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**Consumer Grievance Redressal Forum, Kalyan Zone**  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
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No. K/E/904/1103 of 2015-16

Date of Grievance : 03/07/2015

Date of order : 23/10/2015

Total days : 112.

**IN THE MATTER CASE OF GRIEVANCE NO. K/E/904/1103 OF 2014-15 IN RESPECT OF SHRI THAMBI K. HAKKO, MOTOR GARAGE, SHANTINAGAR, OPPOSITE OF STATAE BANK, ULHASNAGAR-3, DIST. THANE-421 003 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING REFUND ON A/C OF WRONGLY CHANGE IN TARIFF.**

Shri Thambi K. Chakko,  
Motor garage, Shantinagar,  
Opposite of State Bank,  
Ulhasnagar-3,  
Dist. Thane- 421 003.

(Consumer No. 021510302165/0) ..... (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution  
Company Limited  
through its Nodal Officer,

MSEDCL, Kalyan Circle-II, Kalyan ..... (Hereinafter referred as Licensee)

Appearance : - For Licensee - Shri Thete - AEE, Ulhas-III S/Dn.  
Shri Deshpande-AA, Ulhas-III S/Dn.

For Consumer-Consumer's Representative, Shri Rajput.

(Per C.U.Patil-Executive Engineer – cum- Member Secretary )

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. Hereinafter referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.’ Hereinafter referred ‘SOP’ for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014’.

Consumer, Shri Thambi K. Chakko is having his motor garage at Shantinagar, Ulhasnagar-3, collected with electricity bearing consumer No. 021510302165. The consumer was billed previously at industrial tariff. But in January 2015, the flying squad visited his premises on 5/1/15 and found that consumer is using supply for motor garage. As this activity, i.e. utilising the electricity for motor garage is included in commercial tariff (LT-II) as per MERC tariff order in Case No. 19/2012. The Licensee imposed the plain recovery of tariff difference between industrial and commercial from August 2012 to december 2014. The Licensee assessed for total units 18198 and for Rs.62040/-. At first step bill of amount of Rs.8580/- was issued which consumer paid on 2/2/15. The Licensee corrected their wrongly calculated B80 and revised it up to Rs.62040 on 28/2/15. Now the balance dues with consumer are Rs.53,460/-.

The consumer on the above background approached to the IGRC by filling "X" form dated 27/3/15. The IGRC heard and passed the order No.2466 dated 24/6/15. The IGRC rejected the grievance application of the consumer and confirmed the issued bill for an amount of Rs.53,460/- as correct.

Aggrieved by the above IGRC's order, the consumer approached this Forum by filing "A" form dated 13/7/15 which was registered by allotting No.K/E/904/1103. The hearing was scheduled on 20/7/15 at 15:00 hrs. vide letter No.217 dated 03/7/15 was served to the Nodal Officer of KC-II for attending the hearing accordingly.

On 20/7/15, the matter was adjourned to 13/8/15. The Licensee appeared with their submissions vide letter date AEE/Ulhas III/1566 dated 12/8/2015. The copy of their submission was handed over to CR Shri Rajput on 13/8/2015. Considering the prayer of the CR for examining and for study of the Licensee's reply. He prayed for adjournment. Accordingly, next hearing was adjourned to 7/9/2015/

The Forum observed the Licensee's reply dated 12/8/15 which was in similar lines to the IGRC's order dated 24/6/2015. The Licensee also contended that they have approached to the Hon'ble High Court and filed appeal vide Writ Petition No.6553/2015 dated 15/7/15 against the Hon'ble Ombudsman's (Mumbai) order dated 23/12/2014 given in similar nature of matters, but in respect of Jakir Choudhary and others.

The Licensee submitted the order dated 15/7/15 of Hon'ble High Court in respect of writ petition Nos.6545, 6552 and 6553 of 2015, in which the Hon'ble High Court expressed their views as produced below:

“The issue that arise for consideration in the above petitions is as to whether the petitioners are entitled to make recovery of the electricity charges from an anterior date, that is when the change in the tariff category was effected by the MERC or from the date when the error in categorisation was detected. By the impugned order, the Ombudsman by relying upon the order passed by the APTEL, New Delhi, has held that the petitioners would be entitled to recover only from the date of discovery of error relating to categorisation. In view of the fact that the entitlement of the petitioner is in question, the status-quo in respect of the recovery is directed to be maintained. The Learned Counsel for the respondent no.1 submits that the respondent no.1 should not be shown as being in arrears of the amounts claimed by the petitioner. Upon this the Learned Counsel for the petitioner assures the Court that the Respondent no.1 would not be shown as arrears in terms of the impugned order”.

The Forum taken into consideration the previous orders placed in respect of Subhash Kailash Gupta, Ram Chimanlal Kanojiya and Jakir Hussain M. Choudhary, all residing at Ulhasnagar and having their auto garages. The Forum in its order dated 19/9/2014 rejected the consumers' grievances regarding applying commercial tariff instead of industrial tariff and upheld the Licensee's action for raising the bills towards commercial tariff from April 2012 to June 2014 as per Hon'ble MERC Tariff Order dated 16/8/2012. The consumers filed Representation against the order of the Forum in Electricity Ombudsman Mumbai. The EO Mumbai vide their order dated 23/12/2014 allowed the Representation of the consumer and directed the Licensee to recover arrears from the consumers from billing month of March 2014 in which premises was inspected first by the Licensee. The EO is also given direction for recovering fresh dues without applying DPC and interest on the said arrears.

Now the Licensee has approached to the Hon'ble High Court with Writ Petition Nos. 6552,6553 and 6545/2015 as described above and the order passed by the JM is also mentioned in the above paras.

No doubt, the above writ petitions are pertaining to different consumers and consumer now approached to the Forum in this grievance is not attached with that writ petitions. But the nature of grievance in all the cases is similar. Also the applicability of tariff from LT Industrial to LT Commercial is the same in all the cases including this one.

As the question about whether the Licensee is entitled to make recovery of such difference of electricity charges from anterior date or they should allowed such recovery from the date of inspection is before the Hon'ble High Court. This issue will be clarified in the order of Hon'ble High Court in the above cases. Till then as per the instructions of Hon'ble High Court in above writ petitions and as mentioned above paragraphs, the status quo in respect of recovery should be maintained. As similar matters are before the Hon'ble High Court, it will not be justified if the Forum pass any order in the similar topic.

Therefore, the Forum decides to maintain the status quo in the present case till the final disposal of the above writ petitions.

This matter could not be decided within time as Licensee was to provide the details sought from time to time, those were provided on 13/08/2015 and their submissions are heard on that day and clarification taken on 13/8/2015. Moreover, the Forum is functioning in absence of regular Chairperson and the Member Secretary is discharging the additional work of Chairperson along with the regular work of Member Secretary

Hence the order.

**ORDER**

The Licensee is directed to maintain the status quo in respect of arrears / dues raised by it towards change in tariff category from LT Industries to LT Commercial and also should not show this dues as arrears against the consumer till the final disposal of writ petition No. 6552, 6653 and 6545/2014 before the Hon'ble High Court.

The Licensee is at liberty to take the appropriate action as per the directions of Hon'ble High Court in the above referred writ petitions.

Date: 23/10/2015.

**I agree**

**( Mrs.S.A.Jamdar )  
Member  
CGRF,Kalyan**

**(Chandrashekhar U.Patil)  
Chairperson-cum- Member Secretary  
CGRF,Kalyan**

**\*\* ( In the sitting of Forum, the Chairperson is not available. As per MERC Regulations (2006), Clause 4, the technical member shall be the Chairperson of such sitting in which Chairperson is not available and hence in the present case, the technical member performed the role of Chairperson of the Forum ).**

**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,606/608, Keshav Bldg, Bandra Kurla Complex,Mumbai 51”.*

b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or

c) 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”*

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.

