

(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. 596

Hearing Dt. 14/10/2015

In the matter of billing

M/s. Indian Express 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. Abhay Kargutkar – Consumer Representative

C - On behalf of Respondent

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

ORDER (26/10/2015)

1. Above named consumer has filed this complaint against the respondent utility.
2. Complaint in brief is that, the applicant consumer is using the supply from respondent vide Consumer No. 1409036730 Meter No. 05307827252. The consumer is running the unit at Plot No. EL/138, TTC, Mahape, Navi Mumbai. The consumer is using the supply (79HT II-N) for purpose of Office and industrial use since the date of connection. The consumer is one of the

renowned newspaper company, reporting current new investigation journalism and is known for its high standards of journalistic ethics since 80 years. The plot of consumer EL- 138 situated in industrial area Mahape, Navi Mumbai where the consumer is carrying on pre-printing activity only. At the said premise, there are 71 employee and 31 factory staff. Actual printing press activity is carried on at different plot EL-208.

3. According to consumer pre- printing activity carried on is classified in to marketing department (where the agency is receiving the advertising material, so also auditing and billing for advertisement, and other work like composing, scanning, page making is carried on). Information Technology unit is also situated there. In as such the consumer utilizing the said consumption for pre-press activity.
4. On 26.08.2010 consumer issued letter to respondent requesting for supply of electricity for news paper (daily printing and publishing) on the terms and conditions and use of supply of industrial purpose. However after receiving letter along with notice and demand bill, the consumer was surprised with the act of respondent utility. It is stated that Vashi flying squad unit visited premises and observed irregularities of supply.
5. It is contention of respondent utility that according to commercial circular, the supply for commercial purpose is applicable in this case, thus it issued the bill as per commercial tariff for the period from January 2011 to November 2014 and demanded tariff arrears for the said period amounting to Rs. 54,10,314/-, which were required to be paid within 30 days.
6. After receiving the said notice and demand bill of arrears from January 2011 to November 2014, the consumer approached Internal grievance Cell and filed an application dated 18.02.2015; to which respondent utility filed there say.

7. After giving opportunity to both the sides, IGRC decided the dispute and passed the order.
8. The consumer is charged for contravention and under 126 (1) (IV) for unauthorized use of electricity reported in inspection.
9. Being aggrieved by the order of IGRC in case 2/2015-16 dated 11.05.2015 (it is observed by IGRC, Vashi Circle in the order that there is no industrial activity in premise and application of commercial tariff is correct and consumer is liable to pay the tariff difference with arrears as claimed by the utility and liable to pay the bill, along with the supplementary bill in installment along with current bill), the consumer approached this Forum.
10. The consumer has filed a copy of IGRC order dated 11.05.2015 in case NO. 2/2015-16 letter issued by SE/VS/T/dtd. 26.08.2015, receipt, scan copy of order dated 12.10.2010, inspection report dated 19.06.2014 along with letter of Superintending Engineer dated 22.09.2014, demand of tariff difference of arrears and supplementary bill, joint spot inspection report 24.09.2015, letter of CE dated 05.09.2014 regarding charge of tariff assessment no. 126 (1).

We have perused the documents filed by consumer in this case in detail.

11. Notice was issued to respondent utility on 27.07.2015. Utility submitted its reply through Nodal Officer of Shri. Sandeep S. Patil on 05.08.2015. It is contention of utility that the connection released to consumer for the premises located at Plot No. 138, MIDC, Mahape on 24.12.2010. At that time agreement was signed by consumer on 07.12.2010 mentioned that the connection was for the purpose of news paper printing. On 19.06.2014 flying squad visited premises along with Authorized Officer and inspection was done in present of Mr. Abhay Kargutkar representative of consumer, Executive

Engineer Vashi and Administrative Officer also visited the premises and confirmed that the activities carried on the at the place are not related to printing. Machinery and other installation units for printing are situated on other plot. It is mentioned in the inspection report. It is confirmed that consumer is using electricity for other purpose other than for which it was sanctioned/agreed, i.e. for industrial activities.

12. Therefore as per inspection report, the said premises is liable to be charged as commercial tariff and therefore the consumer is liable to pay the difference between commercial tariff and industrial tariff. The change of tariff as per the circular and notification issued by tariff order and rate was applicable during the period was calculated intimation of change of tariff duly complied by SE vide letter no PR3 tariff date 19.11.2014 copy of Joint inspection report supply to the consumer activities undertaken by consumer on first floor and second floor was asses inventory list and observation report pre-printing in accordingly as not printing machinery installed in the premises of Plot No.EL-138 and actual printing activity are not being carried out in view of the said report assessment of supplementary bill as per use of supply being separately assets and application of change of tariff rate calculate from January 2011 to November 2014 was assets and supplementary bill was issued to the consumer. It is contention of respondent utility the consumer is liable to same pay the difference of change of tariff from same point of supply which was undertaken to prevent loss of revenue in view of order office change of tariff issued by authority during the year proper connection tariff HT II commercial was applicable to the consumer. Therefore he is liable to pay the difference of arrears of bill as claim by utility. Respondent utility filed that tariff order assessment of bill notice correspondence letter issued by SE, Vashi to consumer time to time.

13. Thereafter consumer and his Representative and nodal Officer remained present before the Forum on all following dates. After perusing dispute of the consumer and replied of respondent utility following point arose for consideration which as are follows.

1) Whether consumer is liable to pay as per commercial rate which was changed from January 2011 to November 2014.

2) Whether consumer is liable to pay the arrears of tariff difference for 21 months period.

15) In brief the dispute of the consumer is created on the ground that since the date of connection (24/12/2010) the supply was obtained for both the premises situated at Mahape industrial area as per agreement. The supply was obtained under industrial category. The consumer filed copy of agreement entered into with utility on 06.09.2010 for obtaining the supply to Plot No.EL-138. The agreement and earlier sanction order mention the supply under industrial category. Since then the said connection is used by consumer till the date of inspection (which is admittedly carried out by flying squad on 19/06/2014). The record indicates that the joint inspection was also carried out on 24.09.2015. Both the inspection reports revealed that no industrial activities were carried out on the said premises. But the supply is used for the purpose other than that of industrial. Therefore tariff difference was claimed for the period from January 2011 to November 2014 and supplementary bill was issued on 23.01.2015, demanding arrears of Rs. 54,10, 314/-.

16) During the course of hearing this Forum considered the actual business carried out by the consumer on the premises where as the dispute is in respect of plot No. EL-138, premises situated there in. During the joint inspection report it is revealed that the commercial activities are carried on at plot No. EL-138 in building on the first floor which consists of computers,

scanning machinery, conference room, two sections for advertisements, where there was mainly collection of new data received from Reporters and composing of news and editorial page making, and this data was then sent to another unit situated on plot No. EL-208.

- 17) It is pertinent to note that there is no dispute between consumer and utility about supply given to plot No. EL-208. The dispute is only for the supply to Plot No. EL- 138 permissibly on the first floor Plot No. EL- 138. It is noticed that the activities carried out by the consumer can be termed as pre-press activities. According to the Forum this forms a part of industry. Therefore consumption used for the first floor shall be required to be calculated as per industrial tariff rates.
- 18) Contention of utility is that the bifurcation of units is not possible as supply form single supply unit meter used in the said premises. Therefore recording of separate units is not possible.
- 19) During the course of hearing we have enquired with the utility whether separate connection in unit is possible instead of charging entire unit under commercial tariff, whether some percentage of units can be bifurcated, whether it can be calculated partly as industrial and remaining as commercial using submitted data for determination.
- 20) It is observed that supply for second floor was mainly for cabin of Chairman, Receptionist counter, lunch room, staircase, lift and other purpose. The supply here certainly does not fall within the category of industrial supply.
- 21) Therefore consumption of these units recorded should be charged as per commercial tariff. During discussion we found that the consumer was requested to obtain validation certificate from the competent Authority to

- do separate calculation of consumption of units to the first floor, or else consumer shall apply for sub meter for the supply of consumption to the first floor thus enabling utility to calculate units as per industrial tariff separately and remaining unit used for the premises to be charged as per commercial tariff only.
- 22) In this dispute, giving instruction to utility for calculation of arrears with due to difference and difference arrears are payable either from the date of inspection or earlier of billing cycle for period of 3 months. But in some proper cases arrears of difference period shall not be calculated more than 24 months in view of entitlement of utility claim arrears period under section 56(2) E.A. 2003.
- 23) Therefore we hold that it will be proper to give directions to utility that for the purpose of assessment , 75% units should be charged as per commercial rate and 25% units shall be calculated as per industrial rate Average unit consumption should be assessed separately for the supply of first floor and the second floor.
- 24) In the mean while consumer shall obtain validation certificate to claim industrial tariff for the assessment of supply given to first floor and further direction to apply for sub meter.
- 25) The utility is ordered to calculate the units for the first floor which should be charged as per industrial tariff and remaining 75% units recorded for the period 24 months earlier from the date of inspection shall be calculated and assessed as per commercial tariff. We relied on the circular and to prevent loss of revenue and recovery payable to utility should not be adversely affected. In the interest of fair and proper justice, we allow the complaint partly and proceed to pass following order.

ORDER

- 1) Consumer Complaint No. 596/2015 is partly allowed.
- 2) The consumer shall pay difference of arrears of 75% of the recorded units for the period of 24 months as per commercial rate 75% from the date of inspection (19.06.2014).
- 3) The consumer shall pay the tariff difference for 25% of recorded units as per industrial tariff rates.
- 4) The consumer shall obtain validation certificate for calculation of separate units for the supply of first floor of the premises.
- 5) The consumer shall apply for sub meter enabling to assess separate units as per industrial supply to the first floor.
- 6) The consumer shall not be charged any interest and penalty on the tariff arrears.
- 7) The consumer shall pay the arrears of bill in six equal monthly installments along with current bill.

No order as to cost.

Both the parties should be informed accordingly.

Proceedings closed.

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**