

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

Case No. CGRF(NUZ)/13/2014

Applicant : M/s. Associated Biscuit Co.Ltd.,
B-14, MIDC Industrial Estate,
Hingna Road,
Nagpur: 16.

Non-applicant : Nodal Officer,
The Superintending Engineer,
Nagpur Urban Circle,
MSEDCL,
NAGPUR.

Quorum Present : 1) Shri Vishnu S. Bute,
Chairman.

2) Adv. Subhash Jichkar
Member.

3) Shri B.A. Wasnik,
Member Secretary.

ORDER PASSED ON 4.3.2014.

1. The applicant filed present grievance application before this Forum on 8.1.2014 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 applicants' case in brief is that applicant is a H.T. consumer of non applicant, bearing Consumer No. 410019006340. His supply has been connected on 11 kV with Contract Demand of

1000 kVA. Applicant further submitted that he applied for non continuous tariff on Dt. 16.9.2013. However his request was not considered.

3. Applicant further submitted that the Commission determined the tariff applicable from 1.6.2008 and in the footnote (iv) at Page 11 of High Tension Tariff Booklet and further in tariff order Dt. 12.9.2010, applicable from September 2010 in footnote No. (iv) at Page 253, it is mentioned that *“Only H.T. 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”*.

4. It is further submitted that on the application filed by MSEDCL for clarification of the tariff order applicable from 1.8.2008, the Commission ruled in case No. 44 of 2008 that there is no justification for removing the clause “demanding continuous supply from the definition of HT-I continuous category”. Commission further said that,

“..... 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 issue of the 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 the order for exercising his choice. In case such choice is not exercised within the specified period, then the existing categorization will be continued”.

5. The MSEDCL, on the basis of the above order, issued a circular No. 88 on 26th September, 2008, highlighting the above features of the Commission's order.

“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”.

“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 for the relevant tariff period”. As per the tariff order of Commission, definition of express feeder and circular No. 88 of MSEDCL, the applicant should be charged non express feeder tariff.

6. Applicant also submitted that Commission revised tariff and imposed AEC charges vide order in case No. 95 of 2013 on dt. 5.9.2013 and allowed MSEDCL to collect additional AEC charges from the consumers from September 2013. This is a new tariff order with respect to AEC charges hence applicant got opportunity to exercise his choice between continuous & non continuous supply and submitted application to MSEDCL to apply non express feeder tariff and give us non continuous supply from the next billing cycle. The applicant's request for non express feeder (non continuous) tariff was submitted within one month of the Commission's order in case No. 95 of 2013. Therefore the applicant filed present grievance application before this Forum to direct the non applicant to change the tariff

category of applicant to non express feeder and to refund the excess amount recovered.

7. Non applicant denied applicant's case by filing reply Dt. 6.2.2014. It is submitted that the above consumer is having HT Connection on 11 kV was connected on Dt. 1.2.2001 with contract demand 250 kVA connected on 11 kV ABC Express feeder from 132 kV Hingna-I Sub-Station. As per consumers request for enhancement of load on separate express feeder dated 21.10.2003, the 11 kV ABC express feeder was charged on 22.12.2004 and the contract demand was enhanced to 1000 kVA vide letter No. SE/NUC/Tech-6/HT/634/225 Dt. 23.3.2005.

8. Non applicant further submitted that the 11 kV ABC Express feeder was laid by the consumer at his own cost as he needed continuous power supply. The consumer enjoys the continuous power supply without load shedding even on staggering day and is accordingly charged as per HT-IC i.e. HT-Industrial Express feeder tariff category.

9. The consumer vide letter No. ABCL/SE/MSEDCL/LB/106 applied for non express feeder tariff giving the reference of MERC clarificatory order in case No. 44 of 2008 Dt. 12.9.2008 where it is stated that *"The consumer getting supply on express feeder may exercise his choice between continuous and non continuous supply only once in a year, within the first month after issue of the Tariff order for the relevant tariff period"*. Considering the MERC order in Case No. 95 of 2013 on Dt. 5.9.2013 the consumer has applied for tariff revision

on 16.9.2013. The last tariff order for 2012-13 was passed by MERC on 16.8.2012 and is in force till date, hence this office vide letter No. SE/NUC/Tech/HT/4572 Dt. 20.9.2013 has asked the consumer to submit the option of Non-Express Feeder tariff within one month after issue of the next MERC tariff order as the MERC order in case No. 95 of 2013 on Dt. 5.9.2013 cannot be treated as the tariff order for the relevant tariff period.

10. The non applicant also submitted that in a recent order passed by the Hon'ble Electricity Ombudsman, dated 9.1.2014 in case of M/s. Hardoli Paper Mills Vs. MSEDCL, it has been stated that ***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 of 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 his 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 appellant and continuing to charge HT-I-C tariff to the appellant". Hence non applicant requested that the grievance application may be dismissed.

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

12. It is an admitted fact that the applicant is having continuous power supply without load shedding even on staggering day. It is also on record that the consumer has mentioned that its manufacturing is a continuous process hence power supply is needed without any interruption.

13. Applicant in Para No. 13 of the grievance application mentioned that the order in Case No. 95 of 2013 passed on Dt. 5.9.2013 is a new Tariff order and applicant applied within one month from the issue or the said order.

14. Contrary to the above, the non applicant pointed out that the last tariff order for 2012-13 was passed by MERC on 16.8.2012 and it is still in force. Therefore applicant needs to apply for change of tariff within one month from the date of passing of new tariff order. It is therefore clear that as per non applicant's say, the impugned order passed in case No. 95 of 2013 Dt. 5.9.2013 is not new tariff order but the supplementary tariff order allowing MSEDCL to collect

additional AEC charges from consumers from September 2013. Commission also issued an order in Case No. 107 of 2013 on 29.10.2013 and imposed additional CSS to open access consumers because of increase of ABR of consumers as per AEC charges determined in case No. 95 of 2013. Forum finds that this is also a supplementary order to the last tariff order for 2012-13 was passed by MERC on 16.8.2012 which is still in force. Hence it is not possible to allow the applicant to exercise the option to change the tariff from continuous to non continuous, within one month after issue of every supplementary order by the Commission on various issues.

15. Without prejudice to above, it is also pertinent to note that Hon'ble Electricity Ombudsman, in order Dated 9.1.2014 has held that – *“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 of 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 his choice for change of tariff category from HT-I continuous to non continuous industries”.***

16. It is therefore clear from the above discussions that the applicant should exercise his option for change of tariff from continuous to non continuous tariff after one month from the issue of original tariff order for the relevant tariff period, and not within one month from the issue of any subsequent supplementary orders.

17. For these reasons, Forum finds no substance in the present grievance application and the application deserves to be dismissed. Hence the following order: -

ORDER

1. The grievance application is dismissed.

Sd/-
(B.A. Wasnik)
MEMBER
SECRETARY

Sd/-
(Adv. Subhash Jichkar)
MEMBER

Sd/-
(Vishnu S. Bute),
CHAIRMAN