

**CONSUMER GRIEVANCE REDRESSAL FORUM  
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No. 46/2019

Date of Grievance : 26.08.19

Hearing Date : 19.09.19

Date of Order : 08.11.19

**In the matter of accumulated bill due to change in tariff category.**

M/s. Shrisal Medicare Services Pvt. Ltd., ---- **APPELLANT**

Diamond Commercial Complex,

Somatane Phata, Tal. Maval,

Pune - 410506.

( HT Consumer No. 181169057440 )

VS

The Supdt. Engineer, ---- **RESPONDENT**

M.S.E.D.C.Ltd.,

Pune Rural Circle,

Pune -411011.

Present during the hearing:-

**A] - On behalf of CGRF, Pune Zone, Pune.**

- 1) Shri. A.P. Bhavathankar, Chairman, CGRF,PZ, Pune
- 2) Mrs. B.S. Savant, Member Secretary, CGRF, PZ, Pune
- 3) Shri.Anil Joshi, Member, CGRF, PZ, Pune

**B] - On behalf of Appellant**

- 1) Mr. B.R.Mantri, Representative

**C] - On behalf of Respondent**

- 1) Mr. K.S. Sarode, EE PRC, Pune
- 2) Mr.S.C.Dhamne, Sr.Manager, PRC, Pune.

Date of connection 16.12.2013, Connecting load - 150 KW, Contract Demand 130 KVA, Category - HT IX-B.

The dispute is about excess recovery of bill since April-14 to Nov.-17 on account of wrong tariff difference amounting Rs.16,05,350/-.

The above named consumer received the bill in the month of Feb. - 2019 for Rs.18,52,260.00 purportedly claiming it to be the current bill due from the Appellant. However, on careful scrutiny of the said bill it was observed that the said bill for Rs.18,52,260.00 consists of the current energy bill amounting to Rs.2,46,910.00 and rest of the bill amount - i.e. Rs.16,05,350.00 represented bill raised on the customer on account of debit adjustments. According to the consumer, the Debit bill adjustment was added in the current energy bill for the month of Feb. - 2019 whereas the current bill was only for the amount of Rs.2,46,910/-. The Utility had, however, raised current bill, together with the Debit Bill adjustment on the consumer in the single billing leading to issue of consolidated monthly bill added in the monthly bill and thereby raising the total demand amounting of Rs.18,52,260.00 in the month of Feb.2019. Which according to the consumer was excessive and represented demand raised for the past period from March-2013 to Dec. 2017 on account of claim towards arrears on account of the tariff difference arrears. Since the demand raised by the Utility was under dispute, the consumer preferred to raise his grievance which led to nonpayment of the said disputed bill. Following this, the Respondent Utility opted to issue, and accordingly issued, the disconnection notice to the consumer under Section 56 (1) of the Electricity Act, 2003 in the month of April-2019.

Following service of the notice as above, the aggrieved consumer has approached IGRC and filed his grievance on Form 'X' on 09.05.2019 objecting issue of such bill as above. In this connection, the consumer relied on the judgment/s claiming application of the Supply Code Regulations bearing No. 15.1, 15.2 and 15.5. It had been represented by the Utility that the debit recovery raised in the bill for the month of February, 2019 had escaped billing due to error in the meter. The consumer also challenged issue of said the bill representing retrospective recovery of the tariff difference which, according to the consumer, was not in tune with the MERC Regulations. In his support,

the consumer also relied on the orders issued by various authorities to supplement his arguments - i.e. order in Case No.24/2001, MSEDCL-Circular (Commercial) No.377 dated 02.07.2003 and order of the Appellate Tribunal Authority in Appeal No.131 of 2013, order dated 7.8.2014 in case of M/s. Vianney Enterprises V/S State of KSERC. For resolution of his grievance, the consumer filed his grievance initially before the IGRC. However, aggrieved by the order passed by the IGRC, the consumer preferred to file an appeal with this Forum and accordingly, has approached to the CGRF Forum for Redressal of his grievance and accordingly filed the present Appeal in the dispute in Form No.-A on 23.8.2019. In the instant case, it is worth noting that the Utility had already issued notice of disconnection to the consumer, because of which there continued to be the threat of disconnection of electricity supply of the aggrieved consumer. In the meantime, the IGRC registered the grievance of the consumer as Case No. 10/2019 on his complaint dated 09.5.2019. The IGRC had given an opportunity of personal hearing to the consumer on dated 29.8 2019 and passed the order against the consumer stating that the recovery representing the tariff arrears as shown in the bill for February, 2019 issued to the consumer was the recovery bill issued to the consumer as per MERC tariff order. The IGRC order further stated that the Utility should not charge any DPC, Interest on tariff difference recovery amount and in the process granted the facility of payment of the arrears representing the tariff difference in twelve (12) equal monthly installments.

Being aggrieved by the said order passed by the IGRC, the consumer preferred to file, and accordingly, raised his dispute before this Forum which was registered in this Office on 23.8.2019 with distinct case No. 46 of 2019 dt. 26.08.2019. This office has accordingly issued mandatory notice to the Respondent Utility directing it to file its reply to the grievance of the consumer on or before 09.9.2019.

4. After service of the notice from this Office, representatives of the Respondent Utility appeared before the Forum and filed its reply stating the status of the consumer - i.e. M/s. Shrisal Medicare Services Pvt. Ltd.

According to the Utility, the reclassification of the consumer from 'HT-I' to 'HT-IX Public Services' was allowed as per MERC Order and therefore, bill representing arrears of bill covering the period from December, 2013 to December, 2017 and raised in the energy bill issued in February, 2019 by way of debit adjustment was correct and in order despite having been objected by the consumer. An opportunity was given to the consumer as well as the Respondent Utility to make their oral submission before the Forum on the scheduled date of hearing i.e. 19.09.2019. It was further observed from the copy of the energy bill enclosed to the Appeal that the date of connection of the consumer was 16.12.2013 and the bill was issued in the month of April-14 showing the consumer as 'HT I N Industrial' which was subsequently reclassified as 'Public Services HT IX B' in Dec. 2017. As reclassification of schedule of charges had been approved by the Competent Authority / by the Commission and purpose of use of electricity was Hospital from date of connection, the Utility preferred to reclassify the tariff in Dec.-2017 with retrospective effect from December, 2013 and, therefore, there was no abrupt reclassification of tariff category of the consumer.

5. It is also submitted by the Utility that Govt. Auditor s also had raised the objection in their Report and directed the Utility to recover the arrears in the said matter. According to the Utility, in the first bill issued during April-2014 the category for supply was shown as "Hospital" which was as per usage purpose and therefore reclassification in fact was technically required to be made by adjustments in the bill on account of tariff difference. The Utility claimed that the consumer had already knowledge of these facts and was also aware about use of supply for Hospital purposes and tariff category as per model supply code Regulation applicable under the given circumstances. The Utility further submitted that the Testing Division of the Utility carried out inspection of the consumer premises on 20.5.2017 and found that the bill being charged to the consumer need to be reclassified from 'HT I Industrial' to 'HT-II (non-express)' admittedly on the basis of the use of premises for Hospital and therefore recovery is to be made from the date of connection. Further, the Govt. Auditors also had pointed out the same in

their report submitted to the Utility. According to the Utility the bill which was raised in the month of Dec.-2017 under revised based on the tariff category 'HT IX-B Public Services' and therefore allegation of consumer was not legal and proper as there was no abrupt reclassification in the tariff category of the consumer, as claimed him it. The Respondent Utility, therefore, prayed for rejection of the consumer complaint with cost. The consumer had attached a copy of IGRC order, copy of bill, complaint dated 20.3.2019 and notice of threat of disconnection dt. 18.04.2019 etc. along with his appeal to the forum.

After examining the rival contentions, together with documents filed by the contents, following issues had arisen for my consideration to which I have recorded my findings to the points together with supporting reason given below:

- 1) Whether debit bill issued on 12.03.2019 for amounting to Rs.18,52,260/- is legal, valid and proper?
- 2) Whether consumer is entitled for rebate and relief from the Forum?
- 3) What order?

**Reasoning:-**

I have perused the contention of the consumer and the Respondent Utility officials. I have perused the copy of IGRC order; I have also given an opportunity to the consumer and the representatives of the Utility and have heard in the matter their oral submission on 19.9.2019. The dispute pertains to raising and claiming debit additional bill in the month of March-2019 amount to Rs,18,52,260/- being the tariff difference arrears since date of connection till the period of claiming bill in Dec. 2017. The said dispute has cropped up when the consumer refused to pay the said bill on the ground at since March-2013, he is receiving the bill under the category of HT I. The consumer has submitted that it is a mistake of MSEDCL Office for not verifying the proper tariff category. The submissions made by the Respondent Utility that from the date of connection itself, the premises is used for the purpose of Hospital and the activity was very well in the knowledge of consumer, even then the consumer continue to avail the

benefit of paying charge bill under the category of HT-I Industrial and seek the advantage and relief. These facts were reportedly not brought to the knowledge of the Utility by the consumer prior to the date of inspection as per the contention of the Utility during their oral submission before the Forum as well.

The premises of the consumer under reference were inspected by the Utility officials and it was found that the use of the said premises was for Hospital purposes. Therefore, according to the Utility, the appropriate category of the consumer for electricity charges should have been applied earlier as 'HT-I Industrial' was required to change to 'HT IX B - Public Services' effective from Dec.'2017. The period for which the Utility has charged difference to the consumer has seriously been contested and challenged by the consumer on the grounds that the category was known to it and which was a fault on the part of the Utility officials who, without any justifying grounds, resorted to unjust recovery by of application of improper tariff leading to issue of improper wrong bill which is an exclusive Act of the Utility which could have been corrected in the month of Dec.-2017 itself and that the debit bill claimed in February, 2019 for the period of past almost four years is without any legal justification and hence objected. It is pertinent to note that when the consumer had obtained the electric supply for his activity (i.e. Hospital) and the activity was primarily of providing medical services the activity of the consumer was itself within the knowledge of the consumer. Despite this, the consumer attempted, continued to take benefits attached to the of category of consumers under the category of 'HT-I Industrial'. Accordingly, the consumer also did not consider it necessary to get the category corrected nor did raise any objections were raised by the consumer any time prior to the present grievance for application of proper tariff. The controversy revolving around the issues in the instant case about the recovery of past period, which too had been objected by the consumer ad been addressed by the Hon. Bombay High Court vide its judgment of Writ Petition10764 of 2011 wherein the retrospective recovery in such cases / claims by the Utility are restricted to the maximum period of twenty four (24)

months only. As such the Respondent Utility not authorized to claim past period recovery, even on the grounds of wrong tariff category applied to the consumer leading to short recovery of the energy charges beyond the period of twenty four months (24) months leading to less recovery despite observations / comments of the Govt. of Auditors in their report to the Utility. The period of past recovery is claimed to be in Nov.- 2017. The Respondent Utility, therefore, shall reassess the consumer liability for past recovery in tune with the judgment of Hon'ble High Court and recalculate the tariff difference recovery restricted for the period of twenty four (24) months proceeding to Nov.-2017. Hence the grievance of the consumer can, thus, be resolved by granting modified relief. In view of the foregoing, the order passed by the IGRC is set aside which fails to meet the tenets of the judgment of the Hon'ble Bombay High Court, thereby restricting the past period recovery from the consumer for the period not exceeding twenty four (24) months preceding November, 2017.

The time limit of 60 days prescribed for disposal of the grievance could not be adhered due to the chairman, CGRF having additional charge of Kalyan Zone.

Hence I am inclined to allow the consumer complaint partly and proceed to pass following order:

### **ORDER**

1. The Consumer complaint No. 46 of 2019 is allowed partly,
2. The debit adjustment bill excess to the current bill **Rs.16,35,312.00** /- is illegal and hence quashed and set aside.
3. The Respondent Utility is directed to revise and reassess the tariff difference of appropriate category for earlier period of twenty four (24) months i.e. for the period preceding to November 17 and work out the exact liability of the consumer after application of due and appropriate tariff category.
4. No interest, DPC and penalty be levied on the bill represent payment of past-period dues.

5. The consumer may pay the said revised bill in twelve (12) equal monthly installments along with the current bill/s.
6. No order as to the cost.
7. The Licensee is directed to report the compliance within one month from the date of this order.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune 8<sup>th</sup> Nov. - 2019.

**Note:-**

- 1) If Consumer is not satisfied with the decision, he may file representative within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman  
The Electricity Ombudsman,  
Maharashtra Electricity Regulatory Commission,  
606, Keshav Building,  
Bandra - Kurla Complex, Bandra (E),  
Mumbai - 400 051.

- 2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I agree / ~~Disagree~~

I agree / ~~Disagree~~

Sd/-  
**ANIL JOSHI**  
MEMBER  
CGRF: PZ:PUNE

Sd/-  
**A.P.BHAVTHANKAR**  
CHAIRPERSON  
CGRF: PZ:PUNE

Sd/-  
**BEENA SAVANT**  
MEMBER- SECRETARY  
CGRF:PZ:PUNE