



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph- 2210707, Fax - 2210707, E-mail : cgrfkalyan@mahadiscom.in

No. K/E/1428/1679 of 2017-18

Date of registration : 18/07/2018

Date of order : 05/09/2018

Total days : 49

IN THE MATTER OF GRIEVANCE NO. K/E/1428/1679 OF 2017-18 OF M/S ZHAVERI PHARAMAKEM, B-10 & 10/1, DOMBIVALI MIDC, PHASE-I, KALYAN SHILPHATA ROAD, DOMBIVALI (E), PIN CODE-421 203 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT BILLING DISPUTE.

M/s Zhaveri Pharamakem,
B-10 & 10/1, Dombivali MIDC,
Phase-I, Kalyan Shilphata Road,
Dombivali (E), Pin Code-421 203
(Consumer No. 020339024710)

... (Hereinafter referred as Consumer)

V/s.

Maharashtra State Electricity Distribution
Company Limited
Through it's Nodal Officer/Addl.EE.
Kalyan Circle-I, Kalyan

... (Hereinafter referred as Licensee)

Appearance : For Licensee - 1) Shri.D.D.Bhamare, E.E., KC-I Circle
2) Shri.V.K.Chavan, Dy.EE, KC-I Circle

For Consumer - 1) Shri.Pravin Chaudhari (C.R.)
2) Shri.Santosh Ghuge (C.R.)

[Quorum- 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 Regulations 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) Consumer herein is M/s Zhaveri Pharamakem Pvt.Ltd. with Consumer No. 020339024710. Grievance is that consumer has a pharmaceutical plant at consumer address at MIDC, Dombivali MSEDCL has sanctioned power supply of connected load of 1250 KW & contract demand 750 KW for the purpose of pharmaceutical products. The consumer further interalia submit that while examining the reasons for substantial electricity charges consumer realized that the MSEDCL was wrongly charging the consumer under HT commercial Tariff. (HT-II N) even though sanctioned and utilized for industrial purpose.

3) It is further the submission that consumer vide letter dt.24/10/2016 applied to the superintending Engineer, Kalyan Circle-I, Kalyan for change of tariff from H.T. commercial (H.T. IN) to HT Industry (HT-IN) with retrospective effect. MSEDCL official thereupon carried out inspection at different dates for verification and confirmed that load is utilized for industrial purpose only and changed tariff from commercial to industrial but w.e.f.Jan-2017 MSEDCL. MSEDCL also refunded tariff difference from date of application to Jan-2017.

4) Consumer contends that it is the responsibility of the Distribution Licensee to apply proper tariff as per tariff order of the commission. Further as per pharmaceutical good manufacturing practice requirements the plant has to take installation qualification, operational qualification and performance qualification batches were successfully taken on. Once the IQ, OQ and PQ is completed the plant has take validation batches. Once these batches are taken, the company can request for an international Regulatory body to come and inspect the facility SZPPC has already triggered the inspection and the regulatory body inspection has started from 09/13 Oct-2017. Consumer further states that they have taken input credit for all the machines during the installation with the Excise authorities and relevant documents are available for inspection which would endorse that the plant was commissioned in 2014. The F.D.A. License which is given once plant is commissioned was obtained by the consumer in Nov-2014. This will prove that the plant was commissioned in Nov-2014.

5) Consumer prayed to refund tariff difference amount from the date of release of power along with interest.

6) Distribution Licensee in reply contends that :-

*i) In agreement signed dtd: 15.01.2013 between MSEDCL & M/s.S Zhaveri Pharamakem Pvt Ltd tariff mutually agreed is **HT-II Non continuous**.*

ii) The said consumer applied for tariff revision i.e from HT II N (HT commercial) to HT-I N (HT Industry) for their pharmaceutical plant on dtd: 27.10.2016 vide letter under ref:1.

iii) Accordingly after spot verification and documents verification the tariff of said consumer was changed from commercial HT-II to Industrial HT-I A from Billing month Jan-2017.

iv) Again vide letter under ref:2 dtd:11.04.2017 ,the consumer requested to change the tariff with retrospective effect i.e. from date of connection i.e 08.02.2013 and to refund the excess amount collected due to higher tariff charged by MSEDCL.

v) Hence the committee was formed to study the case in detail and hence the committee officials visited the consumer premises on dtd:13.07.2017 and the report submitted by committee is attached herewith which is self explanatory.

vi) As per committee report the consumer was requested to submit the relevant documents confirming the production/details along with excise paid etc. from date of connection and consumer again submitted some documents vide letter under ref:3 dtd:20.08.2017. But the provided documents after scrutiny were not found satisfactory.

vii) Hence the tariff applied earlier from date of connection is correct & consumer request for Refund the amount difference for change in tariff may please be rejected. Also the tariff agreement signed on dt 15.01.2013 between the applicant and licensee is HT-II non continuous, hence the applicant request for refund with retrospective effect is rejected. Hence the grievance application should be rejected.

7) We have heard both sides. At the outset it is borne out from the record that the agreement between MSEDCL and consumer was for HT-II Non-continuous which means commercial. The original application does not anywhere specify the purpose of consumption of electricity to be Industrial. It is only stated as "pharmaceutical product" much stress was tried to be laid on actual contemporary activity, which also does not emphatically concludes it to be industrial. During arguments Distribution Licensee representative challenged the consumer to produce the sales register which consumer failed to produce and admitted that there was no actual production. The product has not come out yet. In this background it is very difficult to find fault with the Distribution Licensee official in applying commercial tariff. Even otherwise what is asked for is retrospective refund of difference in tariff. The prospective tariff has been already granted to the consumer.

In the above facts the change of tariff retrospectively sought can not be granted. There is no provision for the same and also it cause great prejudice to the Distribution Licensee's right of inspection for the contemporary period to verify actual activity and user.

8) In the above view of the matter grievance fails.

Hence the Order

ORDER

Grievance is dismissed.

Date: 05/09/2018

(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.