



CONSUMER GRIEVANCE REDRESSAL FORUM
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Case No.: 15/2018

Date of Grievance: 06 /09/2018

Date of Order: 11/10/2018

M/s. Somani Motors Pvt Ltd.,
 Nira Road, Kasab, Baramati,
 Dist. Pune.

Applicant

(Herein after Referred to as consumer)

Versus

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

Opponent

(Herein after referred to as Licensee)

Quorum

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

Appearance:-

For Consumer: - 1-Mr. K. S. Somani (Director of Somani Groups Ltd.)
 2-Mr. Sudhakar Gadve (Manager of Somani Groups Ltd.)

For Respondent: - 1- Mr. P. N. Devkate, Add. Executive Engineer, Sub-Division, Baramati U.
 2- Mrs. N. D. Mahale, Junior Law officer, Baramati.

ORDER
(Date:-11/10/2018)

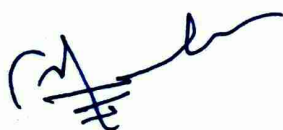
- 1- The Complainant above named has filed present Grievance under regulation 6.4 Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006, Hereinafter referred to as Regulation of 2006.

REASONS

- 4- **POINT No:- 1)** The representative of licensee submitted commercial circular no. 243 dated 03.07.2015 and also MERC tariff order wherein Automobile and any other type of repair centers are included in commercial tariff category. There is no any dispute that the plain tariff difference bill is issued form August 2015 and the bill amount of Rs. 6,23,360/- is claimed form the complainant. Now the question is whether complainant is entitled for the reliefs claimed in the complaint. The complainant has submitted that it is the plain case of tariff difference and there cannot be retrospective assessment of the arrears and it can be recovered only form the date of detection of the error. The learned representative of complainant has placed reliance on Electricity Ombudsman's orders in Representation No. 21 of 2008, No. 27 of 2006, No. 09 of 2009 and No. 16 of 2016, wherein it is held that recovery would be limited only for maximum 24 months and not beyond. In case no. 24 of 2001, the 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, 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 escaped billing in the strict senses of the term to be recovered retrospectively."

- 5- The Appellate Tribunal for Electricity (APTEL) in Appeal No. 131 of 2013 in the matter of Vianney Enerprises Vs Kerala State Electricity Regulatory Commission held that the arrears for difference in tariff could be recovered only from the date of detection of error. Even in Case No 24 of 2001 it has been held By Electricity Ombudsman (Mumabi) that recovery on account of reclassification can be prospective only. In the case in hand there is change in the tariff retrospectively form August 2015. There cannot be any dispute that recovery of arrears for the difference in tariff shall be prospective from the date of detection of the error. In the present case there is change in the tariff as there was inspection by the flaying squad and commercial tariff is made applicable as per the directions of the flaying squad. The record indicates that the commercial tariff is applicable for the work shop and service centers. In the present case connection was given on 14/04/2011 and bills were wrongly charged as per Industrial tariff. There is no any fault on the part of consumer and to charge correct tariff is the responsibility of the licensee. In fact the commercial circular no. 243 is dated 3/07/2015 and it was the duty of the officers of MSEDCL to take the action as per the said circular immediately. There is delay on the part of MSEDCL and for that consumer shall not suffer. In our opinion there cannot be




BDP

- 1- The Complaint M/s. Somani Motors Pvt Ltd is consumer bearing number 186840089777 LT-V B-II Industrial consumer having contract demand of 30 KVA and date of connection is 14/04/2011. The complainant run the business of showroom in the name and style "M/s. Somani Motors Pvt Ltd". It is the showroom of Hyundai motors the present connection is for the servicing and repairing of Hyundai motors. There is separate meter for the showroom. On 14/08/2017 Flying squad Baramati inspected the premises of the complainant and instructed to issue the bills as per commercial tariff. The supplementary bill of Rs. 6, 23,360/- is accordingly issued by the licensee. According to complainant there was Industrial tariff from the date of connection and licensee cannot recover the said amount.

The complainant therefore submitted grievance before Internal Grievance Redressal Cell, Baramati but grievance was rejected. The said amount of plain difference in the tariff is claimed by the licensee from August 2015 which is illegal. The complainant submit's that present grievance may be allowed and bill issued may be set aside.

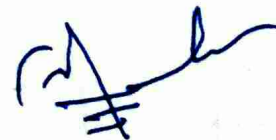
- 2- Mr. P. N. Devkate, Add. Executive Engineer, Sub-Division, Baramati U. and Mrs. N. D. Mahale, Junior Law officer, Baramati were present on behalf of the licensee. However licensee did not submit any say. It is submitted on behalf of the licensee that as per provision of sections 62(2) of Electricity Act 2003, the licensee can recover the electricity charges for the period of 2 years from the date when such sum became first due. It is submitted that licensee is ready to give the installment to the complainant for the payment of said amount.
- 3- We have heard the representative of the complainant as well as respondent at length. We have also perused the documents on record. The following points arise for our consideration and we have recorded our findings thereon for the reasons stated herein after.

POINTS

- I) Whether the compliant is entitled for the reliefs in respect of the bill - Yes.
 II) What order?
 - As per final order?

FINDINGS


- As per final -



retrospective recovery of the said bills. The consumer has also produced order in case No. 09/2017 passed by CGRF Baramati wherein similar view is taken. We accordingly answer above point no. 1 in the affirmative and pass following order.

ORDER

- 1- Grievance is allowed as under.
- 2- The retrospective recovery of bill of Rs. 6,23,360/- from August 2015 is here by set aside and shall not be recovered from the complainant
- 3- No order as to cost.
- 4- The licensee to report compliance within one month from the date of receipt of this order.


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


 S.K. Jadhav
 Member
 CGRF, BMTZ, BARAMATI


 B.D. Gaikwad
 Chairperson
 CGRF, BMTZ, BARAMATI

Note:-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.