



CONSUMER GRIEVANCE REDRESSAL FORUM
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Case No.: 13/2019
 Date of Grievance: 17/07/2019
 Date of Order: 23/09/2019

M/s. Agripure Natural Foods Pvt Ltd.,
 Gat No. 308/A Wing, Tal- Khandala,
 Dist- Satara.

Applicant
 (Hereinafter referred to as consumer)

Versus

Superintending Engineer
 M.S.E.D.C.L., O&M Circle,
 Satara.

Opponent
 (Hereinafter referred to as Licensee)

Quorum

Chairperson	Mr. B. D. Gaikwad
Member	Mr. S. K. Jadhav
Member Secretary	Mr. M. A. Lawate

Appearance:-

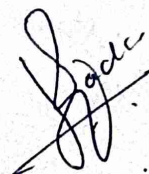

For Consumer: - 1-Mr. Rajesh Navadkar
 (Representative of M/s. Agripure Natural Foods Pvt Ltd.)

For Respondent: - 1- Mr. Santosh Bhosale, Deputy Manager, Account department, Satara.
 2- Mr. Nisar Shikalgar, Jr. Law Officer, Satara.

ORDER
(Date:-23/09/2019)

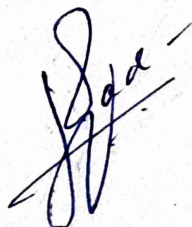
1. The consumer above named has submitted present grievance under regulation No.6.4 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations 2006 as the consumer did not satisfy with the order passed by Internal Grievance Redressal Cell (IGRC) Satara.

2. M/s. Agri Pure Natural Foods Pvt.Ltd is the applicant and consumer number is 203319026790. It has also established a pre-cooling and cold storage plant along with grinding and packing of agriculture produce , spice and blending and packing of agriculture produce spice unit. It is situated at Gat.No 308, A wing, Tal Khandala Dist Satara.
3. The applicant has applied for High-Tension Power Supply of two separate connections vide letter dated 25/11/2016 to MSEDCL with individual A1 application form with required documents. One application is for pre cooling and cold storage plant for agricultural products processed or otherwise and it is to be categorized as HT-V (B) HT - Agriculture Others tariff. The other connection is for grinding and packing as well as blending and packing of agricultural produce spice unit and it is to be categorized as HT-I (A) Industry-General Category load. The flow charts with machineries , electrical load etc. were attached to the application for tariff determination.
4. According to applicant it has established an industrial unit where activities like grinding blending and packing of agricultural produce spice are being carried. In addition to that pre-cooling and cold storage unit is also established. Both the units are situated on the same plot of land and both the activities are entirely different. The pre-cooling and cold storage plant is entitled to get a separate connection HT-V(B) HT-Agriculture Others.
5. According to applicant it received letter feom Superintending Engineer Satara on 29/11/2016 regarding sanction of two HT power connections in the same premises and was asked to submit documents. It was also requested to keep ready the p[lot layout and to approach Executive Engineer Phaltan division for fixing point of supply with Executive Engineer Testing Satara. The EE Phaltan division was also directed to report technical feasibility in respect of fresh load for HT V (B) - HT Agriculture Others. Accordingly EE Phaltan verified HT connection premises for fixing point of supply with EE Testing Satara. EE Testing division Satara issued point of supply with approving of meteing specification vide letter dated 13/12/2016 to SE Satara. EE Phaltan noted that the proposed new HT power supply will be used for cold storage with processing activities and it was accordingly informed to SE Sarara vide letter dated 27/12/2016. The applicant has also clarified point no I to III in the letter dated 29/11/2016 issued by SE Satara vide applicants letter dated 10/12/2016. The

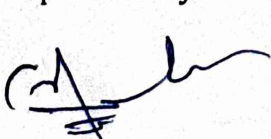


applicant has also sent request letter 10/12/2016 to Executive Director (Distribution) MSEDCL Prakashgad Mumbai requesting to apply appropriate tariff as per the purpose of power supply of multiple connections in one premises. The applicant did not receive any response from ED Mumbai till this date. The similar letter was also sent to Regional Director Pune region. The Regional Director Pune region Directed Chief Engineer Baramati Zone vide letter dated 7/1/2017 to give the reply to the consumer for the points enquired by them with copy to RD Pune. The copy of the said letter was also sent to SE Satara. The SE Satara informed applicant vide letter dated 9/1/2017 to submit additional information on certain points to take necessary action to consider two categories individual connection under one premise. In the same letter dated 9/1/2017 SE Satara clearly mentioned that as per present load list and plant layout submitted, **HT-V(B) HT Agriculture Others Tariff is not applicable.**

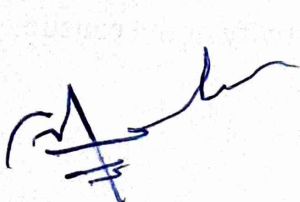
6. According to the applicant SE Satara has taken totally contradictory stand and applicant is unable to understand as to whether new Agriculture Connection will be sanctioned to the applicant. The applicant has already submitted connected load and all the information on the point I & IV in the letter dated 9/1/2017 issued by SE Satara. The applicant has issued one sanction letter dated 11th January 2017 in respect of HT-I *Industrial Category for grinding and packing of agriculture produce as well as blending and packing of agriculture produce.* The applicant has also sent letter dated 20/1/2017 to ED MSEDCL Mumbai and also reminder letter so as to apply HT-V (B) HT Agriculture Others Tariff for pre-cooling and cold storage unit and also explained silent features of contract farming etc.
7. The SE Satara sent a letter dated 23/3/2017 to the applicant and detail clarification of certain points were called. It was also informed in the said letter that tariff HT-V (B) HT Agriculture Others is not applicable. According to applicant letter is totally contradictory and against MERC tariff order 121/2014, 48/2016 and commercial circular No. 275 dated 18/11/2016. The said fact was informed to ED Mumbai by letter dated 4/4/2017 since all the arrangements / points are to be complied after the point of supply. It was also submitted in the said letter that necessary approval of competent authority will be obtained before release of supply for all internal LT cabling including installation of distribution bars etc. The copy of the said letter was also sent to RD Pune and SE Satara on 15/4/2017.

8. The applicant has therefore approached IGRC Satara and submitted application dated 27/4/2017 for redressal of grievances. The said grievance is decided by IGRC Satara on 30/6/2017. The applicant has already created separate infrastructure civil as well as electrical for HT-V (B) HT Agriculture Others and HT I (A) Industry General Category and also submitted drawing approval from Electrical Inspector Satara on 19/12/2017 with the remark 'Subject to sanction of second transformer of 1 MVA'. The charging permission was also issued by EI on 19/1/2018 HT I (A) Industry General.
9. The applicant is using HT power supply for its pre-cooling and cold storage unit with higher tariff rate which is burden on the applicant as agricultural connection is rejected. The CE (Commercial) Mumbai has issued instructions to SE Satara in respect of M/s Vaish Vik Foods Pvt.Ltd which is operating in adjacent premises that two separate connections can be released to consumer if consumer is using electricity for two different purposes and the applicant is well aware of the provision U/s 126 of Electricity Act 2003.
10. According to applicant main purpose or core activity of the applicant is operating pre cooling and cold storage unit including allied activities like washing cleaning and preserving activities and so HT-V (B) HT Agriculture Others Tariff is applicable. It is submitted that preservation of agriculture produce is not possible without processing with high technology. The chemical preservatives are not added nor agricultural produce, spice undergo any change in its natural form. The above named agricultural produce is processed and preserved by using physical process so as to maintain its natural form. It is submitted that the tariff category of every consumer is to be determined on the basis of activities carried out by the particular consumer and use of predominant load by the consumer.
11. According to applicant the appropriate tariff shall be HT-V(B) : HT - Agriculture Others for Pre-cooling and cold storage unit including allied activities like washing, cleaning, hygiene activities as well as preserving activities. The allied activities are integral part of the pre-cooling and cold storage unit since the raw material is obtained by the applicant in bulk quantity from farmers and it cannot be directly stored in cold storage but has to undergo certain processes before the same can be marketed and supplied to the prospective buyers as per their requirement.



12. The applicant submits that applicant himself proactively declared that in addition to pre cooling and cold storage unit, the applicant is manufacturing , grinding and packing as well as blending and packing agricultural produce, spice and requested for separate connection for the said activities and new agricultural connection for pre-cooling and cold storage unit. The applicant is maintaining daily consumption and energy auditing report. The meters are installed on each feeder of industrial tariff and agricultural tariff. The predominant load by the consumer is for pre cooling and cold storage unit for agricultural products. The applicant claims refund of the excess amount recovered on account of tariff difference amount with interest. The applicant also relied on the order dated 3/8/2017 passed by CGRF Baramati in case No. 14 and 15 of 2017 and also orders passed by MERC and ombudsman. According to the applicant it is entitled for refund U/s 62 (6) of the Electricity Act 2003. It is submitted that licensee has applied Agricultural tariff in respect of another similar consumers.
13. The applicant therefore submits that the grievance is within the period of limitation as it is filed within the period of two years from cause of action. It is submitted that IGRC Satara passed order and copy is received on 13/7/2017 and so the grievance is within the period of limitation. The applicant prays for electric supply as per HT V (B) HT Agriculture Other Tariff. It also prays for refund of excess amount recovered on account of tariff difference.
14. The respondent MSEDCL has resisted the present representation by submitting written statement. It is submitted that the applicant has obtained electricity connection for pre-cooling plant and cold storage and also for grinding and packing as well as blending and packing of products. It is admitted that after receipt of the application, MSEDCL has informed the applicant to submit documents vide letter dated 29/11/2016. The EE testing division Satara submitted conditional approval for metering specification vide letter dated 13/12/2016 and instructed for documentary compliance of point No. 1-3 in the said letter. The applicant failed to provide documents in respect of point No.4-8 in the said letter. Even by letter dated 19/1/2017 applicant was informed to submit clarification on certain points as mentioned in the letter. It is also informed that **HT V (B) HT Agriculture Other Tariff is not applicable.**



15. It is submitted that MSEDCL issued permission to release supply as per industrial tariff vide letter dated 6/2/2018. It is submitted that tariff is charged as per the activities carried by the applicant in the said premises. There is no question to provide HT V (B) HT Agriculture Other Tariff to the applicant. The cold storage is not main activity of the applicant and it is the necessity of the applicant. The applicant used to collect raw material for agriculture produce like spice, garlic cumin seeds, turmeric, black pepper, white pepper, cinnamon, cardamom, red chili, curry leaves etc. from farmers and those are supplied to prospective purchasers. The applicant is doing the business and so as to preserve products, it requires cold storage and so agricultural tariff is not applicable in this case. The applicant is an industry and leading manufacturer and global exporter manufacturing wide range of high specification spices, seasoning and specialty food ingredients. The ultimate motive of usage of electricity is for manufacturing and MSEDCL cannot bifurcate actual load used for cold storage and manufacturing of food products under one roof.
16. It is submitted that self contained note of Executive Engineer Phaltan clearly shows that applicant has included the laboratory, employee amenities etc. for HT V (B) HT Agriculture Other Tariff. It is submitted that for such activities industrial tariff is applicable and there shall be separation for HT V (B) HT Agriculture Other and HT I Industrial Tariff. There is huge range and various types of production is carried continuously in the said premises and it is covered under HT I Industry. The applicant is not using electricity exclusively for cold storage purpose. The orders of MERC in case no.114 & 119 of 2015 are not applicable in the present case because there are allied activities and manufacturing of huge products. The relevant information collected from the website of the applicant is produced on record. The cold storage is not main activity and cold storage is used to store agricultural products.
17. The MSEDCL further placed reliance on the case No.195/2017 decided by MERC and submitted that the word 'agriculture' in tariff category clearly indicates that the activities relating to agriculture only needs to be covered under LT IV - C Agriculture. It is submitted that cold storage storing agricultural produce in raw form should come under this category. The cold storages storing multi commodity products comes under industrial category. The purpose of supply shall be considered for determining category of the tariff. The tariff is charged as per the activity of the consumer and there



is no question to refund amount of tariff difference. The MSEDCL has challenged orders of CGRF Baramati in case No. 14 & 15 of 2017 before Hon'ble High Court Mumbai.

18. It is submitted that present grievance is not filed within the period of limitation and same is liable to be rejected. As per 6.4 and 6.6 of CGRF and Electricity Ombudsmen Regulations 2006, it was necessary to file present grievance within the period of two months from the date of intimation of the order of the IGRC. As per regulation 6.6 Forum shall not admit grievance unless it has been filed within two years from the date on which the cause of action has arisen. In the present case applicant has received order of IGRC on 13/7/2017 and present grievance is submitted on 15/7/2019 and so it is out of the period of limitation and liable to be rejected with cost.

19. We have heard representative of both the parties at length. We have also perused documents submitted on record. In the light of the arguments advanced on behalf of the parties, following points arise for our consideration and we have recorded our findings thereon for the reason stated hereinafter.


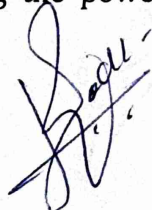
POINTS-

FINDINGS-

- | | |
|--|------------------------|
| i) Whether applicant is entitled for change in tariff From HT-Industrial to HT-V (B) : Agriculture Others? | :- No |
| ii) Whether applicant is entitled for Sub meter as claimed? | :- No |
| iii) Whether applicant is entitled for refund in tariff difference and security deposit? | :- No |
| iv) Whether present representation is within the period of limitation? | :- No |
| v) What order? | :- As per final order. |

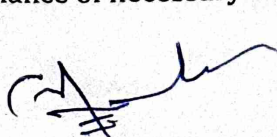
REASONS.

20. **POINTS I & II** -Both points can be discussed together for the sake of brevity. The applicant has produced correspondence between it and MSEDCL. The application dated 22/11/2016 for HT V (B) HT Agriculture Other is produced on record. It is submitted that applicant is using the power supply in common premises for two


different purposes and applicant can apply separately for independent power supply for each of such purposes. It is submitted that if the applicant has used power supply other than the authorized use, then applicant is liable for action U/s 126 of Electricity Act 2003. It is submitted that the predominant activities of the applicant are pre-cooling and cold storage of raw material and finished products which are agriculture produce processed or otherwise. The produce is processed and preserved by using physical processes while maintaining its natural form. It is submitted that applicant is creating separate infrastructure civil as well as electrical for HT V (B) HT Agriculture Other.

21. It appears that even though claim of applicant was rejected by SE Satara by letter dated 20/8/2016, the applicant has again sent letter dated 27/8/2016 to Chief Engineer (Commercial) Mumbai and requested to give the directions to concerned authorities to apply appropriate tariff. The CE (commercial) Mumbai informed that incase of mixed loads, with due verification two category individual connections may be given. Even CE did not direct SE to provide sub meter and to apply Agricultural Tariff in the present case. The applicant again wrote a letter dated 19/9/2016 and again informed that applicant is not carrying out any activity of food processing like sauces and pickles etc. It is also submitted that load utilized for pre cooling plant, frozen plant and cold storage is 80% and 20% load is used for instant mix and chutney line and again submitted that they are entitled for HT-V Agricultural tariff. The applicant has also mentioned in the letter that MSEDCL Sangamner Division has already applied HT-V Agricultural Tariff to M/S Daulat Agro (India) Pvt.Ltd. however all the details of said unit are not brought on record. The SE Satara by letter dated 17/11/2016 again informed that applicant is using the power supply for processing activity and cold storage and HT Agricultural Tariff is not applicable and said fact is already informed to the applicant. Even in respect of sub meter the applicant was directed to comply certain points so as to provide sub meter as prayed by the applicant. It is rightly submitted on behalf of MSEDCL that there is no compliance of all the points by the applicant. There is correspondence in respect of sub meter and it appears that MSEDCL has not provide Sub meter as all the points raised by MSEDCL are not complied with. The MSEDCL cannot be directed by this Forum to provide sub meter without compliance of necessary objections.

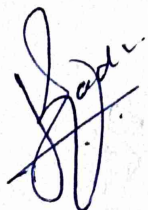




2. The applicant has therefore approached to IGRC Satara on 4/4/2017. It appears that IGRC heard both the parties and passed order dated 30/6/2017 rejecting the grievance of the applicant. The applicant has also produced MYT order of MSEDCL for the period from FY 2016-17 to 2019-2020 indicating applicability of agricultural tariff. The Chief Engineer Commercial Mumbai sent letter dated 17/9/2016 to SE Satara informing that necessary guidelines regarding levy of tariff as per MERC order dated 26/6/2015 are already issued. It is also suggested that in case of mixed load with due verification, two category individual connections may be given. The SE Satara has sent a letter dated 11/1/2017 to the applicant instructing it to comply deficiencies so as to proceed further. The applicant has produced letter dated 19/12/2017 issued by Electric Inspector along with site plan, substations for Agriculture Tariff and for Industrial Tariff. The Electric Inspector has also issued final charging permission on 29/1/2018. The SE Satara sent letter dated 6/2/2018 to EE Phaltan permitting HT supply (new load) to the applicant subject to certain conditions. The record indicates that new connection for HT V (B) HT Agriculture Other Tariff is not provided to the applicant till this date.

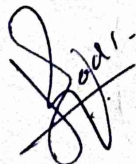
23. The learned representative of the applicant rightly placed reliance on the case decided by Electricity Ombudsmen Nagpur dated 26/4/2017 showing that two separate electricity connections in the same premises and in the same name of the consumer but for two different purposes can be given. The applicant has also produced order dated 2/9/2004 passed by MERC in case No.21/2002 regarding applicability of SP-I (High Tech Agriculture Tariff) to three units of Jain Irrigations System Limited.

4. On the other hand MSEDCL has also placed reliance on power supply applications forms AI (Agricultural) and A1 Industrial. The letter dated 13/12/2006 given by EE testing division Satara to SE Satara approving metering specifications is also produced. The letter of SE Satara dated 9/1/2017 addressed to applicant indicates that applicant has to comply certain points and HT V (B) HT Agriculture Other Tariff is not applicable. The self contained note given by EE Phaltan is also produced in record. The information of applicant obtained from its website clearly indicates that applicant is leading spice processor, custom manufacturer and exporter which offers an extensive range of spices, seasonings and special food ingredients. The applicant is located over 1,80,000 Sq.Ft land employing more than 260 workers. It is most advanced spice processing and manufacturing plant in India. On the basis of activities carried by


applicant, it can be said that pre-cooling and cold storage activity of the applicant cannot be under HT V (B) HT Agriculture Other Tariff.

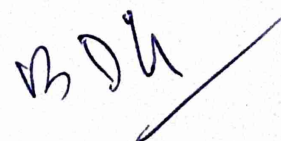

25. The MSEDCL rightly submitted that at present tariff applicable to the applicant is HT Industrial considering the activities of manufacturing spices etc. and such products are being stored in the cold storage. It is not only the cold storage storing the agricultural produce in raw form and there are manufacturing activities. It is multi commodity cold storage and it is rightly placed under industrial tariff.
26. The learned representative of the applicant submitted that the compliance of point No. 4 to 8 in the letter dated 29/1//2016 was before release of HT power supply. The NOC from local authorities is not required as per government notification dated 11/12/2015 and 12/10/2017. The applicant has submitted all relevant documents and has made compliance of all points / objections. The MSEDCL was bound to provide new connection of HT V (B) HT Agriculture Other for pre-cooling and cold storage activities of the applicant. It is submitted that MSEDCL is making contradictory submissions and creating confusion. The new connection is not provided within the prescribed period as per MERC SOP Regulations 2005. The applicant has made all the physical changes civil and electrical for said Agricultural Tariff. The MSEDCL has not completely denied or rejected the application and hence the cause of action continues and grievance is well within the period of limitation.
27. It is submitted that as per MERC order dated 12/9/2010 in case No. 111/2009, HT V (B) HT Agriculture Other Tariff is applicable irrespective of whether pre-cooling and cold storage are being used by farmers or traders and irrespective of ownership pattern which is not changed till this date by MERC order.
28. The applicant has also placed reliance on orders dated 14/2017 and 15/2017 decided by this forum in favor of the consumer. On the other hand MSEDCL submitted that writ petitions are preferred challenging said orders. In our opinion said orders are not binding on this forum. Moreover the decisions in the said cases passed by this forum are challenged before High Court Bombay.
29. In our opinion vital issue in this grievance is whether HT V (B) HT Agriculture Other Tariff is applicable to the said activities of the applicant. The MSEDCL has not provided power supply to the applicant under said tariff though there is several correspondence to that effect. In our opinion as per the MERC mid-term review order for MSEDCL for FY



2016-17 to 2019-20, HT I (A) Industrial General Tariff will be applicable even to cold storage of the applicant because it includes cold storages not covered under HT V (B) HT Agriculture Other. In the light of arguments advanced by both parties, we are of the opinion that HT V (B) HT Agriculture Other Tariff will be applicable to the pre-cooling and cold storage storing raw agricultural produce and there may be processing like cleaning, dehydration etc so as to preserve the agricultural produce without having any chemical process. In the case in hand applicant runs manufacturing activities in large extent and the pre-cooling and cold storage cannot be core activity but it is only allied activity. We are therefore of the opinion that it is part and parcel of industrial activity and MSEDCL has already given supply under Industrial category to all the activities carried by the applicant in one and the same premises. We therefore hold that applicant is not entitled for HT V (B) HT Agriculture Other Tariff as claimed. We therefore answer Point No. 1 in the negative.

30. Even on the point of limitation, applicant is not entitled for the relief. In our view, the present grievance is not submitted within the period of limitation before this forum. It is submitted by the applicant that grievance is submitted in schedule A by mail before this forum on 8/7/2019. The IGRC Satara has rejected the grievance on 30/6/2017 and it was informed to the applicant by registered post and it was received by the applicant on 13/7/2017. Under these circumstances, it was necessary to submit present grievance on or before 13/9/2017, but it is submitted on 8/7/2019 by email and same is time barred. It was necessary to submit the same within the period of two months and it is certainly time barred.

31. As per regulation No. 6.4 of said regulations the grievance shall be submitted within two months from the date of intimation or where no remedy has been provided within such period. In our opinion the present grievance is not submitted within the period of limitation and there is no provision to condone delay. It may be noted that representation can be submitted against the orders of CGRF to Electricity Ombudsman. As per regulation 17.2 of said regulations, representation shall be submitted to ombudsmen against the order of forum within the period of 60 days from the date of order of the forum. There is specific provision for condonation of delay if there is sufficient cause for not filing the representation within the period of 60 days. The electricity ombudsman can very well condone the delay under regulation 17.2 of said



regulations. However there is no provision for condonation of delay under regulations 6.4. In this way we cannot condone the delay and present grievance shall be dismissed even on the ground of delay. In the light of above discussion we are of the opinion that present grievance shall be dismissed and we accordingly pass following order.

ORDER

1- The present grievance is hereby dismissed.

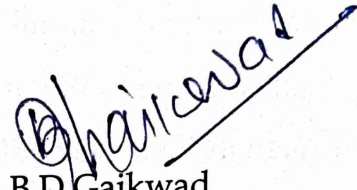
2- No order as to costs.



M. A. Lawate
Member/Secretary
CGRF, BMTZ, BARAMATI



S.K. Jadhav
Member
CGRF, BMTZ, BARAMATI



B.D. Gaikwad
Chairperson
CGRF, BMTZ, BARAMATI

Note:- 1) This Grievance could not be decided within the period of two months as MSEDCL has requested for adjournments.

2) The Consumer if not satisfied may file representation against this order before Hon'ble Ombudsman within 60 days from date of this order at the following address.

**Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Building, BandraKurla Complex, Bandra (East), Mumbai-51.**