

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

**Case No.14 of 2008**

**Date: 27/10/2008**

**In the matter of M/s. Swarouski India Pvt.Ltd. - Complainant**

**V/S**

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

**- Opponent**

**Corum**

Chair Person

Mr. A.V.Bhalerao

Member/Secretary,

Mr. D.K.Mane,

Member,

Mr. T.D. Pore

**1-** The facts giving rise to the present grievance in brief are that M/s.Swaroparl India Private Ltd., was incorporated under the Companies Act 1956. The same company changed its name to M/s. Swarovski India Private Ltd., by fresh certificate of corporation dt. 10/11/2000 issued by registrar of companies, New Delhi. M/s. Swarovski India Private Limited (Complainant for short) after getting it's name changed made an application dt.02/12/04 to Maharashtra State Electricity Distribution Co. Ltd. (Opponent for short) for effecting change of name from old one to new one in respect of the connection for the supply of electricity . Opponent by letter dt. 28/12/04 directed the complainant to complete the necessary formalities enumerated in the letter itself for effecting the change of name. It appears that the complainant did not complete the necessary formalities mentioned in the letter dt. 28/12/04. The complainant subsequently made an application for change of name on

28/11/07. The opponent did not effect the change of name only on the basis of the application dt. 28/11/07 as required necessary formalities were not completed by the complainant. The complainant therefore approached the Internal Grievance Redressal Cell (IGRC) by making an application dt. 30/06/08. The IGRC informed its decision to the complainant by letter dt. 18/08/08 with contents "M/s. Swarovski India Private Limited's connection can not be changed to new name when prescribed procedure is not followed." On reading the said letter as whole it is apparent that instead of word M/s. Swarovski India Private Limited it should have been M/s. Swaroparl . In short the IGRC refused to change the name M/s.Swaroparl India Private Ltd. to M/s. Swarovski India Private Limited as complainant refused to follow the procedure.

- 2- The complainant has approached this forum to seek the relief for an order to direct the opponent to make necessary changes in its record to incorporate new name which is the existing name of the complainant.
- 3- The opponent was directed to file its say . The Superintending Engineer (PRC) Pune-11 filed the say on 23/09/2008 on behalf of the opponent contending that change of name was not effected as requested by the complainant only because the complainant refused to follow the procedure prescribed under Maharashtra Electricity Regulatory Commission(Electricity Supply Code and Other Conditions of Supply) Regulation-2005 (MERC ESC Reg.2005) It further contended that the order given by IGRC directing the complainant to follow the procedure prescribed in MERC ESC 2005 is correct. On the date of hearing on behalf

of the opponent its Company Secretary Mr.Pankajkumar argued the case contending that by change of name no transfer of title has been affected and after registration of change of name under Sect.23 of the Company's Act when rights and obligations have not been affected, the opponent only on request made by the complainant should update its record.

- 4- On behalf of the opponent Smt. N. D. Joshi, Executive Engineer for opponent argued that unless the complainant completes the formalities prescribed under Reg. 10 & 6 of MERC ESC Reg.2005 the complainant is not entitled to get the connection changed in its name. On rival contentions following point arises for consideration.

- 1) Is complainant entitled to get its old name M/s.Swaropearl India Private Ltd.,changed to M/s. Swarovski India Private Ltd., in respect of the connection for the supply of electricity only on bear application without following the procedure prescribed under Reg.10 & 6 of MERC ESC Reg. 2005

The above point is answered in the negative for the reasons given below.

### **REASONS**

- 5- **POINT NO.1** – It is not in dispute that initially the electrical connection was obtained in the name of M.s M/s.Swaropearl India Private Ltd., on executing an agreement. Following the procedure prescribed under Company's Act-1956 the name of M/s.Swaropearl India Private Ltd., is changed to M/s. Swarovski India Private Ltd. After

getting the name changed under the Companies Act-1956 the complainant made an application to the opponent to change the earlier name M/s.Swaropearl India Private Ltd., to M/s. Swarovski India Private Ltd.,and insisted that when rights and obligations remain the same it was not necessary to under go the formalities prescribed under MERC ESC Reg.2005 as those formalities are required to be completed when there is a death of the consumer or transfer of ownership of the occupancy of the premises. It is argued on behalf of the complainant that only name has been changed while owner is the same. The complainant was asked if the owner is the same what was the necessity to incorporate the same company in the new name by following the procedure prescribed under Companies Act-1956. The complainant did not give any satisfactory reply to it. From the contents of Exbit "K" produced by the complainant, it is seen that one of the three directors mentioned in the said list has cased to continue as director since change of name of the company. M/s.Swaropearl India Private Ltd., is /was all together different company than M/s. Swarovski India Private Ltd., in the eye of Law. The change in name required by the complainant is not because of any spelling mistake but it is in consequence of the new company coming in existence in the new name. The change of name as provided under Sec.23 (3) of the Company's Act-1956 will not affect any rights or obligations but while dealing with the opponent in the new name it will have to complete the procedure prescribe under Regulation 10 & 6 of MERC ESC Reg.2005.

The decisions given in Glass Fiber (PL) Ltd. V. Fiber Glass Pilkington Ltd. (1986) Comp cases 707 (cal)(DB) : & Sulphur Dyes V Hickson and Dadajee Ltd. (1995) 83 Com Cases 533(Bom) emphasize that rights and obligations of the earlier company without any change are carried forward after change of name is effected under the Company's Act-1956. Observations made in those decisions are as regards rights and liabilities before and after change of the name of the company. It is not shown by the complainant that those decisions relate to change of name to be effected under Elect. Act-2003 and MERC ESC Reg.2005. The complainant at the most after substituting its name when there arise questions as regards rights and obligations may insist that agreement to supply the electricity be continued with same rights and obligations as against M/s. Swaroparl India Private Ltd., however it can not claim exemption from the procedure which is laid down under Reg.10 & 6 of MERC ESC Reg.2005. Under Reg. 10.1 the instances have been given in which transfer of connection in another name is required. One of the instances is transfer of ownership or occupancy. SWhen company's name has been changed and the Registrar has entered the new name on the register in the place of the former name and fresh certificate of incorporation has been issued there is the transfer of rights of liabilities from old company to new company. It is to be noted here that since change of name, one of the directors had ceased to continue. Under Reg. 6.1 a fresh agreement is required to be executed when there is a change of name. The complainant should

not expect a change of name automatically without following procedure given under Reg. 10 & 6 of MERC ESC Reg. 2005. The opponent directed the complainant to submit the duly filled form X, Y & A-1 complying all the conditions mentioned in the form X Y & A-1 is nothing but to follow the procedure laid down in Regulation 6 & 10 of MERC ESC Reg.2005 which is mandatory for effecting the change of name.

**ORDER**

The complaint is directed to complete the formalities prescribed under Reg. 6 & 10 of MERC ESC Reg.2005 for change of name from M/s.Swaropearl India Private Ltd., to M/s. Swarovski India Private Ltd.,

Sign:

Mr.D.K.Mane,  
Member/Secretary

Mr. T.D.Pore,  
Member

Mr. A.V. Bhalerao  
Chair Person

Date: 27/10/2008