

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

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**Case No. CGRF(NUZ)/098/2010**

Applicant : M/s. Shiva Steel Industries Limited  
At Satranjipura, Bhandara Road,  
NAGPUR.

Non-applicant : MSEDCL represented by  
The Nodal Officer-  
Superintending Engineer,  
Nagpur Rural Circle,  
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 07.02.2011)**

It is the grievance application filed by applicant M/s. Shiva Steel Industries (Nagpur) Limited, Satranjipura, Bhandara Road, Nagpur on dated 08.12.2010 under Regulation 6.2, 6.3 (b) and 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, M/s. Shiva Steel Industries (Nagpur) Limited, has applied for change in tariff category from continuous industry to non-continuous industry on dtd. 23.09.2010. But the non-applicant has rejected applicant's prayer vide letter dtd. 9.10.2010. Therefore being aggrieved the applicant has filed the grievance application in the forum on dtd. 8.12.2010 and requested to the forum that...

1. To direct MSEDCL to change the tariff of the applicant to non-continuous tariff and revise all the energy bills of the applicant from Sept-2010.
2. To direct MSEDCL to refund the excess amount paid by the applicant along with interest under section 62(6).

2. The applicant's case in brief is that, the applicant is a consumer of MSEDCL connected at 33kV voltage. The applicant has a contract demand of 2500kVA. The applicant was being charged HT-I tariff applicable for express feeder as per Hon. Commission's order w.e.f. 1.6.2008 although the applicant is not on express feeder. The feeder is a tapped feeder from existing 33 kV line on which one more consumer is connected.

3. Therefore the applicant has filed grievance in the forum on 29.12.2009. The Hon. Forum has passed order dtd. 10.3.2010 that the applicant should have given option for change of tariff within the stipulated period since the

applicant has not applied for change of category within month, therefore change of category cannot be considered and the grievance application is rejected.

4. The applicant has again requested to the Superintending Engineer, MSEDCL (non-applicant) vide letter dated 23.09.2010 to change the tariff category from continuous industry to non-continuous as per Hon. Commission's new tariff order dtd.12.9.2010. The non-applicant rejected the application as per letter dtd. 9.10.2010. The applicant submitted reminder on dtd. 08.11.2010 to the non-applicant but even though tariff category is not changed.
5. It is the grievance of the applicant that MSEDCL should revise all the energy bills from the month of September - 2010 by applying non-express feeder tariff as per Hon. Commission's order dtd. 12.9.2008. So also MSEDCL should refund the excess amount paid by the applicant along-with interest under section 62(c).
6. The non-applicant has submitted the reply in the forum on dtd. 16.12.2010. It is submitted that the applicant has applied for new connection on 9.07.1998 for contract demand of 2500kVA. In this application, the applicant has mentioned that his industry is a "continuous process industry". Therefore MSEDCL prepared the estimate and proposed to tap the existing 33kV line from 132kV Mouda S/Stn. which is feeding to 33kV Gumthala S/Stn.

and Kamptee S/Stn. which is a Group Express Feeder, so that the applicant can get continuous power supply for his industry.

7. It is further submitted that in case no. 44/2008 filed by MSEDCL seeking clarifications to the applicability of HT continuous industry tariff MSEDCL has requested the Commission that “clause” “demanding continuous supply” be removed and that existing HT continuous industry as on 01.04.2008 be continuous under the same category and continuous tariff be made applicable to all consumers connected on express feeder. In this petition, MSEDCL seek clarification of the general application of HT-I “C” tariff category to the consumer on express feeder and did not seek about the applicability of this tariff category to the consumer who are given supply on Group Express Feeder.
8. All the provisions in circular no. 88 are applicable to the consumers who are receiving supply on express feeder and not sought to the consumer who are receiving supply on Group Express Feeder. It is submitted that the applicant’s feeder is a Express Feeder which is also confirmed by the Forum in order dtd. 10.3.2010, in case no. 73 of 2009, M/S Shiva Steel Ltd. Vs MSEDCL. It was the case filed by applicant itself.
9. The Commission in its tariff order dated 20.06.2008 in case no. 72/2007 has mentioned only about the HT

industries connected on express feeder and not about the HT industry receiving supply from Group Express Feeder. It is submitted that therefore the applicant's grievance application is false and deserves to be dismissed.

10. The matter was heard on dated. 07.2.2011. Both the parties were present. On behalf of non-applicant Shri. V.B Setty, Assistant Engineer and Ms. Bangde, Jr. Law Officer were present. The applicant's side was represented by Shri. R.B. Goenka, the consumer representative.
11. Shri. R.B. Goenka, pleaded that in HT tariff w.e.f 1.6.2008 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.

However the non-applicant has approached the Hon, commission for removing clause demanding continuous supply from the definition of HT-I(continuous).But the Hon. Commission has clarified in Case no. 44 of 2008, order dtd.12.9.2008 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 of the relevant tariff period.

This is also continued in new tariff order dtd. 12.9.2010. The applicant has applied for non-continuous supply within one month of the tariff order date i.e. on 27.9.2010. Also the applicant's feeder is not an express feeder since there are number of consumers connected on the same feeder.

Therefore the applicant's representative requested to the forum to revise all the energy bills from the date of new tariff order i.e. from Sep-2010 as per application of the applicant considering and applying non-express feeder tariff to the applicant. So also refund the excess amount paid by the applicant along with interest under section 62(6).

12. The non-applicant reiterated the points as mentioned in his reply. The non-applicant argued that it is a group express feeder and continuous supply is provided to the applicant on his demand at the time of new connection. Therefore the prayer of applicant may be rejected.
13. Hon. Chairman and Hon. Member-Secretary of the Forum who are in majority hold that grievance application deserves to be dismissed whereas Hon. Member of Forum defer. Therefore descending note of member is separately noted at last and the decision is based on majority view.

Majority view of Hon. Chairperson and Hon. Member-Secretary :

14. Heard both the parties and carefully gone through the documents on record. It is noteworthy that the applicant has filed case no. CGRF/73/2009 previously and as per order dated 10.03.2010, this Forum has given findings to the effect that “The applicant is admittedly getting supply from HT category under continuous express feeder”. Therefore this Forum had already giving finding to the effect that the applicant is admittedly getting supply from HT category under continuous express feeder. Therefore now same Forum cannot give contradictory findings to its own finding.

15. Further more so far as continuous express feeder is concerned this issue is already decided by this Forum in the above referred matter. According to Regulation 6.7 (c) of the MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006, the Forum shall not entertained a grievance unless Forum is satisfied that the grievance is not in respect of the same subject matter that has been settled by the Forum in any previous proceeding. As we have already pointed out that the point or issue of continuous express feeder of the applicant is already decided by this Forum in earlier case no. 73/2009 dated 10.03.2010 and hence this second grievance application on the same point and for the

same reason is untenable at law and cannot be entertained by the Forum, therefore deserves to be dismissed.

16. Applicant applied for new connection on dated 9<sup>th</sup> July, 1998 for contract demand 2500 KVA. The applicant in his application clearly mentioned that, his Industry is a continuous process. Non-applicant had produced copy of said application which is at Annex. "A". This document is sufficient to hold that applicant is "continuous process feeder". Therefore we find no merits in this application.

17. Forum has carefully pursued order of MERC in case no.44/2008 and various tariff orders. In the opinion majority of the Forum, we have to considered the facts and circumstance of each and every case separately. It appears that the applicant is trying to misinterpret the order of Hon'ble Commission with intent to have wrongful gain to the applicant and wrongful loss to the MSEDCL Case of the applicant is nothing but based on misconception of facts, law and regulation. Considering special facts and circumstances of the case in hand, it can not be said that MSEDCL has any time violated any order of Hon'ble Commission.

18. Taking into consideration fact of the circumstance case, relevant regulation and ruling of the Commission, Majority view of Forum hold that the applicant is continuous process and therefore tariff of non-continuous

is not applicable to the applicant therefore needs no interfere and it cannot be revised as prayed for.

19. The grievance application of the applicant is based on misconception facts, law rules and Regulation. Therefore it is not tenable at law and deserves to be dismissed.

20. Descending Note of Hon. Member :

In the present case, the applicant has given his request on 18.11.2009. The tariff for the FY-2009/2010 came into force on August 2009. As the consumer has not given his option within the period of one month, the time limit for give the option has expired. So the request of the applicant cannot be considered and rejected on the above grounds in CGRF case no. 73/2009.

After that Hon. Commission issued new tariff order dated 12.09.2010. The applicant has again requested to S.E. MSEDCL vide letter dated 23.09.2010 to change the tariff category from continuous industry to non-continuous industry.

This application has filed within one month from the date of issue of tariff order. Since MSEDCL has not responded to this application. The applicant submitted reminder on dated 05.10.2010.

The S.E. MSEDCL vide letter dated 09.10.2010 rejected the application and said that in case the

applicant wishes to avail facility of non-continuous tariff, he should lay separate feeder.

In this case two issues are involved--.

One is the consumer feeders is a express feeder or not?

As per the definition of express feeder (dedicated distribution facilities) provided in the MERC (Electricity Supply Code) and other conditions of supply) Regulation 2005 is as under---

“Dedicated distribution facilities – means such facilities, not including a service line, forming part of the distribution system of the distribution Licensee which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises”.

So I am convinced with the applicant’s submission – that the applicant’s feeder is not an express feeder. Since one more consumer has been given supply from the same feeder and his premises is not a contiguous premises.

Second point is that whether the Commission’s tariff order is applicable or not?

The Commission, in the tariff order applicable from 01.06.2008 and further in clarificatory order said 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”.

According to the above directive the MSEDCL should have charged HT non continuous tariff to all the HT consumers and only HT industries connected on express feeders and those demanding continuous supply, should have been charged continuous tariff. The clarificatory order has been issued with respect to the second part of Commission’s above directives and directs that the demand of continuous supply be applied by the consumer only once in the year, within the first month after issue of the Tariff Order for the relevant tariff period.

In case of applicant, non-continuous tariff should have been changed from 01.06.2008, that too without any application to this effect.

The applicant submitted his request within one month after the Hon. Commission issued new tariff order on dated 12.09.2010 and the applicant submitted his application on dated 23.09.2010. Even then the non-applicant rejected the application, this amounts to violation of Commissions order.

My opinion in this case is that the consumer's grievance application should be accepted and to direct MSEDCL to change the tariff of the applicant to non-continuous tariff (non-express feeder) and revise all the energy bills of the applicant from Sept. 2010 till today and tariff should be applied as a non-express tariff as per directives of the Hon. Commission issued in the tariff order dated April 01.06.2008 and clarificatory order dated 12.09.2008.

Therefore I differ from other two Hon. Members of the Forum. In my opinion, the applicant's grievance application is allowed.

21. Consequently, Forum in majority view hold that grievance application deserves to be dismissed. Hence the following order.

ORDER

The grievance application is dismissed.

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