

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No. 23/2018

Date of Grievance : 10.05.2018

**Hearing Date : 05.06.2018
18.06.2018**

Date of Order : 10.07.2018

In the matter of complaint of change in the category of tariff of the consumer from "LT-II B - Commercial" to " LT X B - Public service."

M/s. Natasha Eye Care & ----- Complainant
Research Centre,
S.No.174/3, Pimple Saudagar,
Pune - 411027.

VS

The Executive Engineer, ----- Respondent
M.S.E.D.C.L.
Pimpri Division,

Present during the hearing:-

A] - On behalf of CGRF, Pune Zone,Pune.

- 1) Shri. A.P.Bhavathankar, Chairman, CGRF,PZ,Pune
- 2) Mrs.B.S.Savant, Member Secretary, CGRF, PZ, Pune
- 3) Mr.Anil Joshi, Member, CGRF, PZ. Pune.

B] - On behalf of Appellant

- 1) Shri. V.D.Vaidya, Consumer Representative.
- 2) Shri.V.R.Vaishampayan, Morya Hospital.

C] - On behalf of Respondent

- 1) Shri. S.R.Waiphalkar, Ex. Engr., Pimpri Dn.
- 2) Shri. A.M.Jadhav, AEE, Chinchwad S/dn.

M/s.Natasha Eye Care & Research Centre, S.No.174/3,Pimple Saudagar, Pune - 411027. , Consumer No. - 170140527699, Sanctioned load - 74.60 KW, Contract demand -67 KVA, date of connection - 07.05.2012. Purpose for service supply - Hospital.

The present complaint before CGRF is about non-application of proper tariff by the Respondent Utility since 2012. The consumer had initially lodged his complaint in Form No. X to AEE, Chinchwad Sub/dn. 635, Chinchwad, Pune and filed an application for proper tariff - i.e. from LT-II to LT-X. In this regard, the consumer had referred to Circulars, viz. CE, Commercial Circular No.175 dtd. 5th Sept.2012, CE, Commercial Circular No.243 dtd.3rd July 2015. According to the consumer, as per Circular No.175, dt. 5th September, 2012 of the Respondent Utility, the Consumer is eligible for revised tariff LT-X from August-2012. Despite this, the consumer claims that he continued to receive the bills for consumption of electricity under the old tariff category prior to change of his status -i.e. for category under LT-II - Commercial. The Consumer had, therefore, prayed and requested for suitable corrections in his tariff category to revised category - i.e. LT-X as per the Circular from August 2012, as provided in the said Circular issued by the Respondent Utility on 5th September, 2012. Consumer has also further prayed and requested for credit, or refund, of the tariff difference following categorization of the consumer from 'Commercial' to 'Public Services' effective from 1st Aug.2012 after application of proper tariff. The Consumer too had filed a copy of the bill issued to him by utility Sept.2017. Initially, the consumer had filed his application dt. 26.8.14 before the Additional Ex. Engineer Chinchwad Sub/dn. and submitted a copy of the establishment certificate and authority letter. The consumer had also submitted a representation on 29.6.2016 and had claimed application of tariff category applicable to 'Public Service' effective from 1 st Aug.2012 and claimed the resultant benefit in tune with the instructions of the Respondent Utility issued to its offices. After filing the said application, IGRC had registered the case bearing No.T-5 of 2018 on 14.2.2018. An opportunity of personal hearing was

given to the consumer by the IGRC following which the IGRC had passed an order on 9.3.2018 directing the utility to apply appropriate category and adjust the difference amount in consumer's bills for the period of past two years from the date of application. While passing the order, the IGRC had relied upon the order passed in the Consumer Case No. 17/275 dtd. 03.02.2017 by the Additional Pune District Consumer Dispute Redressal Forum, Pune. Aggrieved by order of the IGRC, the consumer has approached to this Forum and has accordingly filed an application in form No. A, on 02.05.2018 with a prayer for entitled benefits for change of his tariff category to 'LT-X Public Service' effective from 01.08.2012. The Consumer has also prayed and claimed the tariff difference already charged to him over the period through wrong application of tariff under the pre-revision / old category - i.e. 'LT-II Commercial'. The consumer claimed the difference in tariff covering the period from Aug.2012 to Sept.2016 amounting to Rs.6,90,722/-. As against the claim of the aggrieved consumer for refund of differential amount of Rs- 6,90,722/-, the Respondent utility has only made refund of the amount of Rs.5,60,894/- by crediting the same in the bill issued to the consumer during the month of Sept.2017. The Consumer claims that the order of the IGRC to give benefit of two years before the date of application is wrong, inappropriate and incorrect as well. Resultantly, the Consumer also prays for suitable punitive actions against the erring officer for breach of provisions under 'SOP' with further repeat request for application of the appropriate tariff category from 01.08.2012.

After the consumer filed the dispute, it is registered with CGRF as 'Case No.23 of 2018' on 10.5.2018. Thereafter CGRF office has issued notice to the Respondent utility on 11.5.2018. After service of notice Respondent utility appeared before the CGRF and filed its reply to the consumer complaint on dtd. 25.5.2018. The Respondent utility submitted that the consumer under the name and style of 'M/s. Natasha Eye Care & Research Centre' with consumer No.170140527699 had filed claim for tariff corrections since 1st Aug.2012. The application is filed by the consumer earlier. The Respondent utility further

submitted that as per orders from the Additional District Consumer Forum, Pune, vide its order in the Case No.17/275 dated 3.2.2017, consumer has been extended the benefit of differential in tariff for the period of two years from the date of application to Sept.2014 to Sept.-2016 and, accordingly, the differential amount of Rs.5,60,894/- representing the tariff difference for the said period of two years from Sept. 2014 to Sept. 2016 has been adjusted in the utility bill issued to the consumer for the month of Sept.2017. Accordingly, due benefit / relief has already been passed on to the consumer as per orders of the Additional District Consumer Forum, Pune. In view of this, the present consumer complaint is liable to be dismissed with cost. In support of its claim, the Respondent utility too filed a copy of the bill 'B-80' detailing therein the benefit already passed on to the to the consumer.

I have perused the documents filed by the consumer and his complaint as well. I have also perused the copy of decision given by IGRC on dtd. 09.3.2018. Following issues have arisen for my consideration to which I have recorded to the given below:-

1. Whether consumer is entitled for application change in category from LT-II to LT-X from 1st Aug.2012?
2. Whether the benefit of refund adjustment in bill amount to the tune of Rs.5,60,894/- extended to the consumer, shown in the bill issued during the month of Sept.-2017 is legal, valid and proper?
3. Whether the consumer is entitled for any refund or adjustment of application of proper tariff since Aug.2012
4. What order?

Reasoning:-

I have given an opportunity to the consumer and his representative Shri. Vaidya who appeared at the time of hearing. I have also given an opportunity to the Ex. Engineer representing the Respondent utility who appeared before the Forum during the hearing. For his demand and application raised by the consumer for granting appropriate tariff since dtd. 1st Aug.2018 the consumer had filed copy of the Commercial Circular 175 dtd. 5th Sept.2012. Under 'Action Plan'

at Sr.No.4, new tariff category 'Public Services' for both the categories - LT & HT level - the clarification is given. As stated in item No. (1) of the Action plan, the tariff order should be applied from 1st Aug.2012. The direction is also given to the filed officers of the Respondent utility to ensure that wherever the tariff category is redefined or newly created by Commission, the existing / prospective consumers should be properly categorized by actual field inspection immediately and the data also is required to be immediately updated in IT base. In this case the order follows case No.19/2012 it appears the consumer in spite of knowing this order did not follow his application at appropriate time and the first application of details of establishment is filed by his own application on 8.9.2014. The complaint entertained by the IGRC is also minutely perused by me. It appears that IGRC considered the issues as per order on Additional Consumer Forum, Pune. In fact if the litigation is of similar nature entertained by and other equivalent Forum, the IGRC though referred the said judgment order and passed findings, to my view, this Forum has to consider the issue in proper existence of facts and circumstances and the Circular published after Aug.2012. Therefore I have perused the amended tariff order 1st June 2015, wherein the bifurcation of category LT X A and LT X B is clarified in tariff order on 1st June-2015. Public Charitable Institute is included in the tariff order of June-2015 which is a clarificatory order. The Circular which is published by the Utility as per direction of MERC, the effects of amended tariff bifurcation of category - i.e. the LT - XA and LT - X B shall be given effect from 26th Sept.2015. Therefore actual benefit allowed and given to the consumer should be assessed as per directions of MER, it being the competent authority to amend and establish the tariff category as per Rules & Regulations which is binding on utility, as well as the consumer is also entitled for the benefit to the effect. In the fact and established law, the benefit to the consumer shall be given from 26th Sept.2015, though the consumer had filed his application prior to that date. According to my views, the category for which the consumer has prayed for the tariff differentials and consequential benefits therefrom was not in existence. Under the circumstances IGRC, believing the orders passed by the Additional Consumer Forum, Pune, and with due respect, passed its order for the benefits to

be reassessed and recalculated. Under the circumstances, I am inclined to allow the consumer complaint partly by modifying order. The appropriate category of tariff should be amended to LT - X B from 26th Sept.2015 as per Circular and effective date of implementation. The bill which is issued claiming difference of refund should be reassessed, and accordingly, if any additional amount remains to be refunded to the consumer, it should be adjusted / be refunded with interest and benefit shall be passed on to the consumer. Hence I proceed to pass the following order:-

ORDER

1. Consumer complaint No. 23 of 2018 is partly allowed.
2. The Respondent utility is directed to give the benefit of difference of category tariff from 26th Sept.2015 and refix the tariff category LT X effective from that date. The assessment of refund with interest shall be re-verified and re-calculated accordingly.
2. No order as to the cost.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune on 10th July - 2018.

Note:

- 1) If Consumer is not satisfied with the decision, he may file representative within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman

The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051.

- 2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I agree/~~Disagree~~—

Sd/-
ANIL JOSHI
MEMBER
CGRF:PZ: PUNE

Sd/-
A.P.BHAVTHANKAR
CHAIRPERSON
CGRF: PZ:PUNE

I agree/~~Disagree~~

Sd/-
BEENA SAVANT
MEMBER- SECRETARY
CGRF:PZ:PUNE