



Consumer Grievance Redressal Forum, Kalyan Zone  
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**No. K/E/1300/1536 of 2017-18**

Date of registration : 28/02/2018

Date of order : 04/04/2018

Total days : 35

**IN THE MATTER OF GRIEVANCE NO. K/E/1300/1536 of 2017-18 OF M/S SUYOG AGRO & POULTRY PRODUCTS PRIVATE LTD., VILLAGE MITHAGAR, AT. MURUD, BHALEGOAN ROHA ROAD, TAL.MURUD, DIST.RAIGAD, PIN CODE-402 401 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT BILLING DISPUTE.**

M/s Suyog Agro & Poultry Products Pvt. Ltd.,  
Village Mithagar, At. Murud,  
Bhalegoan Roha Road , Tal.Murud,  
Dist.Raigad, Pin Code-402 401

(Consumer No. 048220001043) ... (Hereinafter referred as Consumer)

V/s.

Maharashtra State Electricity Distribution  
Company Limited  
Through it's Nodal Officer.  
Pen Circle, Pen

... (Hereinafter referred as Licensee)

**Appearance** : For Licensee - 1) Shri.S.M.Gaitadak, EE, Roha Division  
2) Shri. S.R.Yerekar, Dy.EE, Murud S/Dn.

For Consumer - Shri.Harshad Sheth (C.R.)

[Coram- Shri A.M.Garde-Chairperson, Shri A.P. Deshmukh-Member Secretary  
Mrs.S.A.Jamdar- Member (CPO)].

1) Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressed Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply 2005] Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory

Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

2) The case in brief is that, the consumer M/s. Suyog Agro & Poultry Products Pvt. Ltd. (Consumer No. 048220001043), is engaged in activity of aquaculture, (prawn breeding) etc. Consumer's farm is situated at village Mithanagar, Off: Murud, Bhalgaon/Roha road, Tal. Murud, Dist. Raigad.

3) The Distribution Licensee MSEDCL raised demand of Rs.96170.89 claiming the same to be purported differential tariff over the period of 6 months from Oct-2016 to Mar-2017. No purported rate of interest is mentioned or differential mentioned or how the amount is computed. MSEDCL issued a bill for the month of May-2017 wherein MSEDCL shows Rs.96170.89 as debit bill adjustment.

4) Consumer relies on APTEL Judgment in case no.131/2013, the Hon'ble Ombudsman judgments in cases No.124,125,126 of 2014, Hon'ble MERC order in case No., 42/2015, Hon'ble Ombudsman order in case No.41/15 .

Consumer prays that the amount added in May-2017 bill, be set aside and the bill for the month of May-2017 be quashed to the extent.

5) Licensee MSEDCL filed reply on 14/03/2018. There is almost no contest on facts. Licensee contended that supply was released on date 02/09/2016 for activity of aquaculture (prawn breeding). Connected load is 105 kw. Consumer was to be charged as per LT-IV (C) tariff but wrongly charged LT-IV (B) tariff. The fact came to notice in April-2017, hence plane recovery of Rs.96170.89 added in the bill of May-2017. The tariff is applied as per MERC tariff order & liable to pay.

6) We have heard both sides. Now at the outset there was tariff order No.121/2014. Connection released in Sept-2016 by which aquaculture, sericulture, fisheries, cattle breeding etc. were categorized under LT-IV (C) tariff. Present consumer is engaged in activities of Aquaculture, poultry, fish breeding, Prawn breeding etc. In spite of this the consumer was billed under LT-IV (B) tariff till March-2017. It appears that from April-2017 after detection of error that fish breeding activities as are under LT-IV (C) tariff. Accordingly, the consumer is being charged under LT-IV (C) tariff from April-2017.

7) Even otherwise, irrespective of when the error is detected, it is to be noted that the activities of the consumer are very well declared and well known to the Licensee. The Tariff Order No. 121/2014 was very clear for charging the consumer under LT-IV (C) category. Error in feeding the correct tariff is responsibility of Licensee.

8) Thus, on plain observation, it is a clear case where the Licensee has wrongly applied LT-IV (B) tariff to the present consumer till March-2017. From April-2017, consumer was brought under LT-IV (B) tariff category. Licensee came to know about their mistake in April-2017 and now retrospective application of correct tariff is sought to be made.

9) There is however, one case of APTEL, Appeal No. 131/2013 cited. In that case consumer Vianey Enterprises was doing the activity of filling and packaging oil. It did not fall in the industrial category (LTIV) because there was no manufacturing activity. But right from inception in 2002 and increase of loads in 2003 and 2007 the consumer therein was being categorized as Industry. Then there was tariff revision on 1/12/2007/Even thereafter the consumer was charged as industrial. MSEDCL realized the mistake and on the basis of flying squad report raised a bill for arrears right from September 2002 when the supply was given. The Appellate Tribunal held that arrears claimed from the date of detection of error was correct.

This case of the Appellate Tribunal squarely applies to the facts of the present case. Then there are other similar orders of Hon'ble Ombudsman in case No.124 to 126/2014.

10) In conclusion, it is needless to say that MSEDCL cannot recover the arrears from Oct-2016 to Mar-2017. There is no dispute of tariff application from April-2017 as the consumer has been categorized as LT-IV (C) tariff from April-2017 and is being charged accordingly.

Consumer succeeds.

Hence the order.

### **ORDER**

- 1) Grievance application of consumer is hereby allowed.
- 2) The bill of Rs. 96170.89 issued by MSEDCL is hereby quashed and set aside.

- 3) MSEDCL is directed to withdraw the bill issued for the month of May-2017 to the extent of Rs. 96170.89 shown as debit bill adjustment and refund/adjust the amount with interest as per Bank Rate from the date of recovery till total refund/adjustment.
- 4) Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Date: 04/04/2018.

(Mrs.S.A.Jamdar)  
Member  
CGRF, Kalyan

(A.P.Deshmukh)  
MemberSecretary  
CGRF, Kalyan.

(A.M.Garde)  
Chairperson  
CGRF, Kalyan.

#### NOTE

- a) *The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.*
- “Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606/608, Keshav Bldg, Bandra Kurla Complex,Mumbai 51”.*
- b) *Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or*
- c) *delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-*
- “Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”*
- d) *It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.*

