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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. 85/2016

Hearing Dt. 20/09/2016

**In the matter of claiming refund against the respondent utility of difference
from commercial tariff to residential tariff**

Mr. Dhondu J. Surve

- **Applicant**

Vs.

M.S.E.D.C.L. Palm Beach Sub Division, Vashi

- **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.

B - On behalf of Appellant

- 1) Shri. D.J.Surve - Consumer

C - On behalf of Respondent

- 1) Shri. Chate, Add. Executive Engineer, Palm beach Sub Division.

Consumer No. 000488029690

Above named consumer filed this grievance against the respondent utility alleging that difference of adjustment of amount excess recovered by utility charging commercial tariff to his residential premises instead of residential since April 2008. above said consumer initially approach to IGRC Cell and raised dispute that since year 2008 respondent utility applied wrong tariff category to the premises used by the consumer for residential purpose. This fact is came in the knowledge of consumer in the year 2012. The details of this consumer having residential address Flat No. 33 Navdault Bldg, Plot No.11, sector - 30 Sanpada, Navi Mumbai. The date

of connection is 27.02.1996 Connecting load 0.50KW tariff category applied 90 LT I residential single phase. The consumer is working in the MSEDCL& he retired after 40 year of service as an Administrative Officer. He came in the knowledge of application of wrong tariff of the respondent utility in September 2012 as the respondent utility is charging the tariff as per Index No. 6 and claiming the bill. According to the consumer no commercial activities ever run or machinery installed in his residential premises since 1995. From the year 1996 to 2008 he was paying regular bill as per residential tariff since June 2008 to Sept 2012 according to consumer there was no commercial activity .The respondent utility charge as a commercial tariff and recovered the bill. Respondent utility committed mistake in applying wrong tariff since 2008. Thereafter consumer approach on 02.04.2013 to RTI requires some information document installation and checking report in the month 2008. He filed grievance before president & Secretary of RTI authority consumer submitted that the RTI authority entertain his dispute and after making inquiry in court penalty of Rs. 10,000/- against the respondent utility liable to be paid to the consumer. Thereafter consumer approach to IGRC Cell along with all previous document complaint filed before RTI authority and bill dated 22.08.2016. Consumer also filed copy of inspection report dated 04.09.2012 and other correspondence include legal opinion and previous bill. IGRC entertain dispute on complaint bearing IGRC Case No. 83/2016-17 and on dated 16.06.2016 opportunity of hearing was given to the consumer and his representative and respondent utility authority. On dated 16.08.2016 IGRC decided the said dispute on relied report filed by utility giving direction to circle office to take suitable action. But the relief of refund claim by the consumer between the period June 2008 to September 2012 was order to be dismiss by IGRC. Being aggrieved by the order of IGRC this Consumer approach to the Forum and filed dispute that he entitled to claim refund difference of tariff excess amount recovered by charging commercial instead of residential tariff from the period June 2008 to September 2012 and also entitled to claim interest on the said amount. After filing the said dispute before this Forum notice was send to

the respondent utility. After service of notice respondent utility appeared and filed reply dated 22.08.2016. It is contention of respondent utility giving name and description of residence and details of consumer not disputed by utility the date of releasing supply 27.02.1996. According to utility the CPL copy available from June 2008 showing the connection is charge in commercial tariff and B 31 registered page copy is enclosed along with Annexure 'I' utility submitted that since 30.06.2008 to September 2012 consumer regularly paid and deposited bill monthly without raising any dispute. On dated 03.09.2012 consumer filed application in writing in 03.09.2012 disclosing to change of tariff which is received by the office of Vashi subdivision who check the premises then the report was submitted to change the tariff from commercial to residential and there in the month September 2012. The effect of change commercial to residential applied to the consumer copy Annexure - 3 enclosed. Respondent utility submitted that consumer apply under RTI and demanded copy of spot inspection and verification report in June 2008 but the said copy does not available in the office report to that effect submitted by the office before competent authority. Respondent utility submitted that as per legal opinion obtained change of tariff difference claim from June 2008 to September 2012 already paid by consumer without raising any dispute and effective steps already taken for change of tariff on representation made by consumer effect was given. Now in this present case subsequent action was consumer to claim the amount difference of tariff of retrospective effect cannot be entertain. Therefore consumer taking disadvantage of his own wrong no amount is payable to the consumer. Hence consumer complaint liable to be dismiss with cast.

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

- 1] Whether consumer is entitled to claim difference of tariff retrospective period from June 2008 to September 2012
- 2] Whether respondent utility entitled for any relief.
- 3) What ordered?

Reasons

I have perused consumer grievance raised earlier before RTI authority and also before IGRC Cell. I have perused all documents relevant to dispute. I have also gone through order and representative made by consumer before other competent authority.

In brief the dispute raised by the consumer considered by this forum prayer of refund of difference of arrears alleged excessively claim by respondent utility changing commercial tariff instead of industrial. Following point observed by this forum which undisputed point his residential address consumer number and date of connection mention by the consumer date of connection 27.02.1996 .Record indicate on said the connection obtained under category 90 LT I residence sanction load 0.40KW connecting load - 0.50KW. According to consumer they said premises are used for residential purpose in between period April 2008 to June 2008. The respondent utility decided to charges the category of tariff as commercial Consumer inform that on 03.09.2012 neighboring Flat no. 36 own by Mr. B.S Ardhapurkar was given on rent which is used for the purpose of office. The inspection report of that premises was prepared wrongly and instead of charging commercial tariff to the neighboring premises the respondent utility started charging commercial tariff to the premises of this consumer .The fact was inform on 11.12.2012 to the office where as the representation made consumer was considered and direction to correction of tariff was issued to concern Executive Engineer for which documents available vide letter no 5340 dtd. 07.12.2012. The mistake committed by respondent utility repairing wrong inspection report was already verified by the authority and correction direction was given to the responsible officer.

It appears that consumer approach to RTI authority in appeal no KR 1553/2013 obtained interim order and also on 22.09.2014. The notice was given to the respondent utility and matter was finally decided on 03.011.2014. The respondent

utility directed to pay amount of Rs, 10,000/- towards compensation payable to the consumer copy of the said order perused filed on record.

This consumer approach to IRGC cell in 16.6.2016 and raised the dispute of claiming difference of excess recovery charges recovered by utility charging wrong tariff commercial instead of residential no details calculation supply for the forum IGRC pass order and rejected that claim placing reliance on legal opinion .The question arose before this Forum whether consumer can raised the dispute of claiming recovery of retrospective effect tariff difference from April 2008 to September 2012 in the year 2016. Whether consumer complaint is within the period of 2 years limitation. Whether consumer is entitled for any refund liable to be paid by respondent utility. I have given anxious consideration to the point the fact brought to the notice to this forum are argue. As per the report dated 04.09.2012 installation and checking report submitted before this Forum in observation the remark column mention in reading for 7467 on 04.09.2012 and remark residential use given advise to change the tariff commercial to residential given thereafter this consumer chooses to filed the complaint on 08.08.2016. He approach to the IGRC in month of June 2016 and claim the difference of amount wrongly applied tariff commercial instated of residential. The provision of Ombudsman regulation 2006 the period of limitation prescribes 2 year from the date of cause of action. The consumer must file complaint before IGRC or before this Forum. Here in this case consumer appeared before IGRC Cell in this case on 16.06.2016 it is beyond the period of 2 years the cause of action arose to the consumer according to own admission on the document. He approaches to the authority on 03.09.2012.

It is surprising to note that person is serving in the same department ignore the procedure laid down either before IGRC or filing complaint before the proper Forum. Here in this case complainant chooses to apply for RTI authority appellate and succeeded in obtaining order for contravention of lack of information but not filed

proper Forum any litigation of complaint action taken by respondent utility was wrong. I am bound by the provision this forum cannot take cognizance on the consumer complaint which is not filed within the period of 2 year. The attempt made by consumer arguing he already approach to the authority and filed litigation though he succeeded for claiming compensation. According to consumer his complaint was not resolved this forum litigation cannot give any right at wheel of the consumer entitled him to raise the dispute without affecting file required and as per rules. This consumer complaint filed initially before IGRC Itself beyond period of 2 year limitation as per regulation MERC (CGRF & EO) Regulations 2006 there in Regulation 6.6 which reads as

“The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.” applicable to this forum no claim of refund can be considered for this Forum for want of limitation as consumer not filed dispute within 2 years from the date of cause of action arose to him admittedly on dated 03.09.2012.

Lastly it is found from the record that no retrospective claim can be allowed to recovered the charges from retrospective period of the date of inspection and therefore attempt made by consumer to claim the difference from April 2008 to June 2012 is beyond the period which is not in limitation and therefore I am constrain to hold that consumer not entitled for any relief. Hence I proceed to pass following order.

ORDER

1. The consumer compliant No.85/2016 is stands dismiss.

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

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

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