

**Before Maharashtra State Electricity Distribution Co.
Limited Consumer Grievances Redressal Forum, Pune Zone,
925, Kasabapeth Building, I Ind flr. Pune-11**

Case No. 12/2013

Date: 31/10/2013

In the matter of

M/s. Kothari Wheels,

- Complainant

V/S

M.S.E.D.C.L. Padmavati Division

- Opponent

Quorum

Chair Person

Mr. S.D.Madake

Member/Secretary

Mr. N.S.Prasad

Member

Mr. Suryakant Pathak

- 1) M/s.Kothari Wheels filed this complaint in a A form being dissatisfied with order passed by Internal GRC dated 23.7.2013.
- 2) The brief facts of the case may briefly be stated as under
M/s.Kothari Wheels has take electricity supply from M.S.E.D.C.L. vide consumer No.160240645006 since Nov.2008 having connected load of 25 HP and LT V Industrial Tariff.
- 3) M.S.E.D.C.L.served notice dated 15.1.2013 and claimed supplementary bill of Rs.3,14,570/- (Rs.Three Lakh Fourteen thousand five hundred and seventy) for a period between Nov.2010 to Dec.2012. The said bill was based on the

ground that on 12.10.12 Dy.E.E., Flying Squad, Satara visited the consumer premises on 12.10.12 and intimated to Swargate Sub/Dn. stating that the billing was made for Industrial Tariff & the use was for commercial tariff i.e. for two wheeler service centre. Initially the bill was assessed applying S.126 of Electricity Act and subsequently the said bill was treated as difference of tariff bill.

- 4) Complainant paid an amount of 50% of the said bill due to apprehension of disconnection on 29.3.13. The grievance made before IGRU was not considered as prayed by consumer. Hence the present complaint is filed.
- 5) The main grievance of the consumer is that IGRU failed to consider that assessment is made in violation of MERC Regulations. The details of how assessments regarding said bills are not given to consumer. It is the case of consumer that manufacturing activity is carried out by consumer alongwith service centre of two wheeler.
- 6) According to M.S.E.D.C.L. on the basis of Flying Squad visit dated 12.10.12 by Satara Flying Squad, suggesting that difference bill be issued on Industrial tariff was wrongly applied instead of commercial tariff, the supplementary bill was issued on 15.1.2013. According to M.S.E.D.C.L. in Para 2 of say dated 30.8.2013. Consumer raised certain issues by letter dated 5.2.12 and Swargate officials of M.S.E.D.C.L. convinced the complainant regarding the said bill & requested to pay bill. Consumer requested vide letter dated 24.3.2013 permitting to deposit 50% amount under protest and accordingly complainant paid Rs.1,57,288/-.
- 7) M.S.E.D.C.L. further occurred that, the activity carried by consumer is a service activity & commercial tariff is applicable for the said activity.

The following points arise for our determination –

1) Whether the M.S.E.D.C.L. is justified in issuing tariff difference bill when action is taken u/s 126 of Electricity Act
Vide notice dated 15.1.2013.

2) What order?

our finding are as under :

1) In the negative

2) As per final order

REASONS

Heard both sides perused complaint, written statement filed by M.S.E.D.C.L. dated 30.8.2013 I.G.R.C.order dated 23.7.2013 and all the documents produced by both sides. Admittedly main issue is whether the M.S.E.D.C.L.has properly issued the provisional bill on 15.1.13. We have perused the notice dated 15.1.13. Stating that consumer has unauthorisedly used commercial tariff through connection was for the purpose of Industrial tariff. The tenor of the notice shows that consumer has committed an offence. The time of 7 days was given for payment of provisional bill assessed for 26 months. It is specifically stated that electricity supply will be disconnected in case the bill is not paid within 7 days. It is pertinent to note that consumer has raised objection u/s 126(3) before assessing officer against the said bill. It is mandatory that assessing officer is under an obligation to afford a reasonable opportunity of hearing to consumer.

The M.S.E.D.C.L. issued letter dated 18.2.2013 asking the consumer to pay difference bill from Industrial to Commercial purpose inviting objection for the said bill. M.S.E.D.C.L. issued notice dated 25.3.13 of 48 hours requesting to pay the bill. We have perused the three notices referred above, however the amount claimed is in the notice dated 15.1.2013 & other two notices are silent regarding the quantum of amount. We feel that M.S.E.D.C.L. relies on the notice dated 15.1.2013 regarding provisional bill M.S.E.D.C.L.has not made it

clear whether notice sent as per S.126 of Electricity Act 2003 is in force or is withdrawn. It is settled legal position that when a statute empowers to take decisions affecting the rights of the individuals the duty to act fairly arises. It is a rule to ensure that power is not abused but properly exercised. So consumer is entitle on the ground of natural justice that M.S.E.D.C.L. to intimate regarding the details of the provisional bill may be either u/s 126 of Electricity Act 2003 or difference in tariff. The consumer has already paid about 50% amount towards the bills. The M.S.E.D.C.L. is not justified initially to take action u/s 126 of Electricity Act 2003 and thereafter to change the course of action after receipt of reply from consumer. This is unfair trade practice on the part of M.S.E.D.C.L. It is true that M.S.E.D.C.L. is entitle to recover legitimate dues as per rules by fair and reasonable procedure. In view of this we feel that following order would meet ends of justice.

ORDER

1. M.S.E.D.C.L. is directed to inform in writing to consumer details regarding the provisional bill.
2. Consumer be given time to file say on the said bill and M.S.E.D.C.L. shall take appropriate decision.
3. The consumer is entitle to take proper action if dissatisfied with decision of M.S.E.D.C.L.
4. No order as to cost.

N.S.Prasad
Member/Secretary

Suryakant Pathak
Member

S.D.Madake
Chair Person

Date: 31/10/2013

