

Case No.: 14/2018

Date of Grievance: 13 /08/2018

Date of Order: 25/10/2018

M/s. Royal Food Stuffs Pvt Ltd.,
Plot No. D-34, MIDC Taswade,
Karad, Dist-Satara

Applicant
(Hereinafter referred to as consumer)

Versus

Executive Engineer (Nodal Officer)
M.S.E.D.C.L., Circle,
Satara,

Opponent
(Hereinafter referred to as Licensee)

Quorum

Chairperson
Member
Member Secretary

Mr. B. D. Gaikwad
Mr. S. K. Jadhav
Mr. M. A. Lawate

Appearance:-

For Consumer: - 1-Mr. V. K. Kamana (consumer representative)
2-Mr. M. A. Mahale (consumer representative)

For Respondent: - 1- Mr. S.C. Bhosale, Dy. Manager (Account), Satara Circle.
2- Mr. N.S. Shakilkar, Junior Law officer, Baramati.

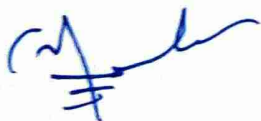
ORDER

(Date:-25/10/2018)

- 1- The Complainant above named has filed present Grievance under regulation 6.4 Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006, Hereinafter referred to as Regulation of 2006.
- 2- The Consumer runs Pre -cooling and cold Storage plant in name M/S Royal Food Stuffs Pvt Ltd, at plot no. D-4 village Tasawde, MIDC Karad. The date of release of

power supply is 12/11/2014. It is HT Consumer No 19796025500 with connected load of 410kw and sanctioned load is 370 KW. Initially, the tariff category was HT II for cold Storage Purpose that is Storage to Preserve fruits Category that is Storage to preserve fruits and Vegetables. At present it is being billed as AG -HT -V tariff that is HT-V-B as per the decision of MSEDCL dated 12-4-2016 and said tariff is implemented w.e.f 01/03/2016 as per MERC tariff order dated 16/08/2012 in case No 19/2012 and tariff order dated 26/06/2015 in case No 121/2014.

- 3- The consumer has firstly requested for change in the tariff from HT-I N to AG-HT-V vide letter dated 16.2.2016 and claimed refund of excess amount paid. Infact, it was the responsibility of MSEDCL to change the tariff and refund the excess amount paid by the consumer. As per the request of consumer SE Satara circle vide letter dated 11/03/2016 directed EE Karad to inspect the premises for the purpose of power supply. Accordingly EE karad Division and officials visited the plant and submitted report dated 18/03/.2016. On the basis of said report tariff category is changed. The consumer has claimed refund and accordingly SE satara has calculated the tariff difference amount and sent the proposal for approval of refund to CE Baramati and Chief Engineer (commercial) HO Mumbai vide letter dated 16/06/2016. The CE (commercial) Mumabi HO has informed SE satara to take necessary action and inform vide letter dated 13/07/2016. According to consumer SE Satara has not taken any action and amount of Rs. 24,49,303/- is not refunded till today. The consumer has requested for the refund of said amount by letters dated 16/02/2016, 18/04/2016 and 02/12/2017 but no action has been taken by MSEDCL.
- 4- The consumer has approached IGRC Satara for the Redressal of grievance, However IGRC declined to entertain the present Grievance on the ground of limitation as the grievance is not submitted within the period of two years. The IGRC did not pass any speaking order and merely informed the consumer that the Grievance is barred by limitation. The consumer thereby submitted present grievance before this forum.
- 5- Notice of this representation was issued to respondent MSEDCL and say is filed on record. It is contended that the consumer has submitted grievance before IGRC Satara on 16.07.2018 for refund of said amount. The IGRC has declined to admit the grievance as it was not submitted within the period of two years form the cause of action. The MSEDCL has admitted the correspondence in respect of refund of said amount. The





MSEDCL has specifically denied that CE (Commercial) HO Mumbai has accorded approval vide letter dated 13/07/2016 for refund of the amount of Rs. 24,49,303/- It is denied that MSEDCL is misguiding the consumers and causing delay intentionally resulting mental harassment of the consumers.

- 6- The MSECCL placed reliance on regulation No. 6.6 of MERC (CGRF and EO) Regulations 2006 which reads as under

"6.6 The forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen."

It therefore contended that the representation is out of the period of limitation. It is submitted that mere applications to MSEDCL for refund of said amount would not extend the said period of limitation. The tariff was changed form 01/03/2016. The date of connection is 12/11/2014. The consumer has claimed refund of said amount vide letter dated 16.02.2016 and refund is claimed form the date of connection i.e. 12/11/2014. According to MSEDCL cause of action has arisen on 12/04/2016. The Grievance is submitted before IGRC satara on 16.07.2018 and before this forum on 6/08/2018 and it is out of the period of limitation. The consumer has no any right to claim the refund. Thereby prays for dismissal of the present representation with cost.

- 7- We have heard representatives of both parties at length. We have also perused documents on record. In view of rival submissions of both parties, following points arise for our consideration and we have recorded our findings thereon for the reasons stated hereinafter.

POINTS

FINDINGS

- | | |
|--|----------------------|
| I) Whether present Grievance is within the period of limitation? – NO. | |
| II) Whether consumer is entitled for the reliefs claimed? | - No. |
| II) What order? | - As per final order |

REASONS

- 8- **POINT No 1 & 2 :-** As per Regulation 9.2 of MERC (SOP of Distribution Licensees, period of giving supply and determination of compensation) Regulations 2005, any change of name or change of tariff category shall be effected by the Distribution

Licensee before the expiry of the second billing cycle after the date of receipt of application. In this case there is no dispute in respect of change in tariff but dispute is regarding refund of said amount. The consumer is claiming refund of huge amount of Rs. 24,49,303/- on account of tariff difference from the date of connection 12.11.2014 till change in the tariff 01.03.2016.

- 9- The learned representatives of the consumer, placed reliance on several request letters given to MSEDCL claiming the refund of said amount. No doubt, the consumer has claimed refund vide letters dated 16.12.2016, 18.04.2016 and 2.12.2017. The MSEDCL has also taken certain steps in response to the request letters of consumer. The letter dated 11.3.2016, report dated 18.03.2016, proposal for approval of refund dated 16.06.2016 and letter of CE (Commercial) HO Mumbai dated 13.07.2016 clearly indicate that there is exchange of letters between the parties. However, there is nothing on record to show that there is any approval for refund of said amount.
- 10- The learned representative of MSEDCL rightly placed reliance on said regulation No. 6.6 wherein it is laid down that forum shall not admit any grievance unless it is filed within the period of two years from the date of cause of action. The question before us is whether the request applications given to MSEDCL would extend the period of limitation of the two years. In this respect, MSEDCL submitted that period of limitation cannot be extended and there is no provision for condonation of delay. The MSEDCL placed reliance on following two cases of Supreme Court of India.

- 1) State Bank of India V/s M/s. B.S. Agricultural Industries Civil appeal No. 2067/2002 dated 20.03.2009 S.C.
- 2) State of Tripura V/s. Arabinda Chakraborty Civil Appeal No. 1322/2007 dated 21/04/2014 S.C.

In both the above cases, Apex court held that simply by making representation, the period of limitation would not get extended. The law does not permit extension of period of limitation by mere filing of representations. A person may go on making representations for years and in such an event the period of limitation would not commence from the date on which the last representation is decided. In our opinion, ratio of above cases is very well applicable to present case. We therefore hold that present representation is not submitted within the period of two years from the date of cause of action. It cannot be said that cause of action is continuing cause of action.




The Cause of action in the present case has arisen on 16.2.2016 when refund was claimed and also on 01.03.2016 when the tariff was changed on the application of consumer.

11- As The grievance is time barred the consumer is not entitled for the refund of Rs. 24,49,303/- with interest as claimed. We therefore answer above both points in the negative and pass following order

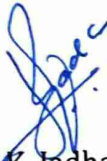
ORDER

1- The Grievance is hereby dismissed.

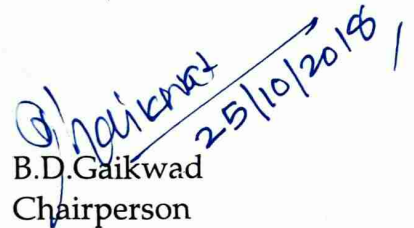
2- No order as to cost.



M. A. Lawate
Member/Secretary
CGRE, BMTZ, BARAMATI



S.K. Jadhav
Member
CGRE, BMTZ, BARAMATI



B.D. Gaikwad
Chairperson
CGRE, BMTZ, BARAMATI

Note:-

- 1) This representation could not be decided within the period of two months as MSEDCL has requested for adjournment.
- 2) The Consumer if not satisfied may file representation against this order before the Hon'ble Ombudsman within 60 days from date of this order at the following address.

Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Building, BandraKurla Complex,
Bandra (East), Mumbai-51.

