

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

Case No. 17/2013

Date: 28/11/2013

In the matter of

M/s.Praj Industries Ltd.,
G.O.402/402/1098,
Urawade, Tal.Mulshi,
Dist.-Pune.

- Complainant

V/S

The Supdt.Engineer,
M.S.E.D.C.L.,PRC, Pune-11.

- Opponent

Quorum

Chair Person	Shri.S.D.Madake
Member/Secretary,	Shri.N.S.Prasad
Member	Shri.Suryakant Pathak

1. M/s.Praj Industries Ltd. is situated at Village Urawade, Tal. Mulshi, Dist.Pune. D.V.Nimbolkar Company Secretary and Vice President filed complaint in 'A' form on 5.10.2013 on the following grounds.
2. M/s.Praj Industries Ltd. is consumer of M.S.E.D.C.L. vide consumer No.HT-170019001507. The said HT connection was released on Sept.2008 for model/prototype manufacturing Research Development Centre for own product. The bills were issued as per Industrial tariff from date of connection till Nov.2011. The M.S.E.D.C.L. claimed amount as per Commercial Tariff HT-II from Dec.2011 without any notice. The said change in tariff was objected by consumer but M.S.E.D.C.L. failed to consider genuine request & continued to charge the bills as per commercial tariff. Consumer alleged that Research & Development is ancillary activity along with manufacturing plant.

3. It is contended that Uravade Plant is private Bio-Technology park registered with Director of Industries and the process carried out is continuous one and requires continuous electricity supply. It is contended that M.S.E.D.C.L. asked consumer to enter into an agreement as per application of HT-II Commercial Tariff for the supply of electricity.
4. According to consumer, the bills are issued as per the rates applicable as per HT-II Commercial tariff in violation of MERC orders. It is contended that as per MERC's order dated 16.8.12 in Case No.11 of 2012 Industrial tariff is applicable for R & D.
5. Consumer requested that M.S.E.D.C.L. be directed to apply bills as per Industrial tariff HT-I. The excess amount charged from Dec.2011 by applying wrong tariff be refunded.
6. Consumer produced on record documents with complaint namely (1) M.S.E.D.C.L. letter dated 14.3.12 (ii) consumer letter dated 7.1.2013 and (iii) H.T. -bill with HT-II Commercial tariff.
7. M.S.E.D.C.L. resisted the complaint on following ground. It is admitted that consumer is an existing HT consumer having contract demand 800 KVA on 22KV level. It is submitted that as per MERC tariff order in Case No.19 of 2012 the consumer is not entitled for HT-Industrial tariff as R & D unit is not situated in the same premises.
8. MSEDCL produced on record the following documents :
 - a) Letter dated 7.2.12 addressed to consumer by Chief Engineer (Comm)Mumbai.
 - b) Letter dated 25.1.12 by SE, PRC, addressed to C.E.,Pune.
 - c) Letter dated 09.1.12 by Dy.E.E.(F.S.Pune) Rural to S.E. alongwith spot Inspection report dated 7.1.2012.
 - d) Letter dated 03.1.12 by S.E.,PRC to C.E.(Comm) Mumbai.
 - e) Letter dated 31.12.11 by C.E.(Comm.) to C.E.,PZ,Pune
 - f) Letter dated 29.12.11 by SE,PRC to consumer.
 - g) Copy of Commercial Circular dated 5.8.2010 issued by C.E.(Comm)Mumbai.

- h) Order of I.G.R.C. dated 22.10.2013.
9. On the basis of complaint written statement and documents produced on record the point for determination is as under .
 10. Whether consumer is entitled for electricity supply as per rates applicable to Industrial tariff?
 11. Our finding in the negative.

REASONS

12. Admittedly consumer is having Research & Development unit in the premises where electricity supply is given as per agreement Consumer states in the complaint Para 5 that after completion of Technical work M.S.E.D.C.L. asked consumer to enter into an agreement for the supply. Prior to release of supply and also informed that HT-II commercial tariff is applicable to consumer being a Research & Development Centre. It is further contended that consumer had to sign the agreement as per tariff i.e. HT-II Commercial tariff, as M.S.E.D.C.L. being the only supply provider in this area and urgent need of continuous supply. According to consumer agreement admittedly entered prior to release of supply stating that HT-II tariff is applicable to consumer. According to consumer connection was released in Sept.2008. This shows that though consumer as per agreement was under an obligation to pay as per HT-II Commercial tariff from 2008. The bills were issued to consumer as per Industrial tariff from the date of connection till Nov.2011.
13. We have carefully perused the documents produced on record as per Circular of Chief Engineer (Commercial) Mumbai dated 5.8.2010. The contents of the Circular may briefly be stated as under.
“ When any Industrial consumer is having Testing & R&D Laboratory as its ancillary unit, M.S.E.D.C.L. official shall check the purpose of usage of supply & if it is found that Industrial load is predominant as compared to R&D load, Industrial tariff would be applicable. If consumer is having only R&D and testing lab the consumer will have to pay as per Commercial tariff.”

14. In the light of the circular dated 5.8.2010, it is important to ascertain the actual use of electricity and the purpose for which it is used. The Spot-Inspection report of flying dated 7.1.12 shows that nature of process is R&D. The said report shows that actual use is for R&D purpose but the billing is issued as per HT-I. It is suggested that, HT-II tariff has to be applied.
15. The letter issued by Chief Engineer (Commercial) Mumbai to consumer dated 7.2.2012 shows that consumer is carrying out only R & D activity and no manufacturing process is carried out at the said premises. It is further informed to consumer that locations of manufacturing unit and R&D unit are at different places. The Spot Inspection report dated 1.10.13 carried by Ex. Engineer; Mulshi Division shows that the nature of work carried on at the premises is R&D with proto type.
16. The letter dated 3.1.2012 by Supdt. Engineer, PRC, Pune to C.E.(Comm.) Mumbai shows that consumer is carrying out only R&D & testing load activity. The letter shows that monthly consumption of consumer is around 150000 KWH out of this - (a) around 25500 KWH is for laboratories 9b) lighting and canteen consumption is around 10250 KWH (c) 103300 KWH for pilot plants and utilities. The letter shows that lighting load, pilot plants load and utilities are used for Research & Development activities.
17. The learned representative of consumer Shri. Ashok Hulyalkar submitted that, consumer is having manufacturing plant which manufacturer's models/proto types for the product of consumer. He stated that predominant load is for manufacturing process. He further submitted that, as per MERC tariff order in case No.19 of 2012 Commercial Circular No.175 dated 5.5.2012. Industrial tariff is applicable for Research & Development.
18. We have given anxious consideration to submission made by both sides at the time of argument, documents and written notes of argument on perusal of documents it is evident that, consumer is having electricity supply for Research & Development. All the documents show that Research & Development Unit is not in the premises where manufacturing process is carried out. The record shows that connection is released for R & D for model/proto-type. Therefore consumer is not entitle for application of HT-I

Industrial tariff as per M.E.R.C. tariff order in Case No.19 of 2012. The electricity supply has been taken from separate point of supply so M.S.E.D.C.L. is entitled for claiming as per commercial tariff.

19. It is very important to note that Dy.Ex.Engineer, Flying Squad, Pune (Rural) observed that no any production activity is carried out at site and consumer is using the supply for R & D only. He requested Supdt.Engineer by letter dated 9.1.12 to kindly arrange to issue the difference bill as per HT-II w.e.f.2008.
20. All these facts clearly indicate that consumer is having Research & Development activity only. The meaning of R&D is investigative activities that a business chooses to conduct with the intention of making a discovery that can either lead to the development of new products or procedures or to improvement of existing products or procedures. Research & Development is one of the means by which business can experience future growth by new products or processes to improve and expand their operations.
21. Investigative activities that business choses to conduct with the intention of making a discovery that can either lead to the development of new products or procedures or to improvement of existing products or products or procedures. Research and Development is one of the means by which business can experience future growth by developing new products or processes to improve and expand their operations. Therefore, it is clear that consumer is having only R&D activity.
22. The consumer in written argument in the first part submitted that electricity connection was released for model/proto type manufacturing & R&D. This is sufficient to prove that use is for R&D only. The word photo-type means an early sample model or release of a product built to test a concept or process & proto type is designed to test and trial a new design to enhance precision by system analysts and users. Therefore, consumer is not entitle for any relief.
23. The consumer filed the grievance application without any sufficient cause, consumer admittedly having Research & Development activity and consumer stated specifically that there is no change in nature, purpose and

use of electricity. This itself show that though consumer was having R&D activity since beginning and he is charged as per commercial tariff only from Dec.2012. He has been unjustly enriched by application of Industrial tariff during 2008-2011 though the use was exclusively for R&D. It is evident that he agreed to pay as per HT-II tariff by entering into agreement with M.S.E.D.C.L. before release of supply.

24. Therefore, it is unfortunate that, instead of performing contractual obligation which arose due to agreement, consumer filed this case without sufficient cause. It is equally unfortunate that though Dy.E.E. requested for application for HT-II tariff, M.S.E.D.C.L. failed to consider the same without valid reasons.
25. Considering the facts and circumstances, in the light of legal provisions and best interest of M.S.E.D.C.L. and consumer, we pass the following order.

ORDER

- i) Complaint is dismissed.
- ii) No order as to cost.

N.S.Prasad,
Member/Secretary

Suryakant Pathak
Member

S.D.Madake
Chair Person

Date: 28/11/2013

