

PHONE NO. : 25664314/25664316  
FAX NO. 26470953  
Email: [cgrfbhandupz@mahadiscom.in](mailto:cgrfbhandupz@mahadiscom.in)  
Website: [www.mahadiscom.in](http://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. 627

Hearing Dt. 05.01.2016

**In the matter of withdrawal of supplementary bill issued to the consumer charging commercial tariff difference recovery**

**M/s. Track Mail India Pvt Ltd., - Applicant**

(Now M/s. Iris Business Service)

**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. Archana Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri. H.B.Tripathi – Consumer Representative

C - On behalf of Respondent

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

**Order (passed dated 14.01.2016)**

1. Above named consumer filed this complaint against respondent utility. The disputed electricity connection was obtained by previous establishment M/s. Track Mail Pvt. Limited and now taken over by M/s. Iris Business Service; situated T- 231,Tower-02,3rd Floor, International Infotech Park, Vashi Railway Station Complex, Vashi. The

connection was given to previous consumer as HT consumer (No. 000489025220 connected load and sanction load is 183KW contract demand 160KVA), situated at Plambeach sub division, Nerul Division, Vashi Circle. Consumer has stated that he applied for change of name in the month of November 2012 vide letter dated 03.11.2012 addressed to Vashi Circle Office. In response, SE Vashi vide its letter, No.7298 dated 15.12.2012 asked for compliance. After some other correspondence, finally respondent utility informed the consumer on 21.02.2013 that they regret because the change of name could not be effected within stipulated time period specified in Regulation 2005 of SOP determined by MERC.

2. It is thus alleged by the consumer that the Respondent utility failed to carry out change of name within stipulated time.  
It alleged by the consumer that:-
  - a. Respondent utility failed to carry out change of name within stipulated time.
  - b. Respondent utility unilaterally changed the tariff from industrial to commercial from June 2014
  - c. Respondent utility illegally issued supplementary bill which is of Rs. 23.58 Lacs with retrospective effect from 24.09.2012.

The consumer therefore has prayed

- i. To quash and set aside supplementary bill claimed by respondent utility for the period September 2012 to May 2014
- ii. To give directions to respondent utility to collect the current bill
- iii. To impose penalty on the erring officer of the utility
- iv. To award compensation for causing inordinate delay in changing name
- v. To refund with interest the excess amount collected from June 2014 due to wrong application of commercial tariff instead of industrial tariff.

3. It is submitted by the consumer that as per direction of MERC in case No 24/2001 dated 11.02.2003 which reads as “No retrospective recovery of arrear can be allowed on the basis of any abrupt reclassification of a consumer even though the same might have been pointed out by the Auditor. Any reclassification must follow a definite process of natural justice and the recovery, if any, would be prospective only as the earlier classification was done with a distinct application of mind by the competent people. The same cannot be categorized as an escaped billing in the strict sense of the term to be recovered retrospectively”.
4. It can be concluded from the MERC order (F:\adn\COMMISSION ORDER\Order-MIDC Murbad.doc Page 8 of 8) that the permission will have to be sought as any reclassification of consumers directly affects the Revenue collection etc. as projected in its Tariff Order. The same could be done either at the time of the tariff revision or through a special petition by the utility or through a petition filed by the affected consumer.
5. In all these cases, recovery if any; would be prospective from the date of order or when the matter was raised either by the utility or consumer, but it cannot have retrospective.”
6. As per various decision of APTEL judgment Appeal No. 131/2013 and Electricity Ombudsman Mumbai in case 124,125,126/2013 order dated 23/12/2014 retrospective recovery charges by respondent utility MSEDCL company related and directed to refunded amount and shown in adjustment of bill. In spite of all this judgment the bill issued by respondent utility charging recovery by MSEDCL Vashi Circle with retrospective effect dated 24.09.2012 to May 2014 amounting so and disobedience and direction of APTEL judgment . Therefore it is

contention of new consumer M/s. Iris Business Service Ltd. Who purchase the said premises along with all facility stipulated the in view of registered next date against and entitled for benefit which is already given to earlier establishment M/s. Track Mail Pvt. Ltd., as they have certified of IT registration validity up to 23.08.2015 and same activity are taken in the premises new after completing all necessary requirement all observation the formalities as the premises taken in the possession M/s. Iris Business Service Ltd., who all so obtain registration certificate for software development dated 23.04.2015 with effect from 25.09.2012. The said certificate is still valid till 22.04.2011. Thereafter it is prayed by consumer the demand of supplementary bill claim by respondent utility for the period September 2012 to May 2014 may be set aside consumer prayed to give direction to respondent utility to collect the current bill and quash and set aside supplementary bill. Consumer also prayed to imposes and penalty and compensation on respondent utility for delay of proceedings of change of name. The recovery which is made from June 2014 due to wrong application of tariff commercial instead of industrial the excess amount be refund with interest excess amount be refund with interest consumer filed document of order pass by APTEL judgment copy of MERC and copy of order of IGRC and all other correspondence made to respondent utility consumer also filed all relevant copy of licenses against agreement application with receipt and already paid bill and copy of inspection report dated 22.01.2014.

7. After filing this complaint notice was issued to respondent utility, and other service of said notice respondent utility filed this reply on dated 28.09.2015.

It is contention of respondent utility that:

- Flying squad inspected the premises on 22.01.2014 and found supply used by M/s. Iris Business Service Ltd.,.
- Since 2011 the supply was used for the purpose of software development.
- It is observation during inspection that they have not submitted any registration certificate/ license for IT purpose from competent government authority issued licenses.
- The premise is used by consumer for the purpose other than that for which the connection was obtained initially.
- M/s. Iris Business Service Ltd is using the connection which is in the name of M/s. Trackmail India Pvt. Ltd
- As per guidelines issued in Commercial Circular No. 212 dated 01.10.2013, unless the registration certificate issued, by the competent authority, commercial tariff should be applied to the consumer who take to benefit of connection.
- It is also contention of respondent utility that HT PI Pune gave an application for expansion of unit 2331 third floor, Vashi Railway Station Complex, New Bombay on 24.03.2015.
- The activity of the said M/s. Iris Business for earlier period was not registered on the given address on the date of inspection.
- Therefore commercial tariff was applied from September 2012 to June 2014 which is correct as per guidelines issued commercial 212 unless they duly submit the said certificate.
- Difference of tariff from industrial to commercial of Rs. 2358287.88/- for the period from 23.09.2012 to May 2014 was charged correctly as recovery against consumer in supplementary bill in view of the above said facts.

- The consumer is liable to pay the tariff difference charges and tariff should be not as per Industrial.

Respondent utility has relied upon IGRC Order in case No. 43 of 2015/16 decided on 08.04.2015 where opportunity of hearing was given and order was passed on 06.10.2015; which is challenged by consumer before this Forum.

8. We have perused the rival contentions along with all the documents on record, after which; following points arose for our consideration:

1. Whether respondent utility can legally claim tariff difference
2. Whether respondent utility erred in charging commercial tariff for the period from 24.09.2012 to 24.05.2014.
3. Whether consumer is entitled for any relief.
4. What order?

**Reasons:**

9. We have given opportunity to both the parties and also perused all the documents filed by them.

From Commercial Circular No. 212 dated 01.10. 2013 it appears that respondent utility has taken hyper-technical approach.

10. It further appears that the legal and valid agreement was enter into by old consumer M/s. Track Mail India Pvt. Ltd., in favor of M/s. Iris Business services. The utility was given notice that present consumer M/s. Iris Business service occupied the premises under the said agreement. Also,

they had given an application to the utility for change of name and followed all the requirement and formalities for the same. But change of name not effected till date.

11. Regarding licenses, the consumer submitted that the license form registered authority could not be obtained due to technical reason that it was already issued by competent authority to M/s. Track Mail India Pvt. Ltd, which was valid till August 2015. This present consumer had already approached the competent authority for issuing licenses, but there was a technical hitch that unless the earlier licensee which stands in the name of M/s. Iris Business service is surrendered, no second licenses on the same premises can be issued. As a result, when spot inspection was done by utility, licenses in the name new occupant could not be produced. Therefore charging recovery amounts to illegal and improper action taken by authority.

12. From spot inspection report dated 22.01.2015 it is clear that the present occupant is into same activity of business software development and using same connected load, sanction load and other infrastructure.

13. Thus there is absolutely no reason for changing the tariff category to commercial tariff. We thus hold that charging commercial tariff is absolutely incorrect and wrong action. Therefore consumer is fully justified in challenging the said dispute before IGRC but the IGRC also took an adamant view and did not consider the dispute in proper aspect.

14. To charge to commercial tariff premises not much be activities which in benefit of financial aspect by the new occupant merely non production of registration certificate was issued by competent authority to charge the difference of bill from retrospective report was shocking to the consumer and the claim is also not in accordance with law.

15. Further we found that APTEL and various judgments relied by consumer do not permit retrospective recovery of tariff difference

16. In this case we have considered all the document filed by new occupant M/s. Iris Business Service Ltd. As earlier licensee on the same premises was already in existence and nature of business was reported as same.

17. M/s. Iris Business Service also produced registration certificate and licenses which is valid and given the back effect from 25.09.2012. The licenses which is issued by competent authority on 25.09.2012 is legal and valid and is sufficient for the purpose of charging industrial tariff and therefore claiming supplementary bill by the respondent utility against the consumer is absolutely wrong and illegal.

18. During the course of arguments before the Forum, the representative (Legal Officer) of the utility openly threatened the Member Secretary of the Forum, which is highly condemned by us and is derogative to the decorum of this "Quasi-Judicial" Forum. The noting to that effect has already been done in the register.

The legal officer of the utility threatened our member in the open court that he would have to face similar consequences as that of the previous member secretary, if he writes any order against the utility. We hold this as contempt. It is not a question of a person,

19. In this case respondent utility Representative arrogantly and strongly contempt view of Forum in manner with till gone to the Representative properly. However the action taken by respondent utility according to me without applying proper mind merely taken hipper technical approach therefore we are ancient to impose penalty against the earring officer not consider the prayer of consumer in proper aspect the amount of compensation to Rs. 5000/- shall be recovered and pay to the consumer



show adjustment in the bill calming reviewed charging commercial tariff claim in supplementary bill stands cancelled and set aside. Hence we proceed to pass the order as follows:

### **ORDER**

1. The respondent utility is directed to refund excess amount collected in the form of tariff difference with interest rate as per RBI.
2. The consumer shall be charged as per the industrial tariff from the date of application. Correction shall be made in the bill accordingly.
3. Proper action should be taken for the change of name as per direction of SOP.
4. Action should be taken against erring officer and report of the same should be filed before the Forum.
5. The respondent utility shall comply with the order and report within one month from the date of receipt of the said order.

Proceeding closed.

Both the parties be informed accordingly.

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**