

.(A Govt. of Maharashtra Undertaking)
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Consumer Grievance Redressal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S.Marg,Bhandup (W),
Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/

Date:

Hearing Date: 18/12/2018

CASE NO.238/2018

In the matter of Supplementary bill

M/s Metro Enterprises
Plot No 45 ,Akrose Industrial Estate,Sajgaon(Dheku)
Khopoli,Raigad

.....

(Hereinafter referred as Applicant)

Vs

Maharashtra state Electricity Distribution Company Ltd
Through it's Nodal Officer,
Pen Circle, Pen

(Hereinafter referred as Respondent)

Appearance

For Consumer :- Vijay Kumar Kamanna, Mukund Mahahle

Representative for Respondent :- Chatre B.P dy Executive Engineer

[Coram- Dr. Santoshkumar Jaiswal- Chairperson, Shri. R.S.Avhad -Member Secretary and Sharmila Ranade - 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 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 subsection 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] Here in after 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. Being aggrieved with the order of IGRC the applicant has filed this representation stating that the applicant is situated at plot no 45 ,Arcos Industrial Estate ,Sajgao –Dheku I (Khopoli) Tal Kalapur ,Dist Raigad under MSEDCL Khopali Sub-Division and Panvel Rural O & M Division under pen O & M circle. The purpose of supply and activity is running cold storage with contract demand 6 KV and connected load 60KW.
3. The applicant further submits that they have no objection certificate from Sarpanch Grampanchayat Sajgaon Tal, Khalapur Dist Raigad for running cold storage business and also valid certificate from General Manager, DIC, Alibag. A team of flying squad visited our cold storage and found some dispute in the tariff and Dy.Executive Engineer issued a tariff difference bill amounting Rs 1158420/- which is exorbitant and beyond our capacity to pay and is not acceptable to us . They submitted application to concern sub division about exorbitant bill and also to the IGRC Pen circle on date 26.11.2018 but they

received disconnection notice 15/11/2018 so they approached to the forum under the threat of disconnection.

4. The IGRC kept hearing on date 07.12.2018. The inspection report demanded from the Respondent in IGRC hearing but they did not handed over. The verdict of IGRC is not acceptable to the applicant so submitted application to CGRF.
5. The applicant relied on the order dated 11th February 2003 in case no 24 of 2001 MERC and the order dated 7th August 2014 passed by the Appellate tribunal of Electricity (APTEL) in appeal no 131 of 2013 in the matter of Vinnay Enterprises Vs Kerala state electricity Regulatory commission
6. The applicant prayed that the supplementary bill issued is exorbitant and illegal and requested to set aside supplementary bill
7. The Notice was issued to the Respondent to submit parawise reply, the Respondent has filed the reply dated 15-12-2018 stating as M/s Metro Enterprises is consumer of MSEDCL under Khopoli sub division bearing consumer no 030820004091 and the date of connection 10/09/2014. The Respondent submit that from the date of connection are levying INDUSTRIAL tariff to the consumer as per the application of consumer and load sanction documents.
8. The Respondent further submits that from the month May 2016 the tariff of consumer was changed from LT (V) to (IV-A) instead of LT (IV –C) i.e by mistake in system it is feed as LT (iv-A) instead of LT(iv-C) but in the month of July 2016 on dated 26/07/2018 flying squad had visited the above consumer premises and found actual use of electricity is for cold storage for packed products and agriculture product. As per flying squad report, the supplementary bill for tariff difference of Rs 11, 58,421/- issued to the consumer. The disconnection notice dated 15/11/2018 was issued to consumer for non-payment of tariff difference.

9. During the hearing, the Applicant pointed out that the certificate has been issued by Sarapanch Grampachyant Sajgaon and the certificate issued by General Manager, DIC Alibag Dist. Raigad was submitted along with A1 Form for new connection. The Electricity connection has released on date 10/09/2014 by the Respondent after verification of premises and installation. The Respondent suddenly in month May 2016 changed our connection tariff LT (V) to (IV-A) without any application or intimation. Then after the visit of flying squad they again changed our tariff to LT-(IV –C) On the inquiry to the concern authority unable to answer for the change tariff from LT (V) to IV-A. The consumer also argued that they have submitted all documents to utility for new electrical connection and accordingly electrical connection sanction and released after visiting premises. The Respondent on the other hand pointed out that Flying squad visited the premises and after inspection informed to issue the tariff difference bill LTIV(A) to LTIV(C) for 31 months. Accordingly the tariff difference bill amounting Rs 11, 58,421.30/- issued to the consumer.

After perusing the rival contention of consumer and the Respondent utility following point arose to our consideration to which I have recorded my finding to the point further reason given below

- a) Whether supplementary bill issued by the Respondent utility claiming tariff difference bill from LT IV (A) to LTIV –C for 31 months from the date of inspection is legal valid and proper? NO
- b) What order?

I have given opportunity to consumer and his representative to appear before the Forum for hearing. I also gave equal and fair opportunities to representative of the

Respondent utility and the dispute was heard. This Forum considered all the relevant point for determination of dispute.

10. It appears that the electricity connection is used for the cold storage which is not disputed by any parties. Initially, the applicant submitted A1 application form for new connection for cold storage with Grampanchayat NOC certificate and valid certificate from General Manager, DIC, and Alibag. The Respondent sanctioned the estimate and has released the power supply to the applicant under tariff LT (V). The Respondent suddenly changed in the month May 2016 from LT (V) to LT (IV-A). On the inquiry to the Respondent submit that on the application of applicant the tariff changed from the month of may 2016 and tariff was changed from LT(V) to LT(IV-A) instead of LT(IV-C) by mistake. From the record it appears that dispute arose after the inspection of premises by the Flying Squad on date 26/07/2018 found actual use of electricity is for cold storage for packed products & agriculture product which comes under tariff LT (IV-C). On the basis of inspection report of flying squad the Respondent issued supplementary bill of Rs 11.58,421.30/- for the period of 31 months. From the record the applicant submitted all necessary NOC with A1 Form for new connection the Respondent sanctioned the estimate and after verification released the power supply to the applicant premises there is no fault from the applicant side .It since that again in may 2016 the tariff of consumer changed from LT(v) to LT(IV-A) the Respondent admitted that there was mistake while feeding in the IT System . It is fact that at the time releasing power supply they charged tariff wrongly and again the additional load of applicant connection 8 HP to 60 HP i.e 53 HP sanctioned after inspection of premises and installation but no action taken by the Respondent also again in may 2016 they change tariff wrongly. I seen there is no fault on the side of consumer. In the month of July 2018 the inspection done by the Flying squad they again changed the tariff and issued supplementary bill with retrospective

effect for 31 months from the date of inspection. Question arose here whether the Respondent entitle for recovery with retrospective effect. There are several order by APTEL, MERC and Electricity ombudsman. In case no 24 of 2001, the Hon'ble commission in its order dated 11th February 2003 has held that" No retrospective recovery of arrears can be allowed on the basis of any abrupt reclassification of consumer even through the same might have been pointed out by the auditor .Any reclassification must follow a definite process of natural justice and the recovery, if any would be prospective only, similarly the APTEL in appeal no 131 of 2013 also ruled in its order dated 7th August 2014 in the matter of vianney Enterprises versus Kerala state electricity regulatory commission and another that the arrears for difference in tariff could be recovered only from the date of detection of error. Similarly, It has been held by Hon'ble Electricity Ombudsman in representation no 124,125 and 126 of 2014 decided on 23rd December 2014, it is held that the recovery on account of reclassification can be prospective only .Even if it is cold storage, the supplementary bill issued by the Respondent for recovery of tariff difference retrospectively for the period of 31 months is not legal, proper and valid and will be not tenable in course of law. The Respondent entitle to charge prospectively from the date of detection error. Hence applicant succeeds in his grievance, Hence I proceed to pass order.

ORDER

The applicant application in case no 238 of 2018 allowed.

The Supplementary bill raised by the Respondent MSEDCL Set aside.

No order as to cost

I Agree/Disagree

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

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

Member Secretary, (R.S Avhad),

I have gone through the above reasoning and my opinion in this matter is differing as below:-

The applicant submitted application for power supply to cold storage and the Respondent sanctioned and released the power supply on date 10/09/2014 and additional load sanction in the month Feb 2015. On the application of applicant they changed the tariff from LT(V) to LT (iv-A) instead LT (iv-C) wrongly which is admitted by the Respondent. The Respondent submitted that by mistake in system wrong category feed as LT(iv-A) instead of LT(iv-C). It is crystal clear case of under billing due to clerical mistake or Human error .

In Case of *M/s. Rototex Polyester & V/s. Administrator Department of Dadra & Nagar Haveli (UT) Electricity Department of Silvassa* 7 ors., 2010 (4) BCR 456, cited supra Hon'ble High Court Bombay held that when consumer is under billed due to clerical mistake or human errors or due to oversight or such like mistakes, bar of limitations cannot be raised Hence ruled there is no any limitation for retrospective recovery for any error.

Hence, the supplementary bill issued to the above consumer for the period Jan2016 to July 2018 is correct & Hence the propose recovery is correct mounting to Rs.1158421.30& it shall be recoverable from the above mentioned consumers. The necessary installments for

the payment of supplementary bill amount to the consumers shall be given as per MSEDCL Rules & Regulations without interest & DPC.”

**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, 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.