

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

Case No. CGRF(NUZ)/125/2015

Applicant : M/s. Tanna Hospital Pvt. Ltd.,
C/o Life Care Hospital,
Plot No. 63, Lakadganj,
Nagpur.

Non-applicant : Nodal Officer,
The Superintending Engineer,
(Distribution Franchisee),
MSEDCL,
NAGPUR.

Applicant :- Dr. Tanna.

Respondent by 1) Shri Rody, Nodal Office.
2) Shri Dahasahastra, SNDL.

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

2) Shri Anil Shrivastava,
Member / Secretary.

ORDER PASSED ON 11.9.2015.

1. The applicant filed present grievance application before this Forum on 10.8.2015 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal

Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as Regulations).

2. Applicants case in brief is that connection for Hospital by name M/s. Tanna Hospital Pvt. Ltd. was obtained by the applicant since 8.3.2010. Applicable tariff for such establishment as per MSEDCL was categorized as L.T.-II. Matter of dispute arises from August 2012 when MERC vide their tariff order No. 19 Dt. 16.8.2012 categorized the Hospital under new tariff i.e. L.T.- X (public service). As per MERC tariff order referred above, MERC has clarified that it is introducing new tariff for “public service”. This consumer category is applicable to entities which are essentially providing public services. As per tariff schedule Hospitals have been categorized as public services and hence L.T.-X is applicable. Onus of change of category is with M.S.E.D.C.L. or its agent like Distribution Franchisee SNDL Nagpur. But SNDL failed to implement change of tariff in applicants case. Neither did they inspect the premises nor communicated to the applicant about the reason for not implementing of new tariff. Applicant approached to SNDL to implement the change forthwith and to give retrospective effect from the date of applicability of order. Applicant filed first application on 26.3.2015, which is marked as Annexure ‘E’. SNDL inspected the premises but did not implement any change in tariff. Applicant claimed to give effect about change of tariff w.e.f. 1.1.2012 i.e. order date of MERC but his application is rejected by I.G.R.C. on the grounds that matter is barred by limitation. However, L.T.-X tariff has been effective from 16.8.2012. Therefore applicant approached to this Forum and claimed new tariff applicable from

1.8.2012 and requested to refund excess amount paid by the applicant. Applicant also claimed refund of excess amount charged by way of difference of tariff between L.T.II (c) & L.T.-X so also interest @ bank rate u/s 62 (6 of E.A. 2003.

3. Non applicant denied applicants case by filing reply dated 25.8.2015. It is submitted that applicant has been billed under L.T. _ II(CL) category as there was medical store and Hospital. Therefore Commercial Manager has asked to the applicant for getting separate commercial meter for medical stores. Applicant applied for separate commercial meter for medical stores. Accordingly applicant was given separate commercial connection for medical stores and changed the tariff category from LT – II (c) to L.T. – X (public services) from the month of May 2015. For the first time applicant claimed refund of difference of tariff paid from August 2012 to April 2015 as per letter dated 16.5.2015. As per CPL connection was released on 8.3.2010 by M.S.E.D.C.L. authority and commercial tariff was applied by M.S.E.D.C.L. SNDL has taken over the distribution franchisee area w.e.f. 1.5.2011 and tariff of L.T. – X has been made applicable from 1.8.2012 as per MERC tariff order Dt. 16.8.2012. However, due to use of supply for commercial purpose in the said premises for medical stores, tariff was not changed automatically. As the supply was used for mixed load and not exclusively for hospital. After taking commercial connection for medical stores, tariff of hospital connection has been changed from LT – II (c) to LT – X (public services). Therefore refund towards difference tariff can not be given to the applicant. As per regulation 6.6 of the said regulations, grievance has to be filed

within 2 years from the date of cause of action. Since cause of action arose in April 2012, grievance should have been registered before August 2014 and therefore barred by limitation.

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

5. As per order of Hon'ble MERC dated 16.8.2012 L.T.-X (public services) has been made applicable from 1.8.2012. It is true that said tariff was not changed. Tariff was changed from May 2015.

6. Record shows that for the first time applicant sent first letter to the non applicant about change of tariff and refund of difference of tariff amount as per letter dated 18.5.2015 vide Annexure 'G' and claimed difference of amount w.e.f. 1.8.2012. According to regulation 6.6 of the said regulations, "Forum shall not admit any grievance unless it is filed within 2 years from the date on which cause of action has arisen". Therefore it is crystal clear that claiming the arrears from 1.8.2012 are not within the limitation. However, applicant filed grievance application before this Forum on 10.8.2015. Therefore period of 2 years preceding the filing of grievance application i.e. since 10.8.2013 is within the limitation of two years. We can go back 2 years of filing the grievance application. Date of filing grievance application is 10.8.2015 and therefore claim of the applicant which is within the span of 2 years i.e. since 10.8.2013 can be granted. Considering these aspects we hold that applicant is entitled to claim difference of tariff amount of preceding 2 years before filing of

grievance application i.e. since 10.8.2013. So far as time barred period is concerned i.e. prior to 10.8.2013, amount since 1.8.2012 to 9.8.2013 is barred by limitation and therefore that much refund of time barred period can not be refunded. Hence following order :-

ORDER

- 1) Grievance application is partly allowed.
- 2) Non applicant is hereby directed to pay refund of amount of difference in tariff w.e.f. 10.8.2013 till the actual execution of change of tariff in the bill of the applicant.
- 3) Claim of the applicant for refund of difference in tariff w.e.f. 1.8.2012 till 9.8.2013 being barred by limitation is hereby dismissed.
- 4) Compliance should be reported within 30 days from the date of this order.

Sd/-
(Anil Shrivastava)
MEMBER
SECRETARY

Sd/-
(Shri Shivajirao S. Patil)
CHAIRMAN.