

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
AURANGABAD ZONE, AURANGABAD.**

**Case No. CGRF/AZ/ARC/699/2018/39
Registration No. 2018100072**

Date of Admission : 23.10.2018

Date of Decision : 05.03.2019

M/s. R. J. Biotech Pvt. Ltd., : COMPLAINANT
Gut No. 295, Bidkin,
Tq. Paithan,
Aurangabad 431 001
(Consumer No. 493020022805)

VERSUS

The Executive Engineer (Admn) : RESPONDENT
Nodal Officer, MSEDCL, Rural Circle,
Aurangabad.

Complainant Representative : Shri Hemant Kapadia,
Respondent Representative : Shri Y. B. Nikam,
EE(Admn), Rural Circle,
Aurangabad

CORAM

Smt. Shobha B. Varma, Chairperson
Shri Laxman M. Kakade, Tech. Member/Secretary
Shri Vilaschandra S. Kabra Member.

CONSUMER GRIEVANCE REDRESSAL DECISION

1) The applicant M/s. R. J. Biotech Pvt. Ltd., Gut No. 295, Bidkin, Tq. Paithan, Aurangabad is a consumer of Mahavitaran having Consumer No. 493020022805. The applicant has filed a complaint against the respondent, the Executive Engineer i.e. Nodal Officer, MSEDCL, Rural Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 23.10.2018.

BRIEF HISTORY & FACTS RELATING TO THE GRIEVANCE:

2) The complainant is authorized signatory of the above named company situated at Gut No. 295, Bidkin, Tal. Paithan Dist. Aurangabad. The complainant has set up his unit of seed development and green house for agriculture seeds production at above mentioned address. The complainant is sourcing electricity from the Respondent and is therefore consumer of Respondent company.

3) The Respondent is authorized and Responsible officer of Maharashtra State Electricity Distribution Company which is engaged in distribution of electricity in Aurangabad and within state of Maharashtra .

4) It is submitted that, he has taken LT connection of 34 KW load with contract demand of 15 KVA for his unit situated at Gut No. 295, Bidkin, Tal. Paithan Dist. Aurangabad. The LT connection was released by Respondent on 21.08.2011 and the consumer No. allotted as 493020022805.

5) It is submitted that, the Respondent after release of LT connection on 21.08.2011, wrongly issued monthly electricity bills as per LT II (B) commercial tariff .

6) That, the complainant, after observing that all other units engaged in similar type of activity are being charged with LT (IV) tariff category, contacted the Executive Engineer, Rural Division, Aurangabad and submitted his letter on

03.09.2016 in his office with requested to change the tariff from LT commercial to LT IV with effect from 21.08.2011.

7) That the complainant has further submitted that, Executive Engineer after inspecting the premises and observing purpose of use of electricity agreed to change the tariff category from Sept.2016 onwards.

8) That the complainant has filed grievance before IGRC on 24.11.2016 with request to change the tariff from LT(B) commercial to LT(IV) from date of connection, i.e. from 21.08.2011 and to refund excess amt paid along with interest.

9) That, IGRC passed order on 23.12.2016 & revised the bill as per Commercial Circular No. 175 w.e.f. 01.08.2012 up to August 2016. Further directed that the excess amount should be adjusted in the next energy bill of consumer.

10) That the complainant dissatisfied with the order filed the present application stating that IGRC overlooked the fact that the tariff applicable for complainants unit before 01.08.2012 was also LT Agriculture.

11) That, the Respondent has shown credit of @ Rs. 12.45 lacs in the monthly bill of the complainant without providing any details of calculations. The complainant is not aware of calculation details of actual energy charges, duties, interest etc and therefore the exact amount to be refunded cannot be ascertained.

12) That, the average monthly bills of the complainant is Rs. 2000/- per month. Thus as per IGRC refund mechanism it will take $12,45,000/2000= 6225$ months, i.e. 52 years for complainant to get complete refund (Interest not taken in account), if order of IGRC about refund by monthly bills is executed.

13) The complainant, considering the above situation, once again approached Executive Engineer, Rural division and submitted letter dt. 14.09.2017 requesting

him to either refund the amount by way of cheque or adjust the same against the monthly bills of his sister concern having consumer No.493029041340.

14) The complainant being director on both companies also submitted No objection letters and resolutions passed in respect of adjustment of refund amount.

15) The complainant has pressed only prayer No. 5 to refund the entire amount either by cheque or it be adjusted in the Sister concern of the petitioners monthly bill of electricity, namely M/s. R. J. Feeds, Consumer No. 493024041340. The prayer of interest & all other prayers are withdrawn by purshis dtd 26.02.2019.

16) The Respondent has filed say (Page No. 28) & contended as under :

1. Details of bill amount is already provided to the complainant.
2. As per tariff order No. 175 dtd 05.09.2012, order of payment of refund is passed by IRGC is implemented. There is no direction in the said order about payment of previous period of 01.08.2012, so it is not granted.
3. The order passed by IGRC is followed. Accordingly 12,50,724.48 credit is given to the complainant. Neither refund by cheque nor interest amount is granted by IGRC. Respondent has never harassed the complainant. No mental agonies caused to the complainant. So prayer of compensation may be rejected.

17) The Complainant has filed rejoinder (Page No. 44) & submitted that, the tariff is decided on the basis of purpose or use of electricity. The tariff applicable for Green house (Agriculture) prior to Hon'ble Commission's tariff order dt. 16.08.2012 was LT (AG) and not LT II (commercial).

- 18) The Respondent has filed say (Page No. 74) to rejoinder & stated as under :
There is no reference in MERC order, case No. 11/2009 about Hightech Agri category, including Green house & water pump. But it is stated in Circular No. 175 dtd 519/12
- 19) The Applicant further filed rejoinder (Page No. 76) as follows :-
1. That, the application in form A-1 submitted by Respondent is application made by the complainant for reduction in load. The purpose of use of electricity is clearly mentioned (Para 2.1) as Agro base industry which is categorized into LT IV tariff.
 2. That, Hon'ble Commission has passed tariff order on 12.09.2010 (Effective from 01.09.2010) and published approved tariff schedule and its applicability to various tariff categories. The applicability of tariff LT IV was for LT Agriculture pumps as well as for poultry, Tissue culture, Green house, Mushroom activities.
 3. That, Hon'ble Commission, thereafter passed next tariff order on dt. 16.08.2012. No change was made in applicability of tariff for LT IV category.
 4. That, the activities like poultry, Tissue culture , green house , Mushroom activities were categorized into LT IV in all tariff orders from 01.09.2010 onwards.
- 20) We have perused the pleadings and documents submitted by both the parties. We have heard Complainant Representative Shri Hemant Kapadia & Respondent Representative, Shri Y.B. Nikam, Executive Engineer (Admin), Rural Circle, Aurangabad. Following points arise for our determination, & we have recorded our findings thereon for reasons to follow:-

Sr. No.	POINTS	FINDINGS
1)	Whether the recoverable amount of Rs. 12,45,000/- is adjustable in the bills of the complainant's sister concern namely M/s. R. J. Feeds or payable in cash?	Yes To be adjusted in Sister concern.
2)	What order?	As per final order

REASONS

21) **Point No. 1 :-** The petitioner has pressed only above relief. By order of IGRC dtd 16.12.2016, the bill of consumer is ordered to be revised as per Commercial Circular No. 175 w.e.f. 01.08.2012 & upto August 2016. This part of the order of IGRC is not under challenge.

22) IGRC has order to adjust the said recovery in monthly energy bill of the consumer. The Petitioner has submitted that on an average his monthly bill is Rs. 2000/- per month, if refund mechanism as ordered by IGRC is considered then recovery amount of Rs. 12,45,000.00 ÷ 2,000.00=6225 months i.e. 52 years will be required for refund to the consumer. If such long period would be taken for recovery that itself amounts to lost of the spirit of grant of relief. Really, it is unrealistic approach.

23) It is further submitted that, M/s R.J. Feeds, Consumer No. 493024041340 is sister concern of the applicant & its proprietor is also the same i.e. petitioner. So, present recovery may be adjusted in the electric bills of said sister concern.

24) We feel that considering the long span of 52 years for refund, it is just & proper to allow recovery by way adjusting in the electric bills of the sister concern. At least, consumer can enjoy fruits of the order within proper time & it would meet the ends of justice.

25) With this, we feel it just & proper to grant this prayer. We set aside part of the IGRC order to the extent of refund mechanism i.e. adjustment of recovery in monthly bills of the petitioner. Hence, we pass the following order :-

ORDER

The petition is allowed in the following terms :-

- 1) Part of the IGRC order in case No. IGRC/ARC/Gra/2016-17 dtd. 16.12.2016 to the extent of refund mechanism of adjusting excess amount in the next energy bill of the consumer is set aside & quashed. In its place following order is substituted.

The excess amount should be adjusted in the next energy bills of the complainant's sister concern, namely M/s. R. J. Feeds, Consumer No. 493024041340.

- 2) Compliance be reported to this Forum within 30 days from the date of receipt of the order.

Sd/-
Shobha B. Varma
Chairperson

Sd/-
Laxman M. Kakade
Member / Secretary

Sd/-
Vilaschandra S.Kabra
Member