
REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/39/230

Date: 24.11.2017

Case No. 39 /2017

Hearing Dt.21.11.2017

**In the matter of legal recovery of arrears of bill towards change of tariff and
disconnection notice**

M/s. Kandolight Lamps Pvt. Ltd.

- (Consumer)

Plot No A—242 Mahape MIDC

Navi Mumbai 400701

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL)

Koperkhairane 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.

B - On behalf of Appellant

Mr. Laxman Salunkhe

– Consumer Representative

C - On behalf of Respondent

Shri. M.M.Kamble, Addl. Executive Engineer, Koperkhairane Sub division.

Consumer No.00043641970 billing unit 4753

1. Above named consumer filed this complaint against the respondent utility MSEDCL Koperkhairane sub division alleging that the consumer using the said supply for industrial purpose. Thereafter, the said supply was use by M/s Raptim Research Ltd Company occupied the said premises under leave and licensee agreement dated 27.12.2013. The said premises was inspected on 02.04.2016 and it

is observed that the consumer using the said supply for research and development activities and no manufacturing activities was found on inspection 02.04.2016 and only scientific instrument was found at the premises. As per the report of flying squad when he visited the premises found the activities of M/s Raptim Research Ltd the supply was received earlier under the category of industrial tariff but no manufacturing activities are found and therefore respondent utility issue supplementary bill for amount 31,39,880/- for the period date of occupation date of inspection along with notice of disconnection. The separate letter dated 30.03.2016 and 20.03.2017 also issued to the consumer. After receiving the said bill and notice consumer approach to the Executive Engineer and gave application stating that on the said premises after occupation under the agreement research and manufacturing activity was initiate and conducted in the said premises. Consumer produced and attaches copy of SSI certificate Udayog Aadhar certificate, acknowledgment certificate of government of India, Maharashtra Vat certificate, profession tax certificate, certificate of Indian drug Manufacturing association, certificate excise department and all other relevant document including professional charge and copies of document received along with inspection notice and report and supplementary bill is attachment. Consumer raising the dispute stating that since May 2015 the occupation was change and handed over to the consumer M/s Raptim Research Ltd. It is alleged by the consumer that respondent utility charge commercial tariff since May 15 to April 2016 without verification of premises properly and issued supplementary along with notice of threat of disconnection. In fact all the certificate revealed that they are manufacturing activity is initiated conducted in the premises. Therefore respondent utility claim commercial tariff arrears recovery bill prior to the date of inspection which is wrong and incorrect. consumer pray for refund of excess bill paid along with 9 % interest as per section 56 of E.A. consumer submitted that they are already paying the current bill under protest and further request to withdraw the said bill as it is wrong and miss calculated tariff contravention of tariff order and various provision under I. E.A. 2003. Consumer also relied on judgment of APTEL Appeal No. 131/2013 order dated 07.08.2014 which produced along with Hon'ble Electricity Ombudsman

Forum given in case No.24 and submitted that no retrospective recovery arrears can be allowed on the basis of any abrupt reclassification of consumer . Consumer attached copy of MERC order in case No.91/2015, 126/2014,116/2016 and pray that withdrawal of incorrect bill charging wrong tariff with prospective recovery period. Consumer submitted that the complaint is filed within period of two years from the date of receiving supplementary bill and pray for interim stay against disconnection and appropriate further relief to charge appropriate tariff as a industrial instead of commercial and refund of excess bill amount paid towards commercial tariff with 9% interest. After filing this dispute on 31.10.2017 notice was issued to the respondent utility. After service of notice respondent utility appeared and filed reply parawise to the said complaint on dated 14.11.2017. Respondent utility submitted that the supply was given in the name of M/s Kandolite Pvt. Ltd., (M/s Raptim Research Ltd) 3 phase consumer supply Koperkhirne sub division consumer no.00043631970 and date of connection 22.04.2005. According to utility the premises is inspected by section officer on 2.04.2016 and observed that the premises is use for research and development activity purpose no manufacturing activities found on date of inspection 04.02.2016 and only scientific instrument was found on the premises. Accordingly the recovery bill plain tariff difference which is industrial to commercial category which was work out and it was calculated and issued on 05.04.2016 amounting Rs. 31,39,1050-/. The consumer was charge industrial to commercial tariff from May 2015 up to month of March 2016. It is submitted by utility that the complaint is filed on 16.06.2017 at Kopar khairne sub division and the application from the consumer on 24.07.2017 along with all certificate and permission of various government authority produced in support of application to charge the tariff under industrial activities, thereafter the authorize officer Engineer Pawane sub division inspected the premises and usage was found on 2.08.2017 and the report is submitted the consumer is using the said supply for industrial and manufacturing purpose. Copy of inspection report of 2.08.2017 is filed the consumer is using the said supply industrial purpose. But prior to inspection in May 2015 the certification of appropriate tariff couldn't verified and granted .According to utility the

consumer charge commercial tariff difference bill which is legal valid and proper. Consumer is liable to pay the said difference and since 02.08.2017 the tariff was already charge from commercial to industrial and recovery bill is issued accordingly. The Respondent utility submitted that consumer complaint is misleading and occupant not inform the change of user under the agreement nor produced any certificate or valid application along with proper documentation never submitted to the utility at appropriate time and therefore the tariff charge commercial from May 15 to 02.08.2017 is legal valid and proper. Utility pray for dismiss of complaint with cost.

2. After perusing the rival 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 consume is entitle for industrial tariff since May 2015.
 - b. Whether consumer supplementary bill claiming amount Rs. 31,39,880/- charging commercial tariff since May 2015 is legal, valid and proper.
 - c. Whether respondent utility entitled to recover the bill prior to the date of inspection 02.04.2016
 - d. Whether consumer is entitled for any refund with 9% interest.
 - e. What order?

Reasoning

3. I have given opportunity to the consumer and his representative who appeared before this Forum for hearing. I also gave opportunity to Add. Executive Engineer, KK, Sub Division parawise reply and consumer dispute has considered in light .all concern document. It is observed by me leave and licenses agreement executed between M/s. Kandolite Lamps Pvt Ltd and M/s Raptim Research Ltd dated 27.12.2013. According to consumer the activity of research and development authority work was initiated in the premises. Respondent utility relied on inspection report dated 02.04.2016. it is observed that the said report there the endorsement at first page foot singed by person present in company gave in writing we have no any production I activities and only research and development work is going at the premise which is only scientific instrument was kept. The said endorsement sign

by person is Yogesh Rahut. The said report is submitted which is prepared by Addl. Executive Engineer, therefore considering allegation made by the consumer the visiting inspection staff dy. Executive Engineer not properly verified the activity and no inspected the premises not collect the proper information. At the time of hearing, I gave opportunity respondent utility to verify the said fact. It is submitted by concern Dy Executive Engineer stating that the said premises were not inspected by the said Dy Executive Engineer. It is also observed by this forum on 02.08.2017 Addl. Executive Engineer again visited the premises and verified the document and industrial activity was found to spot inspection report place before the Forum. I gave minute consideration and gone through each and every aspect in light of document submitted by consumer. The certificate issued by director by industries date of issue certificate on 03.03.2015. The activities is shown in category of one and category of two which is include manufacturing and service .Therefore consumer is justified in saying that the activity of manufacturing and service activities was licenses from proper authority and it was conducted in the premises. Therefore the supplementary bill which was prepared and issued claiming amount 31, 39,880/- which is absolutely wrong, illegal and erroneous therefore the said supplementary bill is quashed and set aside. The period which was claim in the said bill is May 15 to March 16 which is incorrect and improper in light of guidelines and various judgments relied by the consumer no retrospective recovery can be made. Since the activity under taken by unit working under the leave and licenses cannot be said to be illegal and improper as consumer was given the supply for industrial purpose which should have been continued but the action taken by respondent utility on the basis of wrong and incorrect report the disconnection notice and supplementary bill cannot be said to be illegal. I found the consumer was forced to deposit the bill charging commercial tariff since May 2015 cannot sustain legal in all the circumstances. Therefore said supplementary bill liable to be quashed and set aside. The respondent utility shall calculate the amount charge and recovered towards commercial tariff should be return with 9% interest as he claim by consumer properly. Hence I found there is no substance in the contention of respondent utility and as on both stances the supplementary bill issued without

proper verification and on false and incorrect report. As subsequent report respondent utility already admitted the supply is being use for industrial purpose and not commercial activity therefore this is the fix case to allow the claim of consumer. Hence, I am inclined to accept the grievance of consumer and allowed the complaint and proceed to pass following order.

ORDER

1. The consumer complaint 39/2017 is allowed.
2. Respondent utility shall calculate excess recovery bill charging commercial tariff from May 2015 to 2.08.2017 and refund entire amount with 9% interest.
3. The respondent utility also prays the proportionate cost to the consumer and bears their own.

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)

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

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