015 to 16.03.2016 amounting Rs. 817841-/ is legal valid and proper.
 - b. Whether consumer is entitled for any excess refund of amount.
 - c. Whether consumer is at fault of charging wrong tariff category.
 - d. What order?

Reasoning

6. I have given opportunity to the consumer and his representative who appeared before this Forum for hearing. I also gave opportunity of respondent utility Nodal officer Add Executive Engineer who appeared. I have perused all the document and correspondence filed by the consumer. I have carefully gone through the grievance of consumer point wise. It appears from the contention of consumer himself that the consumer enters in the premises by agreement and it was executed from duly stamp on 28.05.2015. Thereafter it revealed from the record that consumer applied for extension of power supply on 22.11.2015 claiming 148KW power to the premises for his use. It is well aware that the purpose of the using of the supply is for running Hotel business. The contention of the consumer and document supported that to supply was sanction and technical approval along with the estimate was issued on dtd.09.04.2015. Even consumer purchase the said material and bear the cost as per agreement and accordingly the supply is install and release under the category of commercial purpose.

7. It is surprising to note that since the date of supply as per the previous bill brought to the notice by consumer himself the category was shown in the bill printed LT X B III and the bill was issued to the consumer time to time and it was paid under the category of industrial supply no objection was raised or neither intimation given by consumer to the respondent utility.
8. The fault came to the knowledge only after flying visit inspection and it was notice the occupation and use of the premises of hotel purpose. It is clearly observed in inspection note the tariff earlier applied under LT XB public services was wrong and incorrect. Considering actual purpose of user the premises was occupied by Hotel Royal Inn should have been charge as commercial activities and accordingly as per report and observation going though the document it was advise and reported the commercial tariff should be applied from the date of using supply. Therefore the respondent utility chooses to prepare supplementation bill charging difference of tariff application commercial traffic from the date of connection up to period from nine months onwards 16.03.2016 and the notice of disconnection was issued. It is reported by respondent utility the negotiation and meter indicate consumer was unsuccessful and consumer was not ready to deposit the amount and therefore action of notice on 30.05.2016 under section 56(1) of E. A along with the bill issued to the consumer. Even though after receipt of notice the consumer objected and not paid the bill. It is pointed out that the utility that consumer paid amount 10,00,000/- by two cheque and out of two cheque one cheque of 600000/- was dishonour and the amount become unpaid therefore the supply was disconnected on August 2017. The consumer raised previous objection for disconnection of supply therefore I have verified the action of disconnection properly. Consequence of dishonour of cheque and non payment of bill charge by application of proper tariff which is not obeyed by consumer and even amount which was paid not received to the utility. Therefore the action of disconnection which was taken was not illegal for not applying proper procedure. I have not found any unreasonable disconnection which was objected by consumer claiming monetary loss of Rs 3,00,000/- compensation against the action of disconnection. As per regulation demand of damages and loss of income cannot be awarded and granted by this

Forum. Therefore it is liberty to consume to approach to the proper authority and filed appropriate litigation.

9. Coming to the dispute the respondent utility charge commercial tariff for the period of 9 months from 20.06.2015 to 16.03.2016 and claim the difference of arrears but error of earlier estimate amount and refund which was cured preparing B-80. The provisional bill was issued Rs 8, 17,841/- was demanded against the consumer the said demand for the period of 9 month. Consumer raised objection that the respondent utility cannot demanded arrears prior to the date of inspection as per the judgment given recovery of earlier period of flying squad inspection claim by the respondent utility is wrong and illegal. This issued was considered by me properly. Respondent utility relied on judgment of Hon'ble Ombudsman and also decision of Aurangabad court on 01.07.2017. It appears that the instance of issuing notice under section 56 (1) along with provisional bill it cannot falls in the change of tariff category but the erroneous tariff which was applied earlier which was very well in knowledge of consumer that he remains silence and not made representation to correct the tariff till the notice of disconnection received to him. As the usage of supply admittedly was Hotel industries and as per tariff order the commercial tariff should have been applied. The mistakenly error by wrong entry in the bill due to IT staff which cause loss of revenue and the said mistake was not intention. To my view respondent utility cannot sustain the loss of revenue because of human error and they have right to correct the said error which was committed by the mistake of IT staff and therefore objection of consumer cannot stand as in this case as per the order of Hon'ble Ombudsman consumer cannot claim the benefit of retrospective recovery prior to the date of inspection as in other cases APTEL judgment 131 and other related judgment to my view not applicable as the recovery due to mistake of wrong filing of tariff by licenses considered by Hon'ble Ombudsman and therefore it was allow to correct the said mistake and claim arrears up to two years as per the period of limitation. In this case the period of earlier recovery is only for 9 months and therefore preparation of supplementary bill charging appropriate tariff which was claim by respondent utility Rs 8,17,841/- is legal valid and proper. The consumer is liable to pay the said amount. At this

movement the mistake of incorrect entry in bill by IT Staff and therefore no interest, DPC and penalty should be recovered against the consumer . Secondly, the period of recovery is up to 9 months and therefore the consumer entitled to pay the said bill by equal monthly instalment of 8 months. Earlier amount deposited by the consumer shall be adjusted. The respondent utility shall not charge any interest, DPC and Penalty on arrears of bill claim and give the appropriate benefit 8 equal monthly instalment along with current bill. I am inclined to give only benefit of recovery by instalment can be made against consumer. The consumer complaint challenging wrong and incorrect recovery does not survival .Consumer at the time of hearing pointed out the bill which was estimated about amount of Rs. 2, 00,000/- was not considered change of transformer, quantity and quality which was demanded in the estimate was upgraded. The said issued shall be dealt separately on merit. This issued was not falls in the category of dispute the respondent utility shall dealt this issue separately. Hence, I am inclined to allow the consumer complaint and relief partly. The recovery of Rs 8, 17,841.17/- without charging any interest and penalty equal 8 monthly instalments. Rest of the relief does not survived cannot be granted. Hence, consumer complaint disposed of accordingly.

ORDER

The consumer complaint 32/2017 is stands dispose of accordingly.

Both the parties should be informed accordingly.

Proceeding close.

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

