

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

**Case No.22/2011
Date: 24 /02/2012**

**In the matter of
M/s.Vikram Printers Pvt.Ltd.**

- Complainant

V/S

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

- Opponent

Quorum

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|------------------|----------------------|
| Chair Person | Mr. S.D.Madake |
| Member/Secretary | Mr. L.G.Sagajkar |
| Member | Mr. Suryakant Pathak |

- 1) M/s.Vikram Printers Pvt.Ltd. (Petitioner for short) 31, A Parvati Ind.Estate Co.Op.Society Ltd. Pune is industrial consumer with Con.No. 170019032270 The electricity consumed by the petitioner to run its factory was being charged applying industrial tariff upto Feb-2007. After sanction of additional load by Distribution Licensee Maharashtra State Electricity Distribution Co. Ltd. (Respondent for short) in Feb-2007 the consumer was getting bill as per commercial tariff. The petitioner paid the bill regularly upto May-2011 as per commercial tariff and objected for tariff revision on dt. 08/06/2011. The respondent corrected the bill and gave difference from March-2011. The petitioner approached to the IGRC in Nov-2011 to refund the excess amount paid from March-2007. IGRC dismissed the application as per Reg. 6.6 as time barred case. Aggrieved with the decision of IGRC petitioner approached the CGRF on 26/12/2011.

- 2) The respondent filed its written statement on 10/12/2011 and contended that M/s.Vikram Printers Pvt.Ltd. S.No/.43/45 Parvati Industrial Estate was connected in June-2005 with 43.5 KW load with industrial tariff. In the month of January-2006 petitioner applied for enhancement of load and accordingly S.E. Rastapeth issued sanction in April-2006. After completion of formalities the consumer was billed according to commercial tariff and was paying the bill without any complaint up to 14/06/2011. The complaint was lodged in June-2011 regarding wrong tariff applied. Respondent carried out inspection of consumer premises and tariff changed in Aug-2011 as industrial and adjustment of bill from March-2011 of Rs. 4,39,208/- was given. Petitioner demanded to refund amount from March-2007 but S.E. Rastapeth rejected the application. After that the petitioner lodged grievance in IGRC, but IGRC rejected the grievance as barred by the time as per regulation of 6.6

- 3) The pleading filed on record, in the form of complaint and written statement indicate the importance of period of limitation in filing the grievance before Internal Grievance Redressal Cell (IGRC). In order to decide this issue the following facts are material. Admittedly complainant is consumer having electricity connection for industrial purpose since 1972. The electricity bills were regularly issued as per the tariff applicable to industry. The consumer applied for enhancement of load by making application. Accordingly the respondent company accorded sanction for the fresh load in addition to existing load. The bills issued after the enhancement of load are issued as per the tariff applicable to commercial purpose. Admittedly the bills were issued as per rates applicable to commercial purpose due to oversight and the consumer used to pay the same without making any grievance. There is no dispute that bills are issued on the rates applicable to commercial rates since March-2007. The earlier bills from the date of inception till March-2007 bills were issued as per rates applicable to industry.

- 4) The consumer applied to respondent on 08/06/2011 for correction of the bill. The Ex.Engr. Padmavati Division submitted report to Supdt. Engr. MSEDCL Rastapeth Urban Circle Pune-11 stating that the purpose and use of supply for the L.T. special connection in respect of M/s. Vikram Printers , is for a factory where various types of printing work via automatic, semi automatic machines is carried out. After again verifying the report and actual facts, Supdt. Engr. allowed the application of consumer and accordingly tariff of consumer has been changed from commercial to industrial with effect from 18/03/2011.
- 5) The facts on record thus make it clear that consumer used to pay as per tariff applicable to industry till March-2007 and again with effect from 18/03/2011 The consumer filed a grievance before I.G.R.C. requesting that the consumer should be allowed to pay as per industrial rate since March-2007 i.e. the date from which, bills were issued as per commercial rate. The said complaint was dismissed as per Reg.6.6
- 6) We have heard consumer, his representative Mr.Patil representatives of utility namely Kulkarni, Asstt.Engineer at length. We have perused all the documents on record. The respondent prayed that as complaint is time barred, forum shall not admit the complaint. The issue of limitation requires to determine the cause of action .According to respondent the date of cause of action is March-2007 when the bill was issued in March-2007. As such the complaint is barred as per Reg. 6.6
- 7) According to consumer as the bills are issued illegally as per tariff applicable to commercial rates, the respondent should refund the bills with interest, since March-2007.

- 8) Reg. 6.6 prescribes limitation period for admission of complaint by this forum. As per law this forum requires to see before it admits the complaint that it has been filed within two years from the date of accrual of cause of action. This provision is a sort of legislative command to forum to examine on its own the issue of limitation. The law is well settled that Reg. 6.6 , casts a duty on this forum to ascertain the cause of action and also limitation. On perusal of application filed by consumer to respondent dated 08/06/2011. It is clear that it is not mentioned that he learnt about the application of charges at commercial rates, in June-2011 or some other date. Consumer has no where stated that, he was not aware as to charging of bills at the commercial rates. This fact makes it clear that consumer failed to state that delay in making complaint be condoned in the interest of justice. This forum is under an obligation to determine the question as to whether complaint is barred by limitation or not irrespective of the fact that as to whether such a plea has been raised by the parties; such a jurisdictional fact need not be even pleaded.
- 9) In the present case IGRC rejected the complaint on the ground of limitation. The contents of complaint and all documents filed by consumer, show that complainant has not explained the delay, as well as not filed application for condonation of delay in filing complaint.
- 10) In the present case the respondent used to issue bills at commercial rates regularly, from March-2007. We are of the considered view that each bill issued by respondent would give cause of action for filing a complaint. We hold that consumer is entitle to claim refund of the amount at the rate applicable to industry two years prior to filing a complaint before respondent i.e. dated 08/06/2011. We feel it proper to observe that respondent is under an obligation to protect the interest of the complainant, within the limits of legal position. In this case legally

respondent has to refund the amount charged for two years prior to filing of complaint.

In the result we pass the following order in the interest of justice.

ORDER

- 1- The respondent is directed to refund differential amount towards electricity charges from the petitioner applying industrial tariff for the period of two years prior to date of filling complaint dt. 08/06/2011 and interest as applicable as per rate of Reserve Bank Of India by adjusting in the next subsequent bills.
- 2- The respondent to report the compliance of this order on or before 30 days from the date of this order.
- 3- If not satisfied with the order, petitioner can file appeal to Hon. Electricity Ombudsman within 60 days from the date of this order.

Mr.L.G.Sagajkar
Member/Secretary

Mr.Suryakant Pathak
Member

Mr. S.D.Madake
Chair Person

Date : 24/02/2012