

_____(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/267

Date: 09.01.2018

Hearing Date: 02.01.2018

Case NO. 48/2017

IN THE MATTER OF IT/ITES TARIFF.

M/s. Amber Real Estate Ltd.,

Plot No.D-03,Road No.16,

Wagle Estate,Thane-400604.

(Consumer No. 000019028260)

. . . . (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution Company Limited

through its Nodal

Officer,

Thane Circle, Thane

. . . . (Hereinafter referred as Licensee)

**Appearance : For
Licensee**

- Shri. R.K. Marke, AEE, Wagle Estate Sub Division.

For Consumer – Shri. Abidali Mukadam (Representative)

[Coram- Shri A.M. Garde- Chairperson, Shri. R.S.Avhad -Member Secretary

and Vacant - Member (CPO)].

1. Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as ‘MERC’. This Consumer Grievance Redressal Forum has been

established as per the notification issued by MERC i.e. “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005] Hereinafter referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. Maharashtra Electricity.

2. Consumer herein is M/s. Amber Real Estate Ltd., bearing consumer No. HT II/000019028260. Consumer is the Developer and owner of Information Technology Park. It was constructed by the consumer after obtaining all the requisite permissions and the occupation certificate 30th April 2013 has been issued. Consumer has obtained De-Nova letter of Intent for IT park from Director of Industries on 6th August 2014, as required under the provision of Govt. Regulation bearing No. IT Policy-2013/CR No. 309/IND-2 dated 28th May 2014. Consumer has also obtained the permanent registration certificate for I.T Park dated 12th May 2016 from the Directorate of Industries, as stipulated under the aforesaid De-Nova letter of Intense.
3. Consumer further contends that the IT Park has become fully operational and the consumer has entered into various Leave and License agreements/Assign and transfer agreement etc. with the occupiers/allotters of the various IT/ ITES units situated therein. It is further the contention of the Consumer that as per commercial circular no 243 dated 2nd July 2015 issued by Licensee - MSEDCL in reference to MERC tariff order dated 26 the June 2015 in case No. 121/2014, as far as common facilities in IT Parks such as lobbies, lifts, central Air conditioning, wash

rooms etc. are concerned, they shall be charged as per Industrial tariff. However, MSEDCL has been charging the consumer under commercial tariff for the same.

4. MSEDCL is reply contends that M/s. Amber Real Estate Ltd., is their commercial consumer with HT II commercial category since the date of connection 12.10.2012 for IT park purpose. Consumer applied for 9 no. Of LT connection for IT/ITES unit in their IT park constructed therein through multipartite agreement keeping it's above mentioned existing connection as prime connection to the utilized for common facilities such as lobbies. Central air condition lifts, washrooms etc.
5. MSEDCL further contends that 2 no. of LT connections to IT/ITES units in the names of 1) M/s Siro Pvt Ltd consumer number 000019042810, CL 222 KW with CD 222KVA and 2) M/s. Reliance capital Ltd., consumer No. 00019042820 CL 111KW with CD 111KVA, have already been released on 09.04.2016 as per commercial category for IT/ITES purpose. There are other 6 no of connections also been released under commercial tariff. One connection to CMA CGM shared services centre (India) Pvt. Ltd., with consumer no.000019044140 having ITES permanent registration certificate has been given Industrial tariff supply.
6. It is further the contention that on verification of the record it is observed that all 8 no. of secondary consumers IT/ITES units are not having valid permanent registration certificate as mandated by Hon'ble MERC.

As per tariff order dtd. 26.06.2015 and MERC case No.121 of 2014 Industrial tariff is applicable for use of electricity/power supply by IT/ITES units for IT/ITES purpose in case they have permanent registration certificate. If the unit receives permanent registration certificates the tariff to be applied shall be commercial. Once a unit has no permanent registration certificate the particular unit shall be charged under Industrial category, till the certificate is valid.

7. In the above facts, as MSEDCL contends that tariff charged in the present case is legal and valid.
8. We have heard both sides. We have also gone through the relevant circular and MERC order in case No.121 of 2014. Admittedly, the sum and substance of the Govt. Policy is regard to IT industry has been clearly stated by the consumer is her grievance statement as Para 6&7 which may be reproduced as below

HT I industry tariff category would be applicant to following

- The core manufacturing unit; and
 - Without limitation ,Administrative office/Time office, canteen, Recreation Hall/Sports club/Gymnasium/Swimming, Pool exclusively meant for employees of the industry; and
 - Lifts, water pumps, fire fighting pumps, premises(security)lighting ,research and developments units etc
 - Similarly in IT park HT I- Industry tariff category would be applicable to following;
 - The respective IT/ITES units.
 - Common Facilities such as lobbies, central air conditioning, lifts, escalators, effluent treatment plant, wash rooms, canteen, recreation hall/sports club/health club/gymnasium,/swimming pool, parking etc. inextricably linked to the IT/ITES unit and used by employees of the said IT/ITES units, which are within the premises of the concerned IT park.
 - This being no, for common facilities as described above is an IT Park the tariff applicable would be Industrial and not commercial.
9. The germane question in the present matter is whether consumer's Amber Real Estate Ltd., is an IT Park at all in the real sense within the meaning of the term as contemplated by the above described provisions. The

building of the consumer has nine units. They are being given on lease/transfers etc. There are separate power supply connection which are under commercial tariff except one which is having industrial tariff, reason being that the firm therein already bears a permanent registration certificate which is a requirement under the above described provision to be eligible for industrial tariff as IT or ITES unit. All other units are as on today are commercial. They will continue to be so till they obtained the required certificate of permanent registration. In these premise how can the building of the consumer be said to be an IT park merely by reason of nomenclature. The intention of the legislative body in the above discussed provision appear to be to facilitate IT industry and as such mere nomenclature would not suffice. In fact some concession is also given that at least 80% of BUA should be occupies by such units. They should have permanent registration as required. I thus do not see any fault, imperfection , shortcoming or inadequacy in the quality nature and manner of performance in applying commercial tariff to the of common areas of the consumer's IT park so as to fall the Act of the Licensee within the definition "Grievance" under MERC (CGRF and Ombudsman Rules 2006) Grievance Fails.

ORDER

Complaint to dismissed.

Both the parties should be informed accordingly.

The compliance should be report immediately.

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

**ANANT M. GARDE
CHAIRPERSON
CGRF, BHANDUP**

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