
REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/371 Date: 13.03.2018

Hearing Date: 27.02.2018

CASE NO.63/2018

IN THE MATTER OF WRONG BILLING EXCESS

**M/s. Addnode India Pvt. Ltd.,
Plot No. E-7,10th floor, unit No. 1001,
Dosti Pinnacle,
Road No.22,New Passport office,
Wagle Eatate.**

(CONSUMER NO.00011446435) (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution Company Limited
through its Nodal
Officer,
Thane Circle,Thane

. . . . (Hereinafter referred as Licensee)

**Appearance : For
Licensee**

Shri.R.K. Marke AEE, Wagle Sub Division

For Consumer – Shri. Suraj Chakraborty – Consumer Representative

[Coram- Shri A.M. Garde- Chairperson, Shri. R.S.Avhad -Member Secretary
and Vacant - Member (CPO)].

1. Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been

established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005] Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity.

2. Consumer herein is one M/s. M/s. Addnode India Pvt. Ltd., having consumer No. 00011446485 Grievance is of wrong excess billing. Consumer made complaint where upon inspection was conducted by D.L. officials on 20.07.2017. After inspection D.L. sent a bill for Rs. 16,10,320/- on the ground that there was no permanent registration certificate from DIC to claim relief as IT/ ITES chargeable under Industrial tariff.
3. Consumer submits that their certificates for IT/ITES issued by the competent Govt. Authority under IT/ITES policy shows the commencement of IT/ITES activities on 04.06.2014 when they got the LOI from MIDC. They finally got registration certificate from MIDC on 17.08.2017. it is further the contention that tariff depends on the nature of activity and no certificate is required. Consumer seeks to rely on CGRF Bhandup Case No. 389/2011 and Ombudsman case No. 108/2009 and IT policy 2003 and 2009.
4. In the order dated 11th Feb. 2003 in case No. 24 of 2001, the Commission has held as under:

"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 recovery retrospectively."

5. In the order dated 7th August, 2014 passed by the APTEL in Appeal No.131/2013 in the matter of Vianney Enterprises Vs Kerala State Electricity regulatory Commission and anr. In the said case, the APTEL has held that the arrears for difference in tariff could be recovered from the date of detection of the error. Based on the order the Commission fated 11th Feb., 2003 in case No. 24 of 2001 and the order of APTEL dated 7th August,2014,it has been held by the Electricity Ombudsman (Mumbai) in the order dated 23rd December,2014 in Representation No. 124,125,and 126 of 2014 that the recovery on account of reclassification cab be prospective only. It is a fact that the supplementary bill fated 08.08.2017, has been issued pursuant to detection of error for retrospective period from June 2017 to October 2015.
6. In reply D.L. contends that M/s. Adnode India Pvt. Ltd. is their LT consumer baring consumer NO. 000011446485 situated at unit No. 1001, Dosti Pinnacle, Plot No. E7, Road NO.-22 Wagle Estate, that Thane. The date of connection is 30.05.2015 and supply sanctioned for IT/ITES purpose only.
7. The premises and actual purpose of power supply of above consumer is inspected by this office on dtd. 20.07.2017. During inspection, it was observed that the consumer is not having valid permanent IT/ITES certificate as mandated by Hon'ble MERC. As per tariff order date

26.06.2015 in MERC case of 120 of 2014, Industrial tariff is applicable for use of electricity/power supply by an IT/ITES unit for IT/ITES purpose having permanent registration certificate. Where such IT/ITES unit does not hold the relevant permanent registration certificate, the tariff shall be as per LT-II Commercial category and the LT-V industrial category shall be applicable to it after receipt of such permanent registration certificate and till it is valid.

8. The consumer is not having valid permanent registration certificate, hence, plain recovery for tariff difference between industrial to commercial category is worked out and supplementary bill for tariff difference is issued to consumer on dated 08.08.2017 for the period of October -2015 to June - 2017 amounting Rs. 16,10,320/-.
9. As per Hon'ble Bombay High Court Order (Double Bench) in W.P. No. 7015 of 2008 dtd. 20.08.2009 in case of M/. Rototex Polyester that, there is no any limitation in case of plain tariff difference recovery.
10. We have heard both sides. It is not in dispute that on inspection conducted by DL at the consumer's address it was observed that consumer was not having valid permanent IT/ITES certificate as mandated by Hon'ble MERC. As such since the date of inspection D.L. was entitled to charge consumer under commercial tariff for want of permanent registration certificate for competent authority. Consumer has produced the required certificate form MIDC which is dated 17.08.2017. D.L. was therefore within it's right to charge the consumer under commercial tariff from date of inspection i.e. 20.07.2017 till date of registration certificate dtd. 17.08.2017. The main issue is about retrospective recovery prior to the date of inspection i.e. 20.07.2017. There are several judgments of APTEL and Ombudsman on this issue. No retrospective recovery in such case can be allowed.

Hence the order.

ORER

Grievance is allowed.

The bill raised for retrospective recovery on account of tariff difference prior to 20.07.2017 is here by quashed.

The compliance should be report within one week.

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

Note:

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address. " Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606, Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051"
- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non- compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission (consumer Redressed Forum and Ombudsman) Regulation 2003" at the following address:-

"Maharashtra Electricity Regulatory Commission, 13th floor,world Trade Center, Cuffe Parade, Colaba, Mumbai 05"
- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.

I Agree/Disagree

**ANANT M. GARDE
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**