



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph- 2210707, Fax – 2210707, E-mail : cgrfkalyan@mahadiscom.in

NO. K/E/1603/1935 OF 2019-20

Date of registration : 14/08/2019

Date of order : 18/09/2019

Total days : 35

IN THE MATTER OF GRIEVANCE NO. K/E/1603/1935 OF 2019-20 OF M/S SHANTI SEVA NIDHI, S.NO.50, AT – PESHANI, TAL – MURBAD, DIST. THANE, PIN CODE – 421 301 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT BILLING DISPUTE.

M/S Shanti Seva Nidhi,
S.No.50, At – Peshani,
Tal – Murbad, Dist. Thane,
Pin Code – 421 301

(Consumer No. 018019051830) . . . (Hereinafter referred as Consumer)

V/s.

Maharashtra State Electricity Distribution
Company Limited

Throughit's Nodal Officer/Addl.EE.

Kalyan Circle – II, Kalyan . . . (Hereinafter referred as Licensee)

Appearance : For Licensee - 1) Shri.N.T.Kale, EE, Kalyan Circle – II
2) Shri.L.K.Vasave, Sr.Manager (F & A), EE, Kalyan Circle – II

For Consumer - Shri. B.R.Mantri (C.R.)

[Coram- ShriA.M.Garde-Chairperson, Shri A.P.Deshmukh-Member Secretary
Mrs.S.A.Jamdar- 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 sub-section 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]. Hereinafter 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) Consumer herein M/S Shanti Seva Nidhi having HT connection for Educational Institute at Kalyan(W) contention of consumer is that Distribution Licensee has informed vide letter dated 08/10/2018 and raised recovery due to reclassification of tariff category code without following the procedure for natural justice for the period of Sept – 2016 to Aug-2018 in six monthly installments. Objection given for reclassification of tariff code category and its recovery retrospective effect MSEDCL and GOM has interpreted the ED Act 2016. High Court in W.P. No. 2961 of 2018 dated 28/02/2019 had given the order for the same matter and prohibiting levy and recovery of ED. Consumer Representative further demands to refund the recovery collected in monthly bill from Sept-2018 to Feb-2019 along with interest from the date of deposit to till actual refund date and to continue the ED exemption from Sept-2018 and excess collected to be refunded along with interest from the date of deposit to till actual refund date.

3) Notice was given to Licensee vide letter no.EE/CGRF/Kalyan/349 dt.16/08/2019 to which Licensee appeared and filed reply on 03/08/2019.

4) **Distribution Licensee in its reply contends that : -**

- i) *The GOM has repealed Bombay Electricity Duty Act, 1958 and new act called Maharashtra Electricity Duty Act 2016 (MED Act 2016) came into existence w.e.f. 01/09/2016. As per the provisions of old act all Educational Institutes registered under the Public Trust Act 1950 were exempted from making payment of Electricity Duty.*
- ii) *In new MED Act, 2016 there is no provision similar to the section 3 (2) (a) (iii) of repealed Act which is saved by provision to section 4 of the MED Act 2016. Therefore, "issue if continuing the Electricity Duty exemption to such Educational Institutes" was referred to GOM by this office under reference (3).*
- iii) *Further, the energy department vide letter referred at sr.no.4 has conveyed the opinion of Law and Judiciary department and directed to take necessary action as per the opinion of Law and Judiciary department. (copy attached).*
- iv) *Accordingly, as per the directives of GOM, the electricity duty was charged to all educational institutes who were exempted to pay electricity duty as per old Bombay Electricity Duty Act 1958.*
- v) *Shri.Vile Parle Kelvani Mandal and others filed W.P.No.2961 of 2018 before Hon.High Court against levy of Electricity Duty to Charitable Education Institutions registered under Public Trust Act 1950. Respondents were GOM and Distribution Licensee in Mumbai, (MSEDCL not a party).*

- vi) *The Hon. High Court quashed the June 2018 legal opinion (letter referred at Sr.No.4) vide order dt. 28/02/2019 and prohibitive levying electricity duty on the petitioner Shri.Vile Parle Kelvani Mandal SVKM and its educational institutions.*
- vii) *Now, as per recent letter under reference (5) above is received from GOM in which it is stated that, GOM has challenged the order passed by Hon. High Court in W.P. 2961 of 2018 before the Hon'ble Supreme Court in SLP No.13510 of 2019 but the said petition has not come up for hearing. Therefore it is directed that all distribution Licensee shall take necessary action as per the order passed by Hon. High Court.*
- viii) *Therefore to implement the order of Hon. High Court and directives issued by GOM, MSEDCL stopped charging Electricity Duty to such Educational Institution from the month of Aug -2019 (July -2019 , Energy bill)*
- ix) *Now, SLP No.13510 of 2019 was listed on 23/08/2019 in which the Hon'ble Apex Court has been pleased to grant stay to the operation and implementation of the order of Hon'ble High Court. The copy of the order Dt.23/08/2019 is annexed herewith for kind perusal.*

Therefore, it is most humbly prayed to the Hon'ble CGRF that considering the pendency of SLP No.13510 of 2019 and the stay granted by the Hon'ble Apex Court, the grievance of the consumer may be rejected in the interest of Justice.

5) The matters centre around interpretation of the provision of the new enactment viz. Maharashtra Electricity Duty Act 2016. The Bombay High Court in Writ Petition no.2961 of 2018 set aside the order of Distribution Licensee charging electricity duty to educational Institutions. However Hon'ble Supreme Court in SLP No.13510 of 2019 stayed the order of the Hon'ble High Court and the matter is for hearing in Supreme Court The question therefore in subjudice before Supreme Court as such this matter be kept pending sine die.

Hence the order

ORDER

- 1) In view of the above grievance application is disposed off.
- 2) Consumer is at liberty to approach CGRF after the decision of Supreme Court in view if limitation.

Date: 18/09/2019

Sd/-
(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

Sd/-
(A.P.Deshmukh)
Member Secretary
CGRF, Kalyan

Sd/-
(A.M.Garde)
Chairperson
CGRF, Kalyan

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,606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or

- c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th 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.