Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Zone, Nagpur

Case No. CGRF(NZ)/61/2018

Applicant : M/s. Suruch Spices Pvt. Ltd,
Kh. No. 55/1,Nr.Umiya Industrial Estate
Nr. Pardhi Octroi naka,Bhandara Road,kapsi Khurd
Nagpur -441104.

Non–applicant : Nodal Officer,
The Superintending Engineer,
Nagpur Rural Circle, MSEDCL,
Nagpur.

Applicant represented by :- Shri Ashish Subhash Chandarana,

Non-applicant represented by :-1) Shri R.K Giri,E.E(Adm),NRC, MSEDCL, Nagpur.
2) Shri N.M. Gulhane,DyEE,NRC,MSEDCL, Nagpur

Quorum Present : 1) Shri Vishnu S. Bute, Chairman.
2) Shri N. V. Bansod, Member,
2) Mrs. Vandana Parihar, Member/Secretary

COMMON ORDER PASSED ON 21.06.2018

1. The grievance application is filed on 14-05-2018,under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as, said Regulations).

2. Non applicant filed reply and denied case of the applicant.

3. Forum heard arguments of both the sides on 12.06.2018 and perused the record.

4. Applicant M/s. Suruchi Spices Pvt. Ltd, bearing Consumer no. 430019005060 submitted that they are industrial consumer of MSEDCL since 17.11.1999 following staggering day regularly. They were billed as per HT-1N Tariff till the billing month Nov-10. MSEDCL shifted their tariff from HT-1N to HT1C without any specific request from them which is mandatory condition for applying HT-1C(Continuous) tariff as per MERC order in case No. 44 of 2008. In absence of their option, non-applicant's action is arbitrary and in violation of MERC tariff operative order 31.05.2008 in case No.72 of 2007. The detailed order dt.20.06.2008 reads as, *"Only HT industries connected on express feeder and demanding continuous supply will be deemed as HT-continuous while all other HT industrial consumers will be billed as HT non continuous Industry"*

5. On being noticed, applicant applied for change in tariff and in reply non-applicant informed that change is effected after physical verification of supply and usage of the applicant by their Executive Engineer on 12.12.2010. It is as per regulation 13 of supply code 2005. If they were using the power for other tariff than applicable category, then such a case needs to be dealt with under section 126 of EA 2003 which was not done. Hence unilateral change of their tariff without their consent is afterthought.

6. Applicant prayed for direction to non-applicant for refund of excess amount charged on account of unlawful change in their tariff from Dec-2010 till last recovery along with interest @ PLR of SBI as per APTEL order in case No 47 of 2011 and direct MSEDCL to conduct departmental enquiry of concerned Executive Engineer

who effected change in tariff without regulatory approval and without power and other relief such as cost of Rs. 25000/- considering facts and circumstances of the case.

7. Non applicant submitted written reply and prayed the forum to reject the instant grievance application being a time barrd case on the basis of regulation 6.6. of MERC (CGRF & EO) Regulations 2006 without going into the merit of the application and relying upon judgment of Hon'ble High court's order dated 10.07.2013 in Writ Petition No. 1650/2012, MSEDCL Vs. M.R.Salodkar

8. They further submit that, change in tariff is effected by them from HT-1N to HT-1 C in the month of Dec-2010. Prior to September 2010, there were 3 HT connections in the premises of the applicant on 11 KV voltage level and to avail reliability of supply and to prevent damage to perishable commodity kept in their cold storages in the same premise, applicant has demanded supply on 33 KV level by merging three industrial connections with a load of 1515 KVA. Accordingly connection was released in Sept. 2010.

9. As per non-applicant, physical verification of use of supply of the applicant was carried by EE on 13.12.2010. It was observed that applicant is availing continuous supply and hence applicant's tariff was changed from HT-1 N to HT-1 C as per regulation 13 of ESC 2005 and as per MERC tariff order. As per SOP Regulation 9.2 the applicant had opportunity for applying change in tariff. The applicant never applied from Sept 2010 to June 2016 and they were availing benefits of continuous supply. Applicant applied for change of tariff category in July 2016 and submitted the undertaking in Aug-2016. Therefore tariff had been changed from HT-1 C to HT-1 N

from 01.09.2016. In absence of any mistake in procedure on their part the non applicant prayed for dismissal of the application.

10. It is noteworthy that there is difference of opinion amongst 3 members of the Forum. Therefore the judgment and the decision is based on majority view of the Chairperson and the Member Secretary whereas dissenting note of Member (CPO) is noted in the judgment and it is part and parcel of the judgment.

Dissent Note dated 22.06.2018 in case No 61 of 2018 by Mr. Naresh Bansod Member CPO

1) Arguments heard on 12.06.2018 in detail and perused all the papers and record including written note of argument by applicant.

2) Applicant is Industrial consumer of MSEDCL since 17.11.1999 following staggering day as per the instructions of NA. The grievance of applicant is that MSEDCL has changed the tariff from HT-I N (Non Continuous)to HT-1 C (continuous) at their own without any intimation by NA or without any specific request of consumer which is mandatory for HT- 1 C tariff as per MERC tariff order in case No 44 of 2008. As per applicant, till NOV-10, HT-1 N tariff (Annexure A-1) was billed regularly but from DEC-2010 billing cycle, NA shifted the tariff from HT-1 N to HT-1 C. According to applicant, this action on part of NA is in violation of MERC order in case No 72 of 2007 wherein Hon'ble MERC vide its operative order dated 31.05.2008 and detailed order dated 20.06.2008 in case No 72 of 2007 ruled that .

   "Only HT industries connected on express feeder and demanding continuous supply will be deemed as HT-continuous while all other HT industrial consumers will be billed as HT non continuous Industry"

   In clarificicatory petition filed by MSEDCL in case No 44 of 2008, MERC stated objective of correct implementation of ensuing order and continued their ruling.

3) As per applicant, he has not demanded continuous supply and applicant was following staggering day protocol of NA regularly and HT-1N tariff was in force and billed up to NOV-10.But from DEC-2010, suddenly HT-1 C was applied and billed which was noticed by applicant during audit that is without notice to the consumer or without specific request of the consumer, tariff was changed.

4) Applicant submitted that MSEDCL being state read with article 13 of

constitution of India, has acted arbitrarily without following due procedure which is not correct.On being noticed, applicant applied for change in tariff without prejudice to his rights to recover the past difference and subsequently gets changed and in reply NA submitted that change is effected after physical verification of supply and usage of applicant by EE Division No 1 on 12.12.2010 and for justification reproduced selective extract of regulation 13 of supply code 2005 to suit their submission with ill intensions.

5) As per applicant no such physical verification and mandatory notice was given before carrying out inspection as per supply code 2005 is placed on record and if consumer using the power for 1 tariff to other, needs to be dealt under section 126 of EA 2003 which is not done and hence submission is afterthought,
6) As per applicant, since beginning, HT-1N tariff was applicable to both the cold storages prior to change and applicant prayed for direction to NA for refund of excess amount charged on account of unlawful change in tariff from DEC-2010 till last recovery along with interest @ PLR of SBI as per Aptel order in appeal No 47 of 2011 and direct MSEDCL to conduct departmental enquiry of concerned executive engineer who effected change in tariff without regulatory approval and without power and ask for cost of Rs. 25000/- in facts and circumstances of the case.
7) NA reply raised the issue of cause of action and regulation as per regulation 6.6. of MERC CGRF & EO Regulations 2006 without going into the merit of the application, and submitted that grievance application should be rejected by relying upon judgment of Hon'ble High court in its order dated 10.07.2013 in its WP No. 1650/2012, MSEDCL Vs. M.R.Salodkar disagree with the view taken in the matter of M/S hock in the Bombay High Court. \
8) As per NA, present grievance is change in tariff by MSEDCL from Ht-1N to HT-1 C in the month of DEC-2010. NA further said that prior to September 2010, there were 3 HT connections in this premises on 11 KV voltage level and to avail reliability of supply and to prevent damage to perishable commodity laying in the cold storages, applicant has demanded supply on33 KV level by merging three industrial connections with a load of 1515 KVA and connection was released in SEPT 2010
9) As per NA, on Physical verification of supply and us of the applicant by EE on 13.12.2010, it was clarified that applicant is availing continuous supply and as per regulation 13 of ESC 2005, tariff was changed from Ht-1 N to Ht-1 C and as per MERC tariff order and SoP Regulation 9.2, the applicant had opportunity for applying change in tariff but applicant never applied from SEPT 2010 and is availing benefits of continuous supply. Applicant had applied for change of tariff category in July 2016 and submitted the undertaking in AUG-2016 and tariff has been changed from HT-1 C toHT-1 N from 01.09.2016 and prayed for dismissal of application.

10) The Points for my consideration are,

A) Whether Inspection done of EE Div No 1 on 13.12.2010 for physical verification of supply and usage is as per proviso of regulation 7 of MERC (ESC) regulations 2005 and EE is the billing authority to decide the change in tariff for 1515 KVA consumer? Answer is **No**

On the point of inspection on 13.12.2010 by NA, Applicant said that as per second proviso of regulation 7 of supply code 2005, any inspection shall, be conveyed by advance notice which is not placed on record by NA. The said regulation is reproduced in written note of argument.

"Provided further that DL shall provide prior intimation to consumer of the visit of authorize representative to the consumer premises except where DL has reason to believe that any person is indulging unauthorized use of electricity and / or is committing office of the nature provided for in part XIV of the act of such premises.

In these exceptional cases, log book is required to be maintained as per provisions of supply code 2005.

11) On these allegations of no prior intimation, NA is silent and failed to produce the cogent evidence to prove that prior intimation to the consumer for the intimation was given. Hence visit of so called EE Div No 1 on 13.12.2010 was without prior intimation which is in violation aforesaid second proviso of regulation 7 of ESC 2005. Secondly The date of visit dated 13.12.2005 was " Monday " and was not prescribed staggering day for Nagpur dist for HT-1N industries as such there was no reason to conclude the status of industry as HT-1 C without verifying the weekly prescribed off / staggering day as per load shedding protocol and as per load sanction letter. Thirdly there was No inspection report produced before the forum by NA on the contrary applicant has brought all the discrepancies to the notice of the forum by producing MR-9 dated 13.12.2010 signed by SDO and subsequently vetted by EE Div No 1 which proves that inspection was not carried out By EE but it was a routine reading taking exercise by concerned SDO. It is not denied by NA that EE was not billing authority and no documentary evidence is place on record that proposal was forwarded to SE for approval for change of tariff as well as without show case notice and opportunity as per principle of natural justice, the tariff was changed and does not stand to judicial scrutiny and so called inspection report was bias as 13.12.2010 was Monday and staggering day was Wednesday. Hence the conclusion of NA to change in tariff from HT-1 N to HT-1 C is illegal and arbitrary.

B. Whether the present application disserved to be dismissed on the point of cause of action and limitation as per regulation 6.6. Of MERC CGRF & EO regulations 2006 ? The answer is **No.**

Regulation 6.6: forum shall not admit any grievance unless it is filed within 2 years from the date on which cause of action has arisen.

12) NA relied on judgment in WP No 1650/2012 order dated 10.07.2013 , MSEDCL Vs. Mukund R.Salodkar and reach to the conclusion that applicant is bar by limitation on pretext of Hon'ble justice has disagreement with the views taken in the matter of HPCL and referred Para 10 of the order praying for rejection on ground of limitation as application was not filed within two years but failed to analyze the facts and circumstances in case of M/S HPCL as well as when the date of cause of action has arisen.

Applicant in written note of argument analyze the facts and circumstances in Para 2 which is reproduced as hereunder along with the judgment of Supreme Court in civil appeal No 3699 of 2006 order dated 12.02.2016 (ANNEXURE A-1 and A-2)

" The Judgment cited by MSEDCL in case of MSEDCL Vs. Mukund R Salodkar in WP No.1650 of 2012 order dated 10.07.2013 which is in relation with the compensation awarded and decided on the basis of limitation act and period for demanding compensation thereof. Present case do not belong to compensation but relates to unlawful recovery of tariff in violation of MERC order and hence the cause of action needs to be interpreted in light of order passed by Hon'ble Bombay High court Nagpur bench in the matter of MSEDCL Vs. Shilpa Steel which was related to refund of excess tariff wherein Nagpur bench of Bombay High court upheld the order of Hon'ble EO Nagpur and refuse to interfere the said order.(Annexure a-1). Otherwise also law of as per law of precedent, when there are two different judgment of the same court have different interpretations, the latest judgment shall prevail."

Applicant has also cited the judgment of Hon'ble Supreme Court in CA No. 3699 of 2006 order dated 12.02.2016. The revalent extract is reproduced below which shall always prevail being judgment of Hon'ble Supreme court.

"We shall now consider the settled law on the subject. This court in a catena of judgments has lain down that the cause of action arises when the real dispute arises i.e. when one party asserts and the other party denies any right."

This judgment also confirms the order of Hon'ble Bombay High court Nagpur bench in the matter of MSEDCL Vs. Shilpa Steel and Power Ltd.

13) My analysis regarding to cause of action is as hereunder:-

Applicant said, as per regulation 6.6 of MERC CGRF & EO regulation 2006, the forum shall not admit the grievance unless it is filed within two years on which the cause of action has arisen. Applicant filed application before IGRC on 05.03.2018 and 60 days completed on 04.05.2018 and cause of approaching for approaching forum arises on 05.05.2018 and applicant submitted application on 14.05.2018 hence application is within limitation. Applicant relied upon judgment of Hon'ble Bombay High Court in matter of HPCL Vs MSEDCL and MSEDCL Vs. Shilpa Steel. NA in reply at Para 3 relied on judgment of Hon'ble High court in its order dated 10.07.2013 in writ petition 1650/2012, MSEDCL Vs. M.R.Salodkar, Disagreeing with view taken in the matter of HPCL and observed in Para 10 that , " in my view the consumer ought to have approach the forum from the date of cause of action". NA submitted that application be rejected on this count without going into merit of application as per regulation 6.6. Of MERC CGRF & EO regulations 2006.

NA relied on single judge of the Hon'ble Bombay High Court Mr..A.V. Nirgude as noted above denying the view taken by division bench of Bombay High court announced by Justice G.S.Godbole in petition of HPCL Vs. MSEDCL order dated 19.01.2012.

Applicant relied on Judgment of Hon'ble Bombay High Court Nagpur bench in WP No 3997 of 2016 MSEDCL Vs. Shilpa Steel And Power Ltd challenging the order of EO on point of cause of action arisen from the date of rejection of grievance from IGRC. In this case, as per NA, IGRC rejected the application on 15.03.2018 and hence the cause of action has arisen on 16.03.2018. It is very funny that in WP of M.R.Salodkar as well as Petition of Shilpa steel and Power, the advocate of MSEDCL was adv.S.V.Purohit but he did not prefer to rely to rely on judgment of M.R. Salodkar and as well as objected the view on Judgment of HPCL and accepted the fact of reliance on the judgment or view in HPCL. Hon'ble Justice Ku. Indira Jain has accepted the view in petition of HPCL of the division bench of Bombay High court and conferred the view taken in the HPCL order that the cause of action aroused when IGRC rejected the complaint of complainant as well as rejected the WP filed by MSEDCL on point of cause of action & so also limitation and the same is not challenged before Hon'ble Supreme Court after order in WP 3997 of 2016 odder date 18.07.2017 and NA complied the subsequent order of EO in review petition.

The latest judgment of 18.07.2017 of Nagpur bench of Bombay High court will always prevail and EO Nagpur and consistent view taken in HPCL & Shilpa Steel is relied by EO Nagpur, EO Mumbai cannot be negativeted by observations in WP 1650/2012 dated 10.07.2013.
EO also relied on HPCL as well as Petition of Shilpa Steel and orders were accepted in number of cases and complied by NA and hence NA cannot take u turn now just to protect the litigation. For the sake of clarity on entire issue of cause of action and limitation, applicant further relied upon judgment of Hon'ble Supreme Court of India in Civil appeal No 3699 of 2006 order dated 12.02.2016 Rashtriya Inspat nigam Ltd Vs Prathyusha Resourses and Infra Pvt.Ltd. Apex Court in Para 5 of page 4 observed as under.

"We shall now consider the settle law of the subject. This court in a catena of judgment has laid down that cause of action arises when the real dispute arises i.e. when one party asserts and other party denies any right." The cause of action in present case is the claim of Respondent / claimant to determination of base year for the purpose of escalation and calculation made thereon and the refusal of appellant to pay as per the calculations"

. Appellant allege and it is necessary to record that NA have not relied upon cause of action during proceedings before IGRC and IGRC in its order not decided the case on the basis of cause of action and hence it can be inferred that it is afterthought attempt and NA also failed to prove it with legal provision.I rely on the judgment of Appellate Tribunal of electricity (Appellate jurisdiction) appeal No 197 of 2009 order dated 11.03.2011 in the matter of MSEDCL Vs. MERC and 8 others. In detailed and reasoned order in belatedly filed petition, after a gap of 9 years. Para 10 of the order on page No 12 and 13

"It cannot be debited that electricity act is a complete code. Any legal bar or remedy under the act must exist in the act. If no such Bar to the remedy is prescribed under the code, it would be improper to infer such a bar under the limitation act. Admittedly there is no provision in this act, prescribing the bar relating to limitation. That apart, this question is already been decided by the Supreme Court that limitation act would not apply to quassi judicial authorities like state commission. This has laid down in AIR 1976, SCC 177, AIR 1985 SCC 1279, AIR 2000 SCC 2023, 2004, VOL 2 SCC 456 and 1985 (VOl II SCC 590. Further it has been held by Hon'ble Supreme Court in Madras Port trust Vs. Himanshu International reported in (1979) 4 SCC 176 that Public authorities ought not to take technical plea of limitation to defeat the legitimate claims of citizens.

The extract of revalent judgment is also reproduced by APTEL in its order.

As per Hon'ble Supreme Court, the Limitation could not apply to quassi judicial authorities like state commission. It was further held that public authorities not to take technical plea of limitation to defeat the legitimate claims of citizens. In view of the above observations, the plea of non applicant on point of cause of action and bar by limitation is failed as CGRF is the quassi judicial authority under the EA 2003 & otherwise also cause of action is arise in this case on 5th may 2018 and grievance application is well within limitation because NA totally failed to demonstrate and mentioned the date of cause of action.

In view of the above observation, NA failed to state date of cause of action as well as also failed to say why the order of Hon'ble High Court in MSEDCL Vs. Shilpa Steel and Power is not applicable which is latest judgment remained as prevailed one. Hence the submission of NA on point of cause of action and bar by limitation deserves to be rejected.

c) Whether NA is entitle to change the tariff from HT-1 N to HT-1 C without request of the applicant consumer? Answer is **No.**

14) As per MR-09, for DEC-2010, it is observed that SDO has taken reading for DEC-10 consumption with remark that "Consumer is continuous supply hence please change tariff from Ht-1 to HT-1C" and signed by SDO who is not competent but subsequently EE Div No 1 has vetted it as per their convenience. Hence story of inspection of EE appears to be fabricated and adverse inference can be drawn for false submission and SDO visiting the consumer premises since inception of HT-1N tariff who failed to record as to what change took place or he observed during his visit on Monday for the reading of DEC-2010 compelling him to change the tariff at his own without opportunity of being heard to applicant. NA simply relied on regulation 13 of ESC 2005 second proviso provided that the DL shall not create any tariff category other than those approved by the commission. Applicant argued that for levying any tariff, commission's approval has key role. Commission has approved HT-1C tariff who

i) Connected on express feeder and
ii) Demanding continuous supply

Both the conditions need to be satisfied for leaving HT-! C tariff. Applicant further argued that Hon'ble Aurangabad Bench of Bombay High Court while deciding WP No 1138 of 2014 and 1015 of 2014 has upheld this principle and rejected MSEDCLS appeal challenging CGRF Latur order.

NA in Para 7 of the reply stated that applicant was having liberty to change from HT-1 C to HT-1 N as per SoP Regulation 9.2. Applicant argued that applicability of regulation 9.2 came in to force after passing the order in MERC case No 94 of 2015 dated 19.08.2016 with retrospective effect i.e. after application of consumer in July 2016 demanding Change in tariff as well as past unlawful recovery. Applicant further submitted in written note of argument that Hon'ble EO in the matter of Paul strips (Annexure A-5) And Aurangabad Bench of Bombay High Court in the matter of M/S katare spinning, it was upheld that for Levying HT-C tariff there should be demand from consumer. NA failed to prove that there was demand from HT-1C tariff. NA failed on this point also and also totally failed to counter written note of arguments with cogent evidence. Hence entire action of change in tariff from Ht-1N to HT-1 C is arbitrary without application of provision of regulations and MERC orders from time to time and view expressed by Hon'ble Bombay high court in above cited judgments.

15) In view of the above observations, entire action is in violation of the regulations, orders of the High Court, Supreme Court. I am of the firm view that action of change in tariff from HT-1 N to Ht-1 C from DEC-10 Sept 2016 is deserves to be rejected and NA is liable tor refund of tariff from DEC-10 to Sept 2016 with interest @ PLR of SBI and in the interest of Justice, I am of the opinion to award cost of Rs. 5000/- to meet the end of justice. Hence the application deserves to be allowed and hence order

ORDER

1. NA is directed to refund the difference of tariff from HT-1 C to HT-1 N from DEC-2010 to SEPT 2016 with interest @ PLR of SBI by way on credit in next billing cycle.
2. NA is further directed to pay Rs. 5000/- as cost in facts and circumstances of the cause for hardship cause and expense incurred.
3. Order of IGRC is quashed and set aside as it is without application of regulations and various tariff orders etc.

4. The Compliance of this order shall be done within 30 days from the date of this order.

Naresh Bansod
Member (CPO)

11 **Reasoning and finding of majority view of the Chairperson and the Member Secretary of the forum**.

According to the Regulation 6.6 of the said Regulations, **"Forum shall not admit any grievance unless it is filed within 2 years from the date on which the cause of action has arisen"**. In this case it is the contention of applicant that MSEDCL changed their tariff from HT-1N to HT-1C in the month of Sept-10 in violation of MERC order 31.05.2008 in case No.72 of 2007 and regulation 13 of supply code 2005. Therefore cause of action arose from the month of Sept-10. Therefore it was necessary for the applicant to file grievance application within two years i.e. before Sept-12. Present case is filed on 14-05-2018 i.e. after almost five years of expiry of period of limitation and therefore it is hopelessly barred by limitation.

12 Applicant desired to mislead this Forum on the ground that he filed grievance application before I.G.R.C. on 05.03.2018. So the present grievance is within limitation. However, we do not agree with this argument of the applicant because the date of filing application before I.G.R.C. is not relevant. It is immaterial when anybody file grievance application before I.G.R.C. The relevant date of calculation of limitation is the date of cause of action within the meaning of regulation 6.6. Cause of action arose in Sept-10.Therefore limitation starts from the month of cause of action i.e.Sept-10. Therefore we find no force in the contention of the applicant that merely

because he filed grievance application on 05.03.2018 before I.G.R.C. any special concession can be given to him.

13. It is noteworthy that date of filing of application before I.G.R.C. specially in time barred cases is irrelevant because if the matter is time barred, according to regulation 6.6 with fraudulent intention, to bring time barred case within limitation any consumer may knock the door of I.G.R.C. at belated stage and may claim to calculate the period of limitation from the date of filing the application before I.G.R.C. but is not legal concept. It is misconception and misinterpretation of the relevant provisions laid down under regulation 6.6 of the said regulations. Therefore grievance application filed by the applicant at belated stage before I.G.R.C. on 05.03.2018 will not help the applicant to bring the time barred case within limitation.

14. Representative of applicant relied on the Hon'ble High Court ruling as mentioned in his application. We have carefully perused all the rulings cited by the applicant. However, facts of the present case are totally different and distinguishable and therefore authorities relied on by the applicant are not applicable to the case in hand.

15. Therefore we hold that grievance application is barred by limitation according to regulation 6.6 of MERC (CGRF & EO) Regulation 2006.

16. So far as merit of the case are concerned, non-applicant filed on record MR-9 form of the instant applicant. It is a reading sheet used for noting the monthly readings of HT consumer. It is signed by SDO and subsequently endorsed by the Executive Engineer of concernd Division. On close scrutiny of the same, it is revealed that inspection was carried out by the EE during monthly reading programe and being

a routine reading taking exercise followed by concerned SDO, no prior intimation was required to be given to applicant. It is not denied by non-applicant that EE was not billing authority and but this MR-9 form with a remark that "*Consumer is continuous supply hence please change tariff from HT-1 to HT-1C*" was subsequently forwarded to SE office for scrutiny and Billing purpose .The Superintending Engineer of concern circle who is competent authority has affected the change of tariff as per provision of regulation 13 of MERC's SOP Regulation 2005 which reads as under,

"13.*The distribution Licensee may classify or reclassify a consumer into various commission approved tariff categories based on the purpose of usage of supply by such consumer. Provided that the Distribution Licensee shall not create any tariff category other than those approved by the Commission*." Hence allegation of applicant in this regard is baseless.

Hence forum accepts non-applicant's contention as per Para 7 of their reply which states that applicant was having liberty to change from HT-1 C to HT-1 N as per SoP Regulation 9.2 but did not approach/applied for change till June 2016. The applicant applied in July 2016 their tariff was changed as per their request. Hence it is clear that entire action of the non-applicant while changing the tariff from HT-1N to HT-1 C and from HT-1 C to HT-1 N is as per provision of clause 13 of MERC SOP regulation 2005 .Any kind of violation of any MERC order is not done by the non-applicant while changing the tariff of the instant applicant.

17. For these reasons, we hold that grievance application deserves to be dismissed. Hence we proceed to pass following order, by majority.

ORDER

1. The grievance application is dismissed.

Sd/-	Sd/-	Sd/-
(N.V.Bansod)	**(Mrs.V.N. Parihar)**	**(Vishnu S. Bute)**
MEMBER	MEMBER SECRETARY	Chairman.