

**i(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/

Date

**Case No. 602**

Hearing Dt. 14/10/2015

**In the matter wrong recovery of tariff**

**M/s. Arpee Consultancy 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. Parakash Sardar – Consumer Representative

C - On behalf of Respondent

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

**ORDER (15/10/2015)**

1. Above name consumer compliance filed this compliant against respondent for wrong recovery of tariff difference between commercial and industrial for 33 months.
2. It is contention of consumer that he obtained electricity connection for respondent bearing consumer No. 79027430 for running control show room and work shop situated Plot No. D/406.TTC MIDC, Turbhe, Navi Mumbai. The

consumer obtain contract demand load 160 KVA sanctioned is load 168KW 50% of contract demand of 64 KW initially the tariff was applied to the consumer under tariff code 79-HT-D-17 respondent utility raised supplementary bill recovery applying commercial tariff 79HT-II-N from August 2012 to January 2015 for amounting Rs. 41,55,961.83/- and issued demand letter vide No. SE/VC/HTB/2107 dated 24.04.2015. along with demand bill of 3004151.48/- FAC 189959.47/- and electricity duty to 1065723.41 Penal charges 103892.53/- and bill was demanded Rs. 41,55,961.83/- payable by the consumer respondent utility also issued notice on 27/07/2015 was demand of arrears of difference bill under section 56(1) of Electrical 2003 and requested consumer to pay to supplementary bill for the said period and threaten for disconnection of supply if not paid within 15 day.

3. After receiving this case said notice consumer issued letter on 13/07/2015 informing respondent utility for raising the dispute for wrong recovery of supplementary bill applying commercial tariff. According to consumer the difference of commercial and industrial tariff as claim by the utility against consumer for 13 months is wrong. Accordingly above said consumer filed this dispute before IGRC in Schedule 'X' on 13.07.2015 consumer filed details of demand letter on bill and relayed on Regulation of provision of section 56(1). After filing the said dispute before IGRC notice was issued to the respondent utility. Respondent utility filed this reply along with spot inspection report, meter testing report and tariff order of 16.08.2012. After hearing IGRC pass order against the consumer and directed to pay the supplementary bill.
4. Being aggrieved by the said order of IGRC consumer approach to this Forum by filing the consumer compliant and raised dispute as per section 56 (1) respondent utility cannot demand difference of arrears between commercial and industrial tariff as applied for August 2012 to April 2015 for 13 month and prayed for direction for withdrawal of supplementary bill cash and set

assessment the order of IGRC. Respondent utility relied on document, meter testing report , visit report, CPL, bill issue on 24.02.2010 and tariff order of August 2012. According to utility consumer obtained supply for the said premises running Hendry car showroom and mechanical work shop since 12.04.2004 for the said connection consumer used supply for HT I industrial as per prevailing tariff order. According to utility HT II commercial tariff was introduce in June 2001 and since March 2009 consumer is using the said supply or show room consumer also applied for sub meter for providing supply for show room and approval was given for supply of sub meter on 20.11.2011 vide letter No. SE/VC/T-7232 in sub meter was installed on 30.12.2009. Thereafter the tariff was change HT II to HT I form January 2010 and on the sub meter the tariff unit was recorded by sub meter HT II.

5. As per MERC tariff order 16.08.2012 for Workshops, Petrol Pumps, Service stations including garages tyre retreading/Vulcanizing work category falls under HT II commercial tariff. Accordingly, the sub meter provided the recording of consumption has been permanently disconnected in January 2015 and entries premises were applicable as HT II commercial. This fact was inform to the consumer vide office letter No. SE/VC/T/HT/Vashi/1020 dated 24.02.2015 and supplementary bill for difference HT I to HT II amounting Rs. 41,55,962/- for the period August 12 to January 15. Accordingly after receiving the supplementary bill and notice applying commercial tariff consumer agree to pay supplementary bill installment and issued cheque for amount Rs. 3, 46,331/- as agree to pay total amount mention in supplementary bill was after issuing first cheque of Rs. Rs.3, 46,331/- date 06.07.2015 was dishonored on 13.07.2015 consumer submitted revised the letter and disputed the said supplementary bill. According to utility the difference of tariff as actual use of unit for the said purpose charge as commercial tariff as per MERC order the respondent utility can demand of

difference of for said period provision of section 56(2) E.A. limited for 2 years will not be applicable in this case in view of reported judgment of Audesh Kumar Pande 2007, M/s. Rototex Polyester and other's 2009 Supreme Court cases Bombay 1257 as issue of recovery more than 2 years refer to larger bench yet to adjudicate for the utility MERC Regulations No.13 (electricity supply code and on others condition of supply E.A. 2005) Distribution licensee can change tariff category for the said propose and the proper tariff since August 2010 is applicable to this consumer in view of this to prevent loss of revenue financial loss of between money objection raised by consumer required to be dismiss with cost. Consumer relayed on Commercial Circular 175/24.02.2015 application of tariff of commercial purpose on from 16.08.2010 for the category of supply obtain by consumer in this case.

6. After going through the revel contention of both the parties and document Circular place before me are minutely perused in brief dispute raised by the consumer raising objection for demand of supplementary bill issued by respondent utility demanding tariff dispute charges for the period August 2012 to January 2015 on perusal of earlier tariff which was applicable to the consumer for the period 2008 to 2010. Admittedly, there was sub meter installed as the request of consumer for assessment of consumption which is used for showroom and units bill was payable for the workshop industrial and consumption for show room was charge as commercial. According to utility the sub meter was permanently disconnected in January 2015 intimation for disconnection for given to the consumer as entire premises of the consumer tariff was applicable HT II commercial. This fact was conforms by order letter SE/VC/HTB/Vashi/ 1020 dtd. 24.02.2015. Therefore August 2012 to January 2015 till the sub meter is permanently disconnected the consumer was liable to pay bill as per tariff commercial Ht II utility therefore issued supplementary

bill to which earlier consumer was agree to pay the bill of 41,55,961.83 by 12 monthly installment and accordingly 12 Nos. post dated cheque was issued.

7. It is contention of utility after issuing first cheque dated 10.07.2015 for first installment Rs.3,46,331/- Which was dishonored as consumer notice was stop the payment. Accordingly the reasons of cheque was intimated to consumer. Thereafter revised letter was issued by consumer and be withdraw to consent and raised disconnection before IGRC according to utility was consumer they agree to pay the bill this withdrew all consent was difference action therefore consumer raised by dispute shall not be entertain by any Forum.
8. I heard the argument of Representative Shri. Prakash Sardar for the consumer. He also submitted return notes of argument and rejoinder giving reply to the argument of respondent utility. According to consumer Representative the notice and demand issued by utility claiming commercial tariff difference for the period for 13 months in aggrieved is illegal as valid period for demand of arrears cannot be exceed beyond 24 month. Accordingly, the notice issued by utility Section 56(2) E.A. and demand bill is illegally.
9. After giving proper consideration when consumer was aware before permanently disconnected sub meter which was installed for the purpose for assessment of unit to fix the liability for utilization of unit for the purpose of show room (other than work shop) requirement to be charge unit LT II commercial tariff. The consumer also aware change of tariff applicable as per MERC order since 16.08.2012. Accordingly bill supplementary recovery for tariff difference arrears cannot be said to be illegal.
10. To my view this liability of consumer to pay the user of unit for purpose show room and other purpose liable to be charge in the tariff category of LT II commercial. According to letter issued by SE/VC/dtd. 16.12.2008 directing to

correct levy the commercial tariff for consumption record on sub meter for the propose in the category HT II commercial tariff and required to be charge 7/- Rs. Per unit instead of that there is no sub meter is installed then aggregation of unit reply the recalculation calculated separately for assessment of tariff units charge as HT II commercial in this case admittedly the sub meter was installed in view of direction of The CE, Commercial as describe in above mention letter in January 2015 the sub meter was permanently disconnected due to change of tariff category change required to be charge entirely as commercial tariff.

11. So far as period of recovery as mention in the notice and demand of do not the bill which is objected by consumer. Respondent utility cannot claim arrears more than 24 months. According to utility the judgment which is referred by utility in reply Audesh Kumar Pande Vs Tata Power 2007 in Bombay Supreme Court cases 2009, Bombay 1257 Rotex Polyester. According to view in the said judgment recovery more than 24 month can be claim by utility in reply consumer relayed on APTEL judgment in Appeal No. 131/2013 and also MERC Case No. 24/2001 is referred. According to utility restrovarcy to recovery is which was not permissible as mention in the said judgment no earlier recovery can be allow.
12. As, I have perused both the cited place before me as resent judgment of Bombay High Court as referred. To my view no other opinion all view can be taken by any court is permissible alive utility to claim the arrears more than 24 month required by consumer to pay in cash here in this case the consumer is labile to pay the arrears of tariff category bill claim by utility entirely for the period August 2012 to January 2015 with due respect expressive view mention in judgment. I hereby allow consumer complaint partly and proceed to pass following order.

## ORDER

- 1) Consumer Compliant No. 602/2015 is partly allowed.
- 2) The consumer is directed to pay the difference of arrears of bill from the period of 24 months assess since January 2015 for earlier period of 24 months.
- 3) The utility not entitle to claim any interest of DPC remaining amount for the calculation of 6 month payable unit Rs. Which is payable after judgment of referred both larger bench till that consumer shall execute indemnity bond for liability to pay the remaining six month period and calculation amount in favor of utility.

No order as to cost.

Both the parties should be informed accordingly.

Proceedings disposed off.

Compliance should be reported within 30 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.

**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**