

(A Govt. of Maharashtra Undertaking)

CIN : U40109MH2005SGC153645

PHONE NO. : 25664314/25664316

FAX NO. 26470953

Email: cgrfbhandupz@mahadiscom.in

Website: www.mahadiscom.in

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. 63/2016

Hearing Dt. 24.08.2016

In the matter of refund of excess bill paid by consumer since year 2009 under the category of commercial tariff

M/s. B.P. Marine Academy

-

Applicant

Vs.

M.S.E.D.C.L. CBD, 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. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri. Suraj Chakraborty Consumer

C - On behalf of Respondent

- 1) Shri. Chate Add. Executive Engineer

Consumer No.000316811906 sanction load 140KW CL140KW

1. Above named consumer obtained this connection service for the premises occupied by the consumer under Name M/s. B.P.Marine Academy ,Sai Pooja Chambers, Plot No. 58,Sect.-11,CBD,Belapur,date of connection 29.01.2009. It is contention of consumer that the premise is occupied and use for Government recognized Educational Institution affiliated to university of Mumbai having registrations and permissions from Central Government and State government. According to

consumer date of connection is in 1987. Consumer requested respondent utility to charge concessional tariff i.e. public service the tariff category on dated 18.09.2000. Executive engineer of respondent utility not taken any action on the letter. In spite of request made to respondent utility to make correction in the tariff for the period August 2012 to June 2014. Consumer requested to refund excess amount deposited to respondent utility charge as commercial tariff from year 2000. Consumers send several letter of correction of tariff as public services but the tariff was not corrected within stipulated time. Consumer also requested to withdraw the electricity duty and other charges to respondent utility but no action is taken. Lastly, consumer made the request letter regarding refund of duty on dated 18.04.2015 which is levied to the consumer and claim refund with interest of 21%. On the ground used to educational institution and electricity duty is not applicable as per commercial tariff. Consumers also pray for refund 12% interest under section 56(2) E.A. 2003. Initially, the consumer filed complaint before IGRC cell in Schedule 'X' on dated 17.05.2016. IGRC cell pass order on the representation of consumer on dated 20.06.2016 stating that as per regulation No. 6.6 of regulation CGRF (Electricity Regulation Ombudsman Regulation 2006) shall not admittedly grievance unless it is within the period of 2 year on the date cause of action arise. IGRC rejected the prayer of consumer for refund of due charges has it is time barred and application is decided against the consumer. Being dissatisfied of the order of IGRC consumer filed his complaint in schedule 'A' in dated 12.06.2016 pray refund of excess amount duty along with 21% interest form year 2009. Consumers attach copy of correspondence letter made by him to the respondent utility. The Forum registered this complaint No.63/2016 and issued notice to the respondent utility. After service of notice respondent utility appeared and filed reply Para wise on 25/7/2016. It is contention of respondent utility that the consumer raised the dispute having supply to the premises claiming difference of refund public service tariff since 19.01.2009. On the ground the premises is used for educational institute appleted to university of Mumbai along with interest of 21 %. It is contention of respondent utility under Mumbai electricity duty rule 1962 u/s 16 & 17 .Consumer has to submit application along with all necessary document to electricity distribution company and after verification of the document

it consumer is eligible then Electricity distribution company has to submit application along with required document before Electricity inspector having concern jurisdiction . Consumer has demanded refund of difference of public tariff service since date of connection 01.01.2009 as per order of MERC dated 16.08.2012 LT X public service category made applicable from effect date 01.08.2012. According to utility the difference of tariff beyond 01.08.2012 cannot be granted beyond period of limitation. It is contention of respondent utility as per joint inspection report Assistant Engineer Belapur sanction on date 01.01.2015 on reliance of joint inspection report dated 24.02.2015 and has already adjusted difference of amount of tariff amount of Rs. 1860000.75/- for the period August 2012 to May 2014 (22 months) in the month of August 2015. Respondent utility submitted that as per rule refund of public service tariff difference beyond 01.05.2012 prayed cannot be allowed. Hence consumer complaint deserves to be dismissed with cost. It is also felt that consumer required to submit application along with all relevant document and certificate of exemption issued by competent authority. Respondent utility filed copy of letter issued of Superintending Engineer direction as per Commercial Circular No.175 dated 5.09.2012 & letter dated 21.06.2014 is attach for perusal. Respondent utility filed copy of firm quotation demand notice dated 28.08.2008, submitted by consumer at appropriate time. I have perusal document filed by consumer correspondence letter, circulars and bill.

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

1] Whether consumer is entitled for refund of excess difference of tariff amount deposited under the category of public service from date of connection 01.01.2009?.

2] Whether respondent utility entitled to give the effect of change of tariff since date?.

3) What ordered?

Reasons

On dated 16.7.2016 and other various date forum gave opportunity to the consumer and his representative appeared before this Forum. Authorized officer of respondent utility also appeared before the Forum It is found that consumer filed application for extension of load supply form 140KW to 184KW, must subsequent to the date of installation of service connection. Application submitted by the consumer according to respondent utility was not in proper format. Consumer obtained necessary certificate and claim exemption of tariff under the head of educational institute .Admittedly, the said category introduce by respondent utility authority, MERC giving effect from 01.08.2012. It is necessary to mention that consumer also required to file proper certificate for exemption issued by competent authority for claiming the said application of change tariff category. The letter given to Dy. Executive Engineer sub division dated 28.08.2008 filed on record revealed that joint inspection report to be carried out within 3 days and extension of load applied on 140KW for Educational Charitable Institute required feasibility report. Accordingly it is contention of respondent utility joint contention was made and found on the date of joint inspection the wrong tariff was applicable earlier. Therefore consumer was directed to submit the fresh application. It appears that consumer is not followed proper procedure of application of change of tariff. However, the dispute raised by consumer application filed as first earlier stage by consumer at the time of claiming additional load supply extension upto 148KW at that time no application for change of tariff in proper format received. Being this satisfied with the action of respondent utility when consumer was issued change of tariff made applicable by respondent utility as per reply the effect was given form 01.08.2012. The commercial Circular 175 guide line issued as per direction of MERC the public service category was introduce for claiming exemption under the educational institute.

The claim of consumer claiming refund from date of connection 20.01.209 was already rejected by order of IGRC.

The order of IGRC which was challenge before this Forum on the ground of limitation as per regulation No. 6.6 consumer required to raised the dispute within two year from the date of cause of action. IGRC held the claiming exemption relief therefore

with effect from 20.01.2009 was beyond period of limitation was entire complaint of the consumer was rejected. In fact the law of limitation required was not applicable to IGRC cell as it is not the part of Forum. Therefore rejection on the ground of relief of 6.6 rule and entire complaint was rejected by IGRC seems to be illegal and improper.

It is brought to the notice of this Forum the consumer applied for service connection in the year 2008& on date 28.08.2008 fill up the firm quotation and demand notice at that time the category of public education institution category was not excluded in the congenial tariff category. However by subsequent order of IGRC the category was introduced as per MERC order on dated 16.08.2012. Thereafter the competent authority having power issued commercial circular no 175 dated 05.09.2012 which description of the circular are as given below 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.”

MERC (CGRF and E.O.) Regulations 2006 there in Regulation 2(e) under the title of definition “Forum” means the forum for Redressal of grievances of “consumers” required to be established by Distribution Licensees pursuant to subsection (5) of Section 42 of the Act and these Regulations.

Electricity Act 2003 there in Section 2 Sub section 15 that “Consumer” means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;

Admittedly the effect giving public service introduction which this category with back effect dated 01.08.2012. The benefit was already given clear date mention in the said Circular and guideline of MERC. Therefore it is accepted from respondent utility authority that they cannot go beyond the direction and circular No 175 date

16.08.2016 effective date of giving benefit applicable only after completing all required formalities of making proper application in format attach with Certificate issued by competent authority to claim exemption by the consumer unit under the category of public service educational purpose. Therefore I found no illegality or contravention of circular is made for application of proper tariff to the consumer unit falls under this category. It is pertaining to note that in reply respondent utility submitted that from the date of joint inspection report. The effect of difference of amount changing tariff from education to commercial institute amounting Rs. 1860000.75/- is already given. However no details submitted by utility for calculation of difference of tariff including and excluding the other charges. Therefore for the seek of benefit of the consumer respondent utility is directed to verified the assessment of the bill. Bill effect of change of tariff form commercial to public purpose educational institute to the consumer unit form actual effective dated 01.08.2012 should be assess with the help of computer generated system. If any additional amount is detected it should be refunded in next billing cycle appropriately without charging any other charges. However claim of the consumer granting refund form effect 01.01.2009 cannot substance any reason to grant relief or the reason no provision was in existence or regulation brought to the notice to this Forum prior to date 01.08.2012 therefore the prayer of consumer to grant refund from 01.01.2009 stands rejected. Considering all the awarement made before this Forum. I am inclined to give only respondent utility to verify and re-access the bill generated to the consumer form 01.08.2012 to June 2014 charging appropriate tariff rest of tariff made by the consumer stands dismiss. As per Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation, 2006 Clause No 4 and Clause No 8.4 which read as " Every order made by the Forum shall be a reasoned order either in Marathi or English and signed by the members conducting Proceedings" & as per clause 4(c) " one member shall be a representative of a register voluntary consumer protection organization of the area, working preferable for at least five year' on matters concerning consumer grievance ". The member was on long live so delayed in Judgment. Hence order.

ORDER

1. The consumer compliant No.63/2016 is dismiss with cost.

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:

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**

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**