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Consumer Grievance Redressal Forum  
"Vidyut Bhavan", Gr. Floor,  
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Mumbai – 400078.

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REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/ 70/873 Date:18.12.2018

**Hearing Date: 13.03.2018**

CASE NO.70/2018

**In the matter of refund of tariff difference amount with interest**

Devilal R.Gujar  
A 146/3 Sector -21  
Turbe , Navi Mumbai,  
(CONSUMER NO.000072142365)  
. . . . (Hereinafter referred as Consumer )

Vs

Maharashtra state Electricity Distribution Company Ltd  
Through it's Nodal Officer,  
Vashi Circle,Vashi  
..... (Hereinafter referred as Respondent)

Appearance

For Consumer :- Mr.Suraj Chakrabourty – Consumer Representative.

Representative for Respondent :- R.S. Rathod Add. Executive Engineer,Vashi Sub-Divison

[Coram- Dr. Santoshkumar Jaiswal- Chairperson, Shri. R.S.Avhad -Member Secretary and Sharmila Ranade - Member (CPO)].

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 Redressal 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 Regulator commission'.

Aggrieved by the order of the Internal Grievance redressal cell, The Appellant filed this Representation stating following points amount the others.

Consumer herein is one Devilal R.Gujar having consumer No. 000072142365 LT consumer to LT public service, Grievance is that the petitioner is LT (Low Tension) consumer a Govt. Recognised Dispensary. The Petitioner is affiliated to Doctor Association of Mumbai. The petitioner is having all registrations and permissions from State Govt. The date of connection is year 1983. From the date of connection, the petitioner are having the tariff as per Hon'ble MERC guideline i.e. commercial from D.L. (Distribution Licensee MSEDCL and the tariff is concessional tariff i.e. public Services- tariff category till the date 01.08.2012 introduce by Commission but on dated 01.08.2012 the MSEDCL official have not change our tariff to public services as per their own Circular 175. Which is bad in law?

In spite of our frequent follow up verbally, the MSEDCL has not corrected our tariff till date Nov. 2017 and not refunding our excess amount. The MSEDCL has charged us commercial tariff from 2012 to till date. Which is never intimated to us nor have we given any commitment note. It is MSEDCL duty to refund back and change our tariff as per corrected in time.

The petitioner is a public services and commercial tariff is not applicable to them. So we have written a letter to Sub-Div S.D.O but still tariff is not corrected. The said negligence has taken place to generate revenue of MSEDCL, which violation of law. How MSEDCL, which violation of law. How MSEDCL can take such action without intimating his consumer.

The MSEDCL also violated the Hon'ble MERC guideline tariff order 2008 and 2012; MSEDCL concern officer must be booked under section 142 and under section 146 of E.A.2003. Non compliance of Commission order. Please levy us the public services tariff from the date August 2012 and refund us the excess amount paid by us with interest @ 18% per year as per section 62 (6) of E.A. 2003.

Distribution licensee in reply states that

The consumer Devial Rupaji Gujar, A148/3, Sector 21, Turbhe having consumer number 000072142365.Said consumer is billed in LT II Tariff, and the supply date 17/01/1983Vide commercial circular No 175 ( Exhibit –A) as per MERC tariff order dated 18/08/2012 in the case no 19/2012,the new tariff category LT-X, called public Services is applicable for Diagnostic Center also,among other various public Services. Now the said consumer applied for change in category from LT-II to LT-X vide their application vide ticket no 7200066 dated 13/09/2017

After the receipt of the inspection report for confirmation of activities from the S/o MSEDCL, MAFCO, the tariff is changed to LT X B w.e.f the month of DEC -2017

Meanwhile, the consumer approached IGRC, Vashi and IGRC, vashi vide its order no.7085 passed order that tariff of consumer to revise to public services after obtaining proper and valid certificates from date of application.

During the hearing, the consumer stated that consumer running Hospital not disputed by Respondent and accordingly after submission of application they changed the category. The tariff category LT X public services was introduced in 2012. However distribution licensee failed to follow the guidelines issued as per commercial circular 175. The Respondent MSEDCL, on other side state that after confirmation of activities the tariff has been changed.

We have heard both sides. It is not in dispute that Hospitals have been since 2012 (Tariff order dated 16th august 2012 in Case No. 19 of 2012) commission categorised under Public service with concessional tariff than commercial tariff. Consumer has been running a Hospital at consumer address as such applied for change of tariff which has been granted with difference refund from date of application. Consumer prays for refund for two years preceding his application dtd. 13.09.2017. I have gone through the contented of the grievances application and also gone through the point wise reply submitted by the Respondent. It appears admittedly that there is commercial circular no 243 of MSEDCL that as per MERC tariff order dated 26.06.2015 in the case no 121 of 2014 that the date of revised tariff is applicable from 1st June 2015 and will continue till further orders. In this circular serial No.3 the separate category for Gov. school and hospitals are come under LT X ( A) and private and other category LT X( B) is made for other public services the applicability for this tariff shall be applicable to educational institutions such as schools and colleges, and Hospitals, Dispensaries, primary Health Care Centers and Pathology Laboratories and Libraries and Public reading rooms other than those of State or Central Government, Municipal Bodies,

Zilla Parishads, Panchayat Samities or Gram Panchyat; all offices of Government/Municipal Bodies, Local Authority, local self Government, Zilla Parishad, and Gram Panchayat; Police Stations, Police Chowkies, Post offices, Defence establishments (army, navy and air-force), Spiritual Organizations which are service oriented, Railway/Monorail/Metro except traction, State transport establishments,; and State Transport Workshops, Transport Workshops operated by Local Authority, Fire Services Stations, Jails, Prisons, Courts, Airports (only activity related to aeronautical operations), Ports, Sports Club/Health Club/Gymnasium/Swimming Pool attached to the Educational Institution Hospital provided said Sports Club/Health Club/Gymnasium/Swimming Pool is situated in the same premises and is primary meant for the students/faculty/employees/patients of such educational Institutions and Hospitals.

For the implementation of this circular as per serial no 4 the field officers are directed to ensure that where ever the tariff category is redefined or newly created by the commission, the existing / prospective consumer should be properly categorized by the actual field inspection immediately and the data to be immediately update in the IT data base.

All the field officer shall sensitize staff about various aspect of the tariff order and give proper guidance to all the officers and the staff members working under them. These are only important guidelines and for the actual implementation, the filed officers are requested to refer the detail order of MERC of 26.06.2017 in case of 121/2014.

As per the said Tariff order, the licensee should have re-categorised the appellant consumer who is using the supply for Hospital into LT X category (Public services from Commercial category LT II commercial category. However the respondent changes Category from commercial to public service category after the application.

Consumer has produced grants registration certificate for Genetic Clinic on above said address from Navi Mumbai Municipal corporation dated 29.1.2013 having validity

period 5 years. Considering the prayer of consumer the back effect should have been given from 29.01.2013 as per effect of this circular.

It is necessary for me to mention that there after new tariff category was introduced in June 2015 and application of proper tariff even as per revised tariff order the consumer did not approach to the Forum at proper time and made application on 13.09.2017. The Respondent utility is also equally responsible for keeping eyes close on application of wrong tariff of the premises till fact to come to their knowledge generally it should not have happened as the working and billing of the premises should have been regularly watched. I gave opportunity to respondent utility official to explain this why retrospective refund arrears was not adjusted and I found the reason given by respondent utility is not satisfied when revised tariff is implemented with guideline it should be followed by respondent utility officer properly and lack of not following circular and direction resulted in reason of grievance for the consumer. However Regulation 6.6 of the CGRF regulations provides the grievance has to be filed within the period of two years from the cause of action. Therefore in the fair interest of justice I found equal balance should be done. I have gone through the application filed by the consumer regarding grievances and also gone through the point wise reply of the Respondent. It appears admittedly that the connection of the electric supply of the consumer is covered under the Hospital, Dispensary and Public Health Care Centre that is in the category of LT X(B) and therefore they are entitled for the said tariff from 1st June 2015. Now, as per Electricity Act 2003, the limitation of recovery is given only for 24 months. The CGRF is bound to give the recovery prior to 24 months of filing of case before CGRF. If we considered the MERC order which has given the conservation of tariff to the filed officer by sensitizing the staff appears to be different from case to case. Therefore, at this juncture we have to see that the right of consumer is protected regarding refund is for 24 months from the date of application before CGRF. Hence, I found that the application made by the consumer regarding change of tariff which is already done by the Respondent to the consumer i.e. LTX (B). Therefore I am inclined to allow claim

of consumer and grant him refund of difference of arrears calculated LT II Commercial to LT X (B) - Public service category preceding two years from date of application to the CGRF

The consumer also pray for the refund of excess amount paid @ 18% per year as per section 62(6) of E.A 2003. However, considering the fact that the application was made by the consumer only on 13.09.2017. The consumer is not held entitled for interest on the refundable amount. Hence, I proceed to pass following order.

**ORDER**

1. This application here by partly allowed.
2. The applicant is entitled for the refund of amount of 24 months prior to the date of filing this application to CGRF i.e. 21/02/2018. The period of getting tariff benefit from LTII to LTX (B) from date of conversion of tariff LTX (B) should be consider in these 24 months.
3. The Respondent MSEDCL shall do needful to adjust the refund amount in the future bills.
4. Compliance of this order be made within one month from the date of receipt of this order  
No order as to the cost.

**I Agree/Disagree**

**I Agree/Disagree**

**MRS. SHARMILA RANADE,  
MEMBER  
CGRF, BHANDUP**

**Dr. SANTOSHKUMAR JAISWAL  
CHAIRPERSON  
CGRF, BHANDUP**

**RAVINDRA S. AVHAD  
MEMBER SECRETARY  
CGRF, BHANDUP**

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, and Bhandup.

**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, Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051"
- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non- compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission ( consumer Redressed Forum and Ombudsman) Regulation 2003" at the following address:-  
  
"Maharashtra Electricity Regulatory Commission, 13<sup>th</sup> 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.