

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

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**Case No. CGRF(NUZ)/338/2014**

Applicant : M/s. Patni Auto Service Centre,  
Sadar,  
Nagpur.

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

Quorum Present : 1) Shri Shivajirao S. Patil,  
Chairman.  
  
2) Adv. Subhash Jichkar  
Member.  
  
3) Shri Anil Shrivastava,  
Member / Secretary.

**ORDER PASSED ON 25.12.2014.**

1. The applicant filed present grievance application before this Forum on 30.12.2014 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 officials of Non applicant visited applicant's premises on 11.10.2014 and issued

electricity bill for Rs. 272048/- (Rs. Two Lac Seventy Two Thousand Forty Eight) only, towards change in tariff from Industrial L.T.-V(B) to L.T.-II (B). Therefore applicant prayed that assessment bill for Rs. 2,72,048/- (Rs. Two Lac Seventy Two Thousand Forty Eight) only, issued by Vigilance Head towards difference of tariff from Industrial L.T.-V(B) to Commercial L.T.-II(B) is unjustified and to withdraw the same. Non applicant is not entitled to recover these charges with retrospective effect. Therefore applicant approached to I.G.R.C. Being aggrieved by the order passed by I.G.R.C. Dt. 27.11.2014, applicant approached to this Forum.

3. Non applicant denied applicant's case by filing reply Dt. 14.1.2015. It is submitted that Vigilance Squad visited applicants premises on 11.10.2014 and found that purpose of use of electricity is for Automobile Service/ Repairing Station. There is no industrial activity carried out in the premises and applicant is billed under L.T. – V (A) category meant for industrial use. As per MERC's tariff order dated 16.8.2012, automobile activities i.e. service / repairing comes under L.T. –II (A) i.e. commercial category. Therefore applicant's actual tariff should have been changed from L.T. –V(A) to L.T. – II(A) w.e.f. August 2012 but it is not done since then. Therefore after inspection of the applicant's premises on 11.10.2014, Vigilance Head has issued assessment bill for difference of tariff of Industrial L.T. – V(A) to Commercial L.T.-II (A), from August 2012 to October 2014 amounting to Rs. 2,72,048/-. Vigilance Head has issued assessment bill for 27 months i.e. from August 2012 to October 2014. Learned I.G.R.C. directed to revise said assessment bill for 24 months instead of 27

months as per order dated 27.10.2014 as per Section 56(2) of Electricity Act 2003. Grievance application deserves to be dismissed.

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

5. Applicant relied on order passed by Hon'ble Electricity Ombudsman Nagpur in representation No. 42/14, M/s. Dhoot Motors Aurangabad Vs. Executive Engineer, Aurangabad, decided on 5.12.2014. In this authority, it is held as under :-

*“No retrospective recovery of arrears can be allowed on the basis of any abrupt reclassification of a consumer even though the same might have been pointed out by the Auditor. Any reclassification must follow a definite process of natural justice and the recovery, if any, would be prospective only”.*

6. Applicant also relied on the order passed by Hon'ble Electricity Ombudsman Nagpur, in representation No. 24 /14, M/s. GMMCO Ltd. Vs. Superintending Engineer, decided on 11.12.2014. In this authority, it is held as under :-

*“In this respect, the order dated 11.2.2003 in Case No. 24/2001 passed by MERC is material. In para No. 23, MERC directed that no retrospective recovery of arrears can be allowed on the basis of any abrupt reclassification of a consumer even though the same might have been pointed out by the Auditor. Any reclassification must follow a*

*definite process of natural justice and the recovery, if any, would be prospective only”.*

7. Applicant also relied on the authority of Hon’ble Appellate Tribunal for Electricity (Appellate Jurisdiction) in Appeal No. 131 / 13 decided on 7.8.2014, Vianney Enterprises Vs. Kerala State Electricity Regulatory Commission. In this authority it is held as under :-

*“iii. The State Commission on the basis of its earlier findings in orders dated 09.01.2006 and 08.10.2009 has correctly decided that the Appellant would be charged under the LT VII (A) – Commercial Category from the date of detection of the error i.e. 10.03.2008”.*

8. Facts of the case in hand and facts of the authorities cited supra are similar & identical and therefore these authorities are applicable to the case in hand. Relying on these authorities cited supra, we hold that no retrospective recovery of arrears can be allowed on the basis of any abrupt reclassification of the consumer even though the same might have been pointed out by the authority. Any reclassification must follow definite process of natural justice and recovery if any, would be prospective only.

9. We also rely on the authority of Hon’ble MERC in case No. 24/01 decided on 11.2.2013. In this authority, it is held as under :-

*“23. In light of the above observations, the Commission directs the following:*

*No retrospective recovery of arrears can be allowed on the basis of any abrupt reclassification of a consumer even though the same might have been pointed out by the Auditor. Any reclassification must follow a definite process of natural justice and the recovery, if any, would be prospective only as the earlier classification was done with a distinct application of mind by the competent people. The same cannot be categorized as an escaped billing in the strict sense of the term to be recovered retrospectively. With the setting up of the MERC, order of the will have to be sought as any reclassification of consumers directly affects the Revenue collection etc. as projected in its Tariff Order. The same could be done either at the time of the tariff revision or through a special petition by the utility or through a petition filed by the affected consumer. In all these cases, recovery, if any, would be prospective from the date of order or when the matter was raised either by the utility or consumer and not retrospective.*

24. *Accordingly, the bill issued to the MIDC should be corrected to ensure prospective recovery of dues from the date of communication about the reclassification”.*

16. Relying on the authority cited supra, we hold that bill issued to the applicant should be corrected to ensure prospective recovery of dues, from the date of communication about reclassification i.e. only since 11.10.2014 and not prior to that date. Therefore SNDL can recover bill as per reclassification from the applicant from the date of communication about reclassification Dt. 11.10.2014. Therefore supplementary bill issued by SNDL to the applicant for a period of 24 months is illegal and needs to be set aside. Therefore grievance

application must be allowed. Hence Forum proceeds to pass following order :-

### ORDER

- 1) Grievance application is allowed.
- 2) It is hereby declared that electricity bill for Rs. 2,72,048/- (Rs. Two Lac Seventy Two Thousand Forty Eight) only, from August 2012 to October 2014 towards change in category from Industrial LT-V(B) to Commercial L.T. – II (B) is illegal and therefore quashed.
- 3) It is hereby declared that SNDL is entitled to recover electricity bill from the applicant towards change in category from Industrial LT V(B) to Commercial LT –II(B) since the date of communication i.e. Dt. 11.10.2014 onwards and not prior to that date.
- 4) SNDL is hereby directed to revise the bill accordingly.
- 5) Compliance should be reported within 30 days from the date of this order.

Sd/-  
(Anil Shrivastava)  
MEMBER  
SECRETARY

Sd/-  
(Adv. Subhash Jichkar)  
MEMBER

Sd/-  
(Shivajirao S. Patil),  
CHAIRMAN