

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No. 52/2018	Date of Grievance	: 13.11.18
	Hearing Date	: 11.12.18
	Date of Order	: 07.02.19

In the matter of change of tariff & its recovery.

M/s.Maharashtra Light Industries, ---- **APPELLANT**

M/s.Kothari Wheels Ltd.

24, B, Hadapsar Industrial Estate,

Hadapsar, Pune - 411013

(Consumer No. 170014711506)

VS

The Executive Engineer, ---- **RESPONDENT**

M.S.E.D.C.Ltd.,

Bundgarden Division,

Pune.

Present during the hearing:-

A] - On behalf of CGRF, Pune Zone, Pune.

- 1) Shri. A.P. Bhavathankar, Chairman, CGRF,PZ, Pune
- 2) Mrs. B.S. Savant, Member Secretary, CGRF, PZ, Pune
- 3) Mr. Anil Joshi, Member, CGRF, PZ. Pune.

B] - On behalf of Appellant

- 1) Mr.Pratap Hogade, Representative
- 2) Mr.Vishal Kothari

C] - On behalf of Respondent

- 1) Mr.M.R.Yelpale, Ex.Engr., Bundgarden Dn.
- 2) Mr.A.K.Katkar, AEE, Hadapsar S/dn.
- 3) Mr.S.N.Datar, A.A.

Connecting Load 65 KW, Sanctioned load 65 KW Contract demand 54 KVA, Date of supply 11.09.1986. Complaint about recovery of wrong tariff arrears since June-2017 to June-2018. The above named

consumer filed this complaint against Respondent Utility stating that consumer is running the workshop of Automobile Repair, Body building, Fabrication & Servicing under LT II C category. Consumer registered the unit in Small Industry Maharashtra in Sept.2018. Consumer is using the supply for running Automobile Repair Bodybuilding Fabrication & Servicing. Consumer is registered Industry and obtains the premises on rent, consumer using the said supply as industries under LT VB. Accordingly Respondent Utility issued bill to the consumer regularly. Consumer stated that Flying Squad, Pune visited premises on 08.05.2018 and made inspection on 15.5.2018. According to Flying Squad report, the category which was bill issued to the consumer under LT V B was required to consider in LT-II Commercial. Therefore Flying squad initiated proceedings under 126 Indian Electricity Act, copy of the said order preliminary assessment and the letter of assessment attached at Schedule-III. According to letter of Flying Squad dated 18.5.2018 the consumer was charged under 126 Indian Electricity Act double of the charges by issuing supplementary bill of Rs.23,65,340/- copy of the said letter attached & schedule V on 7.6.2018 regarding wrong applicable of 126 stated by the consumer and relevant documents in writing. The copy of the said letter & reply of the consumer attached Schedule-VI as per decision of Flying squad authority & enquiry made by the Competent Authority of Utility on 07.6.2018 & it reported vide Letter No.224 dtd. 12.6.2018 to the concern Addl.Ex.Engineer, Hadapsar Sub/dn. Which was received to the consumer of 25.6.2018, copy of the said order attached by consumer and according to the said order, the proceedings under 126 was cancelled and directions was given to calculate the regular assessment bill for one year. Accordingly the utility issued supplementary bill corrected & for amounting to Rs.3,61,320/- for the period June-2017 to June-2018 and claimed difference of the tariff from consumer. Copy of the said assessment bill and the letter attached to schedule VII to which consumer objected the said bill stating that the calculation of the said bill and the tariff wrongly applied & as per Schedule VIII consumer is ready to deposit the amount under

protest in installment since 18.7.2018. Accordingly consumer informed to the Utility by issuing letter dated 18.7.2018, attached copy of Schedule VIII according to consumer the assessment of the bill is of retrospective period for amounting Rs.3,61,320/- is liable to set aside as he objected.

The amount already deposited claim with interest, consumer relied and submitted the details of period of calculations and claiming services undertaken at the premises and amended tariff which is allowed by MERC in Case No.48 of 2016 by order dated 03.11.2016 for the year 2017-2018 as per Commercial Circular No.284 which was made applicable on 11.04.2017. Consumer attached copy of the said circular and claimed the relief objecting retrospective recovery is not permitted in case of reclassification of consumer which might be pointed out by auditor or the F.S. report made by. Consumer relied the judgment of APTEL in Appeal No.131 of 2013 Order dated 7.8.2014 & file all relevant document and prayed supplementary bill for the period June-2017 to June-2018 liable to be squash and set aside with interest & DPC etc. Initially consumer filed the said grievance before IGRC on dated 25.10.2018. Thereafter IGRC gave opportunity for hearing to the consumer and passed an order. Against the consumer being dissatisfied with the order of IGRC, consumer approached to the Forum & file the complaint in Form No.- A. After filing the complaint on dated 13.11.2018 the office registered the case of consumer 52 of 2018. Notice was issued to the Respondent Utility by office through Secretary on 15.11.2018, giving directions to the Utility to submit the reply within 15 days on or before dated 29.11.2018. Accordingly Respondent Utility appeared and filed reply on dated 29.11.2018. The Respondent Utility submitted that the letter and report issued by Flying Squad on dated 15.05.2018. The premises was inspected and found the premises supply is used for commercial purpose. Therefore initially proceeding under 126 of Indian Electricity Act was filed and assessment bill calculated Rs.23,65,380/-. Thereafter consumer objected the said proceedings under 126 of Indian Electricity Act & hence hearing opportunity was given to the consumer on 7.6.2018 and the order is passed by Competent Authority direction of plain tariff difference should be recovered. Therefore corrected assessment bill recovery of plain tariff difference claimed

for amount Rs.3,61,320/- frequently. The bill was issued to which difference of tariff applicable from the nature of activity carried out falls under Commercial activity as per circular No. 284 and therefore the directions was given to calculate the tariff difference for the period of one year and accordingly supplementary bill is issued to the consumer. According to Commercial Circular 284 which is legal valid and proper and therefore consumer is liable to pay the said bill. Consumer complaint liable to be dismissed with cost.

After perusing contention of consumer and reading the grievance alongwith the documents and order filed by Competent Authority following points arose for my consideration to which I have recorded my finding to the points for the reason given below :-

1. Whether Respondent Utility entitled to recovered the plain tariff difference from LT V B to LT II C for the period of June-2017 to June-2018 for amounting Rs.3,61,320/-.
2. Whether consumer is liable to pay the said bill from the date of detection of error onwards.
3. Whether consumer is entitled for any relief?
4. What order?

Reasoning:-

I have given opportunity to consumer and his representative for hearing on dated 11.12.2018, it is submitted that the consumer initially considered under category of LT V B since the date of connection. Considering the connection was sanctioned under small scale industry situated in Industrial Area and therefore bill was generated under the category of LT V B. The proposal submitted by consumer was not verified by utility accordingly the said premises obtained by the consumer M/s. Kothari Services and activity is of Automobile Repair & Service Bodybuilding Fabrication & Servicing as per tariff order published time to time by competent authority of MERC as per Commercial Circular as relied by the utility of the activity purely falls in the category of LT-II Commercial as nature of business and activity & the proper tariff ought to have applied instead of LT V B to LT II-C.

The said contention of Utility supported by Flying Squad Inspection visit and the report. I have perused the Flying Squad report and the inspection note thoroughly, it appears that the disadvantage is taken by the consumer considering the unit is registered under Small Scale Industry and premises obtained on rent. The said change of establishment not informed to the Utility properly requesting to change of appropriate tariff. It is fault at the instance of consumer, the activity admittedly as per report of Flying Squad made applicable and the activity was charged as per the LT-II Commercial and accordingly the supplementary bill was prepared. It is submitted that proceedings under 126 Indian Electricity Act is cancelled by the order of Competent Authority of Utility dated 12.06.2018 and the said order is perused by me thoroughly. Anyhow consequence of the said order the Utility has to issue revise bill considering actual activity carried out by the consumer between the period June-2017 to June-2018 and accordingly supplementary bill was issued to the consumer for amounting Rs.3,61,320/- which was paid under protest. The objection raised by the consumer applying the proper tariff from the date of error i.e. date of inspection of Flying Squad. In my view it is not the first time, the consumer was fixed in the category of LT II C commercial but activity carried out by consumer was never informed to the Utility at point of time, when premises is obtained on rent. Undue advantage already taken by the consumer receiving incorrect under bill of wrong category and therefore the judgment relied by the consumer not applicable in the present set of fact and circumstances. Therefore I am not inclined to grant any relief to the consumer hence consumer is entitled for any relief.

The time limit of 60 days prescribed for disposal of the grievance could not be adhered to due to Chairperson, CGRF, Pune was on leave. Hence I am inclined to allow the complaint and proceed to pass the following order:

Hence I proceed to pass the following order:

ORDER

1. Consumer Complaint of Case No.52 of 2018 stands dismissed.
2. No order as to the cost.
3. The Respondent Utility may recover the remaining unpaid amount of

bill out of Rs.3,61,320/- applying tariff category of LT-II which is now held legal proper and valid & recover the amount in 6 equal monthly installments.

4. 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 7th Feb. - 2019.

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

I agree / Disagree

Sd/-

ANIL JOSHI
MEMBER
CGRF:PZ:PUNE

sd/-

A.P.BHAVTHANKAR
CHAIRPERSON
CGRF: PZ:PUNE

sd/-

BEENA SAVANT
MEMBER- SECRETARY
CGRF:PZ:PUNE