

CONSUMER GRIEVANCES REDRESSAL FORUM;

MSEDCL NAGPUR (RURAL) ZONE NAGPUR

COMPLAINT NO. 29/2015

M/s.Gimatex Industries Pvt.Ltd.
Ram mandir ward, Hinganghat
District - Wardha.

Complainant

,,VS..

1. Superintending Engineer,
MSEDCL,O&M Circle,
Wardha.

2. Executive Engineer/Nodal Officer,
I. G. R. C., Circle Office,
MSEDCL,Wardha.

Respondents

Applicant represented by

1) Shri Sumit Goenka, Authorized representative

Respondents represented by

1) Shri D.R.Bawankar, EE, (Addnl charge of EE) Wardha

2) Shri S.V.Barahate, Jr.Law Officer, Wardha

CORAM:

Shri Vishnu S. Bute, Chairman.

Adv. Gauri D. Chandrayan, Member

Smt.D.D.Madelwar, Member-Secretary.

JUDGEMENT

(Delivered on this 27th day of May, 2015)

2. M/s. Gimatex, Industries Pvt.Ltd., Ram Mandir Ward, Hinganghat, Dist.Wardha (hereinafter referred to as, the applicant) had submitted an application to the distribution licensee MSEDCL (hereinafter referred to as, the respondent). The applicant requested that his tariff may be changed from continuous express feeder tariff to non continuous tariff (non express feeder). The respondent has not taken any action. So the applicant approached the IGRC Wardha on 31-05-2014. IGRC Wardha dismissed the application vide order passed under no.SE/Wardha/T/IGRC/3712 dated 10-07-2014. Feeling aggrieved by the aforesaid order the applicant presented the instant application under the provisions contained in Regulation 6.4 of the MERC (CGRF & EO) Regulations

2006, on 21-04-2015.

3. A copy of the application was given to the respondent. The respondent was directed to submit the parawise reply. The respondent submitted reply under no.SE/O&M/WRD/T/DyEE-1/HTC/2018 dated 02-05-2015. The case was fixed for personal hearing on 25-05-2015. Shri Sumit Goenka, authorized representative, was present for the applicant. Shri D.R.Bawankar, Executive Engineer (additional charge) O&M Circle office Wardha and Shri S.V.Barahate, Jr. Law Officer, Wardha represented the respondent. Both the parties were heard.

4. It was argued on behalf of the applicant that the industry is connected at 11 Kv supply and the contract demand is 1450 KVA. The applicant got the supply on 16-03-1996. Its consumer no. is 510019000140. In MERC tariff order which was made applicable from 01-06-2008 in a foot note (iv) at page 11 of high tension tariff booklet, further in tariff order dated 12-09-2010 applicable from September 2010 in foot note (iv) at page no.253 and further in tariff order dated 16-08-2012 applicable from August 2012 at page no.328 in foot note (iv) it is mentioned that,

“ Only HT industries connected on express feeders and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while all other HT industrial consumers will be deemed as HT non continuous industry.”

The applicant is not getting the dedicated supply but other consumers are also connected on the feeder where from the applicant is getting the supply.

The Commission ruled in case no.44 of 2008 that there is no justification for removing the clause “demanding continuous supply from the definition of HT-I

continuous category “. The Commission further said that,

“ it is clarified that the consumer getting supply on express feeder may exercise his choice between continuous and non continuous supply only once in the year, within the first month after issue of the Tariff Order for the relevant tariff period. In the present instance, the consumer may be given one month time from the date of issue of the order for exercising his choice. In case such choice is not exercised within the specified period, then the existing categorization will be continued.”

The Commission revised tariff with respect to TOD charges for F.Y. 2012 - 13 on 26-12-2012 which was applicable upto 31-03-2013. This order amounts to a new tariff order with respect to TOD charges. Here the applicant referred to the MAHAVITARAN Commercial Circular no.183 bearing no.REF.PR-3/TARIFF/00333 dated 04-01-2013. The applicant referred to the reference para wherein at sr.no.3 it is mentioned MERC tariff order dated 26-12-2012 in case no.107 of 2012. The applicant submitted his request to change the tariff category to non continuous tariff vide letter dated 09-01-2013.

The Superintending Engineer, MSEDCL Wardha requested Chief Engineer Commercial MSEDCL vide letter dated 23-01-2013 to give approval and necessary guidance in the matter to change the tariff from express feeder to non express feeder. The applicant submitted reminder to the Chief Engineer Commercial to change the tariff category to non continuous tariff vide letter dated 29-03-2014. The respondent has not taken any decision on the application of the applicant. So the applicant approached the

IGRC. The IGRC rejected his application.

The applicant also submitted that the respondent changed the tariff category of one consumer M/s.Gimatex Industries Pvt.Ltd. Wani unit vide letter bearing no.SE/O&M/WRD/T/AE-1/3931 dated 03-07-2013

The applicant finally requested that the respondent may be directed to change the tariff category of the applicant to non continuous tariff (non express feeder). All the energy bills of the applicant from January 2013 may be revised applying the non express feeder tariff. The respondent may be directed to apply the revised tariff for all future billing. The applicant also asked for the refund of excess amount deposited by the applicant alongwith interest.

5. In reply the respondent stated that the applicant is a HT consumer connected on 11KV Voltage level. He is having a contract demand of 1450 KVA and he has a express feeder facility. The respondent also admitted that the consumer connected on express feeder and demanding continuous supply are deemed as HT continuous industry and those are given continuous supply.

The respondent admitted that the Commission in the order passed in case no.44 of 2008 on 12-09-2008 has clarified that the consumers getting supply on express feeder may exercise of his choice between continuous and non continuous supply only once in a year and that too within the first month after issue of the tariff order for the relevant period.

The respondent admitted that the applicant submitted an application for change of tariff on 09-01-2013. It is also true that the Superintending Engineer Wardha

submitted the application to the Chief Engineer for necessary orders. It was stated that higher authority has not given any order on the application till today. The respondent stated that the application for change of tariff by the applicant was not submitted within the specified period. So his existing categorization can not be changed. The respondent stated that there is no force in the application. The application deserves to be dismissed.

6. The consumer representative submitted a note which reads as under,

I have perused the record. I have heard the arguments advanced by both the parties. It is admitted position that the applicant submitted an application to the respondent on 09/01/2013. He requested to change his tariff to non continuous category. The applicant referred to the Commission's clarification, which reads as under,

" it is clarified that the consumer getting supply on express feeder may exercise of his choice between continuous and non-continuous supply only once in the year, within the first month after issue of the tariff order for the relevant tariff period".

The applicant further stated that the Commission issued tariff order bearing no., MERC tariff order dated 26/12/2012 in the case no. 107 of 2012".

The respondent objected the contention of the applicant. It was stated that the applicant had not submitted the application within the stipulated period.

But I defer from this argument because the commission revised Tariff with respect to TOD Charges for FY 2012-2013 on Dt. 26/12/2012 which is applicable w.e.f.

31/03/2013 . This order amounts to a new Tariff order with respect to TOD charges and is applicable 01/01/2013 to 31/03/2013. Due to this order applicant got a proper opportunity to submit his choice for getting non-express feeder Tariff.

I think that this clarificatory order should be considered as final Tariff order and hence very much relevant and applicable to this case.

Naturally the intention of the applicant in this regard is very correct and lawful. Because often the order of commission dt. 26/12/12 some consumer applied for change in Tariff category from express to non-express and MSEDCL has converted the tariff category for example applicant perused a proof of M/s. GIMTEX Industries Pvt Ltd. Wani who had applied for change of tariff category on 09/01/2013 after issue of Commission order regarding change in TOD charges and MSEDCL had sanctioned non-express Feeder Tariff to the consumer. It is very surprising and discrimination in the interpretation of Tariff order.

If more the one consumer are connected on same feeder into beginning then the applicant should not be charged express feeder Tariff. Secondly there is a staggering day (Wednesday) as per the conferment load sanction letter . This leanly indicator that the load sanction is for non non-continious industry and staggering holiday is observed by the applicant right from the beginning. Hence the applicant should be given the change in category continuous to non-continuous category.

As per clause 9.2 of SOP Regulation “ Any change of name or change of tariff category shall be affected by the distribution Licensee before expiry of second billing cycle after the receipt of application.” Hence as per this clause too it is crystal clear

that the applicants tariff can be changed from second billing cycle after his application dt. 09/01/2013 in any condition.

Even though Hon'ble Chairman and member-secretary have given reference of MSEDCL TARIFF ORDER DATED 16TH August,2012 in case no. 19 of 2012 AND have not considered the order to be tariff order, I defer from their opinion as it is not relevant to this case. Another missing point in this order is that the SOP regulation highlighted by the applicant is not considered in this order and hence it is not evaluated on merit basis. So, in my view SOP regulations should be strictly followed.

I thereby strongly recommend that the clarificatory order dt. 26/12/2012 should be considered as Tariff Order. As per the belief and my knowledge that Tariff order dated 26/12/2012 is very much applicable and relevant to this applicant.

7. We have perused the record. We have heard the arguments advanced by both the parties.

It is admitted position that the applicant submitted an application to the respondent on 09-01-2013. He requested to change his tariff to non continuous category. The applicant referred to the Commission's clarification, which reads as under,

“ it is clarified that the consumer getting supply on express feeder may exercise of his choice between continuous and non-continuous supply only once in the year, within the first month after issue of the tariff order for the relevant tariff period”.

The applicant further stated that the Commission issued tariff order bearing no., "MERC tariff order dated 26-12-2012 in the case no.107 of 2012".

The respondent objected the contention of the applicant. It was stated that the applicant had not submitted the application within the stipulated period. We have obtained the copy of the order referred by the applicant. We have perused the aforesaid order carefully. The heading of the order reads as follows,

" In the matter of petition filed by Maharashtra State Electricity Distribution Company Limited under Regulation 85 of the MERC (conduct of business) Regulations 2004, seeking review of the order of the Commission in respect of MSEDCL's tariff order dated 16 August 2012 in case no.19 of 2012.

Secondly, the issues discussed and decided by Honorable MERC in this case are as under,

- i) Admissibility of the Review Petition,*
- ii) Increase in Time of Day (ToD) rebate for Off-peak consumption,*
- iii) Recovery of Additional Energy Charge (as per order in case no.100 of 2011, MA No.4 of 2011 and case no.143 of 2011 dated 31 October, 2011),*
- iv) Implementation of the Hon'ble ATE's order dated 26 July, 2012,*
- v) Re-determination of Cross Subsidy Surcharge,*
- vi) Recovery of Capital Cost with Carrying Cost,*
- vii) Allowance of Cost of Infirm Power from upcoming Stations of Maharashtra State Power Generation Co. Ltd. (MSPGCL) for F.Y. 2011-12, and*
- viii) Allowance of Bad Debts on the Revenue from Zero Load Shedding*

Scheme (ZLS).

On perusal of the aforesaid order and the issues discussed therein we are of the considered opinion that this is not a tariff order for the relevant period. On perusal of the order it is seen that it is an order passed by Hon. Commission in the matter of petition filed by MSEDCL seeking review of the order of the Commission in respect of MSEDCL's Tariff Order dated 16-08-2012 in case no.19 of 2012.

As per the belief and knowledge of this forum the Tariff Order for the relevant and existing tariff period is Tariff Order dated 16-08-2012 in case no.19 of 2012, tariff applicable w.e.f. 01-08-2012.

Naturally, the contention of the applicant in this regard is wrong. So the application presented by the applicant within one month from the issue of the aforesaid order can not be termed as valid and proper.

From the aforesaid discussion, it is very clear that the applicant failed to submit the application within the prescribed period, consequently his existing categorization will continue.

The applicant also argued that the Superintending Engineer accepted his application. It is submitted to the higher authority for guidance and necessary orders. The higher authority has neither approved the proposal nor rejected it. In our opinion this action on the part of the Superintending Engineer is not of any help to the applicant. At the most, we may direct the respondent to take necessary action on the application.

The applicant also argued that some other consumer has got his tariff changed. Since we are not aware of the facts and the circumstances of that case, we can not consider that case here.

7. In view of the facts and circumstances discussed above, we pass the following order, by majority,

ORDER

- i) Application no.29 of 2015 is hereby dismissed. Order passed by IGRC Wardha dated 10 July, 2014 is hereby confirmed.
- ii) No order as to cost.

Sd/-	sd/-	sd/-
(Adv.Gauri D.Chandrayan)	(Smt.D.D.Madelwar)	(Vishnu S. Bute)
<u>MEMBER</u>	<u>MEMBER SECRETARY</u>	<u>CHAIRMAN</u>
<u>CONSUMER GRIEVANCES REDRESSAL FORUM; NAGPUR ZONE NAGPUR</u>		
<u>(Nagpur Dtd.26th day of May, 2015)</u>		

CONSUMER GRIEVANCE REDRESSAL FORUM

NAGPUR ZONE (RURAL) M. S. E. D. C. L.

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(O) 0712- 2022198

NO. CGRF/NZ/

Date :

Certified copy of order dated 27th May, 2015 in Case No.29 / 2015 is enclosed herewith.

Member-Secy/ Exe.Engineer,
C.G.R.F.(NZ)MSEDCL
N A G P U R

To,
M/s.Gimatex Industries Pvt.Ltd,Ram mandir ward, Hinganghat
Dist.Wardha

Copy s.w.r.to :-

1. The Chief Engineer(NZ), MSEDCL, Vidyut Bhavan,Katol Road, Nagpur.

Copy f.w.cs.to:

1. The Superintending Engineer,O&M Circle., MSEDCL, Wardha.
2. The Executive Engineer/Nodal Officer., O&M Circle Office, MSEDCL.Wardha for information and necessary action.

Address of the Electricity Ombudsman is given as below.

Office of - The Electricity Ombudsman,
12, Srikrupa, Vijay Nagar,
Chhaoni, Nagpur-440 013
0712-2596670