



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph: – 2210707 & 2328283 Ext: - 122

**IN THE MATTER OF GRIEVANCE NO. K/E/287/316 OF 09-10 OF M/S
SAFARI FOODS PVT. LTD. REGISTERED WITH CONSUMER GRIEVANCE
REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE
ENERGY BILL.**

M/s. Safari Foods Pvt. Ltd.
Plot No. 142,
Atgaon Ind. Estate, Atgaon
Tal : Shahapur, Dist : Thane

} (Here in after
referred to
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Superintending Engineer, Kalyan Circle-II

} (Here in after
referred to
as Licensee)

- 1) Consumer Grievance Redressal Forum has been established under regulation of "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers. This regulation has been made by the Maharashtra Electricity Regulatory Commission (MERC) vide powers conformed on it by section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of 2003).

- 2) The consumer is a H.T. consumer having connected load of 207 KVA of the Licensee. The Consumer is billed as per Industrial tariff. The consumer registered grievance with the Forum on 01/08/2009 regarding excessive energy bill. The details are as follows: -
Name of the consumer : M/s. Safari Foods Pvt. Ltd.
Address: - As above
Consumer No : 015599020350
Reason for Dispute : - Regarding Excessive Energy Bill
- 3). The batch of papers containing above grievance was sent by Forum vide letter No. EE/CGRF/Kalyan/699 dt. 01/08/2009 to the Nodal Officer of the Licensee, and the Licensee through Nodal Officer MSEDCL Kalyan Circle-II filed reply vide letter No. SE/Kalyan-II/3092, dt. 21/08/09.
- 4) The forum heard both the parties on 03/11/2009 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri B. R. Mantry, representative of the consumer & Shri Purohit, Nodal Officer, Shri P. P. Tendelkar, Jr. Engineer, representatives of the licensee, attended hearing. Minutes of the hearing including the submissions made by the parties are recorded and the same are kept in the record. Submissions made by the parties in respect of grievance since already recorded will be referred to avoid repetition.
- 5). It is the contention of the CR that the documents i.e. application form for permanent registration of factory, licence and certificate issued by Maharashtra Control Board Kalyan show they are doing manufacturing process however, the licensee without any reason changed the category of industrial to commercial and billing started on commercial tariff instead of industrial tariff. According to the CR they are manufacturing Namkin from basic raw material such as wheat, pellets, flavor masala, oil,

corrugated boxes, PVC tape fall in the category of industry, however on assumption that they are manufacturing the goods and selling at the site, imposed rate HT-II is utterly unjust and therefore, the excess amount collected due to change of tariff be refunded.

- 6) The licensee vide their letter SE/Kalyan-II/3092, dt. 21/08/09 claimed that the introduction of new HT tariff since June 08 HT-II tariff is generated for those consumers whose activities are found commercial. Licensee claimed that their Sub-Divisional Officers personally visited the site of consumer & confirmed that the activity on the site was commercial and accordingly the bill imposing HT-II tariff was issued.
- 7) On perusal of the record and hearing both the parties following points arise for the consideration of Forum and findings thereon for the reasons recorded below :

Points	Findings
a)Whether the activity of the consumer is industrial tariff HT-I ?	Yes
b)Whether the bill issued by licensee treating the activity of consumer as commercial HT-II is correct ?	NO
c) What Order ?	As per order below

Reasons

- 8) At the threshold inviting attention of the Forum on the voluminous documents produced on record CR submitted that they have commenced the process of manufacturing of Namkin eatables etc. at the site and there is no change of user as such treating it as commercial. However, the licensee high handedly treating the activity as commercial changed the tariff. The LR was asked by the Forum as to on what circumstances the

tariff was changed, however, no plausible explanation has been given. Inviting attention to the Commercial Circular No. 81, dt. 07/07/08 and the letter dt. 30/07/09 LR urged that on the spot the Sub-Divisional Officer found process of frying small wheat pellets in different shapes and further expanding pellets flavored in a moving tumbler and thereafter filling packed in a strip of bar and dispatching the finished goods in boxes is indicative of commercial activity. At this juncture CR contended that nowhere Sub-Divisional Officer in his site report or even the Office pointed out a single instance of the activity of commercial. In fact after processing Namkin eatables dispatch from the site to a retailer or shop clearly point out no commercial activity was at the site and on this background according to CR the high handed action of licensee is utterly unjust.

- 9) We have carefully gone through the Commercial Circular dt. 07/07/08 and the inspection report of the Sub-Division Officer and the letter dt. 24/07/02 issued by Regional Officer of Pollution Control Board, Kalyan mentions the conditions stipulated under the hazardous Waste Amended Rules 2000, License No. 61891 shows the consumer was permitted to use 100 HP electricity power, certificate of registration issued by Industries (MMR) dt. 06/06/2000 points out list of machinery. These documents point out the activity of consumer as industrial and not the commercial.
- 10) As per Commercial Circular No. 81, dt. 07/07/08 the Commission has created a new category i.e. HT-II as commercial to cater to all commercial category consumers availing supply at HT-I industrial or LT-IX including hotels, Shopping Malls, Film Studios, Cinemas and Theatres including multiplexes, Hospitals including Charitable Institutions. In the said circular Clause 2.1 indicates HT industry/industries (Group of more than one industry on Express Feeder) will be deemed as HT-I continuous industry

while other HT industrial consumers will be deemed as HT non continuous industries.

- 11) Nothing coming from the licensee to show that the operation undertaken at the site generate any revenue or any activity of selling there by treating it as commercial levying tariff rates HT-II instead HT-I. Letter of the consumer dt. 13/05/09 states as per license they manufacture Namkin eatables from basic raw material such as wheat pellets referred to supra indicative of manufacturing process. In the absence of any documents on record to show that the activity of the consumer falls in commercial category attracting tariff HT-II by no stretch of imagination can be said that the bill issued by the licensee imposing HT-II tariff is sustainable. In view of this since the activity of consumer is HT-I, the bill charging tariff HT-II will have to be quashed and set aside since incorrect. Points are therefore answered accordingly. Grievance application consequently will have to be allowed and hence the Forum unanimously passes the following order.

As per MERC Regulation 2006, Section 5.1 Forum has to decide the grievance within a period of two months from the date of receipt of grievance. This grievance was received to this Forum on 01/08/09. However, Hon. Member of the Forum Mrs. V. V. Kelkar retired on 08/10/09 and the Hon. Chairperson resigned on 03/09/09. Present Chairperson took charge on 20/10/09. Due to insufficient strength of the Forum and the reasons given above, the instant reference could not be decided within the stipulated period.

ORDER

- 1) Grievance application is hereby allowed.

- 2) Electricity bill issued by the licensee demanding excess amount treating the consumer's activity as commercial HT-II is quashed and set aside.
- 3) Licensee should charge consumer as per industrial tariff HT-I instead of commercial tariff HT-II.
- 4) The Compliance should be reported to the forum within 60 days from the date of this decision.
- 5) The Consumer can file representation against this decision with the Ombudsman at the following address.

"Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Building, Bandra Kurla Complex, Mumbai 51"

Representation can be filed within 60 days from the date of this order.

- 6). Consumer, as per section 142 of the Electricity Act, 2003, can approach Maharashtra Electricity Regulatory Commission at the following address:-
"Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05"

for non-compliance, part compliance or delay in compliance of this decision issued under "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003"

Date : 10/11/2009

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(S.N. Saundankar)
Chairperson
CGRF Kalyan