

consumer engaged in manufacturing Synthetic Filament Yarn and Fabric Nylon cheeps various chemicals and raw materials in which subject for various process. Consumer stated that the manufacturing process is continuous without any variation of voltage and interruptions to maintain good quality of all products and once the process of manufacturing Nylon Filament Yarn is continuous & if any voltage variation or interruption in power supply resulted very in adverse effect on quality of fine product. On these circumstances, the applicant has abandon the process, which ultimately results in every financial loss. Consumer further submitted that since June-2008 the tariff order classified as HT Industrial consumers has introduced category as HT continuous & HT non-continuous. The tariff applicable to HT continuous as Synthetic Yarn and Fabric Nylon subject category was competitive higher side and the HT non-continuous is as lower side and the difference of tariff principal based on these assumptions. HT continuous sub category consumer would get supply continuously which is not subject to load shedding including staggering days & no any interruptions in power supply therefore the tariff of continuous sub category consumer was prescribed by company higher than applicable to non-continuous, the Hon'ble Commission in subsequent tariff order till 2016 the two sub categories of tariff has been merged.

Consumer further stated that for the period June-2008 to Oct.2016 tariff applicable to the consumer was HT continuous sub category and non-continuous sub category Industrial consumer as follows given chart.

Sr.N o.	PERIOD	TARIFF APPLICABLE TO		DIFFERENCE Paise/Unit
		HT CONTINUOUS SUB-CATEGORY	HT NON- CONTINUOUS SUB-CATEGORY	
		Paise/Unit	Paise/Unit	
1	June 2008 to July 2009	430	395	35
2	August 2009 to August 2010	505	460	45
3	Sept.2010 to July 2012	527	480	47
4	August 2012 to May 2015	701	633	68
5	June 2015 to October 2016	721	671	50

According to consumer continuous process of Industry or supply through express feeder which effect from June-2008 obviously categories consumer liable for higher tariff HT continuous of sub category. Accordingly applicant has paid tariff categorization was charged to non-continuous sub category in spite of this expenses included payment made towards higher tariff. The consumer has suffered interruption of power supply which resulted in heavy loss, therefore it is responsibility of MSEDCL to provide uninterrupted power supply and load shedding free electric supply as compared to continuous and non-continuous sub category. As the tariff applicable to HT continuous sub category & it is seen that on few occasions, the load shedding and interruptions is highly and it was unjustified. Therefore consumer is entitled for refund of additional charges already paid with liable to refund with interest. In the billing period in which load shedding outages and interruptions is caused. Consumer further submitted that Hon'ble Commission determined the tariff for the additional charges for uninterrupted power supply but it is seen that there is frequently interruptions & also voltage variation occurrences occurred to the consumers supply side i.e. the power supply is not properly received and therefore recovery of additional charges was not acceptable by the consumer. Therefore consumer claims refund of additional charges paid with interest. Consumer also given the schedule of event of interruptions in power supply caused in particulars period which is alongwith interruptions & only exemption granted specifically

as per Regulations 17 of SOP Regulations 2005 in case of his plant outages. The MSEDCL has to issue advance notice to the consumer specified in Regulation 6.5 of SOP Regulation 2005. It is stated by consumer that in case of M/s. Kalika Steel Alloys Pvt. Ltd. and 16 petitioners approached to Commission and file case No.88/2012 seeking clarification of continuous category of consumer in billing cycle where the interruption was caused and the said petition was disposed by Hon'ble Commission vide order dated 16th July 2013. Copy of the said order is attached in Annexure –B. The Commission offer after due diligence careful scrutiny of the relevant data and interruptions in Case of Petitioner observe the specific provision frequency and occurrence as mentioned in SOP Regulations which obviously intended to mention in SOP Regulations under the tariff of continuous category. Therefore the Commission accepted the petition of M/s. Kalika Steel Alloys Pvt. Ltd. and classified of supply during the failing of non-continuous category and therefore the tariff is required to be changed as applicable on the request of consumer. Continuously Industry through express feeder in the following month which was not supplied on continuously, therefore during the said period the application of non-continuous tariff should be apply to Industrial category as non-continuous tariff rates liable to pay only by consumers. Therefore consumer pray for refund of excess tariff recovered under the category of continuous category by consumer. Initially consumer made application to IGRC giving all the details of directions given by Commission in Case 88 of 2012 and circular issued to that effect. Consumer also gave all the instances reported judgment of Hon'ble Ombudsman and decided similar issue cases by Hon'ble MERC. Consumer pray to grant appropriate relief of refund excess tariff deposit already made by MSEDCL amount with interest which is calculated 760 Lakhs towards difference of tariff applicable to HT continuous to HT non-continuous Industries from the above said period. Accordingly the application is filed on 18.8.2018 which is considered by IGRC. Thereafter IGRC registered vide the case vide T-218 opportunity of hearing given to the consumer and Respondent Utility on 9.02.2018, on 9.3.2018 IGRC decided the case against the consumer that consumer filed the grievance after 2 years from the date of cause of action and the complaint is filed by therefore IGRC dismissed the said complaint.

Benig aggrieved by the Judgment and order consumer approached to the Forum and filed complaint in Form No. A. Before this Forum on dated 7.5.2018. Consumer pray the same relief with relaying on various judgments attached as per directions of Case No.22/2018. After filing the said grievance the office issued notice to the Respondent Utility on 11.5.2018 and directed Respondent Utility to give reply Para wise on or before 25.5.2018. Thereafter Respondent Utility initially filed reply on 31.5.2018 and submitted that the grievance is filed beyond the period of 2 years from the date of cause of action for the period of refund claimed between June-2008 to Feb.2013. Therefore consumer complaint is liable to be dismissed with cost. Thereafter Respondent Utility also filed copy of directions and circular issued by MERC in case of 122/2017 and filed additional reply to the complaint along with copy of instance of interruption computerize data, log sheet at supply end in detail sheets and copy of ledger and registers of giving details of interruptions according to Respondent Utility. The interruptions is caused as per the data available at supply end only at 2 or 3 instances. The detail of duration of interrupted supply is reported in reply on dated 12.9.2009 & 11.9.2009 for the entire period of June-2008 to Feb. 2013 alongwith log sheets submitted by the 220KV - 512 Khadaki Sub/stn and 220KV- Bhosari Sub/stn where the consumer receives power supply from both the sub/stn as it is double feeding supply arrangement to this consumer. According to Respondent Utility guidelines issued in review order of M/s. Kalika Steel Alloys Pvt. Ltd. The 60 hours period given interruption of non-supply in the month which is challenged by the consumer in appeal which is pending before CERC and APTEL. The date of hearing in the matter pending before APTEL A application No. 164/2018 in IA No. 788/2018, copy of the said status before the filed on record.

After perusing the rival contention of consumer and the Respondent Utility following points arose for my consideration to which I have recorded my finding to the points for the reason given below :-

1. Whether consumer is entitled for refund of tariff difference HT Industrial continuous to HT Industrial non-continuous category excess recovery already paid amounting Rs.760.17 Lakhs towards difference with interest.

2. Whether consumer complaint is within limitations.
3. Whether this Forum required to pass appropriate order at this stage when APTEL Appeal No.164 & 788 pending before Appellate court.
4. Whether consumer is entitled for any relief?
5. What order?

Reasoning :-

I have given opportunity to consumer and their representative and Respondent Utility and there representative who appear on 4.9.2018. The issue which is placed before this Forum claiming difference of HT continuous and non-continuous for the period of June-2018 for June -2008 to Oct.2016 amount Rs.760.17 Lakhs. The copy of order relied by consumer in M/s. Kalika Steel Alloys Pvt. Ltd. Case No.122/2017 is placed for discussion before this Forum. The guidelines and circulars issued by MERC is placed on record dated 2.7.2018. I have perused the said copy of judgment and guidelines issued on the 2.7.2018, it appears that the said order in which the issue is involved is pending in 2 Forums. One is APTEL judgments refer in appeal No. - A164 and the information given by consumer himself. Appeal No.788 of 2018 after perusing the data, the said proceedings are fixed before APTEL Court in the month of Jan.2019. Therefore on the request of consumer the issued involved which is challenged by consumer already pending before APTEL Court. It is also observed that the similar issue judgment and order is challenged before Bombay High court in Aurangabad in W.P.No.7920 of 2016 in CA No.32395 of 2016 and the said matter and issue is pending before Hon'ble High Court Bench on Aurangabad 29.11.2018. Therefore it is no advisable by this Forum to decide this issue at this stage on the request of consumer and the Respondent Utility.

Secondly it is observed that the proposal approval received to the Utility for changing the category of consumer continuous to non-continuous the approval is conditional order. There is no record placed by consumer or the Respondent Utility. Whether the tariff of non-continuous made applicable

to the consumer or not. Therefore claiming relief of refund of difference Rs.760.17 Lakhs by the consumer is required to kept in absence.

I have minutely perused the status of issue involved in this case and the relief made by the consumer as the matter subjudice in the similar issue is pending before APTEL and Hon'ble High Court Bench at Aurangabad in view of provision in consumer Ombudsman Regulation 2006. The Forums ceases to pass the jurisdiction to entertain such complaint at this stage. I feel it is proper to give opportunity to consumer to raise the issue subject to decision of APTEL issue Appeal No.164 & 788 and Writ Petition as mentioned above till the decision. I am not inclined to grant any relief in favour of consumer. Hence I have no other options to dispose of consumer complaint without any relief.

The opportunity was given to both parties i.e. utility and consumer for submission of their relevant documents and if any say is required during the hearing. Accordingly, the time limit of 60 days prescribed for disposal of the grievance could not be adhered to.

Hence I proceed to pass following orders.

ORDER

1. Consumer complaint No.22 of 2018 stands disposed in view of issue pending in Appeal No. 164 of 2018 and Appeal No. 788 of 2018 before APTEL Court and Writ Petition No.7201 of 2016 before Hon'ble High Court Bombay Bench at Aurangabad.
2. No order as to the cost.
3. The Licensee to report compliance within one month from the date of this order.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune on 10th Dec. - 2018.

Note:-

- 1) If Consumer is not satisfied with the decision, he may file representative within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman

The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051.

- 2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I agree / ~~Disagree~~

Sd/-

ANIL JOSHI
MEMBER
CGRF:PZ:PUNE

Sd/-

A.P.BHAVTHANKAR
CHAIRPERSON
CGRF: PZ:PUNE