

(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. 608

Hearing Dt. 28.10.2015

In the matter change of tariff category

M/s. Spics Island Pvt. Ltd. , - **Applicant**

Vs.

M.S.E.D.C.L. Pannalal 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. Parakash Sardar – Consumer Representative

C - On behalf of Respondent

- 1) Shri. Borikar, Addl. Executive Engineer, Pannalal Sub Division.

ORDER (21.11.2015)

1. Above named consumer is engaged in the business of production of garments carrying on its business at Gala No 43 & 48 in Pannalal Industrial Establishment of Bhandup, having electricity supply of the respondent utility since 01.01.1987 vide consumer No. 100000351649.

2. The consumer is using the supply since 01.01.1987. The billing dispute raised by consumer at the instance of MERC order dated 20.06.2008 directing segregation of the Office load and industrial load where there is mixed load of "Industrial and Office". Units used for the office load should be charged as commercial tariff.
3. Accordingly Chief Engineer vide letter CE/(Comm.)/PR3/tariff/43619 on 16.12.2008 issued instructions to field Engineers, directing to segregate office load and charge it as per commercial tariff. The copy of the said letter as per circular No. 175 dated 16.12.2008 is enclosed as **Annexure 'A'**. Accordingly Dy. Executive Engineer, Pannalal sdn, Bhandup installed sub-meter on 01.04.2011. The load of Gala No. 3045, 3047 which constitutes the office and Gala No. 3045 and 3046 constitutes industrial unit. In the month of April 2011 the load of this gala was recorded on sub-meter installed by respondent utility and the same was billed as per commercial tariff up to 2012. The consumption recorded on sub-meter from April 2011 to August 2012 was unbilled. The consumer had informed about this non billing on 16/08/2011 to the Dy. Executive Engineer, Pannalal sdn, Bhandup. Copy the said letter dated 16.8.2011 is annexed hereto as Annexure 'B'.
4. The decision of MERC directing segregation of consumption from Industrial and Commercial and charging accordingly was strongly objected by industrial consumer and dispute was filed before MERC case No. 19/2012 which was decided by MERC on 16.08.2012. Thereafter Commercial Circular No. 175 was issued on 05.09.2012.
5. It is mentioned in the said circular that the effect was applicable from 01.08.2012. According to Commercial Circular the tariff is applicable to

power supply for administrative office under the head of LTV and for industry, the applicability of LT industrial tariff was made applicable.

6. However in the case of the present consumer, Gala No. 43 to 48 situated on 3rd floor of premises and power supply is from the same point since the date of connection (since 1987). In this circumstance the consumption recorded in sub- meter was taken as commercial and charged as per Commercial Circular 175. The action was taken by Addl. Executive Engineer and on 27/11/2014 supplementary bill was issued to the consumer. An action for recovery of tariff difference of commercial to industrial tariff from period September 2012 to October 2014 amounting Rs. 85,580/- was initiated.
7. The said bill was challenged by the consumer by making correspondence with the respondent utility. The consumer issued letter and raised dispute against action taken by Dy. Executive, Pannalal sub division.
8. According to consumer claiming of supplementary bill form September 2012 to October 2014 was highly objectionable. It is contention of consumer that this is violation of direction mentioned in circular.
9. It is also contention of consumer that there is separate class of power supply used for the two different purposes. This has been brought to the knowledge of Dy. Executive, Pannalal sub division and therefore action taken by Dy. Executive, Pannalal sub division is bad in law.
10. It is prayed by consumer that claiming of supplementary bill alleging the supply of power from single point connection is violation of MERC order and therefore demand bill and disconnection notice are liable to be quashed and be set aside.

11. After filing the said dispute before IGRC in case No. 70/2015 the hearing was conducted on 25.03.2015 and 25.08.2015. IGRC passed the order justifying issuing of supplementary bill by segregation of units actual recorded on meter and difference of arrears from August 2012 to November 2014 which was calculated as per commercial tariff (as per Circular No. 175/5.09.2012)
12. The consumer received the notice of disconnection and demand of supplementary bill calming amount Rs. 85,580/-. Thereafter, on 27.11.2014 consumer requested respondent utility to give the details and bifurcation of the units of consumption. He also requested to charge him separately as commercial and industrial purpose (provided on single power supply, and not the sub meter No 1588211.) The energy bill was issued by the utility amounting Rs. 32,194.99/-. This was charged as per commercial tariff for the said period. Thereafter respondent utility removed the sub meter from the premises. For the period from 20.11.2012 to 17.09.2012 the meter recorded 2213 & 25940 units. Difference of 23727 units along with E.D.+E.C. charge as per commercial tariff was thus demanded.
13. After deduction of amount received towards energy bill as per industrial tariff was deducted and payable amount Rs. 85,573.90/- was charged against the consumer for the period September 2012 to November 2014. Not satisfied with the reply, consumer approached IGRC.
14. IGRC gave direction to respondent utility to segregate the units as per Commercial Circular No. 175 dt. 05.09.2012 and on production of documents of ownership, the consumer should be charged as LT industrial category as per guideline Commercial Circular No. 175.

15. The consumer being unsatisfied with order of IGRC approach to this Forum and filed his grievance against the order. He prayed that issuing of supplementary bill for the period September 2012 to November 2014 and charging as per commercial rate is in contravention of circular and direction given by CE. Therefore respondent utility be restrained from demanding the supplementary bill of Rs. 85,573/- and required the IGRC order to be quashed and set aside.
16. After filing the said dispute on 09.03.2015, notice was issued to respondent utility. After service of notice respondent utility appeared and filed para wise reply and raised strong objection. Respondent utility submitted that consumer obtained supply for Gala 43 to 48 situated on given address. Initially load sanctioned was 60HP. As per spot inspection report dated 21.02.2015 it was observed that all Galas were separate and the power supply is used for two different purposes. There is commercial and industrial purpose as per inspection carried out by Dy. Executive engineer, Pannalal Sub Division, Pannalal. Electricity bill was charged as per commercial circular. In gala No. 3045 & 3046 there is store and office, where separate there is installation of the sub meter.
17. The consumer was aware of this fact and he paid regularly the electricity bill as per commercial tariff till August 2012. Since August 2012 the consumer paid the bill only as per Industrial tariff for the enter premises, though the supply is used for two different purposes taking advantage of refund of sub-- meter by respondent utility as per direction of circular CE (Commercial) issued; instead of making payment as per commercial tariff.

18. The consumer gave letter to respondent utility, praying that circular dated 06.07.2013 should be ignored. On 04.03.2015 sub meter no 5488211 was removed from the site.
19. As per letter dated 20.03.2015 office request consumer to file necessary documents to show ownership of gala. It also directed the consumer to file necessary certificates from proper authority to charge as industrial purpose. But consumer failed to submit documents/certificate.
20. Therefore supplementary bill was issued by the respondent utility after calculation of recorded unit on sub-meter and deducting charge which was already paid as per industrial tariff and the consumer was charged only as per tariff reflected as commercial.
21. But the consumer failed to deposit the supplementary bill. Therefore notice of disconnection No 201 was issued on 26.02.2015. The consumer is taking advantage of his own wrong. It is prayed by respondent utility that the consumer is liable to pay and deposit the amount claimed in supplementary bill as per consumption of units admittedly used for purpose other industrial in compliance of direction and guideline of circular of Addl. Executive Engineer. The consumers were also issued supplementary bill, which the consumer has prayed to quash and set aside.
22. The consumer filed copy of bill issued by utility on 10.04.2015 & 07,08,2015,08/7/2015,6/06/2015,08/07/2015,09/04/2015,09/03/2015,09 02/2015,09/12/2014,07/11/2015,
23. The consumer also filed circular no 175 dt. 05.09.2010 and various correspondences made with the responded utility. Respondent

utility submitted details of correspondence, sketch map, copy of notice under section 56, letter dated 27/04/2015 issued to consumer, reply filed and letter on 16.02.2015. I have perused the documents submitted by consumer and respondent utility. After perusal the rival claims of consumer and respondent utility following point arise for my consideration. I have recorded my findings with the reasons given below

- 1) Whether respondent utility is entitled to recover the difference of unit 23527 from September 2012 to October 2014 as per commercial tariff.
- 2) Whether supplementary bill and disconnection notice is illegal and liable to be quashed and set aside.
- 3) Whether consumer is entitled to any relief.

Reasons

24. We have given opportunity to consumer and Representative Shri. Praskash Sardar and have heard both of them.
25. Authorized Officer of utility appeared and submitted oral arguments on the issues raised before us. It appears from record that consumer initially applied for connection of the load in the year 1992 and entered into an agreement with respondent utility.
26. It appears from record that original supply was given to the premise which includes **43 and 48 and 45, 46, 47**. Since 06.08.1992 by sanction order /CE/EE/BND/16/2014 to 16/16 and load sanctioned was 3HP to each gala, total load sanctioned initially was 15HP. It appears that thereafter in the year 2000 consumer entered in to separate agreement and demanded increase in sanction load supply. As per reply of utility,

consumer used 60HP supply for said premises. According to utility in the month of April 2011 the electricity supply used for gala No 3045 and 3046, consisting of stores and other premises was charged as per commercial tariff. For that premises separate meter was installed and units recorded as per the said meter was charged as per commercial tariff. Because the electricity supply was not admittedly for industrial purpose and that the consumer had already taken benefit of calculation of units separately for industrial purpose as per Commercial Circular No. 175 on 05/09/2012 certain instructions and guidelines were issued. Therefore S.E. of that Zone decided to comply the circular and directions. In support of the said contention respondent utility relied on letter dated 16.12.2008. Thereafter consumer issued letter to respondent's Authorized Officer on 16.08.2011 and insisted for compliance of the circular and separation of commercial load from mixed load of industrial and commercial. The record revealed that as per guidelines issued in commercial circular on 06/07/2013 and instructions issued to all zones for HT N LT consumer was not followed properly. Direction about installation of sub-meter was provided in Commercial Circular No. 175/dt.05/09/2012. Accordingly the sub-meter of that premises was removed from the site on 04.03.2015. The consumer took disadvantage of removal of the sub-meter which had previously recorded units for purpose other than industry and therefore since then September 2012 to November 2014 for all the premises sanctioned connecting load units was recorded on single meter. Thereafter the inspection was carried out by respondent utility and entire units used by the consumer were charged as per industrial tariff.

27. It appears from the record and during the course of arguments that the consumer has taken advantage of the wrong committed by the

officer of respondent utility. Responsible officer of utility has followed the directions issued by CE in commercial letter dated 06/07/2013.

28. Due to lack of proper administration, the respondent utility suffered loss of revenue. After the inspection when the fact is revealed load the Respondent Authority prepared supplementary bill and charge the units of the period September 2012 to October 2014 **23527** value from amounting **8578** which continually disputed by this consumer .
29. During the course of argument the consumer by to insistence and prayed withdrawn of supplementary bill and restrain respondent utility form taking action from recovery of the amount and threat of disconnection.
30. It is alleged that the respondent utility not followed direction of Commercial Circular No. 175 date 09/05/2012 properly. The supplementary bill which was claim by the respondent utility is arrogance to verify the said contention. I have minutely gone through this spot inspection report dated 21.02.2015. The respondent utility submitted that the initially supply was sanction for Gala No. 43 & 44 only. The present consumer field of submit proper document to show that the premises to which power supply was given under the head of industrial purpose.
31. To support this contention of respondent utility submitted Sketch Map. It is observed for document total load was sanction 60HP when earlier sanction load was 15HP to my view the consumer of to have seen submit proper document and reason of usage of additional load demand by him time to time and actual use of the sanction load supply by him. In this case the consumer remain silent and not disclosed in fact the till date of inspection.

32. secondly, it is observed that letter issued by SE 06.07.2013 directing authority of utility to remove the separate meter and it is was resulted in meter of supply of sanction load to single point supply which is use for industrial purpose to my view when respondent utility was already aware that there was existence of separation of supply which is provided to 43 to 48 not being used only for industrial purpose and it is already on the record and it was used for commercial purpose. Therefore issuing of supplementary bill by respondent utility by changing the tariff as industrial and calculation of partly units as commercial in this case consumer himself initially applied by given by bifurcation of unit which is charge by industrial and commercial and it was inform to the consumer by issuing letter. accordingly the fact remaining on the record the consumer was where aware it is earlier paid the calculation of unit his premises as per commercial tariff which was already complied earlier by him. Therefore now consumer challenged the calculation of unit as per commercial tariff from September 2012 to 2014 which was already recorded and paid by consumer as per industrial tariff. The letter issued by respondent utility on 27.11.2014 gave details clarification of calculation of amount and already deducted the charges paid by consumer as per industrial tariff only with EC and ED. Therefore to my view liability of consumer to pay the difference of amount Rs. 85,573/- from the period sep 12 to Nov.14 cannot to said to the illegal.

33. It further arrears that the contention of respondent utility charging consumer the liability of authority use of power supply till today no action is taken through IGRC observed that in failure of production of documents benefit cannot be available by consumer in absence of certificate of competent authority. During the course of hearing before

this Forum, the Representative of consumer Shri Prakash Sardar submitted written notes of arguments and relied on certain citations. He has prayed that issuing of supplementary bill should be declared illegal and withdrawn of disconnection notice. On perusing all the contentions of consumer to my view the consumer should not be allowed to take benefit own wrong then admitted the consumer as already pay and deposited certain calculation of unit form this supply as per commercial tariff. There is no reason to satisfaction of any circumstances brought to my notice which could be entitled consume to discontinued the payment of calculation unit not as per commercial tariff and only as per industrial tariff. I also considered the difference of calculation of unit mention in supplementary bill with in the period of 24 months. Therefore reply filed by respondent utility appears to more reasonable and found as supply of load for Gala No 43/44 . their cutting, sticking and manufacturing work of garment actually conducted should be charge as industrial tariff only. In view of to direction mention in Commercial Circular 175 supply which is not use for industry as appeared in this case for Gala No 45 and 46 47 and 48 are used for godawn and office so far as no industrial work carried in the about said premises. Therefore consumer is legally down pay the calculation of unit used for supply to this premises as per commercial tariff. Therefore, I come to conclusion that for liability of payment of supplementary bill shifted properly on consumer there is no force in challenging legality of supplementary bill. I found the supplementary bill and legal notice issued by respondent utility is proper.

34. During the course of hearing we found that much time is lapsed and industry is still working. Therefore we are inclined to allow the consumer

to pay the supplementary bill amounting Rs. 85,553/- in six equal installments.

35. However the prayer made by consumer is not legal and proper. Hence it is liable to be rejected. No order of cost. Therefore we proceed to pass following order.

ORDER

- 1) Consumer Compliant No. 608/2015 stands dismissed.
- 2) No order as to cost.
- 3) However the consumer shall pay the arrears of supplementary bill amounting Rs. 85,580/- in six equal installments. No interest and penalty shall be recovered from consumer.

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**