

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Urban Zone, Nagpur**

Case No. CGRF(NUZ)/201/2014

Applicant : M/s. Shridhar Castings Pvt.Ltd.,
26, Nagpur Saoner Road, Tah. Saoner,
Nagpur.

Non-applicant : Nodal Officer,
The Superintending Engineer,
Nagpur Rural Circle
MSEDCL,
NAGPUR.

Quorum Present : 1) Shri Shivajirao S. Patil,
Chairman.

2) Adv. Subhash Jichkar
Member.

3) Shri Anil Shrivastava,
Member / Secretary.

ORDER PASSED ON 18.10.2014.

1. The applicant filed present grievance application before this Forum on 20.8.2014 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as Regulations).

2. The applicant's case in brief is that applicant is connected on non express feeder since beginning because more than 1 consumer are

connected on this feeder and it is not dedicated distribution facility or express feeder. Commission revised tariff applicable from June 2008 in which express feeder tariff was at higher rate compared to non express feeder tariff. M.S.E.D.C.L. is regularly charging express feeder tariff to the applicant and applicant is regularly paying higher tariff at express feeder rate from June 2008 and thereafter revised tariff order applicable from the month of September 2010 and revised tariff applicable from August 2012, after imposing specific condition. In the tariff order of Commission applicable from June 2008, in the foot note (iv) at Page No. 11 of HT tariff book let, further in tariff order dt. 12.9.2010 applicable from September 2010 in foot note (iv) at Page 219 and in the tariff order Dt. 16.8.2012 at page No. 328 foot note (iv) it is mentioned that “only HT industries connected on express feeders and **demanding continuous supply** will be deemed as HT continuous industries and given continuous supply while all other HT industrial consumers will be deemed as HT non continuous industries”. M.S.E.D.C.L. has applied for clarification of tariff order applicable from 1.6.2008 and Hon’ble Commission has passed clarificatory order. Commission ruled in case No. 44/08 that there is no justification in removing the clause “demanding continuous supply from the definition of HT-I continuous category”. M.S.E.D.C.L. on the basis of above said order issued circular No. 88 Dt. 26/9/2008 high lighted the features of Commission’s order. As per tariff order of Commission, definition of express feeder and circular No. 88 of M.S.E.D.C.L. the applicant should be charged non express feeder tariff.

3. Commission revised tariff order in case No. 19/12 on Dt. 16.8.2012. This is a new tariff order hence applicant got opportunity to exercise his choice between continuous and non continuous supply and

submitted application on 1.9.2012 i.e. within 1 month from the date of tariff order to M.S.E.D.C.L. for effecting non continuous tariff and requested to convert applicant's tariff from continuous to non continuous with immediate effect. In spite of repeated demands and various applications to various authorities M.S.E.D.C.L. did not change tariff. Therefore applicant applied to I.G.R.C. but I.G.R.C. did not here the application nor passed any order even after a lapse of more than 3 months. Therefore applicant filed present application before this Forum and claimed interim relief and final relief as per prayer clause of grievance application.

4. Non applicant denied applicant's case by filing reply dated 15.9.2014. It is submitted that applicant M/s. Shridhar Casting Pvt. Ltd. at 26 Nagpur Saoner Road is HT consumer under Nagpur Rural Circle having Consumer No. 420819005280 with contract demand of 2700 kVA, connected load 2510 kW and connected on 33 kV express feeder feeding continuous supply without any load shedding. Hence charged as continuous tariff. Hon'ble MERC, Mumbai has passed tariff order on 20.6.2008 in case No. 72/07 for financial year 08-09 and specified that "only HT industries connected on express feeder and **demanding continuous supply** will be deemed as HT continuous industries and given continuous supply while all other HT industrial consumers will be deemed as HT non continuous industries". (Emphasis added). Later on, clarificatory order Dt. 12.9.2008 has been passed by Hon'ble Commission in case No. 44/08 and clarified that "Consumer getting supply on express feeder may exercise choice between continuous & non continuous supply only once in a year, within the first month after issue of tariff order for the relevant tariff period. In the present instance, the consumer may be given

one month's time from the date of issue of this order for exercising his choice. In case such choice is not exercised within stipulated period, then existing categorization will be continued.

5. M.S.E.D.C.L. has issued circular No. 88 Dt. 26.9.2008 in the light of order passed by Hon'ble Commission in case No. 72/07 and 44/08. The said circular further clarified that "Consumer may be given one month's time from the date of issue of circular for exercising his choice. In case such choice is not exercised within the stipulated period, then existing categorization will be continued.

6. As per order passed by Commission in Case No. 44/08 the consumer has to apply for exercising his choice from continuous to non continuous within one month from the tariff order, but consumer failed to apply within one month from the issue of tariff order and has applied on 1.9.2012. Considering order issued by Commission in case No. 38/14, in which it was allowed to M.S.E.D.C.L. to collect interim charges. But the said order is not tariff order so the change in tariff can not be allowed.

7. Hon'ble Electricity Ombudsman Nagpur has discussed this issue in detail and passed an order on 9.1.2014 in representation No. 116/13. Hon'ble Electricity Ombudsman has concluded that clarification and choice of change of tariff provided in case No. 44/08 is restricted to tariff order Dt. 20.6.2008, passed in case No. 72/07 as the said choice is not provided in subsequent tariff order. Though the said order is challenged in representation No. 2389/14, Hon'ble High Court has not granted any interim relief nor quashed the order and therefore the said order is still in force and valid in the eyes of law. Grievance application be dismissed.

8. So far as interim relief is concerned representative of the applicant gave in writing on page No. 2 of the grievance application that case be heard on both prayers i.e. interim relief and final relief together and interim relief may be decided with final relief on merit. Therefore arguments were heard on both reliefs at one and same time at length.

9. Forum heard arguments of both the sides and perused the record.

10. Hon'ble MERC has passed the tariff order on 20.6.2008 in case No. 72/07 for financial year 2008-09 and specified that "only HT industries connected on express feeder and **demanding continuous supply** will be deemed as HT continuous industries and given continuous supply while all other HT industrial consumers will be deemed as HT non continuous industries". Later on, clarificatory order Dt. 12.9.2008 has been passed by Hon'ble Commission in case No. 44/08 and 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 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 this order for exercising his choice. In case, such choice is not exercised within stipulated period then existing categorization will be continued.

11. It is pertinent to note that M.S.E.D.C.L. had issued Commercial Circular No. 88 Dt. 26.9.2008 in the light of orders passed by Hon'ble Commission in case No. 72/07 and 44/08. The said circular

further clarified that “Consumer may be given 1 months time from the date of issue of this circular for exercising his choice. In case such choice is not exercised within stipulated period, then existing categorization will be continued. It is noteworthy that as per order passed by Hon’ble MERC in case No. 44/08 the consumer has to apply for exercising his choice from continuous to non continuous tariff within one month from the tariff order but applicant consumer failed to apply within 1 month from the issue of tariff order and has applied on Dt. 1.4.201, considering the order passed by Hon’ble Commission in case No. 38/14 in which it was allowed to M.S.E.D.C.L. to collect interim charges. It is noteworthy that, but the said order is not tariff order so the change in tariff can not be allowed.

12. It is noteworthy that in similar case M/s. Hardoli Paper Mills Vs. Superintending Engineer (NRC), M.S.E.D.C.L. Nagpur, representation No. 116/13, decided on 9.1.2014, Hon’ble Electricity Ombudsman Nagpur has delivered very important judgement and said ruling of Hon’ble Electricity Ombudsman applies to the case in hand squarely. In this authority, Hon’ble Electricity Ombudsman Nagpur held as under : -

“The Commission is of the view that MSEDCL should not ignore the benefit of load relief that could be achieved, in case certain HT-I continuous industries who are presently not subjected to load shedding, voluntarily agree to one day staggering like other industries located in MIDC areas. Hence the HT industrial consumer connected on Express Feeder should be given the option to select between continuous and non continuous type of supply and there is no justification for removing the clause “demanding continuous supply” from the definition of continuous category. However, 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 the issue of the Tariff Order for the relevant Tariff period, in the present instance, the consumer may be given one month's time from the date of issue of this order for exercising his choice. In case such choice is not exercised within the specified period, then the existing categorization will be continued". The clarificatory order dated 12.9.2008 was followed by the Commercial Circular dated 26.9.2008.

13. While insisting for change in tariff from HT-I continuous to non continuous, the appellant has put great emphasis on the above clarificatory order which was followed by Commercial Circular No. 88. But the appellant is forgetting that the said clarificatory order dated 12.9.2008 as well as Commercial Circular No. 88 are restricted to the detailed Tariff Order dated 20.6.2008 in Case No. 72/2007. The said tariff order was in existence from 1.6.2008 till 31.7.2009 because tariff order dated 17.8.2009 in Case No. 116/2008 became applicable w.e.f. 1.8.2009. The option to change the Tariff category from HT-I continuous to non continuous industries was not there in the subsequent Tariff Orders in Case No. 116/2008, 111/2009 and 19/2012. The clarificatory order dated 12.9.2008 in Case No. 44/2008 will not automatically apply to the subsequent Tariff Orders. Obviously the appellant could not give its choice for change of tariff category from HT-I continuous to non continuous industries. Thus the respondent was perfectly justified in not entertaining the said application of the applicant and continuing to charge HT-I-C tariff to the appellant.

14. Facts of the cited ruling and facts of the present case are similar and identical and therefore this ruling is squarely applicable to the case in hand. Relying on the authority cited supra we hold that grievance application deserves to be dismissed. Hon'ble Electricity Ombudsman Nagpur has discussed this issue in detail and passed an order Dt. 9.1.2014 in representation No. 116/13. Hon'ble Electricity Ombudsman has concluded that the clarification and choice of change of tariff provided in case No. 44/08 is restricted to tariff order dated 20.6.2008 passed in Case No. 72/07 as the said choice is not provided in subsequent tariff orders. It is pertinent to note that though the said order is challenged in Writ Petition 2389/14, Hon'ble High Court has not granted any interim relief nor quashed the said order and therefore the said order is still in force, valid in the eyes of law and undoubtedly has a binding legal force. Relying on this authority, we hold that the grievance application deserves to be dismissed. Resultantly, we proceed to pass the following order :-

ORDER

- 1) Grievance application is dismissed.

Sd/-
(Anil Shrivastava)
MEMBER
SECRETARY

Sd/-
(Adv. Subhash Jichkar)
MEMBER

Sd/-
(Shivajirao S. Patil),
CHAIRMAN