

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

---

**Case No. CGRF(NUZ)/207/2014**

Applicant : M/s. Sweta Paper Industries Pvt.Ltd.,  
Survey No. 132/1/2, N.H. No. 6  
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 22.10.2014.**

1. The applicant filed present grievance application before this Forum on 25.8.2014 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 a consumer of M.S.E.D.C.L. connected at 33 kV voltage. Applicant has contract demand

of 1600 kVA. Applicant applied for supply at 33 kV as per application Dt. 5.4.2011 to Superintending Engineer (NRC), M.S.E.D.C.L. for non continuous industry with contract demand of 1600 kVA. M.S.E.D.C.L. sanctioned load of the applicant to the tune of 1600 kVA as per sanctioned letter Dt. 19.7.2011 in response to applicant's application for non continuous supply. Load was connected at non express feeder but as non continuous industry since applicant did not demand continuous supply. The Commission determined the tariff applicable from 1.6.2008 in the Foot Note (iv) at Page No. 11 of HT tariff book let. Further in the tariff order Dt. 12.9.2010 applicable from September 2010 in the footnote No. (iv) at Page No. 253 and further in tariff order Dt. 16.8.2012 applicable from August 2012 at Page No. 328 in foot note No. (iv), it is mentioned that "only H.T. industries connected on express feeder and demanding continuous supply will be determined as HT continuous industry and given continuous supply while all other HT industrial consumers will be deemed as HT non continuous industry.

3. M.S.E.D.C.L. filed an application for clarification of the tariff order applicable from 1.6.2008 and requested the Commission. Commission ruled in case No. 44/08 that there is no justification for removing clause "demand continuous supply" from definition of HT-I continuous category. M.S.E.D.C.L. on the basis of above order issued Circular No. 88 Dt. 26.9.2008. As per tariff order of Commission, definition of express feeder & Circular No. 88 of M.S.E.D.C.L. the applicant should be charged non express feeder tariff. Commission issued order in case No. 38/14 Dt. 3.3.2014 and allowed M.S.E.D.C.L. to collect interim charges from the consumers from March 2014. This is new tariff order with respect to electricity tariff. M.S.E.D.C.L. also issued Commercial Circular

No. 221 Dt. 15.3.2014. This amounts to increase in electricity tariff. Hence applicant without taking any chance applied to change of tariff category from continuous to non continuous.

4. Applicant submitted his request to M.S.E.D.C.L. on 1.4.2014 to apply non express feeder tariff to applicant industry and give non continuous supply. There was no communication from M.S.E.D.C.L. Therefore applicant filed grievance application with I.G.R.C. on 26.5.2014. Learned I.G.R.C. did not provide any hearing even after more than 2 months have passed from the date of filing. Therefore applicant has filed present grievance application before this Forum. Therefore applicant claimed relief – 1) to direct M.S.E.D.C.L. immediately to change tariff category from the month of application of applicant i.e. from the month of April 2014 and to refund amount charged along with interest. It is interim relief claimed in the application. Applicant also claimed final relief to direct M.S.E.D.C.L. to change the tariff of the applicant to non continuous tariff (non express feeder) and revise all the energy bills of the applicant from February 2012 till date of considering and applying non express feeder and to refund excess amount.

5. Non applicant denied applicant's case by filing reply dated 15.9.2014. It is submitted that applicant M/s. Sweta Paper Industries Pvt. Ltd. at Survey No. 132/1/2, Village Wadoda Taluka Kamptee Distt Nagpur HT consumer under Nagpur Rural Circle having consumer No. 410039010780 with a contract demand of 1600 kVA, connected load 2500 kW and connected on 33 kV express feeder feeding continuous supply without any load shedding, hence charged as HT 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.

6. 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.

7. 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 1.4.2014. 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.

8. Consumer is connected on 33 kV S/s. interconnecting feeder from 132 kV Mouda S/s. to 33 kV Gumthala S/s. The matter being policy matter and any change in tariff has to be effected after due approval of Head Office. In similar case in respect of Shridhar Casting, Chief Engineer (Com.) Mumbai vide Letter No. PR-III/Tr./014423 Dt. 6.5.2014 had given instructions. The said request can not be considered relying on the order passed by Hon'ble Electricity Ombudsman Nagpur in representation No. 116/13.

9. 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.

10. 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.

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

12. 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.

13. 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.

14. 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.*

15. 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.

16. 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