

(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. 551

Hearing Dt. 13.07.2016

In the matter of application of proper tariff industrial instead of commercial and refund of excess payment of charges paid to utility including FAC and Electricity duty difference of tariff application to the unit

M/s. Ulka Seafood Pvt Ltd.,

- Applicant

Vs.

M.S.E.D.C.L. Vashi Circle

- 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. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri. Suraj Chakraborty – Consumer Representative

C - On behalf of Respondent

- 1) Shri. S.S.Patil, Nodal Officer, Executive Engineer, Vashi Circle Office.

ORDER

1. Above named consumer has filed this complaint against respondent utility. He has stated that he is a consumer of respondent utility since 5/11/2012 Respondent utility installed electricity connection on demand made by consumer on given address at premises M/s. Ulka Seafoods Pvt Ltd. Shri. Raju Gokhale is the Director and responsible person for the business.

Consumer nos. of the said consumer is R II in I No. 0286190397800 and 028619024620. Above named consumer has raised grievance against respondent utility. It was filed before CGRF and also a separate application for grant of Interim relief.

2. The consumer had obtained electricity connection on the said plot, demand load being 1650KW and the sanction load is 1850; under the category of old HT-II E from express feeder. The purpose as entered in to an agreement is for cold storage. The said agreement is filed on record before us on 31.10.2014. The agreement is signed by respondent utility Vashi circle on 30.10.2012. The purpose of obtaining electricity connection admittedly for cold storage for frozen products and ice at the time execution of agreement. The demand and sanction load is above 50KW for fisheries produce dry and packing. Installation load is 1850KW for the purpose of running the machineries, cold storage etc. The said consumer has Licenses from Maharashtra Provision Control Board issued on 8 June 2012

3. It is contention of consumer that he received notice under section 56(1) Electricity Act 2003 on 20.02.2015, demanding arrears of electricity charges Rs. 4933627.19 on before 18.02.2015. The grievance is made by consumer against the demand of the said arrears of bill by respondent utility. On 11.12.2013 by Dy. Executive Engineer, flying squad visited the premises, checked the meter and gave report recommending that the said premises required to be charged as per HT II Commercial. On the base of this report the demand bill was issued to the consumer on applying HT-II commercial tariff as per MERC tariff order 2012 and guidelines issued by director commercial and CE, Commercial.

4. At the Zone the consumer challenged said demand of bill, submitting that initially connection is provided by utility to this premises HT-I industrial and not commercial. There is no commercial activity nor there any event of running business. The list of machineries provided at the time of obtaining connection along with agreement was submitted to respondent utility. Therefore application of HT II commercial tariff to the said consumer is illegal, so also the demand of arrears of the bill since 01/08/2012. It is exorbitant and cannot be applied to the premises of consumer unit.

5. Order in continuation of order pass by this Forum on dated 26.07.2014 and 22.01.2015 .In this matter on earlier date after hearing of both side this Forum pass order on Interim application and stated the hearing of the complaint in view of section 10 on civil procedure court till the decision of matter sub-judies before MERC in case no 42/2015. It is submitted by consumer that earlier prayer made in his complaint this forum already pass stay order on 26.07.2014. Thereafter during pendency of this matter Hon'ble MERC and other various order pass by Hon'ble MERC in Case 34/2010 dated 30.11.2011 in Case of M/s. Jain Irrigation other order referred by consumer in case No. 322 order dated 26.04.2010 in Case M/s. Lumis Biotech Pvt. Ltd., and in case No. 411 M/s. Reliance Media work order dated 07.10.2012. According to activities under taken by M/s. Ulka seafood unit falls in the category of manufacturing new product. The issue was subsidies before Hon'ble MERC and Ombudsman application of proper tariff to the similar units. Whether tariff as per MERC tariff order stated 01.08.2012 HT (I) industrial tariff is applicable. As utility already applied commercial tariff and recover charges at the rate of commercial tariff from consumer as per APTEL judgment 131/2012 M/s Vinay Enterprises vs MSEDCL no retrospective recovery is permissible to be recovered. But in this case retrospective recovery already demanded by utility and consumer paid the same.

1. It is submitted by consumer that the issue sub-judice before MERC in case No.42/2015 decided and judgment and order is pass in case 42/2015 the seafood export association vs. MSEDCL order dated 13.05.2016 place before this Forum.
2. I have gone carefully of the said ruling and perused commission analyses and ruling on this issue which reads as under “ *SEAOI is essentially seeking a clarification regarding the tariff category applicable to Units, such as those of its Members, considering the nature of their activities and processes; and the correct interpretation of the terms used in the Tariff Order to define the tariff categories. SEAOI contends that, considering the categorisation set out in the Tariff Order dated 16 August, 2012 in Case No. 19 of 2012, the Industrial category tariff is to be applied to such Units, as against the Commercial category tariff which has been applied retrospectively by MSEDCL*”. In view of the said direction normally the said direction is applicable to the present consumer complaint also but consumer complaint filed before this Forum. On the ground that they was not member of seafoods association and not joining the association and claiming separate benefit and relief from the order of this Forum. The respondent utility submitted that as the direction given by MERC in Case 42/2015 not applicable to M/s. Ulka Seafoods and therefore they are not ready to settle the claim in view of guidelines already given. Therefore rejoinder application filed by consumer required to be entertained by this Forum and on dated 15.06.2016 this application is filed through representative Shri. Suraj Chakraborty representative for M/s. Ulka Seafoods. After filing said rejoinder application notice was issued to the respondent utility and case was fixed on 13.07.2016.
3. In view of the service of the notice respondent utility neither appears nor file any reply. Therefore the consumer complaint was heard through representative on dated 13.07.2016 .Consumer place copy of judgment of MERC in Case 42/2015 and rejoinder application revealed necessary order in

this pending matter required to be pass. Hence proceeding to pass following order.

ORDER

1. The consumer Complaint No. 551 /2015 is partly allowed.
2. The respondent utility hereby directed to settle the claim of the complainant charging industrial tariff from the date of inspection and due recovered as per the guideline and direction of MERC in case No. 42/2016 order dated 13.05.2015. Hence Consumer complaint No. 551/2014 stands dispose of accordingly.
3. No order as to the cost.

Both the parties be informed accordingly.

Proceeding closed.

Compliance should be reported within 45 days.

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.

**DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP**

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

**Shri. Ravindra S. Avhad
MEMBER SECRETARY
CGRF, BHANDUP**