

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

**Case No. 23 of 2007**

**Date: 05/03/08**

**In the matter of Mr.S.M.Pathak**

**- Complainant**

**V/S**

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

**- Opponent**

<b>Corum</b>	Chair Person	Mr. A.V.Bhalerao
	Member/Secretary,	Mrs. N.D.Joshi,
	Member,	Mr. T.D. Pore

1. Shri. S. M. Pathak C/o Electronica Machatronic Systems (I) (Complainant for short) is a consumer who obtained supply of electricity to his industry under the category industrial from Maharashtra State Electricity Distribution Co. Ltd. (Opponent for short) on 8/8/81. The complainant was getting the bill for the charges of electricity consumed applying industrial tariff from the date of connection till 01/02/01, however he received a bill for the period 01/02/01 to 01/04/01 applying the commercial tariff, he went on receiving the bill applying commercial tariff up to Sept.2005. It appears that after Sept-2005, the bills were given to him again on applying industrial tariff. The complainant made several representations to the opponent for refund of the excess amount recovered from him due to change in tariff, however he did not get the relief, the complainant therefore moved the Internal Grievance Redressal Cell (IGRC). The opponent in IGRC agreed to refund him the excess amount that

was recovered from him from August-2002, but refused to pay him the interest on it and the compensation that was claimed by him.

2. The complainant made a grievance to this forum by making an application on 24/12/07 and contended that he be granted the interest on the excess amount recovered and the compensation which was not granted by IGRC. The complainant had claimed interest at the rate of 12% on the excess amount recovered and compensation Rs. 25,000/- for mental and physical agony.
3. The opponent filed its written statement on 16/01/08 and without putting any defense contended that the Executive Engineer (Padmavati) Division has submitted a proposal to higher authority for approval for change of tariff for commercial to industrial as per IGRC order dt. 6/12/07 and bill is revised from commercial to industrial.
4. The complainant has not claimed the recovery of excess amount that was recovered from him by the opponent by raising bill on applying commercial tariff than to industrial tariff. Complainant has only claimed interest on the amount of difference ordered by IGRC & compensation Rs. 25,000/- for mental & physical agony. The points for determination are—

1- Is complainant entitled to the interest on the excess amount ordered to be paid by IGRC?

2- Is complainant entitled to the compensation for mental and physical agony?

The above points are answered as follows.

1- As per final order

2- No

For the reasons given below

### **REASONS**

5. **Point No. 1:-** The main relief claimed by the complainant is recovery of excess amount that was recovered from him from 01/02/01 till Sept-2005 due to raising of bill by applying commercial tariff than by the industrial tariff. From Consumer personal ledger (CPL), it is seen that upto Oct.02, the charges were demanded by issuing bills at the interval of 2 months and there after from Nov.2002 charges have been demanded by issuing bills per month. If the excess amount was recovered from the complainant then the complainant has a cause of action to recover the excess amount at the end of every two month before Oct-2002 and there after from November-2002 at the end of every month. The last excess amount was recovered for the month of Sept-05. The complainant has cause of action to recover it in the month of August-05. The cause of action accrued to the complainant to recover the excess amount in the month of Aug-05 and for the earlier month before Aug-05. The complainant filed his grievance to this forum on 24/12/07. Reg.6.6 of Maharashtra Electricity Regulatory Commission. Mumbai (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (MERC CGRF Reg.2006) lays down that the forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has

arisen. The present grievance which is filed on 24/12/07 is not within two years from the date of cause of action accrued to the complainant which is on or before Aug-05 and therefore the complainant's claim for the recovery of the excess amount is barred by time, however the opponent in IGRC admitted to refund the excess amount that was recovered from the complainant and the said amount has not yet been paid or adjusted in the bill till today, hence the complainant has right to recover the interest. Though his remedy to claim the excess amount by making grievance to the forum is barred by time. If the opponent in IGRC had refused the relief of refund of the excess amount then the complainant could not have even claimed the relief of interest on it but the opponent in IGRC admitted that the excess amount was recovered by changing the tariff and agreed to refund it, the complainant therefore can claim the interest there on but only for a period of two years preceding the date of filling of grievance to this forum as the claim of interest for that much period is within time as provided under 6.6 of MERC CGRF Reg. 2006. The rate of interest as provided under Section 62 (6) of Elect. Act. 2003 will be the bank rate.

6. The opponent has claimed compensation amount of Rs. 25,000/- for mental and physical agony as the excess amount was recovered from him by wrongly changing the tariff. It has already been observed that if the claimant had claimed the relief of refund of excess amount from him during the period from 01/02/01 till Sept-05 then he could not have claimed it being barred by time. If the complainant is claiming compensation on ground of mental and physical agony for not giving him the relief of refund of excess amount which is barred

by time, the consequential relief of compensation also stand barred by time. The complainant has been compensated for direct loss by awarding interest for the period which is within time. The claim of compensation for mental and physical agony is indirect consequential incidental, exemplary to which he is not entitled as laid down by a proviso to Reg.8.2 (C) of MERC CGRF Reg. 2006

Hence the order.

### **ORDER**

The opponent to pay the interest on the excess amount ordered to be paid by IGRC at the bank rate from 24/12/05 till the excess amount is repaid to the complainant or adjusted in his bill

The claim made by the complainant for interest for the period not covered by the above order and the claim of compensation for mental & physical agony stand dismissed.

Sign:

Mrs. N.D.Joshi,  
Member/Secretary

Mr. T.D.Pore,  
Member

Mr. A.V. Bhalerao  
Chair Person

Date: