

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

Case No. 19/2018

Date of Grievance : 18.04.2018

Hearing Date : 18.06.2018

26.06.2018

Date of Order : 30.07.2018

In the matter of refund of excess bill recovered towards LT metering charges.

M/s. Logipark Warehousing Pvt. Ltd., ---- Complainant

S.No.262, Wagholi, Tal.Haveli,

Dist. - Pune - 412207

VS

The Superintending Engineer, ---- Respondent

M.S.E.D.C.L.

Pune Rural Circle, Pune.

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.N.M.Dhanwala, Consumer Representative
- 2) Shri.Umesh Kumar Jalan, CA

C] - On behalf of Respondent

- 1) Mrs.K.S.Patil, Ex. Engr.,PRC,Pune
- 2) Mrs.Kalpana Kamble, JLO, PRC, Pune
- 3) Mr.S.J.Patil, Dy.Manager (F&A), PRC, Pune

M/s. Logipark Warehousing Pvt. Ltd., HT Consumer No. - 170529039810

Complaint about refund of excess bill recovered towards LT metering charges paid by consumer from June-2010 to Dec.2015.

The above named consumer initially has made complaint to the Suptd. Engineer, MSEDCL, PRC, informing that LT metering charges paid by him for the period from June-2010 to Dec.2015 are wrongly recovered from him by the Respondent utility. The Consumer also further stated that earlier also he had made complaints in this respect on dtd.6.11.2015 with a request for removal of LT metering charges being claimed from him by the Utility. To support his claim, the Consumer relied upon the office letter dtd. 05.1.2016 bearing No. 0053 of the Respondent Utility, approval of the Superintending Engineer, MSEDCL, PRC for removal of LT metering charges from the consumer against his connection. The Consumer had also made an application on 20.1.2016 and had claimed refund of LT metering charges paid by him for the period from June-2010 to Dec.2015 for amounting to Rs.4,14,067/-. Further, the Consumer had also made online complaint in this regard with Registration Id No. 187415 to "Online Grievance Redressal System for HT consumer". It was only thereafter; the consumer had made complaint to IGRC PRC, with distinctive Case No. 30 of 2016/17 who passed an order in this dispute on 17.04.2017. The Consumer informed that he received an email communication from the Superintending Engineer, Pune Rural Circle on 23rd June 2017 in respect of subject of HT consumer complaint No. 187415. Thereafter IGRC has taken cognizance of the complaint and issued letter for hearing before it. Being aggrieved by the order of IGRC, the Respondent utility having not refunded the amount of excess recovery in LT metering charges i.e., additional charges recovered, though there is no order of refund and to stop the additional LT metering charges if the supply on HT side and refund of LT metering charges was rejected by IGRC order. Being aggrieved by the order, the Consumer approached to the Forum and filed his complaint in Form -A on 18.4.2018, giving details of documents, correspondence made by the utility with him and requested for refund of the charges paid towards LT metering side and wrongly recovered by the utility from him for the period from June-2010 to Dec.2015. The Consumer also prayed for detail calculation sheet and relevant change of tariff order as per sanctioned order. After filing of this complaint, this Office issued notice to the Respondent utility on 19.4.2018 and directed it to submit reply on or before dtd. 03.05.2018. Since, there

was no response from the Utility towards filing of its reply, again fresh notice was served on the Utility on 31.05.2018 directing it to file its reply on or before 5.6.2018. Thereafter the Respondent utility appeared and filed its reply. The Respondent utility submitted that the consumer had claimed the refund wrongly and that he was not entitled for the same as original consumer connection sanctioned was towards HT side. bearing consumer No. - 170529039810, date of connection - 09.02.2007. The said connection was approved and sanctioned in two phases. Initially, the connection load released for 80 KVA as the activity of the consumer was for warehousing and was commercial activity. However the billing of the consumer was done as per LT- V from June-2007 to June - 2009 despite the supply was on HT-side which fact is also mentioned in the bill. Therefore the consumer was billed with LT-II from July- 2009 to May - 2010. On 24.2.2010, the applicant took additional load of 120 KVA which was extended from 80 KVA to 120 KVA for the said purpose, and an agreement for the same was executed with the consumer towards application of tariff HT-II from 2010 till this date. The Consumer was accordingly billed with HT-II Tariff and mentioned on bill that the supply was on HT on LT side and hence additional LT metering charges charged from June-2010 to Dec.2015 during enhancement of additional load in the second phase. At the time supply was connected, the consumer was already on HT side. The application from the consumer was received on 6.10.2015 for removal of LT metering charges and, therefore, recovery of LT metering charges was stopped from Jan.2016 vide letter No.SE/PRC/Tech/Testing/LT metering/M/s. Logipark/5003 dated 5.1.2016. Now the consumer is requesting to refund LT metering charges from June-2010 to Dec. 2015 for amounting to Rs.4,14,067/- The consumer was metered on HT side from the date of his connection i.e. 9.2.2007. However the Respondent Utility was under the impression that he was being billed at LT side instead of HT side due to human error. Through oversight the applicant was being charged as per LT tariff rate., although the Respondent Utility is eligible for claiming the difference between HT & LT tariff from the consumer for the period from 2007 up to May-2010 as the metering of the applicant was on HT side but due to oversight consumer was charged towards LT tariff. Therefore Respondent utility prayed for difference of

tariff which is calculated in foregoing Paras A to 9 and further stated that the consumer was sanctioned and approved the connection since 9.2.2007 for Warehousing activity of HT side and the tariff was applicable to HT-II (appropriate tariff) since the time of connection. Initially the load was for the activity of consumer which was on commercial side. However the billing, as mentioned earlier, was done wrongly due to human error. The consumer was being billed on LT tariff as it was then corrected to LT-II since July-2009 to May-2010. At the time when the consumer applied for additional load and agreement to that effect was executed with the consumer towards HT-II tariff from 2010 till this date, the consumer was billed with HT-II tariff and supply was on HT on LT side mentioned on the energy bill and hence additional LT metering charges from June-2010 to Dec.2015 was charged. At that time the supply was already connected on HT side. As per the application on 6.11.2015, recovery of additional LT metering charges was stopped from Jan.-2016 vide letter of Superintending Engineer, PRC, Pune dated 5.1.2016. The consumer claimed for refund of LT metering charges amounting Rs.4,14,067/- for the period June-2010 to Dec.2015. Consumer metering was on HT side since date of connection. The Respondent utility claimed having calculated the tariff difference of LT-V to HT-II from Feb. 2007 to May 2008 and also claimed LT- V to HT-II for the period June-2008 to July-2009 as the tariff was introduced in June-2008 and for the period LT-II to HT-II July- 2009 to May-2010. The HT-II tariff was applied from June-2010 but the supply was mentioned as HT on LT side on energy bill and hence the additional LT metering charges were mentioned during the period June-2010 to Dec.-2015. For the calculation of the said amount the Respondent utility prayed for the period of seven working days demanded by consumer, for refund of LT metering charges, which would be adjusted after the calculation of exact tariff difference recoverable from the consumer and thereafter the benefit would be passed on to the consumer. Respondent utility also prayed for permission to file additional reply. The consumer relied on various documents and circulars which were applicable at the appropriate time. The Consumer attached copy of agreement, letter of sanction, correspondence made with the utility, application for extension of load, letter of revised release of HT supply earlier and also after the application is made,

copy of spot inspection report, copy of connection checking form, copy of sanctioned HT load at various times of period, copy of installation report and copy of sketch map at the site and all other relevant documents, i.e. Copy of CPL and copy of circulars applicable to the issue. I have perused all the documents filed by the consumer and the Respondent utility in their reply. After giving minute consideration to the issue, following issues arose for my consideration to which I have recorded my finding to the point for the reason given below :

1. Whether consumer is entitled for refund of excess amount recovered amount towards additional LT metering charges in the billing from the period June-2010 to Dec.2015 amounting Rs.4,14,067/-?.
2. Whether consumer complaint is within limitation?
3. Whether the Respondent utility is entitled for recovery of tariff difference from LT - II /V (As per applicable of various tariff orders) to HT II Commercial from consumer for the period from 2007 up to 2009?
4. Whether consumer is entitled for any relief?
5. What order?

Reasoning:-

I have given an opportunity to the consumer and his representative who appeared on the date of hearing on 26.6.2018 and also on subsequent dates. After perusal of the dispute, it appears that since the date of connection the consumer was sanctioned and the connection towards HT side. The sanction order issued by the Superintending Engineer, PRC, Pune, is minutely perused. The work of establishment of infrastructure for giving the said connection, all the process was verified by technical person. The spot inspection which was carried out, clearly mentioned that the connection of the consumer was on HT side. To my view, this consumer having since beginning i.e. from the date of connection, the used of the supply towards HT side. However it appears from the record that, the main supply was coming from HT side to the compact cubical unit and thereafter the supply was

going to the HT 200 KVA transformer and thereafter LT distribution network to the consumer's premises through the LT distribution panel. The consumer was continued to use the said HT connection. It is confirmed that the consumer has avail the facility of HT supply from the date of connection. Thereafter the consumer had filed the application for additional load in the year of 2010 for 2nd phase from 80 KVA(existing) + 40 KVA(Proposed) = 120 KVA and during that period, it was not noticed by consumer as well as Respondent utility regarding the tariff was charged as LT-II/V on the energy bill instead of HT-II and the additional load was sanctioned by Respondent utility in the year of 2010 and agreement has been executed for HT-II tariff and the same changes was not effected on the energy bill after release of said load. It is confirmed from the energy bill that it was charged on LT-II tariff and hence considering the consumer was on LT side and the supply was on HT on LT side was mentioned on the energy bill and henceforth, the additional LT metering charges was added from June-2010, whereas the consumer was on HT side since the date of his connection. At the same time the consumer remained silent to explain that his supply was towards HT side after receiving the energy bills on monthly. In the year 2015, the consumer was noticed that, the additional LT metering charges was wrongly added in the monthly energy bill and thereafter reason for the consumer to file application to the Respondent utility requesting for removal of LT metering charges and the grounds which had approval letter given by the Superintending Engineer for removal of additional LT metering charges which is recovered wrongly. This fact was since not brought to the knowledge of Superintending Engineer when the approval for release for removal of LT metering charges was granted. Therefore, there is no reference of permitting to recover the charges of tariff difference from LT -II/V to HT-II sanctioned in the approval order. The consumer had taken undue advantage of this fact and skipped the liability of arising out of difference of tariff from LT -II/V (applicable as per tariff order) to HT-II since the consumer was on HT side from date of connection till date. Therefore, the relief claimed by the Respondent utility at the time of hearing before this Forum, it also appeared from the dispute that consumer is only interested in

recovery of wrongly charged additional LT metering charges for the period June-2010 to Dec.2015 and the amount was calculated Rs.4,14,067/-.

To my view when the approval is given vide letter dated 21.1.2016 permitting consumer for removal of additional LT metering charges, which was itself to the current request of the consumer, it seems to be considered and the said amount was not calculated by the Respondent Utility. Therefore it gives cause of action to the consumer. Admittedly, the consumer initially wrote letters to the office of utility much prior on 6.11.2015 i.e. date of before sanctioning and approval of withdrawal of additional LT metering charges as claimed by the consumer in his request before officer of the utility.

It fairly implies that the consumer was knowingly that his connection was sanctioned for HT side and that he had taken all the benefit of LT tariff billed on the energy bill since 2007 up to 2009. Till the date of additional load request made by consumer is verified, which is supported by documents of spot inspection, which clearly indicates that the connection of the consumer was on HT side. I have gone through the various circulars concerning to the issue which was referred to and find that the Respondent utility is entitled to claim the difference of tariff charges which was wrongly claimed due to human error, bill against the consumer towards LT tariff for which the recovery was not done at appropriate time. Once the issue of cause of limitation by seriously raised by the objection by the consumer during hearing, but the subsequent application made to IGRC is itself beyond the period of limitation of two years which is admittedly made by the consumer on 18.04.2018. When the approval letter issued by the Superintending Engineer is dated 05.1.2016, the consumer had filed grievance before IGRC beyond the period of two years. But this fact was not considered by the IGRC while deciding the dispute.

From the documentary evidences, it is seen that the IGRC order was sent to the consumer. The calculation of bill which remained unpaid by the Respondent utility as now it is claimed by the consumer before this Forum, the application Form - A is on 18.4.2018. The reason of delay explained by the consumer is about

illness of his representative. But the consumer himself could have filed the dispute application at the appropriate time.

To my view, the monetary recovery touches to the basic rights of consumer if excess billing is admittedly recovered from the consumer by the utility. To my view, the consumer is bound to get refund with interest. But in this case the law of parity should be equally benefited to the consumer and also to the utility. And therefore question of limitation of sixty days in not filing grievance to this Forum is viewed by me sympathetically. Considering grievance of the consumer is touches to the monetary evaluation and the recovery which is admitted should have been extended to the consumer appropriately. At the same time, I cannot over rule the liability of consumer to pay the difference of tariff of LT-II to HT-II Commercial as the tariff was wrongly mentioned on energy bill as LT-II/V due to oversight/human error. The relief if such part when wrongly recovery which is made against the consumer equally, the Consumer is also liable to pay the difference of tariff amount which is recoverable from the consumer for the period 2007 to 2010. The said calculation was called at the time of hearing. In this context to give fair justice to both the sides, I am inclined to allow the claim of consumer for refund of excess recovery of additional LT metering charges which was admitted by the utility by its reply and documents itself. At the same time, Respondent utility is also entitled to recover the claim of tariff difference from LT-II to HT-II Commercial by application of appropriate tariff. Hence I am inclined to allow the complaint and proceed to pass following order.

On two occasions, the consumer and the Respondent were given fair opportunity for hearing and submit the documents in their rival claims. Due to this, the period of sixty days could not be maintained for deciding the grievance application of the consumer.

ORDER

- 1) The consumer complaint is allowed partly,

- 2) The utility shall refund the amount of excess recovery for the period June-2010 to Dec.2015 amounting to Rs.4,14,067/- which can be adjusted in the future bills in equal monthly installments till the refund amount is extinguished.
- 3) The Respondent utility is entitled to recover the tariff difference amount for the period Feb.-2007 to May - 2010 which shall be calculated and adjusted against the recovery in refund amount equally.
- 4) The remaining amount payable to the consumer shall be adjusted in equal monthly bills in future from the date of effect of date this order in the next billing cycle.
- 5) In the peculiar circumstances, the error is not intentional, hence no order 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 30th 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~~

I agree/~~Disagree~~

Sd/-
ANIL JOSHI
MEMBER
CGRF:PZ:PUNE

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

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