

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

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**Case No. CGRF(NUZ)/094/2010**

Applicant : M/s. S.G. Photo Digital Pvt. Limited  
Swami Arcade, Near Dena Bank,  
W.H.C. Road, Dharampeth,  
NAGPUR.

Non-applicant : MSEDCL represented by  
the Nodal Officer-  
Executive Engineer,  
Congressnagar Division,  
Nagpur.

Quorum Present : 1) Shri Shivajirao S. Patil  
Chairman,  
  
2) Adv. Smt. Gouri Chandrayan,  
Member,  
  
3) Smt. Kavita K. Gharat  
Member Secretary.

**ORDER (Passed on 01.02.2011)**

The applicant, The applicant, M/s. S.G. Photo Digital Pvt. Ltd Swami Arcade Near Dena Bank Dharampeth, Nagpur filed his grievance application on dated 01.12.2010 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

1. The applicant's say in brief is that, the applicant, M/s. S.G. Photo Digital Pvt. Ltd, registered as Small Scale Industry. It has electricity connection with category of consumer as industrial. The electricity tariff applied was also industrial.

On 09.07.2010 Dy. E.E. Flying Squad, Wardha, has inspected the premises of above Colour Lab and opined that tariff applied should be commercial. He has instructed to the area incharge to charge the difference of tariff for one year and tariff category to be changed from industrial to commercial. Accordingly provisional assessment bill of `1,20,434/- is issued. The applicant has filed the grievance in IGRC, Nagpur Urban Circle on dtd. 13.9.10. But IGRC has rejected the applicant's grievance application vide letter dtd. 30.11.10. Therefore the applicant being aggrieved and filed present grievance application in the forum on dtd. 1.12.10 and requested to the forum that...

1. To set-aside the assessment amount of `1,20,434/-,
  2. To direct the non-applicant to charge as per industrial tariff.
2. The non-applicant has filed the reply on dated 16.12.2010. It is submitted that, on 09.07.2010, Dy. E.E. Flying Squad, Wardha has inspected the premises of the applicant having consumer no. 410016011961 for change of tariff from LT-Industrial to Commercial tariff and

accordingly assessment for one year of tariff difference charged for `1,20,434/- as per report received from Dy. E.E. Flying Squad, Wardha. After finalization of tariff clubbing of meter will be examined.

3. The matter was heard in the Forum on dated 01.01.2011. Both the parties were present on behalf of non-applicant Shri B. Khandait, Executive Engineer, Congressnagar Division, was present. Shri Banait, the consumer's representative has reiterated the points as mentioned in the grievance application.

During the course of arguments, Forum raised a query to the applicant that Small Scale Industry is a registered only up 22.09.2007 and further extension is not produced on record.. The applicant's representative has informed to the forum that validation is under process. Also by mistake, the concerned department has entered the validity clause which is applicable to Tiny Enterprises and the applicant's unit does not fall under Tiny Enterprises. At that time applicant sought time for production related documents from concerned department. Therefore, forum has directed to the applicant to file related letter from concerned department. So the hearing was adjourned.

4. The hearing was continued on dtd. 13.01.2011. The applicant did not produce any extension of certificate of registration as Small Scale Industry. But the applicant produced one certificate issued by District Industry

Centre, Nagpur to the effect that applicant is a Small Scale Industry and legality of the unit as an industry remain in force till it is in existence. This unit does not belong to the group of Tiny Enterprises but falls under Small Scale Industry. Therefore registration is valid. Hence Forum holds that the applicant is Small Scale Industry.

5. Representative of the applicant, argued that Forum has no jurisdiction to decide legality and validity of the registration certificate. However Forum does not agree with this argument, because only and until registration is valid and not expires by time it can be said that particular unit is a industry. It is misconception of Regulation and legal provision. Forum has definitely right to look into legality and validity of the registration certificate. The Forum cannot blindly accept any certificate as a registration certificate. Therefore Forum does not agree with the arguments of learned representative of the applicant. However for the reason discussed above, Forum hold the applicant is a Small Scale Industry.

6. We must mention here that merely because somebody has a nominal registration with its unit as a Industry, but does not proceed any industrial activity and may obtain a registration simply for minimizing the electric charges. It is definitely not permissible. In other words

mere pocketing a nominal certificate of industry without doing any activity of industrial aspect but do commercial work does not sufficient to change the commercial tariff into industrial tariff. Therefore the important question is going to the root of the case ---- “Whether applicant is carrying out industrial activity on the spot or not”.

7. According to the non-applicant, Dy. E.E., Flying Squad, Wardha, inspected the site on 09.07.2010 and found that no industrial work is going on. But connection is being used for commercial purpose.

It is rather surprising to note that learned, Dy. E.E., Flying Squad, Wardha or the non-applicant, Nodal Officer, did not produce any documentary evidence on record to show that commercial activity is going on in the unit. Also no panchnama is prepared in presence of Pancha and representative of the applicant. If Flying Squad has really found that the connection is used for commercial purpose, it was incumbent on the part of the Dy. E.E., Flying Squad, Wardha, to prepare a proper and detailed Panchnama with graphic narration of the actual position on the spot, but there is nothing on record to shows that any such panchnama was prepared.

Further there is nothing on record to show that section 126 of Electricity Act 2003 was applied and neither written in the panchnama nor in other documents. In the opinion of the Forum, in absence spot panchnama mere word of Flying Squad is not enough to

come to the conclusion that no industrial work is going on the spot.

8. In the certificate of registration, items of manufacturer's activity is given as (1) Developing and printing photo (2) Processing of Film. In the opinion of the Forum, it is a industry within the meaning of section (2) (j) of Industrial Dispute Act as there is processing of films and registration as a Small Scale Industries. This much evidence is sufficient to hold that the applicant is registered as a Small Scale Industry.

Now it is for non-applicant to prove that actually no industrial work is going on but commercial work is going. The Forum has already pointed out that no such panchnama is produced to show actual position. Therefore forum finds no legal force in the contention of the non-applicant that industrial connection is used for commercial activity specifically when there is already separate commercial connection with the applicant in addition to the disputed connection.

9. Therefore in Forum's opinion grievance application of the applicant must be allowed. Hence we proceed to pass following order.

## ORDER

The grievance application is allowed.

1. The applicant's energy bill amounting to Rs.1,20,344/- is set-aside and hereby cancelled.
2. The non-applicant is hereby directed to apply industrial tariff to disputed connection of the applicant.
3. The non-applicant shall carry out this order and report compliance to this forum within 30 days from the date of issue of this order.

Sd/-	Sd/-	Sd/-
(Smt.K.K.Gharat)	(Smt.Gauri Chandrayan)	(ShriShivajirao S.Patil)
Member-Secretary	MEMBER	CHAIRMAN