



Shegaon and applied industrial tariff for the purpose of billing. According to complainant the energy bills under industrial tariff issued by NA MSEDCL up to Jan 2018 were paid and there is no dispute about billing up to Jan 2018. According to complainant cause of action arose when NA MSEDCL issued demand note (Provisional/Final) dated 03.05.2018 for amount Rs. 4,01,390/- for consumer no. 297058138137, load 12.68 KW with remark as 'Tariff Difference IP to CL (Nov 2014 to Jan 2018) and due date as 23.05.2018'. According to complainant billing complaint was lodged with Dy. Executive Engineer, MSEDCL Shegaon dated 23.05.2018 with reminder on 14.06.2018. According to complainant NA MSEDCL issued revised demand note no. 1051 dated 15.06.2018 for Rs. 1,40,486/- (22336 KWH) without giving any details of assessment and reason for change of tariff with note to pay the said amount at "cash collection centre only" and that too in cash. According to complainant Dy. Executive Engineer Shegaon orally intimated to pay the revised bill of 140486 immediately to avoid disconnection. According to complainant under the threat of disconnection the amount Rs. 1,40,486/- was paid under protest vide money receipt no. 6004554 dated 15.06.2018 and grievance was lodged with IGRC Buldana on 14.02.2018 with complaint no. 78 of 2019. According to complainant the order passed by CGRF Akola in complaint no. 37 of 2018 and 38 of 2018 were brought on record before IGRC Buldana but IGRC Buldana erred and passed unlawful order. Complaint referred section 56 (2) of E. A. Act 2003 for legality of recovery of energy bill prior to two years which is not shown continuously as recoverable and MERC case no. 24 of 2011 and APTEL order passed in case no. 131 of 2013 along with Apex Court order dated 16.10.1976 in the matter between P. C. Cherian and Barfi Devi in support of his claim that manufacturing unit can not be termed as commercial unit. Complainant prays to set aside IGRC order dated 15.03.2019, restoration of industrial tariff from Feb 2018, setting aside assessment bill Rs. 1,40,486/- refund of illegally recovered amount Rs. 1,40,486/- with 18% interest and cost Rs. 10,000/- with request to recover the loss from guilty officers. Complainant annexed IGRC order dated 15.03.2019, IGRC complaint energy bill for Nov 2015, demand note date 03.05.2018, letter dated 23.05.2018 and 14.06.2018 to Dy. Executive Engineer Shegaon, MSEDCL demand note dated 15.06.2018, money receipt no. 6004554 dated 15.06.2018 energy bill from Dec 2017 to Dec 2018 reply of NA MSEDCL before IGRC and Flying Squad Nagpur inspection letter dated 08.11.2017 with the complaint.

3) Reply came to be filed by NA MSEDCL belatedly on 20.04.2019. According to NA MSEDCL industrial connection was released on

13.11.2014 for 17 HP load to M/S Shiv Aqua % of Shri Manish Anjani Kumar Poddar at Sai nagar Shegaon. According to NA MSEDCL after spot inspection by Flying Squad of MSEDCL and intimation dated 08.11.2017, the complainant was billed as per LT II commercial tariff in absence of DIC certificate and assessment bill for a period of 2 years for the difference of tariff from industrial to commercial was to be issued as per direction of Flying Squad. According to NA MSEDCL assessment bill for tariff difference amounting to Rs, 4,01,390.00/- dated 03.05.2018 for period Nov 2014 to Jan 2018 was issued to complainant. According to NA MSEDCL on request from complainant dated 14.06.2018 the assessment bill was revised to Rs. 1,40,486.00/- and issued on 15.06.2018. According to NA MSEDCL after approaching IGRC Buldana on 14.02.2019 and as per order passed by IGRC Buldana on dated 15.03.2019 the assessment bill issued is correct and continued commercial tariff.

NA MSEDCL filled additional statement vide letter EE/Khm/59 dated 24.04.2019, according to which demand note of Rs. 4,01,390.00/- was issued by Dy. EE. Shegaon through online system (copy attached). The demand is subsequently revised by Shir H. J. Wakode, the then Dy. EE Shegaon for Rs. 140486.00/- on 15.06.2018 without taking entry into the system. The demand of Rs. 140486.00/- is paid by complainant vide receipt no. 6004554 dated 15.06.2018. According to NA MSEDCL the amount of Rs. 1,40,486.00/- collected by Dy. E E Shegaon against receipt as above has not been remitted to MSEDCL bank account and same is not reflected in DCCR and the matter is reported to Superintending Engineer Buldana for initiating disciplinary action against defaulters vide letter no. EE/Khm/50 dated 30.03.2019.

4) Shri Pramod N. Khandagle learned representative for complainant and Shri A. R. Mohta, Dy. Executive Engineer, MSEDCL Shegaon were present for the hearing held on 24.04.2019. Shri Pramod N. Khandagle representative filled on record written note of argument, registration certificate with DIC Buldana no. MH07 ADD 10611 as manufacturer with date of commencement as 13.11.2014 and date of printing as 23.04.2019, flow chart of RO plant, copies of commercial circular no. 311 and 302 of 2018, copies of national industrial code 2008, MERC case no. 24 of 2001, APTEL order no. 131 of 2013, tariff orders 111 and 195, CPL and CGRF order in case no. 02 of 2019 dated 20.02.2019.

5) Shri Pramod N. Khandagale learned representative of complainant re-iterated the grievance on record and brought the provisions of clause 13 of supply code regulation 2005 to the notice of Forum and urged that N.A .M.S.E.D.C.L may classify or reclassify consumers into various commissioned approved tariff categories based on the purpose of usage of supply of such consumer. Shri Pramod N. Khandagale urged that in present grievance industrial category of complainant was changed to commercial category without the approval of MERC. Shri Pramod N. Khandagale urged that N.A .M.S.E.D.C.L classified consumer as industrial at the time of connection on 13.11.2014 considering purpose as "Aqua R.O Mineral plant" with A1 application. Shri Pramod N. Khandagale referred tariff order at the time of connection on 13.11.2014 and tariff order at the time of inspection by flying squad on 12.09.2017 and brought to the notice of Forum that there is no change in categorisation of Aqua Mineral water plant in both the tariff order. Shri Pramod N. Khandagale brought on record that MERC in their tariff order in 2012 and 2016 have never made SSI certificate mandatory for determination of industrial tariff. Shri Pramod N. Khandagale explained the "Reverse Osmosis" process of Aqua mineral plant involving pumping, filtration and cooling process by machine. Shri Pramod N. Khandagale further brought to the notice of Forum that according to standard industrial classification data issued by central statistical organization in 2008 water treatment plant is classified as industry. Shri Pramod N. Khandagale filed on record MERC case no. 24 of 2001 in support of his plea that classification or reclassification of consumer is the prerogative of MERC. Shri Pramod N. Khandagale complainants representative urged that classification of complainant changed as commercial by flying squad of MSEDCL is illegal and requested Forum to set aside the assessment bill as per commercial tariff amounting Rs. 1,40,486.00/- issued by NA MSEDCL on 15.06.2018 and restore the original industrial tariff.

6) Shri. A. R. Mohta, Dy, Executive Engineer, MSEDCL, Shegaon urged that flying squad MSEDCL directed NA MSEDCL to change the tariff to commercial as complainant was not having SSI certificate of registration with DIC. As per MERC tariff order registered Aqua Mineral Plant only can be categorised as industrial if they are registered as SSI with DIC and others to be categorised as commercial. Shri. A. R. Mohta, Dy, Executive Engineer, MSEDCL, Shegaon brought to the notice of Forum that assessment was revised by the then Dy. Executive Engineer, Shegaon on request on complainant and revised plane assessment demand amounting to Rs. 1,40,486.00/- was issued on 15.06.2018 for

22336 units without mentioning period of assessment and same is not fed to the system.

7) Having heard the parties and after considering material placed on record Forum is of the view that following issues need consideration for resolving the present grievance.

i) Whether N.A .M.S.E.D.C.L is correct in holding that complainant's 'Aqua mineral R. O. water plant would fall under LT-II commercial category for applicability of tariff as per relevant tariff order issued by MERC ?

ii) Whether MERC in any of the tariff orders from 2012 to 2018 classified or reclassified 'Aqua mineral R.O water plant' in commercial category and included in the list under commercial category ?

iii) Whether N.A .M.S.E.D.C.L has erred in applying industrial tariff LT V to Aqua mineral water plant at the time of connection on 13.11.2014 ?

iv) Whether SSI certificate or registration with District industries centre is made mandatory by MERC for applying industrial tariff to 'Aqua mineral R.O. water plant in tariff order ?

v) Whether Flying squad of MSEDCL is authorised to reclassify the tariff as per supply code regulation 2005 without approval of MERC ?

All the above issues are considered together by the Forum and examined tariff order 19 of 2012 issued on 16/08/2012 applicable from 01/08/2012, 121 of 2014 issued on 26/06/2015 applicable from 01/06/2015; 48 of 2016 issued on 03/11/2016 applicable from 01/04/2018 and 195 of 2017 issued on 12/09/2018 applicable from 01/09/2018 and found that Aqua mineral R.O. water plant is not included in list appended below LT II commercial category or LT V industrial category. Forum is of the view that Aqua mineral R.O. water plant engaged in processing the hard water and converting it to soft water by removing impurities and hardness satisfies the criteria of manufacturing for applicability of industrial tariff as "Reverse Osmosis" process is involved as per flow chart of process filed on record and is industrial activity and held that N.A .M.S.E.D.C.L and Flying squad of MSEDCL erred in reclassifying Aqua mineral R.O water plant to commercial category of the complainant. Forum is also of the view that N.A .M.S.E.D.C.L were correct in applying industrial tariff to the Aqua water plant of complainant on 13.11.2014 and should continue to apply industrial tariff in future till reclassification by MERC in any other category and held that Flying squad of MSEDCL is not the authority to reclassify the tariff. Forum is of the view that SSI certificate or registration under D.I.C is not made mandatory by MERC in

applying industrial tariff though the complainant's unit was registered with D.I.C. Buldana on 23.04.2019 with commencement of manufacturing on 13.11.2014. Forum is of the view that Additional Executive Engineer of flying squad MSEDCL has exceeded his powers and committed many irregularities such as not issuing inspection report to complainant on 12.09.2017, issuing assessment bill on 03.05.2018 after Eight months and not verifying record of connection before assessing which needs to be investigated in line with MERC directives and circulars issued by MSEDCL to avoid unnecessary litigations and harassment to consumers. Forum is of the view that demand note (provisional bill) issued to complainant dated 03.05.2018 for Rs. 4,01,390.00/- and dated 15.06.2018 for Rs. 1,40,486.00/- needs to be set aside and N.A .M.S.E.D.C.L is directed to restore the industrial tariff and all future bills should be issued with industrial tariff.

8) Forum have noted the additional statement filed on record by NA MSEDCL on 26.04.2019 on direction of Forum to know the present status of revised assessment amount Rs. 1,40,486.00/- collected from consumer vide money receipt no. 6004554 dated 15.06.2018 and opines that NA MSEDCL should take strong action on the defaulters being embezzlement of public revenue by custodian it self and mere departmental action will not serve the purpose. Forum is also inclined to allow 12% interest on Rs. 1,40,486.00/- from the 15.06.2018 till refunded by cheque against this order on the principle of charging 12% interest on consumer arrears by MSEDCL.

With these observations, Forum proceeds to pass following unanimous order.

### **ORDER**

1. That the Complaint No. 11/2019 Dated 25/03/2019 is hereby partly allowed.
2. That NA MSEDCL is directed to to set aside the assessment bill amounting to Rs. 1,40,486.00/- dated 15.06.2018 towards tariff difference of industrial to commercial and directed to restore original industrial tariff and continue to issue all future energy bills as per industrial tariff to complainant.
3. That NA MSEDCL is directed to refund Rs. 1,40,486.00/- illegally collected from complainant in one go by cheque with 12% interest applicable from 15.06.2018 till date of cheque for refund.
4. That NA MSEDCL is directed to recover the revenue loss to MSEDCL from guilty officers/employees of MSEDCL after due departmental inquiry along with other action for embezzlement of public money.

5. The parties to bear their own cost.
6. That NA MSEDCL is directed to submit compliance report to this Forum within one month of this order.

S/d/-  
Member (CPO)

S/d/-  
Chairman

Contact details of Electricity Ombudsman appointed by  
MERC (CGRF&EO) Regulations 2006 under Regulation 10:

THE ELECTRICITY OMBUDSMAN,  
Office of Electricity Ombudsman (Nagpur)  
Plot No.12, Shrikrupa, Vijaynagar,  
Chhaoni, Nagpur-440 013. Phone:- 0712-2596670

No. CGRF/AKZ/Akola/108

Dt:- 16.05.2019

To,  
The Nodal Officer  
Executive Engineer,  
MSEDCL, O. & M.  
Khamgaon Division.

The order passed on **16/05/2019** in the Complaint No. **11/2019** is enclosed herewith for further compliance and necessary action.

Secretary,  
Consumer Grievance Redressal Forum,  
MSEDCL, Akola Zone, Akola.

**Copy s.w.r. to:-**

- 1) Chief Engineer, MSEDCL, Akola Zone, Akola.
- 2) Superintending Engineer MSEDCL, O&M Circle, Buldana.

**Copy to :-**

- 1) Shiv Aqua prop. Manish Anjani Kumar Poddar, In Front of Murarka College, Sainagar Shegaon, dist. Buldana-444203.