

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

Case No. 42/2019

Date of Grievance : 05.07.19

Hearing Date : 08.08.19

Date of Order : 09.09.19

In the matter of refund of excess tariff commercial charges deposited by Society.

Ekdant Heritage Co-Op.Housing Socy., ---- Complainant

Plot No.22, Sector -20,

Pradhikaran Chikhali,

Pune - 411019.

(Consumer No. 170100006840,
170100006670 & 170100006505)

VS

The Executive Engineer, ---- Respondent

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

Bhosari Division,

Pune.

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.Londhe Ramchandra N., Consumer Representative

C] - On behalf of Respondent

- 1) Mr. Kavade , AEE, Kharadi S/dn.

Category - Residential/Commercial, Date of connection 25.10.2010,
Connecting load 5 KW.

The complaint about change of categorization from Commercial to Residential since 03.03.2011 and refund of excess tariff deposited by Society along with interest which was recovered as commercial category.

The above name consumer filed grievance alleging that the above named society Ekdant Heritage Co-Op. Housing Socy., using 3 connections at the premises use for common facilities provided to the society. The said society is registered on 09.06.2011. Thereafter consumer approached to the Utility and file application on dated 03.03.2011, 02.10.16 & 15.02.2018 from The Chairman of Ekdant Heritage Co-Op.Housing Socy., for transfer of these 3 meters category from Commercial to Residential. Stating that the said society was not using the said connection for commercial purpose. However the said connections were given before the society was formed & in the name of the builder under the commercial category tariff. Thereafter the category was required to be changed as all the residents of the society occupied the flats and using the said premises for residential purpose. Therefore consumer has pray that to change of category from Commercial to Residential and refund of excess amount recovered from Society charging as Commercial tariff since 03.03.2011. The said complaint filed by the consumer alongwith bill & complaint on letter head of Society and supporting by documents of registration of society and permission for construction and made the request. Thereafter the Utility acted upon the request of consumer and change 2 connections from Commercial to Residential. All these 3 connections were charged the tariff category from Commercial to Residential in the month of Sept.'2015. In the meantime Consumer No.170100006505 category was again charged in the month of Nov.2016 due to oversight.

However this connection was remain as commercial tariff from Nov.'2016 onwards was continued therefore consumer again raised the grievance in Form No.-X before IGRC and made complaint to change the said category to Residential from Commercial from the date 03.03.2011. After filing the said dispute on dated 16.4.2019, the IGRC issued notice to the Utility and give opportunity of hearing on 14.5.2019. The Respondent Utility submitted that they received application from Society to change the connection from Commercial to Residential and accordingly the effect was given from Spet.-2015 and category of tariff was change to Residential. The Respondent Utility specifically submitted that in the year 2011 no application

was received to the office for change of category earlier from consumer. The IGRC heard the dispute on 14.05.2019 and passed order on 18.6.2019, stating that no copy of application submitted by Society by dated 03.03.2011 dated 02.10.2016 nor acknowledgement received to the office was submitted alongwith the application filed on 15.02.2018 which was considered the grievance which was considered and effect given 2 years prior to the date i.e. Nov.2016 to April-2018 and the tariff was changed from Commercial to Residential. Accordingly the difference of tariff was adjusted in the subsequent bills. The grievance which is raised by the Society claiming effect from 03.03.2011 and 02.10.2016 and refund was disallowed by the IGRC.

Being dissatisfied with the Order of IGRC the present consumer has filed dispute in form No. A to the office on 05.7.2019. After filing the said dispute the case is registered in Case No.42/2019. This office has issued the notice to the Respondent Utility on 5.07.2019 directing to file the reply on or before 19.07.2019. After receiving the reply the Respondent Utility submitted copy of CPL, copy of statement and adjustment of bills of all 3 connections obtained by consumer separately. The Respondent Utility submitted copy of personal ledger of all 3 connections from date of connection till the date of dispute. The Respondent Utility submitted that the consumer made application for change of tariff category on dated 15.2.2018. However no complaint is submitted since 03.03.2011. Therefore retrospective recovery tariff alleged to be paid by Society cannot be refunded. The consumer raised the dispute can be allowed within the 2 years from the date of dispute earlier and no retrospective effect since 03.03.2011 can be given to the consumer. The Respondent Utility prays for dismissal of the complaint with cost.

After considering of rival contention of the consumer and the Respondent Utility the following points arose for my consideration to which I have given my findings to the issue alongwith reason given below:-

1. Whether consumer is entitled to change of tariff category since 03.03.2011 from Commercial to Residential?

2. Whether consumer is entitled for refund of excess recovery of tariff arrears since 03.03.2011 till the date of change of tariff category effected?.
3. Whether the consumer is entitled for any relief ?
4. What Order ?

Reasons:-

On dated 08.08.2019 I have given opportunity to consumer and his representative and also gave opportunity to the Respondent Utility and Addl. Ex. Engineer who appear for the hearing. It appears from the dispute that the dispute raised by the Society that an earlier connection is obtained by builder which was on own application as a commercial tariff category. It further appears from the record produce by consumer Ekdant Heritage Co-Op. Housing Socy. came to the register in the year 2011. Copy of registration of society filed by the consumer minutely perused by me. The certificate of registration disclose the date of registration of society certificate issued on 9.6.2011. The contention of the consumer that on 03.03.2011 and 03.05.2011 application for change of tariff category was submitted. The resolution was also passed during the hearing the copy of resolution was demanded but consumer fail to produce it. It appears from the registration certificate the society registration certificate issued by Competent Authority on 9.6.2011. Therefore contention of the consumer the resolution of the society was passed and application was made on dated 03.03.2011 cannot sustained as society formed and came in existence ought to have been 9.6.2011. However the consumer was not able to submit the acknowledgement of his application given earlier to the Respondent Utility society. For change of tariff category as alleged. The application which is considered as per record of the Utility dated 15.02.2018. Therefore the effect should have been already given 2 years prior to date of application dated 15.02.2018 and therefore request of the consumer to give effect of since 03.03.2011 cannot be allowed. All these three connections effect was already passed in the month of Sept.2015 & it was

verified through CPL record. Hence I am not inclined to grant prayer of the consumer for refund of excess tariff recovered by society for earlier period.

Even otherwise as per regulation the Forum cannot entertained the dispute 2 years from the date of cause of action and as such the earlier period for want of limitations also cannot be consider by this Forum to grant sub relief.

During the hearing the Respondent Utility able to point out that the difference which is already given to the society for adjustment of tariff difference of Rs. 5,881/- for the period Nov.2016 to April-2018 & this amount is credited in the May'2018 bill i.e. change of tariff from Commercial to Residential The period of 2 years benefit from Sept.-2015 was already given and therefore society already received the benefit that claimed in the difference from 2015 to 2017 and therefore subsequent prayer made by the consumer prior to 2 years legally not tenable. As consumer already received the benefit & there is no remain to grant further relief in this complaint. Hence the consumer complaint bound to fail.

The time limit of 60 days prescribed for disposal of the grievance could not be adhered due to submission of both the parties made during the instructions given at the time of hearing by the Forum.

Hence I proceed to passed following order.

ORDER

1. The consumer complaint of 42/2019 stands dismissed.
2. No order as to the cost.
3. 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 on 9th Sept. - 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~~

Sd/-

ANIL JOSHI
MEMBER
CGRF:PZ: PUNE

sd/-

A.P.BHAVTHANKAR
CHAIRPERSON
CGRF: PZ:PUNE

I agree / ~~Disagree~~

sd/-

BEENA SAVANT
MEMBER- SECRETARY
CGRF:PZ:PUNE