



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph- 2210707, Fax – 2210707, E-mail : cgrfkalyan@mahadiscom.in

No. **K/E/1080/1301 of 2016-17**

Date of Grievance : 18/11/2016

Date of order : 09/12/2016

Total days : 22

IN THE MATTER CASE OF GRIEVANCE NO. K/E/1080/1301/2016-17 IN RESPECT OF M/S. EVEREST KANTO CYLINDER LTD. N-62, MIDC, KUMBHAVALI NAKA, TARAPUR, BOISAR, DIST. PALGHAR PIN CODE 401 508, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING CHANGE OF CATEGORY FROM CONTINUOUS TO NON-CONTINUOUS.

M/s. Everest Kanto Cylinder Ltd.,
N-62, MIDC,
Kumbhavali Naka,
Tarapur, Boisar,
Dist. Palghar
Pin Code- 401 506,
(Consumer No. 003019013501) (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited
Addl. Executive Engineer,
MSEDCL, Palghar Circle (Hereinafter referred as Licensee)

Appearance : - For Licensee : Shri Tushar B.Bhagit -EE-Palghar Circle.
For Consumer : Shri Ashok Patil- CR

[Coram- Shri A.M.Garde-Chirperson, Shri L.N.Bade-Member Secretary and
Mrs.S.A.Jamdar- Member (CPO)].

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’.

2] Brief facts of the grievance application are that:

Consumer’s plant is situated at MIDC, Tarapur, Dist. Palghar, manufacturing cylinders. Consumer is availing supply from Licensee since 1993 and is having HT continuous category. As consumer had made back up arrangement of supply in case of load shedding, on 26/2/14 it made an application / request to the Licensee to change it’s tariff category from HT Industrial continuous to HT Industrial Non continuous as per the provision of the Regulation 9.2 of MERC (Standard of provisions of Performance) 2005.

3] However, Licensee failed to take any action in this regard and consumer was forced to pay HT continuous tariff from March 2014 to December 2015. Consumer therefore, claims that it is entitled for the refund of amount (Rs. 61,66,221/- + interest) collected by Licensee by applying

wrong tariff category for the period mentioned above (March 2014 to December 2015).

4] It is also a contention of the consumer that Licensee has already changed the tariff category of other consumers from HT continuous to HT non continuous. However, Licensee has not taken any action in the case of this consumer and Licensee cannot take such arbitrary decision.

5] Consumer submits that after a repeated follow up with the Licensee, it did not take cognizance of his grievance. Consumer therefore, approached CGRF with the following prayer:-

a----- Hon'ble Forum may be please to declare that Respondent has violated Regulation 9.2 of MERC (Standard of Performance) Regulations 2005 and complainant was entitled to be charged HT-Industrial Non-continuous from April 2014.

b---- Hon'ble Forum may be please to direct the Respondent to refund sum of approximately Rs.61,66,221/- with interest from March 2014 to December 2015.

c----- Hon'ble Forum may be please to declare all consequent bills raised under the category "continuous (HT-1C)" as illegal and directed MSEDCL to refund differential amount paid till December 2015 under protest with interest.

6] The consumer, therefore, approached this Forum on 18/11/16. It's grievance application along with accompaniments sent to the Nodal Officer vide this Office letter No.EE/CGRF/Kalyan/301 dated 18/11/16.

7] The application of the consumer for change of tariff category from HT continuous to HT non continuous has been forwarded to the Head office for seeking guidelines.

8] The competent authority has directed Licensee " to take a fresh application from the consumer in respect of the option to be exercised

between continuous and non continuous type of supply. However, terms and conditions mentioned in commercial circular No. 246 dated 12/8/16 is to be followed strictly”

9] Licensee further submitted that at present commercial circular No. 246 is in force and no other further guidelines are issued from the Corporate Office on this issue.

10] The Licensee therefore, prayed that since the issue / raised by the consumer will affect on a larger scale of consumers all over Maharashtra and as it is policy matter to be directed by the corporate Office, the grievance application of the consumer be set aside till further guidelines from the Corporate Office.

11] We have gone through the documents available on record.

Our observations are -----

12] As per the order of MERC in Review case No.94/2015 clear cut directions are given in this regard. Regarding change of tariff category there is a specific provision in the SOP Regulations that after receipt of application, change of tariff category shall be effected before expiry of second billing cycle. Therefore, even it is assumed that application of consumer is not within the period of one month from the date of tariff order, the applicant is alternatively entitled for reliefs as per the provision of the SOP Regulations 9.2. In view of this the application filed by the applicant on 18/11/16 will have to be treated as application as per Regulation 9.2 of SOP Regulations for change of tariff category from HT continuous to HT non continuous and Licensee was liable to give effect before the expiry of second billing cycle i.e. from March 2014. The consumer therefore, is entitled for the refund of amount paid by the consumer from March 2014 till the rectification (i.e. December 2015.)

13] We have also observed / noted the submission of the consumer that Licensee has considered the applications for change of tariff category of similarly placed by other applicants / consumers like the present consumer. Accordingly to the provisions of E.A. 2003, Licensee cannot adopt the procedure of discrimination.

14] Consumer has submitted second fresh application to the Licensee's Office as per the directions of Officials of Licensee for change of tariff stating that consumer's right for refund will remain intact from its first application dtd. 26/2/14.

In the light of the above observations, consumer's claim for refund is upheld.

Hence the order.

ORDER

- 1] The grievance application of the consumer is hereby allowed.
- 2] The Licensee is directed to refund the amount collected by the Licensee by applying wrong tariff.
- 3] Licensee to work out the differential amount paid by consumer From March 2014 to December 2015 and refund this amount to the consumer along with interest as per RBI rate.
- 4] The bills issued to the consumer from March 2014 to December 2015 are quashed.
- 5] This matter stands disposed off.

Dated: 09/12/2016.

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

(L.N.Bade)
Member Secretary
CGRF, Kalyan

(A.M.Garde)
Chairperson
CGRF, Kalyan

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.