

CONSUMER GRIEVANCE REDRESSAL FORUM
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Case No.: 11/2018

Date of Grievance: 02/07/2018

Date of Order: 14/08/2018

K. Raj Digital Press, Pro. Shri. Rajesh S. Katakdhond.,
Shop No. 2, Swami Samarth Complex,
S.S. Bazar, Solapur

Applicant

(Hereinafter referred to as consumer)

Versus

Superintending Engineer,
M.S.E.D.C.L., O&M, Circle, Solapur

Opponent

(Hereinafter referred to as Licensee)

Quorum

Chairperson	Mr. B. D. Gaikwad
Member	Mr. S. K. Jadhav
Member Secretary	Mr. M. A. Lawate

Appearance:-

For Consumer: - Mr. H. D. Khapare (Consumer representative)

For Respondent: - 1- Mr. B.G. Panghate, Executive Engineer, Division office, Solapur (U).

ORDER
(Date:-14/08/2018)

- 1- The consumer has filed present grievance application under regulation No. 6.4 of MERC (CGRF and EO) regulations 2006 Hereinafter referred to as regulations of 2006.
- 2- The consumer is running business of Digital Printing Press in the name and style M/s K.Raj Digital Printing Press from 01/01/2015 at shop No.2 Swami Samarth Complex, South Sadar Bazar, Solapur. The licensee was providing electricity to the said business under Industrial tariff since the date of connection (01/01/2015). The industrial consumer number is 330244863094. The consumer is paying electricity bills regularly. The consumer has not changed purpose of usage of supply from the date of connection in any manner. The licensee has sanctioned the electricity load for digital printing press on 19th December 2014. Even in firm quotation/demand note dated 29th Dec 2014 purpose of connection is LT Industrial. Even Maharashtra Electricity Regulatory

Commission (MERC) has sanctioned industrial tariff for the said business from time to time.

- 3- On 27/3/2018 Additional Executive Engineer, head of flying squad Satara has inspected the premises of said business. The consumer was present at that time and he was instructed to sign spot inspection report. The flying squad did not accept the documents of consumer and no opportunity of hearing was given to consumer. The consumer is not admitting said report. The flying squad kept the case under observation for tariff.
- 4- On the basis of flying squad report, Additional Executive Engineer, Sub-Division, Solapur(C) has issued difference bill of Rs. 9, 17,490/- for the period Feb. 2015 to April 2018. The consumer was directed by letter dated 11/4/2018 to pay said bill within the period of seven days and in default necessary action as per rules was to be taken. By subsequent letter dated 19/4/2018 consumer was directed to pay the said bill within 15 days and in default electricity was to be disconnected. The licensee has claimed said bill illegally and there cannot be retrospective recovery of the bills. The consumer has obtained interim order restraining the licensee from disconnecting electric supply. The said order was passed by Consumer Grievance Redressal Forum (CGRF) Baramati on 14/5/2018.
- 5- The Consumer has submitted grievance before Internal Grievance Redressal Cell (IGRC) Solapur. The IGRC Solapur has passed order dated 25/5/2018 and disposed off the grievance of the consumer. The consumer has therefore filed this grievance before this forum. He contended that the business of digital printing press is the separate business of the consumer and industrial tariff is applicable. It is submitted that consumer is having two separate connections bearing No.330244863094 and 330241539245. It is submitted that the usage of the supply for both the connections are different. The point of supply and sanction load is also different. Both the connections are in different premises. The digital printing describes the process of transferring a document from a personal computer or other digital storage device to a substrate by means of device that accepts text and graphic output. According to the consumer the tariff applicable in the present case is Industrial tariff. The consumer therefore prays that bill should be charged as per industrial tariff and the excess amount paid as per commercial tariff may be returned to the consumer with interest as per law.
- 6- The notice of this grievance was served to the licensee. The licensee has appeared through its representative. It is submitted on behalf of licensee that additional executive engineer MSEDCL, Flying Squad Satara has submitted his say dated 7/5/2018 and same shall be treated as say in this grievance. It is submitted that flying squad has inspected the premises on 27/3/2018 and has prepared the spot inspection report. It was found that the bills were issued as per industrial LT-V B II tariff. The consumer was using supply for development of digital photographs, embossing etc and it is commercial activity. As per MERC tariff order dated August 2012, such photo development labs are categorized under commercial category. Hence plain tariff

difference bill was proposed as per MERC tariff from the date of connection. Accordingly Solapur Urban Sub-Division C raised said bill. It is further contended that the consumer is having another connection in the same building in the same name and consumer No. Is 330241539245 and it is used for colored lab and photo studio and its tariff was changed to commercial from industrial in the month of august 2014 with adjustment amount of Rs. 1,68,948. The consumer has paid the said amount.

- 7- The consumer has applied for new connection in January 2015 for industrial purpose for K.Raj Digital Press in the same commercial complex and was allotted consumer No.330244863094 and for this connection consumer has submitted registration certificate under Bombay Shops and Establishment Act 1948 and renewed the said certificate indicating that the activity is commercial activity. In addition to that, Director Of Industries Solapur form No.00442 indicates that memorandum filed by the consumer is for offset printing manufacturing. Even the electrical contractor 'Akilesh Electricals Solapur' has given testing certificate stating supply demanded is for commercial activity. The industrial tariff is applicable only for printing press. The photographs taken during the inspection clearly shows that there was development of photos and allied equipments for album preparation and sales. The consumer has commercial outlets and photo studio in the same complex. The consumer is using the supply for digital photo laboratory and activity of printing press is not being carried out. As per Cambridge dictionary printing press means a machine which prints books newspapers and magazines. It is further submitted that the website indicates that K.Raj Digital Press lab provides services of photographic printing and photo finishing. It also provides high quality digital photo prints, printed cards, photo books, professional albums, canvas printing, mounting, metal prints etc. it is submitted that photo development laboratory activity is carried on and so it is commercial activity. It is observed from the CPL of both the consumers that consumption of existing commercial connection has been reduced drastically from august 2017 and consumption of industrial connection has been increased gradually. It is therefore submitted that the grievance shall be dismissed with cost.
- 8- We have heard the representatives of both the parties and also perused documents on record. In view of rival contentions of the parties, following points arise for our consideration and we have recorded our findings thereon for the reasons stated hereinafter.

POINTS-

I) Whether LT-V B-II Industrial tariff is applicable in the present case?: - YES

II) What Order?

FINDINGS-

: - As per Final Order

REASONS.

- 9- Regulation No13 of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations 2005 lays down classification and reclassification of consumers into tariff





categories. The licensee can classify or reclassify consumer in various commission approved tariff categories based on the purpose of usage of supply by such consumer. The distribution licensee shall not create any tariff category other than those approved by commission.

- 10- The learned representative of consumer has placed reliance on the tariff orders in case NO.19/2012 dated 12/8/2017, Case No 121/2014 dated 26/6/2015 Case No 48/2016 dated 03/11/2016 wherein printing press is in the category of LT V B industry-General category. It also applies to incidental and ancillary activities like canteens, recreational hall, sports clubs and other facilities in the same industrial premises and supplied power from same point of supply. The MERC is only competent authority to determine and review the tariffs. There is no dispute the printing press of the consumer is having separate meter and tariff was industrial tariff since the commencement of said business on 01/01/2015.
- 11- The flying Squad Satara inspected the premises of consumer on 27/3/2018 and prepared spot inspection report which reads as under -

"The consumer is billed as per 3 phase industrial tariff (L.T V B-II) However the use of electricity is for K.Raj Digital Press, for printing photos. The consumer has submitted Government of Maharashtra Shop Act establishment certificate for commercial establishment along with Government Of Maharashtra DIC Solapur certificate for small Manufacturing offset printing Unit. The case is kept under observation for tariff"

It appears from the report that the consumer is running digital press and there is also printing of photos and offset printing. The consumer is having license under Bombay Shops and Establishment Act 1948 for commercial establishment. It is also mentioned in the spot inspection that the case is kept under observation for tariff.

- 12- It appears from the record the consumer was present during inspection but no opportunity of hearing was given to him. According to licensee usage of electricity is for development of digital photographs, embossing etc. and it is commercial activity. It is also submitted in the say of licensee that as per MERC tariff order dated August 2012, such photo development labs are categorized under commercial category and industrial tariff is applicable only to printing press. However we are unable to accept this contention because there is no such separate category for digital printing press. The business of consumer is not the business of photo development lab and printing press of consumer comes under industrial category. We therefore come to the conclusion that the industrial tariff LT V B II which was made applicable from date of connection is the correct and legal tariff and it cannot be changed. The licensee is therefore not entitled to claim plain tariff difference. It appears that consumer is paying bills as per commercial tariff from May 2018 and excess payment of bills shall be refunded to the consumer with interest U/S 62 (6) of The Electricity Act 2003.
- 13- It appears that consumer is having one more connection bearing consumer No.330241539245 and date of connection is 09/10/2001 and tariff is LT II commercial below 20KW and connected load is 16KW. This connection is not in the same premises.

however, it is submitted in behalf of licensee that from CPL of both consumers it was noticed that consumption of existing commercial connection has reduced drastically from August 2017 and consumption of industrial connection has increased gradually. We are unable to accept this contention because both the meters are not in the same premises.


- 14- The licensee has claimed plain tariff difference bill from the date of connection. It is rightly submitted on behalf of consumer that such retrospective recovery cannot be claimed. In order dated 11th February 2003 in case No. 24/2001 commission has held as under -

"No retrospective recovery of arrears can be allowed on the basis of any abrupt reclassification of a consumer even though the same might have been pointed out by the auditor. And reclassification must follow a definite process of natural justice and the recovery, if any, would be prospective only as the earlier classification was done with a distinct application of mind by the competent people. The same cannot be categorized as an escape billing in the strict sense of the term to be recovered retrospectively."


So according to the regulations and orders of the commission the arrears for difference in tariff could be recovered from the date of defection of error. In the present case, licensee is not entitled to recover any amount because tariff applicable for printing press is LT V B industrial tariff. Even in the commercial circular No.180 dated 5th December 2012 issued by MSEDCL clearly indicates that the tariff applicable to the printing press is industrial tariff. In the light of above discussion, we come to the conclusion that in present case applicable tariff is LT V B. We therefore answer above points No1 in the affirmative and pass following order.

ORDER

- 1- The grievance is allowed as under.
- 2- It is held that tariff applicable in the present case is LT V B industrial tariff and bills shall be corrected and issued accordingly.
- 3- The excess amount of bills paid by consumer as per commercial tariff from May 2018 shall be refunded to consumer with interest U/s 62(6) of the Electricity Act 2003 or said amount shall be adjusted in future bills.
- 4- The licensee shall report the compliance of this order within the period of two months from the date of receipt of this order.
- 5- No order as to cost.


14/8/18
M. A. Lawate
Member/Secretary
CGRF, BMTZ, BARAMATI


S.K. Jadhav
Member
CGRF, BMTZ, BARAMATI


14/8/2018
B.D. Gaikwad
Chairperson
CGRF, BMTZ, BARAMATI