

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

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

Case No. 336

Hearing Dt. 05/08/2010 &
09/08/2010

In the matter of tariff difference recovery

M/s. SBM Engg. Products Pvt. Ltd. - Applicant
Vs.

MSEDCL (Thane- I division) - Opponent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri S.L. KulKarni, Chairman, CGRF, Bhandup.
- 2) Shri R.M Chavan, Member Secretary,
CGRF, Bhandup.
- 3) Mrs. Manik P. Datar, Member, CGRF, Bhandup.

B - On behalf of Applicant

- 1) Mr. G.R. Sonawane (Administrative officer)

C - On behalf of Opponent

- 1) Mr. C.B. Pandit (Nodal Officer)
- 2) Mr. Jadhav- Junior law officer.
- 3) Mr. S.S. Patne - Dy. Ex. Eng. Kisan Nagar S/dn.

Preamble

M/s. SBM Engg. Products Pvt. Ltd. was HT consumer of MSEDCL, Thane Urban Circle at B-7/10 Road 15, Wagle Industrial Estate with a contract demand of 250 KVA and connected load of 632 KW bearing service no. 000019009009. As per the submission of SBM Engg. Products Pvt. Ltd. its production activities were closed down from 22nd Feb 2009 and the electricity was used merely for dismantling the machineries and lighting purpose. However Utility MSEDCL has charged the tariff difference recovery amounting to Rs. 5,24,470/- considering the commercial activity in use from Jan 2009 onwards. Aggrieved of this supplementary bill M/s. SBM Engg. Pvt. Ltd. approached to the superintending Engineer, Thane (U) Circle and the Nodal Officer of IGRC, Thane but could not get any response. Hence he approached to this Forum and registered his grievance on 23/7/2010 vide case no. 336.

Accordingly hearing was fixed on 05/08/2010 followed by 09/08/2010.

Consumer Say: -

On the behalf of M/s. SBM Engg. Products Pvt. Ltd. Mr. Ganesh Sonawane was present to represent the case. According to his submission the said connection was released on 01/08/1981 from High tention line for the Industrial activity & consumer was paying regularly the electric dues within the due period of time on Industrial tariff.

In the month of Feb 2009, due to financial crisis the top management taken a decision of closure of factory and accordingly on 22nd Feb 2009, the production activity was totally stopped.

He further stated that the intimation of closer of factory and request for temporary disconnection of supply was given through an application dt. 01/04/2009. This delay from 22/02/2009 to 01/04/2009 was only because of need of electric supply for removing the machineries and L&F.

He also reiterate that the MIDC had given plot for Production/ Industrial purpose and utility was billing on industrial tariff but suddenly in the month of July 2009, utility issued them a supplementary bill for an amount of 5,24,470/- without any explanation. On query it is learnt that the tariff difference recovery from Industrial to commercial was imposed from Jan 2009 to April 2009.

He further stated that it is very surprising that Utility is charging this HT connection from Jan 2009 on commercial tariff, though their production activity was continued till 22nd Feb 2009.

He also put forth the electric bills showing the heavy consumption in the month of Jan and Feb 2009, which could be possible only if production is going on.

He further stated that they had requested for refund of security deposit amounting to Rs. 3,13,090. But instead

of refunding it the utility has adjusted with supplementary bill at its own and issued balance final bill of Rs. 3, 76,900/- for payment. Moreover utility have not given interest on security deposit as per MERC Rules & Regulations.

The Applicant added that the utility has temporarily disconnected supply on 24/07/2009 in response to their letter dt. 01/04/2009 which is too late. The Utility was charging the minimum charges after temporary disconnection of supply, which is illegal and should be refunded.

Prayer of the Applicant:-

- 1) Withdraw Rs. 5,24,470/- from the current bill of our LT consumer and grant the Interim order against disconnection of supply till the disposal of case.
- 2) Squash the bill amounting to Rs. 5,24,470/- which is wrong and illegal and may be set- aside.
- 3) They are ready to pay the bill, till the date of temporary disconnection and direct MSEDCL to prepare the bill as per the reading on the date of T.D.
- 4) Withdraw the minimum charges bill between the periods of TD to PD issued to them by MSEDCL. Being request P.D. consumer, the minimum charges are baseless and not according to law and not applicable to them.

- 5) Refund the security deposit of Rs. 3,13,090/- with interest of 6% p.a. as per MERC regulation and MSEDCL rules.
- 6) Instruct MSEDCL to refund all the bill amount recovered from them after the date of T.D. in illegal ways.
- 7) The L.T. consumer no. 000011409750 is sanctioned for (temporary) construction purpose. Now as per MERC tariff order of August 2009, the construction purpose is included in commercial activity and the rate of energy charges is Rs. 5.20 per unit 20 K.W. loads. Their load is only 15 K.W. However, MSEDCL is charging them bill as per rate of Rs. 11 /- per unit without any basis. MSEDCL is charging this bill since 08/06/2009 by wrong method. Therefore, please instruct MSEDCL to charge Rs. 5.20 per unit and refund them the excess payment recovered illegally.

Utility Say :-

On behalf of utility Shri C.B. Pandit E.E. Nodal officer, Thane Circle and Shri Jadhav Junior law officer and Shri S.S. Patne Dy. E.E. Kinsan Nagar sub division were present to represent the case.

According to their submission the utility was unaware about the closing of the industrial activity from Feb 2009. On verification of CPL it has been noticed that there was consumption recorded by the meter, which proves that, the supply was utilized for some other purpose than industrial.

They further stated that on enquiry it was learnt that industrial activity was stopped from Jan 2009 and power supply was utilized for office purpose. They also stated that the concerned competent billing authority has inspected the premises on 2nd April 2009 and according to that report and recommendation, the recovery is charged for the tariff difference from Jan 09 to April 2009.

They emphasized that it was the duty of the consumer to inform the utility well in advance or immediately after closing the industrial activity which consumer fails to do.

Intimation of closing the operation of the factory from Feb 2009 intimated to utility on 1st April 2009.

According to inspection dt. 02/04/2009 the power supply of the consumer was utilized for other purpose than what it was sanctioned and thus violating Electricity Supply Code other conditions of supply.

They also explained that no illegal activities were noticed The application submitted by the consumer was rejected and the supplementary bill which was remain unpaid loaded on LT connection in the same premises under some name which is as per Rules an Regulations.

They stated that the amount of security deposite is adjusted with the amount of supplementary bill as per

Rules and Regulations and hence no illegal activity had been done.

They rejected the prayer of the consumer as under.

- 1) The recovery of Rs. 5,24,470/- is charged as per consumer's usage of power supply for commercial purpose. Hence, no question for withdrawal.
- 2) The bill dt. 24/07/2009 is appropriate.
- 3) The final bill is prepared as per rules.
- 4) The minimum charges for 6 months are charged as per MSEB conditions of supply.
- 5) The S.D. is adjusted in arrears.
- 6) The bill is not recovered in illegal way. The bill is proper and according to rules.
- 7) The LT consumer no. 000011409750 is sanctioned for temporary purpose and bills are issued as per MERC tariff orders to temporary connections.

Observation :-

The matter was heard on 05/08/2010 & subsequently on 09/08/2010. Both the parties were present. Perusal of record and arguments from both the parties reveals that a M/s SBM Engineering product Pvt. Ltd. was High Tension consumer of Maharashtra state

Electricity Distribution Company. This connection was released on 01/08/1981 and consumer was paying electric bills with HT- 1N tariff i.e industrial tariff. Accordingly to the consumer representative due to financial crisis the management decided to close down this unit and shift all machinery to the another factory running at Gwalior. With this decision the factory unit at Wagle Estate named as M/s. SBM Engg. Products Pvt. Ltd. was closed down on 22/02/2009. Consumer informed to the utility vide letter dt. 01/04/2009 and requested to disconnect electricity supply temporarily. On this letter the sub divisional office had inspected the premises on 02/04/2010 and found that there was no industrial use or no production was going on and supply was used for office work and in the hest he recommended recovery of tariff difference for last 3 months i.e. from Jan 09 to April 09. The utility served the supplementary bill towards tariff difference of industrial to commercial for an amount of Rs. 5,24,470/- and disconnected power supply on temp basis on 24/07/2009.

To decided the exact date of closer of factory unit, Forum asked to submit supporting documents to both the parties on which documents to both the parties to which both the parties were affirmative and admit to produce the relevant document within a week. However the Respondent fails to produce any supporting documents to ascertain the recovery charged considering office use from Jan 2009. On the other hand consumer representative submitted the production report along with copies of daily production register for the month of Feb

2009. On going through this report it reveals that there was no production from 20th Feb 2009 onward.

During the course of hearing Forum asked the utility, why the supplementary bill was issued from Jan 2009. No satisfactory explanation was made by the Respondent and explained that they relied only upon inspection report and charged recovery as per recommendation of inspecting authority.

Observing the above facts, Forum feels that the recovery made by the utility from Jan 2009 towards tariff difference is not justified. Forum also observed from the production report submitted by the Applicant that there was continuous production till 19th Feb 2009, hence it is fare and proper to bill the consumer on industrial tariff i.e. HT- 1N till 19th Feb 2009 and on commercial tariff i.e HT-II from 20th Feb onwards. Therefore Forum directs Opponent to divide the consumption of Feb 2009 on per day basis and apply as per industrial tariff till 19th Feb 2009 and on commercial tariff for rest of days till temporary disconnection of supply.

Utility served a 24 hours notice for disconnection of supply to the consumer on query to Mr. Patane he could not explain the rules for disconnection and Respondent representative was very casual in his approach and lack of clarity in Rules and Regulations.

As regards to the security deposit it should be adjusted with the rectified bill and balance security

deposit amount should be refunded to the consumer along with the interest at Bank rate if not given.

Forum also observed that the Utility should have made the permanent disconnection within 6 months from date of TD.

In the present case the Applicant's power supply was made TD on 24/5/2009 (as per final bill report) and PD was made on 19/03/2010. Which should have made PD on or before 24/11/2009. Hence bills issued on minimum basis from Dec 2009 till PD should be squashed.

According to the consumer, the LT electric supply connection was issued under service no. 00001100009750 for construction purpose but wrongly billed on temporary tariff. If such is the case, utility should verify the fact from the application of the consumer for this new LT connection and apply the appropriate tariff as per commissions tariff order in force.

If the consumer applied for construction purpose and activity is also of construction, the bills should be on commercial tariff and Utility should rectify the bills and credit should be awarded to the consumer from the date of release of connection.

ORDER

Utility should rectify the bills as directed in the above foregoing paragraphs of observations and compliance should be reported within 30 days from the receipt of this order.

No orders as to cost.

Both the parties should be informed accordingly.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 9th September 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

S.L. KULKARNI
CHAIRMAN
CGRF, BHANDUP

R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP