



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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IN THE MATTER OF GRIEVANCE NO. K/E/508/603 OF 2011-2012 OF
SHREE SHATRUNJAY TIRTHDHAM, BHUVANBHANU MANAS
MANDIRAM TRUST, SHAHAPUR REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
CHANGE OF TARIFF .

Shree Shatrunjay Tirthdham
Bhuvanbhanu Manas Mandiram Trust
Station - Asangaon, Near Savroli Phatak
Mahuli Road, Shahapur, Dist : Thane

(Here-in-after
referred
as Consumer)

Versus

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

(Here-in-after
referred
as licensee)

- 1) Consumer Grievance Redressal Forum has been established under "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 vide powers conferred 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 commercial tariff. Consumer registered grievance with the Forum on 07/06/2011 for Change of Tariff.

The details are as follows :

Name of the consumer :- Shree Shatrunjay Tirthdham

Bhuvanbhanu Manas Mandiram Trust, Shahapur

Address: - As given in the title

Consumer No : - 015529021700

Reason of dispute : Change of Tariff.

- 3) The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/349 dated 07/06/2011 to Nodal Officer of licensee. The licensee filed reply vide letter No. SE/KC-II/HTB/2569, dated 13/06/2011.
- 4) The hearing was held on 13/06/2011 @ 16.30 hrs. The Members of the Forum heard both the parties in the meeting hall of the Forum's office. Shri B. R. Mantri, Shri Rakesh Sardal representatives of the consumer, & Shri Purohit Nodal Officer, Shri V. H. Kashal, Asstt. Engr. Shri P. M. Garg, Asstt. Acctt. 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 each party in respect of each grievance shall be referred while deciding each of the grievances to avoid repetition.

- 5) The consumer has taken H. T. electricity connection to their premises from the Distribution Licensee (DL) in the year 2003 . It is contended that the consumer is a registered public trust for the religious activities. It has occupied 90 acres of land having 15 to 20 electrical installations i.e. for the purpose of Main Temple, Dharmashala, temporary shed, office, Prasad ghar, Sadhvi's residence, Bhojanshala, street lights, praking, garden, water pumps, common facilities like bathroom and W.C. for the use of pilgrims. According to the consumer they are using electric supply to serve the pilgrims, they are not having any commercial activities in the total premises. Dist. Licensee had provided them single point H.T. supply for this total area and have charged H.T.- VI group housing society tariff, however, suddenly they have changed the tariff to HT – II commercial without informing them. It is the contention of consumer that licensee have issued electricity bill for the month of April 2011 showing debit bill adjustment of Rs. 12,06,358.63 recovery against tariff difference of commercial rate prior to March 2009. By letter dated 06/07/2011 the consumer requested the licensee that since they use electricity for pilgrims (religious purpose) they cannot be charged tariff HT – II commercial, therefore bill issued of the amount as above is excessive and that they cannot recover the bill amount for a period more than two years vide Section 56 (2) of the Electricity Act 2003 and consequently bill raised and issued be revised. According to consumer since they do not use electricity for commercial purpose they have paid the

electricity charges as per HT – VI category, however, licensee issued them notice dated 02/06/2011 to pay the bill amount else their power supply will be discontinued. By letter dated 02/12/2010 consumer requested not to disconnect their supply, however consumer apprehend that licensee may disconnect their supply, therefore requested to direct the licensee not to disconnect till the disposal of the grievance application. Since licensee did not respond consumer moved the I.G.R. Cell but in vain as usual, therefore lodged this grievance to direct the licensee to raise and issue energy bill as per H.T. – VI category and not H.T. – II and to revise the bill accordingly and not to disconnect their supply.

- 6) Licensee filed reply dated 13/06/2011 contending that the consumer trust was given supply at high tension voltage (H.T.) from 07/05/2003. It is averred that in the year 2009 Government Audit was conducted in the Kalyan Circle – II for the period 2007 – 2009 and that Audit pointed out that the consumer is to be billed at H. T. – II and that loss of Rs. 12.6 lakhs caused due to incorrect categorization of tariff. It is contended as per MERC clarificatory order dated 21/08/2007 religious places of worship are to be billed at tariff as applicable to L. T. – I even if they are connected on H.T. voltage, however, subsequent tariff order dated 01/06/2008 introduced new category i.e. H.T. commercial interalia include consumer of electricity such as Education Institution like Charitable / Trust / Religious taking supply at high voltage. It is further contended that the tariff order made effective from 01/06/2008 clearly point out that Public Trusts are to be categorized under H.T. – II hence consumer is required to be billed under H.T. – II category

w.e.f. 01/06/2008 instead H.T. – VI category, therefore in the light of the Govt. Audit recovery was calculated and shown in the bill of April 2011 and the consumer is liable to pay the same. It is contended consumer did not pay the bill amount therefore notice of disconnection of supply was issued and as such grievance application being devoid of substance be dismissed in limine.

- 7) On hearing the learned representatives for the consumer and the licensee following points arise for consideration and our findings thereon for the reasons recorded below :

Points	Findings
a)Whether it is proper to bill the consumer Trust as per H.T. – II tariff ?	Yes
b)Whether licensee can recover bill amount for a period more than two years ?	NO
c)Whether the bill for the month of April 2011 issued by licensee needs to be revised ?	Yes
d)What Order ?	As per order below

Reasons

- 8) Learned representative for the licensee challenged the bill raised and issued by the licensee in connection with the consumer Trust for the month of April 2011 on two fold grounds. First ground is that the consumer is to be billed under H.T. VI tariff category instead of H.T. II and that licensee cannot recover bill amount for the period more than two years. So far first

contention as regards imposition of tariff learned representative for consumer relies on tariff circular issued by the Chief Engineer (Commercial) based on the tariff order of Hon. MERC in case No. 116 of 2008 wherein Hon. Commission pointed out as under :

“As regards applicability of tariff for consumers taking supply at HT voltage for residential purposes, in response to a clarification sought by MSEDCL, the Commission had clarified that individual residential consumers taking supply at HT voltage (large bungalows) should be charged at LT residential rates, since there was no HT residential tariff category. However, it appears that MSEDCL has extended this clarification to include those HT residential consumers, such as housing colonies of industries or educational institutions, who are taking supply at single point for further sub-distribution within their residential complex. As a result, due to the higher slab tariff for consumption above 500 units for LT residential category, the effective tariffs for such consumers are working out very high. It is clarified that ‘HT VI Group Housing Society’ tariff is also applicable for such Housing Colonies of industrial consumers or educational institutions, taking supply at HT with separate sub-meter, irrespective of whether metering is at HT side or LT side of the transformer so long as the supply is at HT voltage.” Further inviting our attention to the order of Commissioner of Labour Maharashtra State Mumbai dated 12/05/2011 placed on record learned representative for the consumer contended that Devsthans are neither shops nor commercial establishment as defined under Bombay Shops and Establishment Act 1948 and as such all places of workshop fall outside the purview of the said Act therefore the Devsthan Trust cannot be billed as per HT II tariff category.

- 9) At this juncture, learned representative for the licensee urged with force that the Commission in case No. 72 of 2007 by order dated 20/06/2008 introduced HT II category including consumers of electricity such as Educational Institutions, Institutions like Charitable / Public Trusts / Religious Institutions, Hospitals run / aided by the Government thereby Charitable Trust / Religious Institutions like the consumer in case in hand, are to be charged HT II tariff category from June 2008. Audit of the consumer Trust was conducted for the period 2007 – 2009 in the year 2009 and found consumer was under billed of Rs. 12 lakhs, as tariff of HT VI category was applied instead HT II. On going through the relevant orders of Hon. Commission and the departmental circulars and the documents as a whole, we find force in the submission of learned representative for the licensee that the consumer needs to be billed under HT II category and not HT VI as per Audit objection and the directions of the Hon. Commission.
- 10) On perusal the detail say filed by Superintending Engineer Kalyan Circle – II dated 13/06/2011 bill under dispute raised and issued as per the directions of Hon. MERC in so far tariff category and as such licensee is justified to apply tariff to the consumer Trust as HT II category.
- 11) So far bill raised under dispute for the month of April 2011 of the amount Rs. 12,06,358=63 according to the learned representative for the consumer sum cannot be recovered after a period of two years from the date when such sum became first due as per Section 56 (2) of the Electricity Act 2003. It is seen from the say filed by licensee dated 13/06/2011 as per the Audit for the period 2007 to 2009 conducted in the year 2009, recovery

calculated and shown in the bill of April 2011 is obviously for the period more than two years and from this point of view, bill under dispute referred to above, being unsustainable apt to be quashed and set aside in as much as limitation for any recovery of arrears under Section 56 (2) of the Electricity Act 2003 is of two years for which reliance can be had to the decisions of Division Bench of Hon. High Court in Awadesh S. Pandey V/S. Tata Power Co. Ltd. & ORS Air 2007 Bombay 52 and Maharashtra State Electricity Distribution Company Ltd. V/S Venco Breeding Farms Pvt. Ltd. & others in Writ Petition No. 6783 of 2009. Relying on the decisions cited above and going through the provision referred to supra, bill under dispute will have to be revised restricted to two years from the date when such sum became first due i.e. two years prior to April 2011. For the reasons discussed supra licensee will have to be directed to revise the bill accordingly and issue a fresh bill and points are answered accordingly.

- 12) By order dated 13/06/2011 this Forum had directed the licensee not to disconnect supply until further order. In view of the findings as above order dated 13/06/2011 will have to be vacated by partly allowing the grievance. Hence the order :

O-R-D-E-R

- 1) The grievance application is partly allowed.
- 2) Licensee has rightly applied tariff category HT II to the consumer Trust.
- 3) Bill under dispute for the month of April 2011 being for more than two years is quashed and set aside.

- 4) Licensee is directed to issue a fresh bill as per HT II tariff category for the limitation period of two years prior to April 2011 to the consumer trust within 30 days and compliance be reported within 45 days from the date of receipt of this decision.
- 5) Stay Order issued by this Forum No. EE/CGRF/Kalyan/0463, dated 06/07/2011 is hereby vacated.
- 6) The Consumer can file representation against this decision with the Hon. Electricity Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.

- 7) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission 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” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

Date : 25/07/2011

Mrs. S.A. Jamdar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(S.N. Saundankar)
Chairperson
CGRF Kalyan