

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

Ref. No. Secretary/MSEDCL/CGRF/BNDUZ/ Date :

Case No. 322

Hearing Dt. 26/04/2010

In the matter of appropriate tariff application

M/s. Lumis Biotech Pvt. Ltd. - Appellant
Vs.
MSEDCL (Thane Div-I) - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.
- 2) Mrs. Manik P. Datar, Member, CGRF, Bhandup..

B - On behalf of Applicant

- 1) Shri Nitin Rane – Consumer representative
- 2) Shri Kartikey Shah – Consumer representative.

C - On behalf of opponent

- 1) Shri V.S. Patil. Jr. E.E. Thane division-I.

Preamble

M/s. Lumis Biotech Pvt. Ltd. is a H.T. consumer under connection no. 000019024360 at B-90, Wagle Estate Industrial Estate, MIDC area, Thane. This connection was released on 27/01/2005 and since then the utility was billing this consumer on Industrial tariffs i.e. HTP-I however in the month Nov.2009 utility change the tariff of this consumer from HT-I Industrial to HT-II commercial, aggrieved of this consumer approaches to the Internal Grievance Cell. Thane vide schedule 'X' dt. 20/01/2010 but no cognizance was taken by ICGRC, Thane and hence consumer approached this Forum and registered his grievance on 07/04/2010, accordingly hearing was fixed on 26/04/2010.

Consumer Say: -

Shri Nitin Rane and Shri Kartikey Shah were present during the hearing representing on the behalf of M/s. Lumis Bitotech Pvt. Ltd. (here in after referred as to the Appellant) The Appellant stated that on his demand a High Tension power supply for connected load of 455 kw with the contract demand of 448 KVA on Industrial tariff has given by M/s. Maharashtra State Electricity Distribution Co. Ltd. in year 2005 and since then the utility was billing on Industrial tariff but in Nov. 2009 utility change their billing tariff form Industrial to commercial without any logic.

The Appellant reiterated that the utility officials misconceived that the activity for research and development is going on in their premises.

The Appellant further added that they have manufacture of different kind of enzymes, like Lumizyme Gabisoft, Oxkill, Remsize, Denase ect. And before dispatching these products it has to be tested for its quality the testing activity is not for outsider or not delt on commercial basis for other manufactures.

The appellant says that he have all the necessary certificates from different department declaring him as “manufactures” and thereby Industrial consumer. The documents submitted by the Appellant are

- 1) SSI certificate dt. 27/01/2009 issued by the manager of DIC, Thane.
- 2) Letter from MPCB dt. 30/06/2003.
- 3) Factory license dt. 11/12/2001.
- 4) Registration certificate dt. 01/04/2006 from central sales tax dept.
- 5) Registration certification dt 25/02/2008 from central excise dept.
- 6) Certificate of VAT dt. 01/04/2006.

The Appellant insisted on these certificates issued and according to him the relevant category of tariff, which should apply, is Industrial.

The Appellant further stated that the Dy. Ex. Engineer of Kisan Nagar sub division who is the officer of utility of the concerned area also inspected the premises and given report that their activity in the premises is manufacturing. The said report dt. 08/03/2010 was put forth during the course of hearing.

The Appellant prayer for widrawal of tariff difference charged in bill and reversed of tariff to industrial i.e. HT- I.

Utility Say :-

On the behalf of utility Shri V.S. Patil was present to plead the utility side (here in after referred as to the Respondent) but no written submission was with him. Moreover, the Respondent could not put forth the reason behind the conversion of tariff from Industrial to Commercial and no arguments were made from utility side.

Observation :-

The matter was heard on 26/04/2010. Both the parties were present. In the absence of Chairman the hearing was proceeded by member secretary and member Documents on record and submission by the Appellant reveal that M/s. Lumis Biotech Pvt. Ltd. is having HT supply with sanctioned load of 455 kw and with contract demand of 448 KVA; The Respondent was billing the Appellant on Industrial tariff, since release of connection till Oct. 2009 but suddenly in Nov. 2009 Utility change the billing tariff from HT-I (Industrial) to HT-II (Commercial) which leads to arisen of dispute.

From the submission of the Appellant it is observed that the district Industries Center, Thane has certified this consumer as “manufacture”. This certificate is issued by DIC to the Appellant on 27/01/2009 i.e. prior to the conversion of tariff by the Respondent. Forum observes that in the Electricity Act. 2003 or in earlier tariff order the word “Industrial” or ‘Industrial use’ is not defined. However the word “Manufacture” has been defined in the consumer protection Act. 1986 as under :-

“Manufacture” means a person who-

- i) Make or manufactures any goods or part thereof as
- ii) Does not make or manufacture any goods but assembles parts thereof made or manufactured by others;
or
- iii) Puts or causes to be put his own mark on any goods made or manufactured by any other, manufacture.

It is therefore clear from above definitions that to qualify as manufacturer, one should make or manufacture goods or assemble parts thereof. The term “Industry” has to be understand in the light of the commissions clarification given above as such activities which entail manufacture.

The word “Manufacture” is to be understand in its normal sense and in the light of the definition extracted from the consumer protection Act. 1986. It should also be understand that provisions of the consumer Protection

act. 1986, do have an overriding effect, over the provisions of the Electricity Act. 2003 in case of inconsistency in laws as stipulated in section 173 and 174 of Electricity Act. 2003. In such situation it will be fair and logical to adopt and follow the definition of the word "Manufacture" from the consumer protection Act. 1986. This shows that in order to qualify for industrial tariff it is necessary that the consumer must be classified as "Industry" who undertakes some manufacturing. In the present case the Appellant is manufacturing the different kind of enzymes. The DIC, Thane also certified the Appellant as "manufacturer". Hence Forum has no hesitation to consider the Appellant as manufacturer and there by "industrial consumer". Forum therefore feels that the utility should bill the consumer on HT-I tariff i.e. industrial

ORDER

As explained above the Appellant does not fall in HT-II commercial category and hence as mentioned in forgoing paragraphs the utility should change the tariff from commercial HT-II to industrial HT-I with the effect from Nov. 2009.

No orders as to cost.

Both the parties should be informed accordingly.

Compliance should be reported to this Forum within one month from the date of receipt of this order.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 27th March 2010.

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 go in appeal before the Hon. High Court within 60 days from receipt of the order.

MRS. M.P. DATAR
MEMBER
CGRF, BHANDUP

R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP