

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

**Case No. 04 of 2010**

**Date: 15/03/2010**

**In the matter of M/s.Kanbay Software  
(I) P.Ltd.**

**- Complainant**

**V/S**

**M.S.E.D.C.L. Ganeshkhind Circle**

**- Opponent**

**Quorum**

Chair Person

Mr. A.V.Bhalerao

Member/Secretary,

Mr. L.G.Sagajkar

Member

Mr.Suryakant Pathak

- 1) M/s.Kanbay Software(I) P.Ltd.(Complainant for short) obtained supply of electricity to the premises Plot No.4-2 & A-3, Talawade MIDC ,Pune on 06/07/2006 from Maharashtra State Electricity Distribution Co. Ltd. (Opponent for short), wherein complainant has been running an in house training centre to impart training and knowledge of software to its employees. From the date of supply till 2009 the electricity supplied to the complainant's unit was being charged applying tariff HT-I as per tariff orders which were in force from time to time. The complainant received a bill for differential amount Rs. 30,65,020/- alongwith a letter dt. 06/06/09 in which the opponent asked the complainant to pay the differential amount on the ground that the complainant was using the electricity for the purpose of running educational institute which is categorized by Maharashtra Electricity Regulatory

Commission (MERC) in its tariff order which has been made applicable w.e.f. 1<sup>st</sup>. June-2008. The opponent raised bill in the month June-2009 for the user of electricity in the regular month in addition to it the differential amount from June-08 to April-09 and claimed total sum of Rs. 37.91 lacks. The complainant paid the said sum and has been regularly paying the amounts of bills raised from month to month in which the charges have been levied applying tariff HT-II commercial. The complainant contended that the training centre is an integral part of its software industry campus purely utilized for training its employees and not for outsider and therefore the electricity supplied to its premises be charged applying tariff HT-I as before.

- 2) The opponent filed its say and contended that according to the tariff earlier to the tariff which came in to force w.e.f. 01/06/2008 H.T. consumer there was one tariff HT-I industries and therefore the complainant was put in that category and bills were raised applying tariff HT-I , however in the tariff order dt. 01/06/2008 for H.T. Consumers, who use electricity for educational institution, a separate tariff has been created as HT-II commercial. On actual verification which was done on 01/04/2009 when it was found that complainant was using the electricity for purpose of running a training centre a differential amount was calculated from the dt. When a new tariff dt. 01/06/2008 came in to force creating a new category HT-II commercial for educational institution. The opponent further contended that the opponent did not create any new category of its own but it has simply implemented that the tariff order brought in to force by MERC.

- 3) On the date of the hearing on behalf of the complainant its representative Mr.Sancheti submitted that in house training centre run by the complainant to train its employees should not be treated as a commercial activity as it is an integral part of IT industry and therefore for raising the bill for the electricity used by it tariff applied should be the tariff applicable to IT industry which is HT-I instead HT-II commercial. It is further submitted that the differential amount paid by it be refunded to it with interest and in future the electricity used by it should not be charged applying tariff HT-II commercial.
- 4) On behalf of the opponent it was submitted by Mr.Dhaygude, Ex. Engr. That differential amount has been rightly claimed from the date when tariff by which a new category HT-II commercial was created for educational institute as on actual verification it was found that electricity was being used by the complainant for educational purpose for which a special categories has been made by MERC in its tariff order which came in to force from 1<sup>st</sup>.June-2008. It was also submitted that the user of electricity by the complainant is correctly charged by applying the HT-II commercial in view of the tariff order dt. 1<sup>st</sup>. June-2008 On rival contentions raised by the parties, following point arises for consideration.
- 1) Is the differential amount Rs. 30,65,020/- claimed by the opponent for the period June-2009 to April-2009 applying tariff HT-II commercial and raising the bills applying the said tariff for the user of electricity by the complainant from April-2009 onwards are correct.?

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

### **REASONS**

5) **POINT NO.1** :- It is not in dispute that till the differential amount was claimed applying tariff HT-II commercial the user of the electricity by the complainant was being charged applying tariff HT-I industry as provided in tariff order which was then in force from time to time. It is also not in dispute that the complainant has been using the electricity for running a training in house for its employees and no other activity of software industry is carried out. Sub Section 1 of Sect. 45 of Electricity Act-2003 (Act for short) prescribed that subject to the provision of this section the prices to be charged by the distribution licensee for the supply of electricity by him in pursuance of Sect. 43 shall be in accordance with such tariff fixed from time to time and conditions of his licensee. Sub section 4 of the same section further prescribes that subject to the provision of section 62 in fixing charges under this section a distribution licensee shall not show an undue preference to any person or class of person or discrimination against any person or class of persons. Reg. 3.4.1 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations 2005 (MERC ESC Reg. 2005) lays down that the distribution licensee is authorized to recover charges for electricity

supplied in accordance with such tariff as may be fixed from time to time by the commission. In all the tariffs fixed by MERC prior to the tariff dt. 01/06/2008 for H.T. consumers running education institutions there was no separate tariff and they were categories as HT-I industry however, a tariff dt. 01/06/2008 fixed by MERC a new category HT-II commercial was created which included consumers of electricity such as educational institutions and charges for such category were fixed on higher side than the charges applicable to the industrial category. Sub Sect. 3 of Sect.62 of the Act inter alia, provides that consumers will not be shown an undue preference by the commission while determining the tariff under the Act, but they may be differentiated according to their load factor, power factor, voltage total consumption of electricity during any specified period or at time at which supplies are required or the geographical position of any area, the nature of supply and the purpose for which the supply is required. On the basis provided in sub section 3 of Sect. 62 it is for the commission to decide the category in which a consumer should be placed. The MERC as provided in Sect. 62 (3) of the Act fixed the tariff dt. 1<sup>st</sup>. June-08 in which it made a separate category for educational institute as HT-II commercial and prescribed increased rate of charges as compared to the category HT-I industry. Till June-08 the user of electricity by the complainant for running a training centre which is in the form of educational institute was being charged applying

tariff HT-I industry according to the tariff then in force , however, for the said purpose when MERC created a new category the opponent applying the said new category HT-II Commercial claimed the differential amount from the date 01/06/08 when that new tariff came in the force

- 6) In doing so the opponent did not create any new category on its own but it simply implemented sub section-I of Sect-45 of the electricity Act. The opponent's contentions that though the activity carried out by him is in the nature of education it should not be treated as commercial activity as the training imparted is only to its employees who work in IT industry and not for outsiders. The said contention raised by the opponent is not of any use as the tariff is to be fixed depending upon the purpose for which electricity used and not upon to whom the training is imparted. The opponent in its say has averred that for all other educational activities the tariff charged is HT-II commercial further the Govt of Maharashtra in its IT and IT's policy 2003 dt. 17/03/03 in schedule-II has given a list of activities registrable as IT services and IT enable services in which educational institute has not been shown and therefore the opponent has rightly categorized the complainant who runs a training centre which is in fact an educational institute as HT-II commercial as shown in the tariff dt. 01/06/08

7) The contentions raised on behalf of the complainant that the complainant should have been heard before application of tariff HT-II commercial in place of HT-I Industrial is without any substance as the opponent who is the licensee was not creating any new category or determining a tariff like commission but in doing so it was only implementing a tariff order passed by MERC, hence the order.

**ORDER**

The complaint stands dismissed.

Sign:

Mr. L.G.Sagajkar,  
Member/Secretary

Mr.Suryakant Pathak  
Member

Mr.A.V. Bhalerao  
Chair Person

Date: 15/03/2010