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REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/ 291/0065 Date:21.05.2019

**Hearing Date: 26/03/2019**

**CASE NO.291/2018**

**In the matter of refund of tariff difference amount with interest**

M/s. Nexus Central Lab Services Pvt Ltd.,  
Dr. Megha Bhatt,Plot No. 4A,  
Jagatguru Aadi Shankaracharya Marg,  
Sector- 09, Nerul  
Navi Mumbai-410706. .... (Hereinafter referred as Applicant)

Vs

Maharashtra state Electricity Distribution Company Ltd  
Through it's Nodal Officer,  
Vashi Circle,Vashi ..... (Hereinafter referred as Respondent)

Appearance

For Consumer :- Pranab Shende, M/s. Strom Losungen Pvt. Ltd.  
Representative for Respondent Shri Dhanit Add. Executive Engineer ,Nerul Sub-Divison

[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. Bring aggrieved with order of IGRC, Vashi The applicant filed grievance in schedule 'A' to this Froum.The applicant and the respondent arguments heard by Forum Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006 clause no 5.2 The applicant submit that the Energy Bill of the consumer, which is in the name of Diagnostic Centre/Pathology Laboratory & the Applicant Consumer is the consumer of the respondent since 14-10-2010. The respondent is binding by the law, and is bound to strictly follow the laid rules mentioned in the provision of the Electricity Act 2003, and conditions thereon, inclusive of MERC-General Conditions of Distribution Licensee Regulations, 2006, MERC-Terms and Conditions and Tariff , Regulations 2005, MERC-Electricity Supply Code and Other Conditions of Supply,

Regulations, 2005, MERC-Consumer Grievance Redressal Forum & Electricity Ombudsman, Regulations, 2006, MERC-Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Implementation thereof Regulations, 2014. Directions and tariff orders issued by the Commission from time to time. The Applicant Consumer above named is LT (Low Tension) having following connection of MSEDCL and drawing Electric supply from consumer No. 000330118598/PC-0, BU; 4642Nerul S/Dn. and since 14-10-2010 he is the consumer of MSEDCL. The Applicant Consumer Dr. Bhatt is a Registered Medical Practitioner and providing health care facilities in following name and address ; M/s. Nexus Central Lab Pvt. Ltd. and is running/operating Hospital/Nursing Home/Diagnostic Centre/Clinic/Pathology Laboratory at Plot No. 4A, Jagatguru Aadi Shankarcharya Marg, Sector 9, Nerul, Navi Mumbai - 400 706, Maharashtra. The Municipal/State Authorities who are authorized to issue necessary permission to operate the Hospital/Nursing Home/Diagnostic Centre/Clinic/Pathology Laboratory same has been obtained from the Municipal Corporation/State Authorities and the Hospital/Nursing Home/Diagnostic Centre/Clinic/Pathology Laboratory is providing Health Care facilities.

3. The Tariff is made applicable as per Tariff order issued by the commission from time to time. As per section 62(3) Electricity Act, 2003, tariff is based on purpose of use. Section 2(15) of the electricity act provides that the consumer means any person who is supplied with electricity for his own use. Similarly section 43 of the act also provides that distribution licensee shall give supply to the occupier of the premises, Dr. Bhatt, is operating M/s. Nexus Central Lab Pvt. Ltd is thus the end user of electricity supplied by respondent (MSEDCL).

4. Therefore, applicant claims that the Respondent be directed to change the tariff according to MERC orders which is applicable from 1st of June 2015. There the billing cycle of a consumer is different with respect to the date of applicability of revised tariffs, they should be made applicable for the consumption on a pro rata basis. The bills for the respective periods as per existing and revised Tariffs shall be calculated on the pro rata consumption (Units consumed during respective period arrived at on the basis of average unit consumption per day multiplied by number of days in respective period falling under the billing cycle).
5. In this application, applicant prayed for redressal of the grievances in respect to the non-compliance of the tariff order issued by the commission for health care services and its refund from the date of introduction of Public tariff category by MERC i.e. August 2012.
6. The Respondent appeared and filed their point wise reply that the consumer is billed in LTII tariff and the supply date is 14-10-2010. As per commercial circular no. 175 dtd. 16.08.2012, the new tariff category LT-X for public services is come into force. The said tariff category is applicable for nursing home and various public services. Now, the said consumer has applied for change in category from LT-II to LT-X, vide their application dated October 2018. After receipt of the inspection report for confirmation of activities the tariff is changed to LT X(B) with effect from September 2018.

7. It is further say that after verification of the activities, suitable change of tariff is applied form December 2017 and as the activities prior to the application can't be ascertained, As the address of the said consumer which is mentioned on the electricity bill of consumer, does not surely state that the premises is used for hospital purpose . As per Reg.4.13 (b) of MERC Sop Regulation the change of tariff shall be effected within second billing cycle on receipt of application from consumer and the tariff shall be changed with prospective effect from the date of application. The premises was inspected and observed the hospital activity, prior to the inspection, we cannot change the tariff for the period prior to the application and as per proof of registration of hospital does not ensure that hospital started on that same day in existing premises. The consumer's pray for refund by considering retrospective effect may be disallowed.
8. I have gone through the contented of the grievances application and also gone through the point wise reply submitted by the Respondent. It appears admittedly that there is commercial circular no 243 of MSEDCL that as per MERC tariff order dated 26.06.2015 in the case no 121 of 2014 that the date of revised tariff is applicable from 1st June 2015 and will continue till further orders. In this circular serial No.3 the separate category for Gov. school and hospitals are come under LT X ( A) and private and other category LT X( B) is made for other public services the applicability for this tariff shall be applicable to educational institutions such as schools and colleges, and Hospitals, Dispensaries, primary Health Care Centers and Pathology Laboratories and Libraries and Public reading rooms other than those of State or Central Government, Municipal Bodies, Zilla Parishads, Panchayat Samities

or Gram Panchyat; all offices of Government/Municipal Bodies, Local Authority, local self Government, Zilla Parishad, and Gram Panchayat; Police Stations, Police Chowkies, Post offices, Defence establishments (army, navy and air-force), Spiritual Organizations which are service oriented, Railway/Monorail/Metro except traction, State transport establishments,; and State Transport Workshops, Transport Workshops operated by Local Authority, Fire Services Stations, Jails, Prisons, Courts, Airports (only activity related to aeronautical operations), Ports, Sports Club/Health Club/Gymnasium/Swimming Pool attached to the Educational Institution Hospital provided said Sports Club/Health Club/Gymnasium/Swimming Pool is situated in the same premises and is primary meant for the students/faculty/employees/patients of such educational Institutions and Hospitals.

9. For the implementation of this circular as per serial no 4 the field officers are directed to ensure that where ever the tariff category is redefined or newly created by the commission, the existing / prospective consumer should be properly categorized by the actual field inspection immediately and the data to be immediately update in the IT data base. All the field officer shall sensitize staff about various aspect of the tariff order and give proper guidance to all the officers and the staff members working under them. These are only important guidelines and for the actual implementation, the filed officers are requested to refer the detail order of MERC of 26.06.2015 in case of 121/2014.

10. I have gone through the application filed by the consumer/applicant regarding grievances and also gone through the point wise reply of the Respondent. It

appears admittedly that the connection of the electric supply of the consumer is covered under the Hospital, Dispensary and Public Health Care Centre that is in the category of LT X(B). The applicant submitted the Schedule III certificate of Registration on the name of applicant Ms Megna Bhatt , Nexus Central Lab Services Pvt Lts,Nexus Solitaire, Plot No 4A ,Sec-9 Nerul, Navi, Mumbai by Medical Officer of Health ,Navi Mumbai Municipal Corporation for period 24.02.2015 to 23.03.2020 for running above mention activity. The applicant claim tariff difference refund from introduction of public tariff by MERC August 2012 but the applicant first time made application to the utility in October 2018 and the respondent change it next billing cycle in September 2017. In the of 56(2) provision of the IEA 2003 & Hon'ble High Court Larger bench decision the utility cannot recover more than 2 years from consumer if arrears/dues not shown continuously. In this order as the time limit has been provided for the recovery of the arrears up to two years the consumer could survive, the same is applicable in refund case as Licensee should survive. In the view of above provision

### **ORDER**

1. This application here by partly allowed.
2. The applicant is entitled for the refund of amount of 24 months prior to the date of filling this application to CGRF i.e. 13/03/2019. The period of getting tariff benefit from LTII to LTX (B) from date of conversion of tariff LTX (B) should be consider in these 24 months.
3. The Respondent MSEDCL shall do needful to adjust the refund the amount in the future bills.

4. Compliance of this order be made within one month from the receipt of this order.

No order as to the cost

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

**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, 13<sup>th</sup> 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.