

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

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**Case No. CGRF(NUZ)/035/2011**

- Applicant : Shri Prafulla D. Rewatkar,  
Director Khamla Auto Pvt. Ltd.,  
15, Khamla Road,  
NAGPUR.
- Non-applicant : MSEDCL represented by  
the Nodal Officer-  
Congressnagar Division,  
Nagpur Urban Zone,  
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 12.09.2011)**

It is the grievance application filed by Shri Prafulla D. Rewatkar, Director, Khamla Auto Pvt. Limited on dated 15.07.2011 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.)

The applicant's case in brief is that on dated 26.04.2011 Flying Squad had inspected his spot and issued inspection report dated 26.04.2011. In this report it is found that applicant consumer is a small scale industry and industrial tariff is applied but applicant is doing commercial work. As no manufacturing activity is going on hence it is recommended to change the tariff from LT-V to LT-II and proposed to charge tariff difference for passed period shall be calculated. Bill of Rs.2,04,724/- being a difference of tariff was given to the applicant. Under protest applicant deposited amount of Rs.42,480/-. Project of the applicant is a industry but even then commercial tariff is wrongly applied. Therefore bill should be revised. Hence applicant filed his grievance application and claim following reliefs.---

- 1) Bill for difference of tariff with amount of Rs.2,04,724/- should be cancelled.
- 2) Industrial tariff should be applied to the applicant.

The non-applicant denied the claim of the applicant by filing reply dated 02.08.2011. It is submitted that during the surprise checking of installment of applicant, it is observed that electricity is used for Auto Service Centre and billed as per LT-V industrial tariff. As per the tariff order dated 17.08.2009 in case no. 116 of 2008 and 111 of 2009. The categorization of industry is applicable to such activity are entailed "Manufacture". In this case consumer did not produce any thing or any article and repairing and

servicing activity is other than industrial activity. Hence it is proposed to change the category of the consumer from industrial to commercial activity and recover the tariff difference since August 2009 without any penal charges. As per MERC Commission tariff philosophy in the case of 111 of 2009 at page no. 215, it is clarified that classification under industry for tax purposes and other purposes by the Central or State Government shall apply to matters within their jurisdiction and have no bearing on the tariff determined by the Commission under the Electricity Act, 2003 and the impost of the categorization under industry under other specific Laws cannot be applied to seek relief under other status. Breeding the categorization and industry is applicable to such activities, within entail manufacture.

As such there is no activity of manufacturing at the premises of the consumer and in the present case although the applicant is registered as a small scale industry it has to show some manufacture or producing some goods. It is evidently clear that the repairing and servicing cannot be equated with the manufacturing or production. Therefore the applicant is not entitled for benefit of industrial tariff LT-V.

Forum heard argument of the applicant and non-applicant. So also perused the record. In this matter Hon. Chairman & Hon. Member of the Forum are in majority view that grievance application may be allowed whereas Hon. Member-Secretary of the Forum differ.

Therefore descending note Hon. Member-Secretary is noted at the last and decision is based on majority view of Hon. Chairman and Hon. Member of the Forum.

Majority view of the Hon. Chairperson and Hon. Member of the Forum.

After careful perusal of original grievance application of the applicant dated 15.07.2011, it appears that it is very vague. It is not mentioned in this original complaint that applicant is doing the activities like assembling of separate part, Fabrication, modifications of vehicle, body building with denting and painting job work etc. However letter on dated 29.08.2011 applicant filed another application on dated 27.08.2011 and in this subsequent application., applicant mentioned that applicant is doing the work of assembling of spare parts, fabrication, modification vehicle of body building with denting painting and Job work etc.

Therefore in fact all this facts is a lacuna and omissions in original grievance application of the applicant dated 15.07.2011.

However, then Forum observed the certificate issued to the applicant by the Government of Maharashtra, Directorate of Industries as a Small Scale Industry dated 17.05.2001 and this is industrial certificate, it is mentioned that applicant will do work of body building, light vehicles, fabrication of industrial item, fabrication of Auto, assembling of spare parts of LCV, repairing and servicing of LCV. Therefore it is clear that above stated works are going on in

the unit of the applicant. The applicant produced Small Scale Industrial Certificate in the name of the applicant dated 17.05.2001. Therefore it is clear that permission of established is given to the applicant.

In case no. 116/2008 on page no. 219 Hon. MERC hold as under

“Applicability”

“Applicable for industrial use at Low/Medium voltage in premises for purpose of manufacturing, including that used within these premises for general lighting, heating/cooling etc., excluding Agricultural Pumping loads. This consumer category also includes IT industry and IT enabled services (as defined in the Government of Maharashtra Policy).”

Considering nature of the work carried out by the applicant on the spot and ratio laid down by Hon. MERC in case no. 116/2008, this Forum hold that applicant is doing industrial work and it is not commercial work.

One should not confuse with the wording “Servicing of Light Vehicle”. Servicing does not mean only cleaning of vehicles by water and filing the grease and Oil only. Many time the entire engine of the vehicle has to be unloaded and rebuild by the expert engineer. Process of heating, cooling, fabricating, denting, engine rebuilding, painting of the vehicle and building body of vehicle all are including in the category of “Servicing”.

This Forum had already passed order in a similar case, case no. CGRF/NUZ/23/2011 M/s. A.K. Gandhi Vs. Nodal Officer by majority of view on dated 05.07.2011 and hold that when there is certificate of Small Scale Industry, industrial tariff is applicable and not commercial tariff. Therefore relying on majority of the order in case no. 23 of 2011 dated 05.07.2011. So also relying on the order of MERC in case no. 116/2008 page no. 229 pare no. 7, we hold that applicant is doing industrial work and therefore industrial tariff shall apply.

Descending Note of the Member Secretary CGRF  
NUZ Nagpur. - - - - -

1. "The grievance in this case has arisen due to the difference in tariff change from industrial to commercial charged by the Dy E.E.(F.S), Nagpur Urban Circle, of Amt. Rs. 2,04,724.00 to the applicant. The F.S. unit on inspection of applicant's premises found that the activity was servicing and repairing of four wheeler vehicles. As per the reply of Executive Engineer, Congress Nagar Division, the industrial tariff is applicable for purpose of manufacture as mentioned in MERC tariff order in case no. 116/2008 and 111 of 2009. Also, there is no activity of manufacture at the premises of the consumer and the repairing and servicing

cannot be equated with the manufacturing or production.

2. On this point I agree with Executive Engineer, Congress Nagar Division,'s view. In this regard, while referring to the the Commission's tariff order dated 17<sup>th</sup> August, 2009, in Case No. 116 of 2008, relevant portion of the said order reads as under:

#### “5.4 Commission's Tariff Philosophy

.....

A similar impression is conveyed as regards the 'Industry' categorization with the Commission receiving several representations during and after the Public Hearings, from the hotel industry, leisure and travel industry, etc., stating that they have also been classified as 'industry' for the purpose of taxation and / or other benefits being extended by the Central Government or State Government, and hence, they should also be classified as 'industry' for the purpose of tariff determination. In this regard, it is clarified that classification under Industry for tax purposes and other purposes by the Central or State Government shall apply to matters within

their jurisdiction and have no bearing on the tariffs determined by the Commission under the EA 2003, and the import of the categorization under Industry under other specific laws cannot be applied to seek relief under other statutes. Broadly, the categorization of 'Industry' is applicable to such activities, which entail 'manufacture'."

Therefore in my opinion, the industrial tariff would be applicable to such activities which entail 'manufacture'. The documents on record show that the main activity in applicant's premises is servicing and repairing and not manufacturing. Also in one of the correspondence letter, the applicant himself pointed out that his unit is an Automobile Repair Workshop.

Therefore I agree with change of tariff from Industrial to Commercial."

Consequently in majority view hold that grievance application may be allowed, hence forum proceed to pass the following order

#### Order

The grievance application is allowed.



It is hereby declared that unit of the applicant is industrial and therefore industrial tariff is applicable and not the commercial tariff.

It is hereby declared that bill amounting to Rs.2,04,724/- issued by MSEDCL shall be set-aside, cancelled and revised.

The non-applicant is hereby directed to apply industrial tariff to the Unit of applicant.

In case, applicant paid any excess amount to the MSEDCL, it should be refunded immediately or adjusted in the bills.

The non-applicant is hereby directed to report compliance in this order to this Forum within one month from the date of issue of this order.

Sd/-	Sd/-	Sd/-
<b>Smt.K.K.Gharat</b>	<b>(Adv.Smt.GauriChandrayan)</b>	<b>(ShriShivajirao S.Patil)</b>
<b>MEMBER</b>	<b>MEMBER</b>	<b>CHAIRMAN</b>
<b>SECRETARY</b>		