

(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/

Date

Case No. 653

Hearing Dt. 12.04.2016.

In the matter of illegal change of tariff from Industrial to commercial and incorrect accumulated bill issued by respondent utility

M/s. SASI Industries

Vs.

M.S.E.D.C.L. Koperkhairane, Sub Division - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.
- 2) Shri.Ravindra S. Avhad, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Archana Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri.S.B.Tripathi – Consumer Representative

C - On behalf of Respondent

- 1) Shri. K.N.Zeruse, Addl. Executive Engineer, KoperKhairane Sub Division.
- 2) Mrs. Swati Deshmukh, Assistant Accountant, KoperKhairane Sub Division.

Consumer No. 000149022074

1. Above named consumer filed this complaint against respondent utility stated that the above consumer received the said connection for the industrial unit situated at TTC, Turbhe MIDC, Navi Mumbai. Having consumer No. 000149022074

billing unit 4127 connecting Load 99KW demand load 50KVA and meter No. 065-06593705 under the category of 71 LT II commercial date of connection 05.09.1997

Consumer Say:-

2. We have taken the L.T. Power supply from MSEDCL for 99 HP with 50 KVA for the purpose of Tyre Retreading and Rubber moulded items, on submission of relevant documents required for the Industrial activity i.e. SSI Registration Certificate, MPCB Consent & Factory License with effect from 05.09.1997 & duly taken the expansion from time to time.

The Addl. L.T.P.S. for the load of 99 HP/50 KVA sanctioned by Executive Engineer Vashi Division in the name of M/s. Sasi Industries. After completion the requisite formalities in the matter the Addl. L.T. Power supply connected. We had taken the SSI Registration certificate, MPCB consent & factory license on our company's name for starting the production activity. Further now the name & style of the company's changed from M/s. Sasi Industries to M/s. Sasi Retreading Enterprises Pvt. Ltd. For getting the change of name in electric connection is in the process and will be obtained in due course.

3. Our premises/installation checked by the Additional Executive Engineer Flying Squad-2 Kalyan MSEDCL on dated 30.09.2015 and in their spot inspection report the remark mentioned as under – **Irregularities Observed:-**
 - (i) B Phase C.T. of the meter not working.
 - (ii) C.T. Box not sealed.
 - (iii) As per MERC tariff order August 2012 tyre retreading (Remolding) work should be billed under Commercial tariff However in the present case it is billed under Industrial tariff.
 - (iv) Meter found slow by 29.12%.

It is proposed to change the tariff from LT V B II to LT-II C

(v) Meter taken in our custody & replacement is done.

(vi) MRI Data is taken for further detail analysis.

4. According to the letter no. ADDEE/FS/KLYN-2 dated 07.10.2015 the assessment bill prepared by Addl. E.E. Vashi Sub-Division an amount of Rs. 14, 04,060.00 and communicated vide letter no. AddIEE/Vashi/SubDn/003068 dated. 09.10.2015 towards tariff difference from Industrial to Commercial with effect from August 2012 to September 2015 due to reclassification of the tariff category. The description of working sheet of the calculation of the assessed amount not given to us so far and included in the current monthly energy bill of October 2015 (10.09.2015 to 10.10.2015). In the circumstances we had made the payment online of the current bill amount of October 2015 onwards & approached to The Chief Engineer Commercial, S.E. Vashi Circle, E.E. Vashi Division & Addl. E.E. Vashi Sub-Dn vide our representation dated. 27.10.2015.
5. It is regret to state that the supplementary bill in respect of reclassification of consumer category from Industrial to Commercial included in the monthly bill of October 2015 without completing the procedure stipulated in the terms of the Electricity Act 2003, Honorable Commission & Corporate office of the MSEDCL related to the matter.
6. Secondly it is surprise to note that power supply disconnected at 14:30 PM on 02.02.2016 in pursuance of the 15 days disconnection notice issued by the Add. E.E. Vashi Sub-Division vide letter under reference no. 3 dated 15th January 2016 which was received by us on 18.01.2016 at 13:05 Hours and as per the contents of the disconnection notice the 15 days will be completed on 04.02.2016. The power supply reconnected at 18:30 on 02.02.2016 after intervention in the matter by the Superintending Engineer Vashi Circle. The

supplementary bill included in the energy bill of October 2015 & also in the January 2016 & due date for the payment allowed up to 30.01.2016 and thereafter D.P.C. amount to be levied and as per the provision of the act 15 days disconnected notice to be initiated after 30.01.2016. But 15 days disconnection notice of power supply issued by the Additional Executive Engineer Vashi Sub-Division vide letter under reference no. 3 dated 15th January 2016. The action taken by the authority of the MSEDCL are illegal, unjustified, arbitrary and without taking the cognizance on the decision taken by the authority from bottom to top stipulated in the terms of E.A. 2003 in similar cases. The online payment of monthly energy bills with effect from October 2015 made by us regularly under protest on the basis of the Commercial category –

7. We have been advised by the concerned authorities to submit the stay order on disconnection of power supply when all are known that our grievance against the recovery of supplementary bill raised for retrospective effect due to reclassification of tariff category is registered and pending for hearing & decision with I.G.R.C. Vashi Circle on 23.11.2015. & according to the attached decision / order copy issued by the

8. APTEL, M.E.R.C., Ombudsman & C.G.R.F. from which it is clear that retrospective recovery in the cases of reclassification of tariff category should not be allowed and set aside. It is evident that stay order on disconnection of power supply should be issued by the I.G.R.C. on our grievance / dispute registered & pending with the I.G.R.C. according to the remedy provided by M.E.R.C. in pursuance of Indian Electricity Act 2003. In absence of the stay order our power supply again disconnected on 05.02.2016 at 13:00 AN being Friday as staggering holiday.

9. We have submitted our representation on 05.02.2016 along with the relevant documents with request to register our grievances, issue the order for reconnection of power supply and power supply not to be disconnected till the resolve the dispute / grievance by the remedy provided in terms of the law.

The Honourable Chairman of the C.G.R.F. Bhandup Urban Zone issued the order no. 735 & 736 Dated 06.02.2016 towards registration our grievance, fix up the date of hearing on 09.03.2016 and directed to reconnect the power supply immediately. The power supply reconnected by the M.S.E.D.C.L. on 06.02.2016 at 06:30 PM approximately.

10. The Additional Executive Engineer Vashi Sub-division issued the 15 days disconnection notice vide their letter no. AddEE/Vashi/SubDn/00459 Dated 12.02.2016 and requested for making the 50% of the disputed amount outstanding against our consumer no. which was received by us on 17.02.2016 at 14:30 Hours. It is pertinent to note that this notice issued by Addl.EE / Vashi Sub-Dn in pursuance of the letter issued by the Secretary of the C.G.R.F. vide letter no. Member Secretary/CGRF/MSEDCL/BNDUZ/653/737 dated 09.02.2016. It is regret to state that neither Secretary of the C.G.R.F. and nor the Additional Executive Engineer Vashi Sub-Division in a position to say about the exact amount to be paid by us and under which rule this type of demand initiated in respect of the recovery of supplementary bill raised in the case of retrospective recovery due to reclassification of the tariff category. Our power supply again disconnected by the MSEDCL on dated 22.02.2016 at 13:00 AN without completing the period of the notice served by the Additional Executive Engineer Vashi Division and date of notice to be completed on 02.03.2016.

11. We aggrieved on the illegal action taken by the MSEDCL for disconnection of power supply again & again (3times) with disregarding the terms of the disconnection notice served to us, terms & conditions of the commission & MSEDCL as all are well known by our grievance and dispute along with relevant documents submitted by us to the I.G.R.C., C.G.R.F. & copy submitted to all concerned offices on which it is clear cut understand that the retrospective recovery in case of reclassification of tariff category should not be allowed and set aside by the authority of APTEL, M.E.R.C., Ombudsman, C.G.R.F. Nasik, C.G.R.F. Pune etc.

12. There after we had approached to the Electricity Ombudsman (Mumbai) along with the representation dated 23.02.2016 & after considering the facts and records in the matter Honorable Electricity Ombudsman (Mumbai) issued the order dated 23rd February 2016 for reconnection of power supply and it is communicated vide letter no. Elect/Ombd/MERC/14 of 2016/381 Dated 23rd February 2016. The power supply reconnected on 23.02.2016 approximately 18:30 PM.

1. We have received the order copy issued by the I.G.R.C. on 25.02.2016. The order copy is completely misconceived & issued without taking the cognizance of the facts & documents submitted before the I.G.R.C.
2. Further we have received a supplementary bill an amount of Rs. 1,19,140.00 towards the recovery due to slowness of the meter vide letter no. AddEE/Vashi/SubDn Dated 31.10.2015.
3. We also state that No proper procedure was followed for testing of meter as prescribed in Regulations 2005 of Electricity Supply code and other conditions of Supply of the MERC. The supplementary bill towards slowness of meter if established as per Regulation be limited only for the period prescribed in the MERC Regulations. As per our knowledge there is no slow recording by the meter. The details of billing with period billed be given to the consumer. Further

the testing report of the meter along with the assessed bill not furnished to us by the MSEDCL so for even though directive given by the I.G.R.C. Vashi Circle in the matter.

13. In the light of the above there are heavy financial losses as well as reputation spoiled due to illegal disconnection of power supply again & again (3 times) without any valid reasons. Further according to the above stated facts it is evident that on every stage the contents of the rule & regulations in the matter not followed by the concerned authority properly & action initiated as per their willingness reason known to them.

14. In the matter we hereby submitting our dispute in respect of illegal recovery of retrospective effect in the case of reclassification of the tariff category along with the relevant documents and decision copy taken by the designated authority prescribed by the commission as under:-

a. We state that MSEDCL has unilaterally changed our tariff from Industrial to Commercial with effect from August 2012 and also sent a supplementary Bill of illegal recovery of amount of Rs.1,19,140.00 with retrospective effect and levy of interest completely not relevant at all. Further the recovery of slowness of meter is incorrect & unjustified without furnishing the testing report & MRI Data as per the conditions stipulated by M.E.R.C. in S.O.P.

b. We here by inform that:

(i) The Hon. Maharashtra Electricity Regulatory Commission (MERC) in case No.24 Of 2001 dated 11.2.2003 has directed as under:

(ii) *“No retrospective recovery of arrear can be allowed on the basis of any abrupt reclassification of a consumer even though the same might have been pointed out by the Auditor. Any reclassification must follow a definite process of natural justice and the recovery, if any, would be prospective only as the earlier classification was done with a distinct application of*

mind by the competent people. The same cannot be categorized as an escaped billing in the strict sense of the term to be recovered retrospectively. With the setting up of MERC, order of the commission will have to be sought as any reclassification of the consumers directly affects the revenue collection etc. as projected in its Tariff Order. The same could be done either at the time of the tariff revision or through a special petition by the utility or through a petition filed by the affected consumer. In all these cases, recovery, if any, would be prospective from the date of order or when the matter was raised either by the utility or consumer and not retrospective.”

- (iii) The Appellate Tribunal for Electricity (APTEL) in Appeal No. 131 of 2013 in the matter of /M/s Vianney Enterprises versus Kerala State Electricity Regulatory Commission has also rejected retrospective recovery of the Distribution Company (KSEB) .In the said case, the APTEL has held that the arrears for difference in tariff could be recovered from the date of detection of the error only.
- (iv) The Electricity Ombudsman (Mumbai) in Case No 124, 125, 126 & 94 dated 23rd December, 2014 & 25th January 2016 has rejected retrospective recovery of the Distribution Company of MSEDCL and directed to refund amount by adjusting in the bill.
- (v) **Thus it can be said that sending the recovery bill by MSEDCL Vashi Circle with Retrospective effect, tantamount to disobedience of the order of Hon. Commission, APTEL and Hon. Ombudsman.**
- (vi) The CGRF Nashik Zone, more recently, has ordered that the retrospective recovery on account of tariff difference for the past period be set aside in three similar cases no. 82, 85 and 121 of 2015 vide order dt.19.05.2015, 22.05.15 and 26.06.15 respectively and directed MSEDCL to refund the

amount so recovered along with interest. Further in the similar case the C.G.R.F. Pune Zone in case no. 29 of 2015 passed the order dated 04.12.2015 that retrospective recovery set aside.

(vii) It is pertinent to note Maharashtra State Distribution Company Limited filed the writ petition no. 6545 of 2015, 6552 dt. 2015 & 6553 of 2015 in the High Court of Judicature at Bombay against the order passed by the MERC ELECTRICITY OMBUDSMAN in the representation no. 124, 125 & 126 of 2014. The Honorable High court given the ruling dated. 15th July 2015 as under:-

15. The Status-quo in respect of the recovery is directed to be maintained The Learned Counsel for the Respondent No. 1 submits that the Respondent No. 1 should not be shown as being in arrears of the amount claimed by the petitioner. Upon this the Learned Counsel for the petitioner assures the court that the Respondent no. 1 would not be shown as arrears in terms of the impugned order. (R.M. SAWANT J.)

16. We further state that the applicability of change of tariff from Industrial to Commercial on the basis of Flying Squad report dt. 07.10.15 from October 2015 onwards is uncalled for, as there is no change of purpose for use of electricity in the premises. The utilization is for Tyre Retreading Industry only in the MIDC Area as per the sanctioned load and classification of category since supply date. IGRC will agree that the tariff is approved by the Commission and applied by MSEDCL on the basis of purpose of utilization of power.

Commercial tariff is applicable in non –residential, non industrial and/or commercial premises for commercial consumption meant for operating various appliances used for various purposes. In our case there are no appliances used but motors are used for Industrial purpose in the MIDC Industrial premises.

17. We also inform that ours is an Industry (and not a commercial establishment) situated in the MIDC area approved by the Govt. of Maharashtra.

18. We further state that we are paying the current bill regularly under protest even though the applicability of tariff category is disputed.

Thereafter we submitted our grievance to the I.G.R.C. Vashi Circle on dated 23.11.2015 along with relevant documents & Xerox copy of decision taken by the competent authority & Forum in the similar case & requested to intervene in the matter and issue the direction to the concerned offices towards not disconnection of power supply till the disposal of our grievance by the remedy provided in the existing law. The copy of our grievance along with the relevant documents also submitted by us to the Executive Engineer Vashi Division, Additional Executive Engineer Vashi Sub-Division & Assistant Engineer Turbhe MIDC Section Office.

19. It is regret to state that power supply disconnected on 02.02.2016, 05.02.2016 & 22.02.2016 without taking cognizance of our grievance submitted to the I.G.R.C. & copy enclosed of many decision taken by the authority in the same type of the cases and without adopting the procedure stipulated in terms of the law & corporate office in respect of the disconnection of power supply. **The order received by us on 25.02.2016 from IGRC Vashi Circle is completely misconceived & not on the basis of relevant documents submitted by us. Further it is clear that this is misconstrued judgment as in the judgment the relevant points not covered at all and the I.G.R.C. completely silent on the decision of the designated authority discussed and represented in front of the I.G.R.C. that retrospective recovery should not be allowed in the case of reclassification of tariff category.**

On our approach to your good self vide our representation submitted dated 05.02.2016 we could be get power supply reconnected in pursuance of your

INTERIM ORDER DATED 06.02.2016. The power supply again disconnected on 22.02.2016 with disregarding the contents of the disconnection notice dated 12.02.2016 and not taking care of our past representations in the matter. However we get the power supply reconnected in pursuance of the order dated 23.02.2016 of the Electricity Ombudsman (Mumbai) which is communicated vide letter no. Elect/Ombd/MERC/14 of 2016/381 dt. 23rd February 2016.

20. We had suffered heavy financial losses due to illegal disconnection of power supply without no any fault from our side. The calculation sheet of the losses occurred due to disconnection of power supply enclosed herewith for your kind perusal.

Relief Sought (Prayer): We pray that MSEDCL be directed:

- (i) To withdraw the Supplementary Bills in respect of retrospective recovery with effect from August 2012 onwards in view of order passed by the Forum, MERC, APTEL stated as above
- (ii) The Supplementary bill amount included in the monthly energy bill in respect of retrospective recovery may please be kept aside and should not be shown as being in arrears in view of avoid the further complication in the matter and according to the ruling given by the Honorable High Court Bombay dated 15th July 2015 in the similar case
- (iii) To accept the current bill as per industrial tariff and that no precipitate action of disconnection etc. be taken by MSEDCL in this regard till final disposal of the grievance by the Competent Authority / Remedy provided in the law.
- (iv) To apply correct tariff of LT Industry in this case henceforth and the recovery made through Energy bills from October 2015 onwards due to wrong applicability of tariff (Commercial instead of Industrial) be refunded / adjusted in

subsequent bills along with interest.

- (v) We confident that step towards disconnection of power supply all 3 occasions taken by the MSEDCL are completely illegal and on this issue decision may please be taken in right perspective and necessary directive issued to the MSEDCL to fulfill the losses occurred on us due to disconnection of power supply submitted vide our letter dated 29.03.2016 through adjustment in the next coming energy bill. Further the legitimate penalty may please be imposed on the MSEDCL authority towards taking the illegal action in terms of the law applicable on non-compliance of the decision, conditions stipulated by the M.E.R.C. in S.O.P. & guideline of the corporate office.
- (vi) The recovery towards alleged slowness of the meter without furnishing the testing report along with MRI Data in terms of the S.O.P. stipulated by the MERC may please be set aside.

21. List of notice respondent utility was grated and allow many date was giving reply to this compliant but till today respondent utility did not taken any seriousness any case and not at all filed any reply however, for the reasons I have considered reply of utility which is filed IGRC case no. 59 of 2015 before IGRC forum it is contention of respondent utility that LT power

Utility reply:-

22. Recovery against slowness of meter consumer filed grievance against the respondent utility raising dispute about wrong application tariff commercial instead of industrial and illegal recovery of slowness of meter claim by utility in the bill not liable to be paid as per commercial tariff. Hence consumer pray for withdrawal of notice bill against slowness of recovery calculated Rs. 1, 19,000/- against the consumer.

Para wise reply filed by respondent utility submitted that at the time of inspection of premises. The meter was verified and check in the laboratory and report of laboratory disclose. There was instance of slowness of meter calculating 29.12% found even thereafter MRI data is taken for calculating and assessment of units during the disputed period. It is calculated accordingly at the time of hearing this point was considered by this Forum. It is reviewed that meter testing report and MRI report confirm about the defect of slowness of meter 29.12% found and therefore bill calculated and issued to the consumer was less in this contest when the Forum come to conclusion that from the date of inspection the industrial tariff shall be applicable IE 30.09.2015. There was requirement to calculate slowness of meter arrears to be calculated 29.12% and therefore respondent utility entitled to calculate charge unit 29.12% as per industrial tariff during recovery period. The ruling of back recovery cannot be applicable to the consumer prior to the date of inspection. To my view will not be applicable for the recovery of slowness of meter made by utility less. Hence I come to conclusion respondent utility shall calculate arrears of recovery as per industrial tariff towards slowness of meter 29.12% plus other applicable charges if any prior to the date of inspection and recover from consumer. Hence submission of consumer not liable to pay the arrears towards the slowness of meter recovery of bill cannot be entertained. Hence rejected.

Flying squad Kayan has submitted the spot inspection report for imposing assessment to the said consumer.

As per spot inspection report, assessment was imposed on account of 29.12% slowness of the meter, as the B phase CT of the metering was failed, which was ascertained by analyzing the MRI data by the Fs, Kalyan.

Assessment was imposed for the period of July, Aug. and Sept. 2015 for 7706 units and for an amount of Rs. 1,19,150/-.

Further, as per the said spot inspection report, it is observed that, as per tariff order, consumer falls under commercial and found billed under industrial tariff.

Hence, tariff recovery due to industrial to commercial has been worked out for the period from Aug-2012 to Oct. 2015 and given to consumer vide letter No.Addl.EE/Vashi/Sub-Dn./003068dtd. 09.10.2015 for the amount of Rs. 14,04,060/-

Hearing of IGRC vashi was destined to be held on 20.01.2016, and the consumer or their representative did not attend the hearing.

On the basis of the notice issued power supply to the premises was disconnected on 02.02.2016 @ 14.15 HRs..

After disconnection, consumer has approach the SE(VS),Vashi, with the request to grant 2 more days period for payment of arrears, and 2 days period was granted by the SE(VS), and hence supply was recovered on the same day.

After expiry of 2 days period, granted by the SE(VC),and as the consumer failed to pay the arrears, supply was disconnected on [06.02.2016@12.40Hrs.](#)

On the same day, i.e. On 06.02.2016. Hon. chairman of CGRF,Bhandup, has ordered for immediate reconnection of the power supply order was received through mobile whats app @ 18.15 Hrs. and the supply was reconnected sharply @ 18.30Hrs. by scrupulous follow up of CGRF's order.

Further on 09.02.2016 Hon'ble CGRF has ordered the consumer through this office to pay 50% of the disputed amount, but the consumer has declined to accept the order.

Further on 12.02.2016, this office have attempted to issue 15days'notice, for payment of 50% of the disputed amount but the consumer has arrogantly

refused to accept the same, in lieu of several requests, and hence, the notice was send by RPAD through post to the consumer.

On 22.02.2016, while enquired, consumer has denied to pay any amount with the allegation of non-receipt of any notices.

After observing failure of the consumer in respecting CGRF's order dated 09.02.2016, supply was disconnected on 22.02.2016@ 12.52Hrs.

Till disconnection consumer has unfaithfully denied the fact of receipt of the notice, and after disconnection, seen pleading to pause the actions up to the deadline given in the notice, by showing the notice received through post RPAD.

Supply was kept disconnected as the consumer has repeatedly denied to pay the bills.

Further on 23.02.2016, after receiving the order os Hon'ble Electricity Ombudsman (through mobile whats app@ 17.50 Hrs. on 23.02.2016 power supply was reconnected immediately on 23.02.2016) @18.05.Hrs.

23. The respondent utility the bill generated to the consume is legal and valid therefore consumer is liable to pay the bill along with delayed payment charges and interest as application in this case mention in the bill with cost and prayed for dismiss of the complaint respondent utility filed relevant circular notification and order of MERC and claim liability to pay the due by consumer.

24. After perusing the rival contentions of consumer and respondent utility, following points arose for our consideration:

1] Whether accumulated arrears for difference of category change from Industrial to commercial since August 2012 the issued along with the notice is legal valid and proper

2] Whether respondent utility entitled to recovered accumulated arrears due to reclassification and change of tariff on Industrial to commercial form the detection of error but bill whether liable to pay the bill additional due to slowness of meter recorded 29.12% less unit as per commercial tariff

3} whether complaint filed by the consumer is legally tenable

4] Whether consumer is entitled for any relief.

3] What ordered?

Reasons

25. In this case after filing he complaint the Forum allow consumer to raised the objection and submit their grievance time to time given by amendment of the complaint. I have perused all the document circular notification and judgment filed by the consumer. There is no dispute the supply given to the consumer since 05.09.1997. It is pertaining to note that additional load was granted to the consumer and sanction enhance of 299HP 50KVA for the purpose of carrying out the activities to consumer M/s. SASI Industries so far as details of inspection report and irregularity observed in the flying squad verification and inspection report dated 30.09.2015 is minutely perused by me so far as bill paid was CT meter was not working and CT box is not feed. The contention of respondent utility the less unit was recorded on the meter because of this reason of slowness of meter found 29.12% is reviewed. After checking of meter and MRI data was retrieved and recorded after checking of the said meter supported. The contention of respondent utility that the consumer was charge less 29.12% slowness of meter and the unit which was required to be additional access as claim against the consumer for the amount of Rs. 1,19,140/- calculated by the respondent utility. Since to be proper and illegal there is no much objection or any documentary evidence raised by the consumer and therefore observation made by IGRC in their judgment restricted to the issued of additional unit liable

to be paid by consumer due to reason of slowness of meter and calculation of unit since to be proper the dispute of charging against the said unit for the period as claim retrospective date is seriously question. Therefore the reason of not allowing retrospective recovery because of reclassification of tariff prior to the date of detection of the error as to be reported judgment of Hon'ble Ombudsman and safe reliance to the decision of Apple No.131..... retrospective recovery prior to be date of detection of error. According to me should not be allowed till the decision of pending issued before Hon'ble High Court as referred writ petition No.6545 & 5253 of 2015 already pending before Hon'ble High Court in this case. The similar issued is arise which is pending adjudication. We also considered the said fact and come to conclusion respondent utility should not allow accumulated arrears claim in supplementary bill due to slowness of meter charge additional unit the period should applicable only form the date of detection of error and no retrospective recovery should be allowed.

26. The issued raised before us charging of commercial tariff to the consumer as per change of tariff category from Industrial to commercial. It is contention of respondent utility relying on MERC order and Circular No. 243/03.07.2015 and Circular 175 certificatory order consumer raised serious objection Tyre Retreading work false under the category at industrial activity and not false under commercial category. At all consumer relied of the certificate issued SSI authority and PCMB certificate available with the unit clarified that false under the category of industries even in the connection and supply was sanction. The utility authority already consider already relevant fact and circumstances and connection load and enhance load already sanction under the head of industrial category. In view of agreement entered by consumer with the respondent utility which is binding on the both the side the does not allowed to change the category without any consent of the consumer. The report of the flying squad is insurance by the circular and the clarificatory order approved by commission in

Case 90/2009 and 121/2014 as refereed relied by both the side in this aspect the forum fill that the issue of application of wrong tariff and arrears of recovery whether can be allow either form the change of tariff applicable to the Circular 175 and 243 approved by commission form that date i.e. August 2012 and June 2015 in this case also this issued is pending before Hon'ble High Court in W.P. 6545/2015 Hon'ble High Court granted sumotto undertaking given by respondent utility in similar issue that they will not claim or shown arrears of recovery and shall not insistence by using orvis method till the final decision of W.P. here in this case the Forum come to conclusion it will be not proper to make comment as already order pass by Appellate Court and High court in this matter. The issue shall be finally adjudicated and decide in court till then to our view retrospective recovery prior to the date of detection of error cannot be claim and incises recovery by OSI method should be allowed in favor of utility.

27. However the litigation should not be influence by blockage of revenue and nonpayment of even current bill therefore when interim order was pass the consumer was directed to pay the current bill given those the It is classified under commercial tariff. It also seems that consumer as paid and deposited certain amount against this recovery to avoid thereat of disconnection.

28. This Forum come across with grievance raised by consumer. During pendency of dispute respondent utility taken action and disconnected the supply at three occasion initially when the consumer filed representation which was pending before the IGRC even prior to that date respondent utility not stated for compilations of 15 days notice period and they disconnected on 02.02.2016. Even than electricity supply was disconnected thereafter the grievance is filed before this Forum and interim order was pass in favour of consumer. There after the event of disconnection effected by the respondent utility against which consumer approach to the Hon'ble Ombudsman for seeking interim order and

supply was reconnected as per order. In view of the letter the consumer wrongly condemn of action of disconnection and submitted that due this illegal disconnection serious loss the extend to the unit with ended in monitory loss. Therefore action will be taken against the respondent utility for event illegal disconnection made by respondent utility. During pendency of litigation in this aspect respondent utility as directed to give their reply and reason of disconnection how effected against the consumer. But which is necessary to mention that respondent utility does not till necessary to explain and submitted their reply therefore granting of compensation on taking any action by this Forum become difficult to my view when litigation is pending. The respondent utility should necessary to take prayer to reasonable chair to obey the order of Forum. But in many case the event of disobedience of order and action taken by respondent utility deserve to be seriously condemn. I aware that this Forum have no power to take any action against the respondent utility. But this can only be referred in the judgment and direction can be given to appropriate authority to make enquiry seek. The responsibility and take action in this case also I am en client to issued direction to the appropriate authority of respondent utility to make inquiry fix the responsibility and take action which could be justified to relief to the consumer to the prayer of taking serious view on the event of disobedience of order.

29. Coming to the relief which could be granted in view of consumer at I have mention in existence of fact and circumstances retrospective recovery cannot be allowed prior to the date of inspection and detection of error given in this case .Therefore supplementary bill issued is required to be withdrawn and set aside with direction to issued the revised bill to consumer on event of change of tariff category at event of Industrial to commercial from the date of detection of error 03.09.2015. The amount which is already deposited should be calculated and

access payment towards retrospective accumulated arrears bill is paid should be return with 9% interest on the said amount to the consumer within one month.

30. However the respondent utility cannot insist and claim from take woodenly action against the recovery of supplementary bill and no threat of disconnection event should be arise till regularly billing deposited by consumer the remaining accumulated bill shall be subject to final decision of Writ Petition of No.6545/2015 the issue of wrong application of tariff is already pending before Hon'ble High Court this Forum cannot good any finding in this case no cost is avoided.

ORDER

1. Consumer compliant 653 of 2015 is partly allowed.
2. The respondent utility cannot insist and claim from take woodenly action against the recovery of supplementary bill and no threat of disconnection event should be arise till regularly billing deposited by consumer.
3. The remaining accumulated bill shall be subject to final decision of Writ Petition of No.6545/2015 the issue of wrong application of tariff is already pending before Hon'ble High Court this Forum cannot good any finding in this case no cost is avoided.
4. The respondent utility shall calculate arrears of recovery as per industrial tariff towards slowness of meter 29.12% plus other applicable charges if any prior to the date of inspection and recover from consumer. Hence submission of consumer not liable to pay the arrears towards the slowness of meter recovery of bill cannot be entertained. Hence rejected.

No order as to the cost.

Proceedings closed.

Both the parties be informed accordingly.

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

Note:

- 1) If Consumer is not satisfied with the decision, it may proceed within 60 days from 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**