



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

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**IN THE MATTER OF GRIEVANCE NO. K/E/300/330 OF 09-10 OF M/S ATUL IMPEX PVT. LTD. MIDC PHASE-I, DOMBIVALI (EAST) , REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE ENERGY BILL.**

M/s. Atul Impex Pvt. Ltd.  
A-37/38, MIDC Phase-I  
Dombivali (East): 421 203,  
Dist : Thane

(Here in after  
referred to  
as Consumer)

**Versus**

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

(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 of the Licensee. The Consumer is billed as per Industrial tariff. The consumer registered grievance with the Forum on 25/09/2009 regarding excessive energy bill. The details are as follows: -  
Name of the consumer : M/s. Atul Impex Pvt. Ltd.  
Address: - As above  
Consumer No : 020029022900  
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/823, dt. 29/09/2009 to the Nodal Officer of the Licensee, and the Licensee through Nodal Officer MSEDCL Kalyan Circle-I filed reply vide letter No. SE/KCK-I/Tech/HT/4546, dt. 21/10/09.
- 4) The Chairperson & Member Secretary of the forum heard both the parties on 06/11/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Suhash Apte, Shri Ranjit Kshirsagar, Shri Pradeep Jadhav, Shri Santosh Vane, representatives of the consumer & Shri Nitnavare, Nodal Officer, Shri M. A. Atre, AE, Mrs. M. M. Gore, A.A. 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). Based on the Commercial Circular No. 81, dt. 07/07/08 in the context of order dt. 20/06/08 passed by MERC, the Chief Engineer (Comm) revised the tariff of consumer converting into HT-I industrial to HT-II commercial from May 2009 and directed the consumer to pay bill of Rs. 22.31 lakhs from June 08 to April 09. The consumer raised objection for

tariff charged contending that their Industry does not cover HT-II commercial category. By the letter dt. 22/06/09 consumer averred that they do basic research, development and subsequent to that production of molecules from Grams to Kilo level, means apart from research, they do chemical processes and chemical synphesization and generating the effluent, solid waste thereby they act as pilot/prototype models for the reaction set up for the industry as well act as an individual industry, they are generating effluent and have an internal inhouse ETP- Effluent Treatment Plant with latest technology of Fenton reactions. It is the contention of consumer that they work in the field of innovation, conceptulazation, optimization of process and synphesization of the route for the products and develop the product with the help of industrial unit operation and as such it is the small scale industry. It is further the contention of consumer that they are not in the business of selling and make a money out of it, they are solely involved into research and development activity of the inhouse molecules of drugs which are life saving are the part of the National Health priority programme and as such according to the consumer they are having industrial set up and activity undertaken are equivalent to industrial activity. They are operating the R&D centre of Pharma Industry of which facility is approved by Deptt. Of Scientific and Industrial Research, Ministry of Science and Technology, their centre is playing the vital role for the Pharma Industry a backbone of such a Industry. By the letter Dt. 09/11/09 consumer apprised the same to the licensee but not responded and erroneously held that they cover under the HT-II commercial category directing to revise tariff running in lakhs referred to above. The consumer therefore

contended since the electricity is utilized for research and development work, HT-II commercial tariff is unjust and illegal.

- 6) In contra, licensee contended that a new category of H.T.- II commercial has been introduced in the tariff circular No. 81, dt. 07/07/08 w.e.f. 2008, the connection given to the consumer in view of the circular falls in commercial category, their tariff has been converted from HT-I industrial to HT-II commercial, consequently the Chief Engineer vide letter Dt. 27/10/07 directed the Superintending Engineer to charge tariff as per HT-II from HT-I and the supplementary bill was issued for the amount of Rs. 22.31 lakhs to the consumer. According to licensee small saving industry and it's activity including laboratory services, monitoring and analysis Research and Development fall in the category HT-II. By the Regulation Educational Institution, Public Trust, Charitable Institution and Hospitals , taking supply at high voltage cover the said category and as such bill was correctly issued converting HT-I industrial to HT-II commercial. Consequently licensee prayed to dismiss the grievance of consumer being meritless.
- 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 licensee is justified in revising the tariff from HT-I industrial to HT-II commercial in connection with consumer ?	Yes
b) What Order ?	As per order below

Reasons

- 8) At the outset CR inviting attention of this Forum to the voluminous documents placed on record vehemently urged converting the consumer from HT-I to HT-II is unjust and illegal in as much as it is Research Institution and not profit making unit. He further submitted that factory licence, NOC given by Maharashtra Industrial Development Corporation (MIDC), licence given by FDA, approval from DSIR and the guidelines given therein clearly point out they are not selling the product. Further submitted that list of machinery, acknowledgement of Registration of the Unit with Govt. of India, consent given by Maharashtra Pollution Control Board indicates that it is a Medium Scale Industry, scarcely fall within the ambit of HT-II commercial category, however, ignoring these relevant factors, licensee high handedly directed the consumer to pay electricity charges as per HT-II commercial category. On the other hand, the LR submitted that even National Chemical Laboratory Pune and Enviro Laboratory Thane are made applicable revised tariff. He further urged that not only the industry as urged by the consumer, Educational Institutions even the Charitable Institutions and Hospitals do not escape from this category and added that after research the product is sold itself indicative of commercial category.
- 9) We have minutely gone through the documents produced by both the parties on record. Form No. 3 enclosed by the consumer with application dt. 26/10/09 for renewal of licence of the factory shows workers employed during the material year were 60 in number, consumption of power 1000 HP. Conditions mentioned in the No Objection Certificate dt. 16/07/07 given by Maharashtra Industrial Development Corporation (MIDC) and consent given by Maharashtra Pollution Control Board (MPCB) vide letter Dt.

14/08/08 clearly indicate the consumer provide Therapeutic drug development for the use for Anti-Tuberculosis and Anti-Malarial, are the product for sale. At this juncture, the CR inviting attention to the terms and conditions laid down in the certificate of Registration dt. 24/06/09 issued by the Ministry of Science and Technology clause 10 mentions, production if any, emanating from R&D such as prototypes, outputs from pilot plants etc. would not be sold without prior permission of Department of Scientific and Industrial Research (DSIR) particularly if the firm does not hold valid permission under Industrial Licensee Rules in force, the manufacture/sell of the said products, argued that the consumer does not have permission and consequently there is no business of selling at the unit to which electricity supply is made and therefore it is industrial and not commercial activity. True it is, clause 10 referred to above imposes covenant of securing permission to sale but nothing to show that the drugs manufactured in the factory are not sold there, thereby it can be well inferred that the consumer falls in commercial category. On this background submission made as above by the CR does not stand to reason.

- 10) The MERC by its order dt. 31/05/08 revised the tariff and based on that commercial circular No. 81 dt. 07/07/08 has been issued. Clause 8 of this circular points out consumers of electricity such as Educational Institutions, Charitable Institutions, Public Trust even the Hospitals fall in the HT-II commercial category and that tariff for such a commercial category has been increased than the tariff applicable for HT-I industrial. When Charitable Institutions and Hospitals are also not excluded hardly consumer producer of drugs which costs much could be excluded. On this

background we find no force in the submission of CR that their unit does not fall in the category made applicable by the licensee.

- 11) On perusal the record it is seen that National Chemical Laboratory Pune and Enviro Laboratory at Thane are also levied with HT-II tariff. Attempt is made vide chart enclosed with application dt. 26/10/09 to show that features of these companies are different from the consumer. Going through this chart nothing difference find between the two.
- 12) In the case in hand, consumer is HT consumer to the extent of 1000 HP. Drugs are produced in the unit , consumption of electricity and the relevant factors urged by the representative of licensee to our view, licensee correctly revised the tariff in connection with consumer as HT-II from HT-I, and the same being justified grievance application apt to be dismissed. Points are answered accordingly and hence the order :
- 13) 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 25/09/09. 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. The Member Secretary was deputed for Training at Chennai for a week. 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 stands dismissed.

2) Stay Order issued by this Forum vide No. EE/CGRF/Kalyan/818, dt. 25/09/09 is hereby vacated.

3) The Compliance should be reported to the forum within 60 days from the date of this decision.

4) The Consumer can file representation against this decision with Hon. Electricity 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.

5) 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 : 27/11/2009

(R.V.Shivdas)  
Member Secretary  
CGRF Kalyan

(S.N. Saundankar)  
Chairperson  
CGRF Kalyan