

**(A Govt. of Maharashtra Undertaking)**

**CIN : U40109MH2005SGC153645**

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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/134/0035

Date:28.04.2017

Case No. 134/2017

Hearing DT 08/03/2017

**In the matter of application of proper tariff and exorbitant bill issued by respondent utility**

**M/s. PJS Securities Ltd**

**A-1,3<sup>rd</sup> Floor Ashar I.T Wgale Estate ,Thane**

**- Applicant**

**Vs.**

**M.S.E.D.C.Ltd., Wagle 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**

Shri. Manish Saha - Consumer Representative

**C - On behalf of Respondent**

Shri. M.V.Surytade.Addl. Executive Engineer, Wagle Estate sub division. MSEDCL

**Consumer No. 000011643507**

1. Above named consumer received bill on 26.11.2016 for amounting Rs. 21,10,940/- towards application of tariff from industrial to commercial and slowness of the meter 31.79% slow difference along with notice of disconnection. After receiving the said bill initially consumer approach to IGRC and filed complaint in Schedule 'X' alleging that bill issued by respondent utility dated 25.11.2016 for amounting Rs. 21,10,940/- is exorbitant wrong and illegal liable to

be quash and set aside. Consumer also made complaint that respondent utility charge average unit in October 2016 and Nov. 2016 and applied commercial tariff wrongly. Consumer prays for revision of the bill and correction of unit charge in the month of October and November. After filing this complaint before IGRC notice was issued to the consumer. Thereafter IGRC gave the judgment against the consumer in Case No. 3/2017. After gave opportunity of hearing on date 25.02.2017 IGRC directed consumer to file IT/ITES certificate for the period from June 2015 to Oct. 2016. As per report of flying squad bill issued amounting Rs. 21, 10,940/- is proper correct and cannot be withdrawn. Consumer also directed to pay the said bill in equal monthly installment without charging any interest and DPC. Consumer was also directed to produce authentic and proper certificate to claim tariff under IT/ITES. Being aggrieved by the said order and judgment of IGRC the present consumer approach to the Forum and filed application on Schedule 'A 'before this Forum on dated 08.02.2017. Consumer pray that the respondent utility required to charge 3 months average bill considering the meter was faulty and also application of proper tariff as consumer filed permanent registration certificate issued by DIC authority in his favor on given address for the stipulated period. Consumer pray that withdraw the exorbitant bill and proper IT/ITES tariff shall be applicable to the consumer. Consumer also prays for appropriate relief. After filing the said dispute on 18.02.2017 Forum issued notice to the respondent utility.

2. After receiving the said notice respondent utility appeared and filed reply on 22.03.2017. It is contention of respondent utility that the connection was provided to the consumer on 08.08.2011 under IT/ITES purpose. On 17.10.2016 flying squad thane inspected premises and observed the consumer was not having IT permanent registration certificated under IT/ITES purpose issued by competent authority in view of MERC order dated 26.06.2015 in case of 121/2014 page no 331 and commercial circular No. 243 dated 03.06.2015 industrial tariff is applicable to IT/ITES unit as per policy of Govt. of Maharashtra .As the consumer unit does not hold relevant IT permanent registration certificate and in view of the said circular consumer was charge as LT II category and LT VB tariff shall only be applicable to the consumer after the production of IT permanent registration certificate of till the period is valid. Respondent utility attached copy of Circular No. 243 for perusal of this Forum. Respondent utility submitted that the supplementary bill was claiming difference of industrial to commercial unit workout for the period June 2015 to October 2016 and this period is only for 17 months entitled to recover in view of section 56 E.A. 2003 by which respondent utility can recovered the amount of short billing or tariff difference recovery of period of 24 month. In this case the recovery is only for 16 months which is legal and valid as per provision of section 56(2). Respondent utility relied on the judgment on reported on *M/s. Rototex polyester Vs. Administration* writ petition 7085/2008

order dated 20.08.2009 also *MSEDCL Vs Venco Breeding* writ petition 6783/2009 order dated 05.03.2010 and *MSEDCL Vs. Green Word Magnum* writ petition No 2894/20007 dtd.07.09.2007 and *Awadesh Pandey V/s Tata Power* AIR 2007, BOM -52 . Respondent utility submitted that consumer not having IT permanent registration certificate to claim IT/ITES tariff and therefore the supplementary bill period for the month of 17 month in view of section 56 (2) E.A. 2003 in view of judgment of Bombay High Court which is legal valid and proper. Consumer is liable to pay the same as per demand. Respondent utility for dismissal of complaint with cost.

3. Consumer relied on various judgment places before me in case No.24/2001, MERC order dated 11.02.2003 judgment in appeal no 131/2013, judgment of Ombudsman Representation No.91/2015 dated 11.01.2016. Respondent utility also relied on judgment and flying squad report dated 17.10.2016. Respondent utility placed MRI data and letter issued to the consumer of meter testing report 02.11.2016, details of MRI data and details of supplementary bill, copy of commercial circular 243. I have perused all the document filed by consumer as well as respondent utility.
4. I have perused all the document filed consumer and respondent utility which was place before the Forum was minutely seen by us after perusing the rival contention of consumer and respondent utility following point arose to our consideration to which I have recorded my finding to the point further reason given below
  - a. Whether respondent utility entitled to recover supplementary bill dated 16.11.2016 amounting Rs. 21,10,940/-
  - b. Whether consumer is entitled for commercial tariff from June 15 to Oct.2016
  - c. Whether respondent utility entitle to recovery to the slowness of meter reported 31.79% slow difference.
  - d. Whether consumer is entitled for any relief.
  - e. What order?

### **Reasoning**

5. I have given opportunity to consumer and his representative who appears before this Forum for hearing. I also gave opportunity to additional executive Engineer, Wagale estate appear for respondent utility.

6. It appeared that the reason of issuing bill to the consumer on 25.11.2016 is base on inspection of report of flying squared. I have gone through details of spot inspection report dated 17.10.2016 and copy of punchnama. It revealed from the report that the meter was found slow on accu-check meter report 31.79% slow as 'R' phase voltage meter record found '0' volt and therefore the meter was remove and tested in laboratory for the purpose perusal respondent utility relied on meter testing report and MRI data . It revealed to the Forum that there is finding of meter testing report the voltage of 'R' phase was found 0 and it was recorded slow 31.79% slow. MRI data supporting to the contention of slowness of meter as it is technical report verified by the technical Member of this Forum. There is no much dispute raised by the consumer claiming slowness of meter difference reading and unit charge as fix and bill is claimed addition payable of unit considering slowness of meter 31.795 slow.
7. The contention of consumer that 3 months average bill required to be charge against the consumer are making reliance of 15.4.1 as per meter Regulation provided under the statue. I found the meter was working and giving and recording the unit properly except the slowness of meter was detected in accu-check and as well as reflecting in meter testing report .In this circumstances there is no reason for me the considered the request of consumer he is entitled for any reason to claim 3 months average basis bill considering meter defect. Therefore the contention of consumer is not tenable and the prayer of consumer therefore stands rejected.
8. Considering the application of proper tariff it appeared that respondent utility charge 30.06.2015 to Oct. 2016 as per commercial rate and difference is claim in the supplementary bill on this point the document which was submitted by consumer is verified. It appeared that relied on permanent registration of DIC certificate for establishment of unit and on this basis consumer claim that IT/ITES sector should be applied. As per regulation and norms fixed as referred under commercial circular No 243 and direction is given time to time. Respondent utility authority the charging of commercial tariff as per direction is charge under commercial tariff HT II. Now in October 2016 the recent MERC tariff was applicable and therefore the respondent utility already considered the request of consumer and industrial tariff was made applicable form Oct. 216 and accordingly effect was given in the bill of Nov.2016. However the consumer pointed out to this Forum that unit calculated in the month of Oct.2016 was not proper similarly it was reflected in the month of Nov.2016. The respondent utility representative agree and under taken to due correction in unit charge during the month of Oct.2016 and Nov. 2016 and accordingly the said unit was corrected if not direction is given to respondent utility to correct the said bill.

Considering the request of charging commercial tariff as recent judgment pronounce by Hon'ble High court in case 5398/2015 of M/s. Reliance Corporate IT Park Ltd. and Anr v/s MSEDCL which was reproduce as under...(ii)

“Even if the bills are issued by the Petitioner during the pendency of the Petition claiming the charges at commercial rate, we make it clear that the first Respondent will be liable to pay at industrial rate interms of the impugned order. Even if the bills are issued during the pendency of the Petition claiming charges at commercial rate, the Petitioner shall issue separate bills along with the said bills claiming charges at the industrial rate”that in view of the said judgment charging of commercial tariff during the month of June 2015 to Oct. 2016 as per commercial rate which was charge by the respondent utility is illegal and improper and therefore in view of the recent judgment the arrears of 17 months charge against the consumer as per commercial rate required to be set aside and revise bill necessary to be issue calculating as industrial tariff till the decision of Hon'ble High Court is awaiting .

9. I have gone through the document submitted by consumer it apparels that consumer relied and produce the certificate dated 07.1.2016 issued by General Manager District industrial centre Thane. The certificate from required competent authority as per guideline and directive the certificate must be issued by competent authority in part No.1&2 who authorize under the circular and such certificate is not produce by the consumer before this Forum and therefore charring of industrial tariff since June 2015 to Oct. 2016 will be proper. If consumer wanted to take benefit under IT/ITES category as per tariff order the consumer shall produce the proper certificate issued by competent authority and give proper application for change of tariff under IT/ITES category and the respondent utility considered the same. I have minutely consideration to the awareness made by consumer and respondent utility. I found the supplementary bill issued after flying squared inspection charging commercial tariff is illegal and improper hence, the said supplementary bill stands quash and set aside. The respondent utility entitled to recover the tariff difference and difference of slowness of meter calculated as per schedule. The consumer should be charge industrial tariff form June 2016 to Oct.2016. The correction on the unit charge in Oct.2016 and NOV.2016 shall be made accordingly. The prayer of consumer charging commercial tariff is accepted and accordingly the relief is granted to consumer. Hence I am inclined to allow the complaint and proceed to pass following order.

## ORDER

1. The consumer complaint 134/2017 is allowed.
2. The supplementary bill issued in 25 November 2016 is illegal stands quash and set aside. .The Respondent utility shall charge consumer as per industrial tariff form June 2015 to Nov.2016 The consumer shall produced appropriate proper certificated issued by competent authority and also directed to file proper application in format to change the tariff form industrial to IT/ITES category. The revise bill shall be pay by the consumer in equal six monthly installment without charging interest and penalty

No order is the cost.

Both the parties should be informed accordingly.

Proceeding close.

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, 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**

I Ravindra S . Avhad , Member secretary as member of Forum disagree with opinion of other members point wise clarification for that as given below

M/s PJS Securities LLP is LT consumer having LT Consumer no 000011643507 Plot No, A-1, 3rd floor ,Ashar IT Park,Road No.16Z, Wagale Esatate Thane and the Sanction Load 100KW and contract demand 90KVA .

Respondent Utility representative Shri.V.L Deshmuk Additional Executive Engineer Flying Squad Thane visited above premises on 17.10.2016 found that supply used purpose other than which the usage of electricity was authorized and IT/ITES activities carried out there and 'R' Phase CT Meter missing and meter recorded unit less by 31.79% of actual consumption

As per MERC Tariff order dated 26th June 2015 in case no 121 of 2014 Page no.331 and MSEDCL Commercial circular No 243-Revision in Electricity Tariff & Implementation Thereof Dated 03.07.2015 the industrial Tariff is applicable to IT/ITES units defined in the applicable IT/ITES policy of Government of Maharashtra where such units as does not hold the relevant IT Permanent Registration Certificate ,The tariff shall be as per the LT-II category and the LT-V(B) tariff shall apply to it after receipt of such IT permanent Registration Certificate and till it is valid

Respondent utility was informed applicant consumer M/s Dosti Co-operation(Pinnacle) User M/s PJS Securities LLP to produce valid permanent Registration certificate for IT/ITES within 3 days and also informed regarding Change of Tariff applicable from existing LT Industrial to LT commercial & recovery of Tariff difference From June 2015 to October 2016 i.e 17 Months .Applicant M/s not produce Valid IT/ITES Permanent Registration certificate for above said period

So in my view as per provisions in circular no 243 refereed above and MERC Tariff order dated 26th June 2015 in case no 121 of 2014 Page no.331 supplementary bill ( From LT Industrial to LT commercial)for period 01.06.2015 to October 2016 of Rs. 21,10,940/- is legal ,proper and valid .

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

