

Preamble

M/s. Envirocare Labs Pvt. Ltd., is situated at Enviro House, A-7, MIDC, Wagle Estate. Main Road, Thane is a consumer of MSEDCL. He filed the representation vide case no. 295, dtd. 22/10/2009. He approached this CGRF against the order of ICGRC, Thane, rejecting his plea to treat his unit as industrial unit. The hearing was fixed on 09/11/2009 but as Member Secretary was on leave and Chairperson was not available, the hearing was postponed on 23/11/2009.

Consumer say :

Shri R.S. Patwardhan, the representative of consumer (herein after referred as the Appellant) was present during the hearing and stated as under:

M/s. Envirocare Labs Pvt. Ltd., is a small scale industrial unit set up in 1999 at Enviro House, A-7, MIDC, Wagle Estate. Main Road, Thane. He has registered under the Govt. of notified Micro Small Medium Enterprises Development (MSMED) Ltd. This registration was granted to him based on their investment in this enterprises. He further obtained a clear certificate from Maharashtra State Pollution Control Board and also from District Industry Centre, Thane.

In the said unit one of the core activities carried out is of monitoring and testing of samples of food, water, environment, raw materials, finished products from various Industries. The activity includes research and development, which is a part of analytical testing services. The Appellant reiterated that in his industry the operation

of some of the machineries requires continuous uninterrupted power supply on 24 x 7 basis for which two nos. of UPS system (40 KVA + 30 KVA) with provision for captive power in the form of 125 KVA DG set are installed. He also insisted on the certificate of Registration of DG set by the Chief Engineer (Electrical) PWD in which the purpose of installation DG set is shown as "industrial". Moreover the Appellant stated that the utility was billing on industrial tariff till Jan-2009 right from the beginning. He stated that all these facts and evidences show that his unit is industrial but utility is not agreed to change his category of tariff as commercial LT-II from Feb-2009.

During the course of hearing the Appellant stated that if utility, MSEDCL is not agreed with the certificate issued by the DIC, they should declare it as invalid.

Prayer of the Appellant is:-

1) To revert the industrial tariff as before and to issue him a revised corrected bill immediately.

Utility Say:

On the behalf of utility, MSEDCL Shri D.P. Petkar Ex. Engr. Wagle Estate and Shri M.A. Trimbake, Dy. Ex. Engr., Wagle Estate, Thane, were present during the hearing (herein after refer to the as Respondent):-

The Respondent stated that the said premises has been inspected by the utility officials where they found the activity in the premises was for Research Development Laboratory, which comes under commercial activity and accordingly being the billing unit is Circle Office, it was

informed to bill consumer on commercial LT-II tariff and hence consumer was started billing from Feb-2009 onward on commercial tariff. The Respondent reiterated that no back recovery for tariff difference is charged to the consumer. Moreover the certificate which the consumer produces issued by DIC itself says that activity of consumer is Service Enterprises. The consumer was approached the ICGRC but ICGR Cell rejected his plea being activity of consumer is for service provider only and no product is manufactured or no such industrial process is going on in the said premises. The Respondent claimed that the utility have rightly charged the consumer commercial tariff and hence consumer should pay the bills in due time.

Observation :

The matter was heard on 23/11/2009 in the presence of Member and Member Secretary, both the parties were present, the documents on record and submission from both the parties revealed that the Appellant is having R & D Laboratory for testing of various samples for deciding the purity and standards of products received from various sector/Industries. Utility was charging bill to the Appellant on Industrial Tariff right from beginning till Jan-2009. On inspection of the premises by the utility officials, they conclude that the activity going in the premises is merely testing and research product in the laboratory and no production process is going on. The Forum feels that right way to decide the tariff is to see what actually the meaning of "industry".

Generally manufacturing activity is set to have occurred when input materials undergo a change in form,

size, or constitution when they (input material) are acted upon by a process with or without a use of electricity.

In the present matter, as said above that the activity is no way to identify as an industry. At the most it can be called Service Enterprises and the tariff be applicable to him is according as per tariff order dtd. 1st of June 2008 issued by MERC i.e. LT-II-Non-Domestic.

As regards the Appellant's argument that DIC have issued a certificate for service Enterprises, which is in supports to prove that his unit is industrial unit, if utility is not agreed with the certificate issued by District Industrial Centre, it should be declared as invalid certificate. Forum is of the opinion that this is not a floor to decide the validity of any certificate. It must put on record that any benefit of tariff is made applicable to the consumer only in accordance with the provision of the tariff order approved by the commission and not merely on the basis of any certificate issued by the any other authority. Moreover the District Industrial Centre also have not clearly declared this R & D Lab as industrial unit, From this certificate the unit is certified as Service Enterprises from which it does not clarify that it is an Industrial unit.

The tariff category of R & D Laboratory is not specifically defined or covered in commission's tariff order dtd. 1st June 2008. Hence considering the activities going on in the premises of the Appellant, Forum have no other alternative but to reject the prayer of the consumer to bill him on Industrial tariff category.

ORDER

The prayer of the Appellant for billing him on Industrial tariff is hereby rejected

No order as to cost.

Both the parties are to 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 14 December 2009.

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**