

**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Member Secretary/MSEDCL/CGRF/BNDUZ/244 Date :
30/07/2012
Case No. 460 Hearing Dt. 13/07/2012

In the matter of continuous and non-continuous supply

M/s. P.S.A. Engineering Works Pvt. Ltd. - Applicant

Vs.

MSEDCL, Vashi - Opponent

Present during the hearing

A] - On behalf of CGRF, Bhandup

- 1) Shri S.K. Chaudhari, Chairman, CGRF Bhandup
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B] - On behalf of Applicant

- 1) Shri Harshad Sheth, Consumer representative.
- 2) Shri Mukesh Shah, Consumer representative

C] - On behalf of Opponent

- 1) Shri S.A. Kachare, Nodal Officer, Vashi Circle.
- 2) Shri Jadhav, Law Officer.

ORDER

M/s. P.S.A. Engineering is a HT Industrial consumer with the sanctioned contract demand of 950 KVA under sr. no. 000159001393 at plot no. 13, Kalwa Indl. area, TTC, MIDC, Digha, Navi Mumbai.

Shri Harshad Sheth was representing the Consumer Applicant stated that as per the MERC tariff order dtd. 29th Sept 2006 and thereafter the MSEDCL circular no. 47 of Nov-2006 the HT consumers tariff is reclassified as continuous supply i.e. HT-I-C and non-continuous supply i.e. HT-1-N.

However the consumers which are having the production process of continuous nature shall have to be considered as continuous supply consumer i.e. HT-1-C and the consumer whose production process is not of continuous nature has to be non continuous and accordingly has to be billed as HT-1-N.

He further stated that it is nothing to do with whether consumer is getting continuous supply by the way of double supply available or whether it is on express feeder. It is explicit clear that if the consumer have the production process of continuous nature and he produced the certificate accordingly from Director of Industry or Commissioner of Development Department only the consumer should be considered as continuous process consumer and should be billed accordingly as HT-1-C.

However, in the present case consumer neither submitted DIC certificate nor Development Commissioner and has not claimed that his process of production is continuous but utility themselves has decided to billed him on continuous tariff which is totally wrong and hence it should be revised and the excess collected tariff difference between the period of June-2008 to July-2011 should be refunded back inclusive of electric duty with the interest at the rate of RBI.

The Consumer Representative contended that the utility itself has clarify in their own commercial circular no. 52 that *“After the period of 45 days in case of Industries who have not submitted the continuous process industries certificate, the same will be treated as non-continuous industry and will be charged accordingly for the period from 1st Oct-2006 to 31st March-2007.*

It is once again informed that these provisions shall be intimated to all the HT-1 consumers, about the necessity of producing the certificate within a period of 45 days and in case the same is not submitted by the HT-1 consumer, then the industry will be treated as non-continuous process industry and the bills will be revised (if necessary only) on lines of MERC tariff order dtd. 20/10/2006”.

In the present case consumer have neither submitted certificate from DIC nor has demanded the continuous supply hence accordingly utility should have billed him as non-continuous consumer HT-I-N.

Moreover Commission has also very much clear that categorization to be done in case no. 59 of 2006 that “ *The Commission clarified that the Continuous and non-continuous categories are differentiated based on the continuous or non continuous nature of the process adopted in the industries and not based on whether the industries are connected to express feeders or non-express feeders”*

He conceded that as mentioned earlier that utility has earlier the utility has wrongly categories the consumer as continuous consumer for the period of June-2008 to July-2011 have tariff difference alongwith electric duty should be refunded with the interest at the RBI rate.

Shri Kachare, Ex. Engr. & Nodal Officer alongwith Law Officer shri Jadhav were present to represent the Respondent side. He stated that M/s. P.S.A. Engineering works Pvt. Ltd. is a HT consumer and having double supply feeding. The double supply do not observed by the load shedding schedule and was granted sanctioned on request of the consumer. The work of this double feeder infrastructure is also executed by the consumer through the License Electric Contractor at its own cost, it means that the demand of double supply which as good as express feeder is established by the consumer. The two feeder supplying this consumer namely 22 kV Kalwa-I and 22 kV Kalva-II are not affected by the load shedding. The Respondent reiterated that, no additional charges are recovered or imposed for zero load shedding to this consumer till July-2011.

The Respondent insisted that when this consumer had availing the uninterrupted power supply without any load shedding from June-2008 till July-2011 no dispute regarding the categorization is continuous is been raised. The dispute is raised after the consumer is shifted to load shedded feeder and converted to continuous to non-continuous category. He further contended that being the cause of dispute arises is conversion of this consumer from non-continuous to continuous in June-2008, the case should be considered as time barred observing the section 6.6 of MERC (CGRF & EO) Regulations-2006 which do not permit the Forum to entertain the issues where the cause of action arisen is beyond of 24 months and he requested Forum to dismiss the case on this ground.

The matter was heard on 13/07/2012 both the parties were present, the documents on record and arguments during the proceedings reveals that it is true that Commission has directed to the Respondent utility to categories the consumers according to the nature of process of production whether the process is continuous or non-continuous. The categorization of consumers as continuous or non-continuous was not on the basis whether it is on expressed feeder or on non-expressed feeder. The Govt. of Maharashtra also formed one High Power Committee to resolve the dispute arises while deciding the category of consumer in this regards. The Commission also clears that the Development Commissioner of Industry or similar Authority designated by the State Government is appropriate Forum to clarify whether the industry is continuous process industry or non-continuous process industry. In the present case Forum observed that this consumer has never submitted the certificate of DIC called as per commercial circular no. 52 of Respondent.

The Forum also observed that this consumer has availed the benefit of double supply and never came across the schedule of load shedding during the period of June-2008 to July-2011. It is very much clear from the above strategy the consumer played that if he arose the dispute during the above period the Respondent could have immediately shifted him on the non-express feeder which could affect by the load shedding. It was also observed during the proceeding and submission by the Respondent that consumer is having heat treatment plant which needs continuous supply.

In the present case, consumer is converted or categorized as non-continuous consumer in year-2008 then why consumer has not approached to this Forum when Forum is operative from Dec-2004.

The above observation clears the intension behind the belately dispute raised before the Forum.

Considering all the above facts and being the dispute is too old, the cause of action arose is in the year-2008 only. This Forum has no hesitation to reject the prayer for refund of tariff difference and interest thereon observing the MERC (CGRF & EO) Regulations-2006 there in 6.6 which states that :

“The Forum shall not adm,it any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.”

ORDER

As elaborated above in the forgoing paragraphs this Forum cannot entertain the prayer as per 6.6 of MERC (CGRF & EO) Regulations 2006 and deserved to be rejected.

Case is dismissed with this order.

No order as to the cost.

Both the parties be formed accordingly.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 30th of July 2012.

Note : 1) If Consumer is not satisfied with the decision, he may go in appeal 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 proceed before the Hon. High Court within 60 days from receipt of the order.

DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP

S. K. CHOUDHARY
CHAIRMAN
CGRF, BHANDUP

R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP