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Hence, vide our letter at reference one, it was brought to the kind notice of office of Superintending Engineer O&M Circle Jalgaon that as per MSEDCL / MERC rules and regulations our supply is **NOT** from express feeder but from Non express feeder as few other consumers are also availing the supply from the same feeder where from we are receiving the electricity supply. {List of few consumers availing the supply from the feeder wherefrom are receiving the supply is as below...

1. Jain Irrigation system, Bhambhori.
2. Mukund Industries, Bambhori.
3. TC park , Takarkheda

As per case No. 116 of 2008 dated 17th August 2009, there is concept of tariff applicable to consumer on express feeder and consumer on Non Express feeder.

SOP regulation 2014 which has defined the express feeder and non express feeder. As per this definition since the supply is also given to some other consumers from this feeder, we should not be considered as getting the supply from Express feeder.

As such thought our supply is from Non express feeder, we had been charged with tariff applicable to consumer on express feeder. As such erroneous tariff has been applied from August 2009.

As per condition No.3.4 of Electricity Supply Code and Other Conditions of Supply Regulations, 2005 ...

3.4.1 The Distribution Licensee is authorized to recover charges for electricity supplied in accordance with such tariffs as may be fixed from time to time by the Commission.

Similarly as per Section 45 of Electricity Act, 2003 the prices charged by Distribution Licensee for the supply of electricity by him in pursuance of section 43 shall be in accordance with such tariff fixed from time to time and condition of his licensee.

Similarly as per provision under section 62 sub section 6 of Electricity Act 2003 If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.

However though there is separate tariff for consumer on Express feeder and consumer on NON Express feeder, we have been charged with tariff applicable to consumer on express feeder.

Since we have been charged with erroneous tariff since the tariff applicable from 1st August 2009, we made the request to the office of Superintending Engineer O&M Circle, MSEDCL, Jalgaon. Our request was as below...

1. To refund the excess amount charged by them due to application of wrong tariff. The refund should be from the period when the concept of Express feeder tariff and Non express tariff first came in tariff order issued under Case No. 116 of 2008 dated 17th August 2009 .
2. We may please be considered to get interest as per provision of section 62 sub section 6 of electricity act 2003 on excess amount wrongly been recovered from us.

We made the request to the office of Superintending Engineer Jalgaon Circle, MSEDCL vide our letter dated 18th June 2018.

As we did not get any response / relief from office of Superintending Engineer Jalgaon Circle, MSEDCL even after lapse of more than one month period and one billing cycle, we filed an appeal with IGRC office under MSEDCL Jalgaon Circle. We made an appeal on 14th August 2018 to the office of IGRC MSEDCL Jalgaon Circle.

In-spite of lapse of more than 60 days we have not got any response / relief / order from IGRC, MSEDCL, Jalgaon circle.

Hence we are filing this appeal with your kind authority. Our submission is as below...

1. Though our supply is from NON Express feeder, we have been charged with tariff applicable to consumer on express feeder. Hence MSEDCL may please be directed to refund the excess amount which they have wrongly charged to us from the beginning. (Please see our details submission as above).

Our above request is with reference to

- **Condition No.3.4 :- Charges for Electricity Supplied** : As per Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005
- concept of express feeder consumer and not express feeder consumer under the tariff of 2009
- SOP regulation 2014 which has defined the express feeder and non express feeder

- Section 45 of Electricity Act, 2003 the prices charged by Distribution Licensee for the supply of electricity by him in pursuance of section 43 shall be in accordance with such tariff fixed from time to time and condition of his licensee.
- Maharashtra Electricity Supply Code and Other Conditions of Supply Regulation, 2005 condition No. 3.4 – Charges for Electricity Supplied Distribution Licensee is authorized to recover charges for electricity supplied in accordance with tariffs as may be fixed from time to time by the Commission.
- As per Sub section 6 of section 62 of Electricity Act, 2003, if any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.
- Writ Petition No. 3997 of 2016 – Maharashtra State Electricity Distribution company Limited V/s. Shilpa Steel & Power Limited and Two other, Hon High court have upheld the decision of Hon Electricity Ombudsman that consumer is entitled to get refund along with interest for the period more than two year old.

2. We may please be considered to get interest as per provision of section 62 sub section 6 of electricity act 2003 on excess amount wrongly been recovered from us.
3. We may please be considered to get the cost of filing this appeal
4. We may please be allowed to make the changes / correction if any required in our submission and to make additional submission if requires.

It is our humble request Hon authority to consider our above submission and pass the suitable order in this matter at the earliest.

तसेच सुनावणीच्या दिवशी म्हणजेच दि.०७.१२.२०१८ रोजी ग्राहकाने खालील बाजू मांडली:-

In respect of our connection in the name of *M/S FOUNDATION BRAKE MANUFACTURING Pvt. Ltd.* - Consumer No. 137589002241 we have filed an appeal with your kind authority.

In our initial application we have submitted that we have been charged with wrong tariff. As our supply is from Non Express feeder we should have been charged with tariff applicable to consumers on NON Express feeder.

Though we have been charged with express feeder tariff we had to face power interruptions on many occasion. The statement indicating that we had to face power interruptions is enclosed herewith along-with proof of electricity duty paid on generation of electricity during power interruption period.

As such we have been charged with wrong tariff.

In respect of this please consider our additional submission.

The definition of Express feeder as per **Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014** is very clear. As per this definition if feeder emanating from Licensees sub-station to connect to a single supply then only this can be considered as express feeder. In our case there are some other consumers who are getting the supply from this feeder. Hence this feeder can-not be treated as express feeder consumer. Hence we should have been charged with tariff applicable to consumer on NON EXPRESS FEEDER.

As such erroneous tariff have been applied to us. Hence we are requesting to get refund of excess amount charged by MSEDCL along-with interest.

Our request is with reference to following provisions.

Section 62 of Electricity Act, 2003. Is related Determination of Tariff. As per this section Commission shall determine the tariff. It is always the responsibility of the Licensee to implement the Tariff order issued by the Commission in true spirit. There is provision under Electricity Act 2003 under sub section 6 of section 62 of Electricity Act 2003 protecting the rights of the consumer in case the Licensee failed to follow the Tariff order. The provision under section 6 of section 62 of Electricity Act 2003 is as below...

If any licensee or a generating company recovers a price of charges exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charges along-with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.

Thus as per sub section 6 of section 62 of Electricity Act 2003 it is very clear that we are entitled to get the refund of excess amount charged by MSEDCL along-with interest for the period during which tariff have been wrongly charged to us.

Further to submit that there is **NO** provision under the Electricity Act 2003 restricting the period for getting any refund amount. On the contrary section 62 is very clear indicating that consumer is entitled to get refund (along-with interest) for excess amount wrongly charged by the licensee.

Considering this provision we are entitled to get refund along-with interest without any time limitations. Further to submit that as per Section 45 of Electricity Act, 2003, the prices charged by Distribution Licensee for the supply of electricity by him in pursuance of section 43 shall be in accordance with such tariff fixed from time to time and condition of his licensee.

By charging extra amount than what they are entitled, MSEDCL has failed to follow the provision of Electricity act 2003.

As per Maharashtra Electricity Supply Code and Other Conditions of Supply Regulation, 2005 condition No. 3.4 – Charges for Electricity Supplied Distribution Licensee is authorized to recover charges for electricity supplied in accordance with tariffs as may be fixed from time to time by the Commission.

Thus MSEDCL has failed to follow this condition as they have charged extra / higher amount than what they are entitled. Thus this is default on the part of MSEDCL to follow MERC directives.

Further as per sub section 4 of section 45 of Electricity Act, 2003 Licensee shall not show undue preference to any person or class of person or discrimination against any person or class of person. MSEDCL have charged the tariff of Non express feeder to some consumer on NON Express feeder and express feeder tariff other consumers. Thus there deiscreation.

Further to submit that in writ Petition No. 3997 of 2016 – Maharashtra State Electricity Distribution company Limited V/s. Shilpa Steel & Power Limited and Two other, Hon High court have upheld the decision of Hon Electricity Ombudsman - Nagpur that consumer is entitled to get refund along with interest for the period more than two year old.

Our case is similar to case of Shilpa Steel & Power Limited in respect that we have also been charged with wrong tariff and extra / higher amount have been recovered from us. Hence considering the decision of Hon High court, we shall be entitled to get refund along with interest without restricting the refund for two year.

Further to submit that in Appellate Tribunal for Electricity (Appellate Jurisdiction) in case No. 197 of 2009 has confirmed that Electricity Act is a complete code. Any legal bar or remedy under the act shall manifest exist in the Act itself. There is no such bar with regard to limitation in the Electricity act. The Hon Supreme Court has held in a number of decisions that the limitation Act will not apply to the quasi- judicial authorities like state Regulatory commission. It has further held by Hon'ble Supreme Court that the state authorities ought not to take such technical plea to defeat the legitimate rights of the consumers. The tariff fixation is continuous process and is to be adjusted from time to time. Therefore Limitation Act cannot be applied to the enforcement of tariff which constitutes a part of regulatory exercise. In this judgment of Hon Tribunal they have mentioned the decision of Hon. Supreme Court in Madras port Trust V/s Himanshu International. In this decision Hon Supreme court have mentioned that it is unfortunate that a public authority like Port Trust should, in all morality and justice, take up such a plea (Barred by limitation under section 10 of Madras Port Act) to defeat a just claim of citizen. It is high time that Government and Public authorities adopt the practice of not relying on technical pleas for the purpose of defeating legitimate claims of citizens and do what is fair and just to the citizens.

Thus even the Hon Supreme Court, Hon High court and Hon. Appellate Tribunal in their orders have not considered the time limitation for giving refund to consumer of any amount wrongly charged by the authorities.

Further to submit that as per condition No. 1.4 of Maharashtra electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 , in case of any inconsistency with these Regulations, the Standard of performance of Distribution Licensees and Electricity supply code shall prevail.

Standard of performance of Distribution Licensees and Electricity supply code have been formed in relations to provisions of section 45, section 181, section 46, section 47, section 50 of electricity Act, 2003.

Thus in case, any provision under Maharashtra electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 is inconsistent with the provision of Electricity Act, 2003, the provision under Electricity Act, 2003 should be prevailed. There is provision under section 62 of Electricity Act 2003 clearly indicating that excess amount shall be recoverable by the person who has paid such price or charges along-with interest equivalent to the bank rate. Hence this provision should prevail and our refund should not be limited to two years.

Thus our request is based on

- a. Tariff issued by Hon. MERC clearly indicating separate tariff for consumer on express feeder and consumer on Non Express feeder.
- b. Definition of Express feeder as per SOP regulation effective from May 2014.
- c. Specific provisions under section 6(62) of Electricity Act 2003 - regarding refund of excess amount wrongly charged by the licensee - Provision as below...

Electricity Act , 2003 Sub Section (6) of Section 62. Determination of tariff.-

If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.

- d. (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006
- e. Section 45 of Electricity Act, 2003 indicating that the prices charged by Distribution Licensee for the supply of electricity by him in pursuance of section 43 shall be in accordance with such tariff fixed from time to time

Electricity Act, 2003 Section 45. Power to recover charges..-

Subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity by him in pursuance of section 43 shall be in accordance with such tariffs fixed from time-to-time and conditions of his license.

- f. Maharashtra Electricity Supply Code and Other Conditions of Supply Regulation, 2005 condition No. 3.4 – as per this condition Charges for Electricity Supplied Distribution Licensee is authorized to recover charges for electricity supplied in accordance with tariffs as may be fixed from time to time by the Commission.

3.4 Charges for Electricity Supplied

3.4.1 The Distribution Licensee is authorized to recover charges for electricity supplied in accordance with such tariffs as may be fixed from time to time by the Commission

- g. Section 4 of section 45 of Electricity Act, 2003 – stating that the Licensee shall not show undue preference to any person or class of person or discrimination against any person or class of person.

Electricity Act, 2003

Sub section 4 of Section 45. Power to recover charges..-

Subject to the provisions of section 62, in fixing charges under this section a distribution licensee shall not show undue preference to any person or class of persons or discrimination against any person or class of persons.

- h. Hon High court decision in writ Petition No. 3997 of 2016 – Maharashtra State Electricity Distribution company Limited V/s. Shilpa Steel & Power Limited and Two other – Copy enclosed
- i. Appellate Tribunal for Electricity (Appellate Jurisdiction) in case No. 197 of 2009 – Copy enclosed
- j. Hon. Supreme Court decision in case of Madras port Trust V/s Himanshu International. – Copy enclosed
- k. Condition No. 1.4 of Maharashtra electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 stating that in case of any inconsistency with these Regulations, the Standard of performance of Distribution Licensees and Electricity supply code shall prevail.
- l. Thus provisions under Maharashtra Electricity Supply Code and Other Conditions of Supply Regulation, 2005, Order passed by Hon Appellate Tribunal – Electricity, Order passed by Hon High Court, Order passed by Hon Supreme Court.

Hence we have legitimate right to get refund of amount wrongly recovered from us due to application of wrong tariff.

Based on our above submission our request to Hon. CGRF is as below...

1. MSEDCL concerned billing authority may please be directed to arrange to Refund the excess amount along-with interest which they have recovered due to applicability of wrong tariff.
2. As the definition of express tariff is clear as per SOP Regulation effective from May 2014, our refund may be considered from May 2014 to October 2016. (From new tariff effective from Nov 2016 there is no concept of express feeder tariff and Non express feeder tariff.)
3. To pay the cost of Rs. 5000/- (Five thousand only) for filing the appeal and cost incurred to get the justice in this matter.

For your reference please find enclosed herewith photo copy of following documents.

1. 4. Hon High court decision in writ Petition No. 3997 of 2016 – Maharashtra State Electricity Distribution company Limited V/s. Shilpa Steel & Power Limited and Two other
2. 5. Appellate Tribunal for Electricity (Appellate Jurisdiction) in case No. 197 of 2009 – Copy enclosed
3. 6. Hon. Supreme Court decision in case of Madras port Trust V/s Himanshu International. – Copy enclosed Submitted for Kind consideration please.

वितरण कंपनीचे संबंधीत मंडळ कार्यालयाचे नोडल अधिकारी तथा कार्यकारी अभियंता(प्रशासन), जळगाव यांनी त्यांचे पत्र क्र.००७१९२ दि.०६.१२.२०१८ अन्वये पत्रव्यवहार मंचापुढे सादर केलेल्या खुलाशावर ग्राहक प्रतिनिधी यांनी सादर केलेला खुलासा:

In respect of our connection in the name of M/S FOUNDATION BRAKE MANUFACTURING Pvt. Ltd. - Consumer No. 137589002241 we have filed an appeal with your kind authority. We have submitted our say in this matter. Now in response to submission made by MSEDCL please consider our additional submission as below...

Our submission before you is as below...

MSEDCL has taken the reference of letter / Circular under which it is mentioned that consumer should approach to IRGC within two years from cause of action is the letter written by Superintending Engineer (TRC) to all the Chief Engineer and Superintending Engineer of MSEDCL. This letter communicating that Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006, section 3.3 provides for publishing of rules and procedure for Redressal of Grievances by every Licensee.

Further it is communicated that “ As per approval accorded by the competent authority updated Rules & Procedure for Redressal of grievance is enclosed herewith and same is uploaded on MSEDCL website.

At the Preamble of this Rules and Procedure it is mentioned that as provided under MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 MSEDCL has established Consumer Grievance Redressal Forums at all zonal level. Such Forum shall follow the Principles of Natural Justice inter-alia includes the following i) It shall Protect the interest of consumers. ii) It shall facilitate and expedite the Redressal of grievances.

However under the point No. 1 of this Rules and procedure under the Head Internal Grievances Redressal Cell (IGRC) it is mentioned that IGRC shall not admit any grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.

By taking the reference of this sentence, MSEDCL has submitted that our claim should not be considered considering this as two year old. In this reference our further say is as below...

1. As mentioned in the preamble of this Rules and Procedure it is mentioned that Forum shall follow the Principles of Natural Justice inter-alia includes the following i) It shall Protect the interest of consumers. **However MSEDCL under this regulation have restricted the legitimate rights of the consumer which they have under the Electricity Act 2003. Further to submit that as per (Consumer Grievance Redressal Forum &**

Electricity Ombudsman) Regulations, 2006 – (Original Regulations) which is approved by Hon. MERC, there is no restriction on IGRC to restrict the claims only for two years.

Further to submit that Rules & Procedure in MSEDCL for Redressal of Grievances issued by MSEDCL under the signature of Superintending Engineer (TRC) vide their letter No. SE/TRC/CGRF/C-23/14828 Dt. 18/06/2018 communicating these Rules and Procedure is issued **without the approval of MERC and without following the procedure laid down in section 3.3 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.**

Thus this letter / Circular should not have sanctity to overcome the original Rules and Procedure already in existence which are approved by Hon. Maharashtra Electricity Regulatory Commission under the Head Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

As per Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006, there is no limit for the consumers to approach IGRC for Redressal of their grievances. Thus the Circular issued by MSEDCL may please be treated as not valid.

Our dispute is related to Non application of correct tariff by the billing section of MSEDCL. As there is separate tariff for consumer on express feeder and consumer on NON express feeder, we should have been billed as consumer on non Express feeder. It was the responsibility of the MSEDCL authority to implement the tariff properly and correctly. By applying wrong tariff, MSEDCL authorities have failed to follow the order of Hon. Commission and we are the sufferer of it.

It is to submit that there is stringent provision under section 142 of Electricity Act 2003 for Non-Compliance of directions of Appropriate Commission. As per this section in case of non compliance of any direction of the commission by the person he shall pay by way of Penalty which shall not exceed rupee one lakh for each contravention and in case of a continuing failure with an additional penalty which may extend to rupees six thousand for every day during which the failure continues.

As a good consumer we are not interested in imposing penalty on MSEDCL authority but expecting the fair treatment to their consumers. Hence considering the Directives of Hon. Commission MSEDCL should have corrected the billing record and excess amount recovered from us should be refunded to us. For the non compliance of order, we as a consumer should not be a sufferer and when we are demanding our legitimate claim then it should not be restricted to two year only on such false ground.

Further as per sub section (5) section 126 of Electricity Act 2003 (related to unauthorized use of Electricity) if the assessing officer reaches to the conclusion that unauthorized use of electricity has taken place, the assessment shall be made for entire period during which such unauthorized use of electricity has taken place.

Under the provision of sub section (5) section 126 of Electricity Act 2003, MSEDCL authorities are doing the assessment and recovering the charges for more than two year. However in case of consumer, MSEDCL has made the rule restricting consumers rights. This is against the principal of Natural Justice. As such the rules made by the MSEDCL issued by Superintending Engineer – TRC is not only against the provision of Electricity Act 2003 but also not following the principal of Natural justice and protecting the interest of consumer.

Here to Note that basic Principal of MERC (consumer Grievance Redressal Forum & Electricity Ombudsman) Regulation 2006 is to follow Principal of Natural Justice inter alia it shall protect the interest of consumer. Contradictory to this MSEDCL has unauthorized way formed the regulations which are not following the Basic Principal of Regulations formed by Hon MERC.

Further to submit that even Hon. Appellate Tribunal electricity, Hon high Court, and Hon Supreme Court have in their judgment confirmed that Electricity Act 2003 is complete in all respect and there should not be

restriction of any limitation on it. As per section sub section 6 of section 62 of Electricity Act 2003, consumer have right to get refund of excess amount along-with interest wrongly charged by licensee due to application of wrong tariff. Hence section 62 is very clear and not imposing any restriction of time limitation.

Thus the Rules and Regulation issued by MSEDCL under the signature of SE TRC, should not be considered as valid. Hence our refund should be considered for entire period during which MSEDCL billing authority have applied wrong tariff. It is once again to submit that this is as per provision under sub section (6) of section 62 of Electricity Act 2003.

रोजनाम्यात नमुद केल्याप्रमाणे ग्राहक प्रतीनिधी यांनी त्यांचा अतिरीक्त खुलासा सादर केला आहे सदर अतिरीक्त खुलासा खालील प्रमाणे :-

With reference to the submission of MSEDCL dated 15th December 2018 our reply is as below...

As mentioned in reply of MSEDCL, we are getting the supply from Paldhi Substation. We are getting supply from this feeder from 09th March 2017. As mentioned in the reply of MSEDCL some other consumers are also getting the supply from this feeder. Hence as per definition of Express feeder as per SOP regulation 2014, our supply can-not be considered as supply from Express feeder. In MSEDCL reply they have mentioned that there is no load shedding on this feeder, however we have already submitted the documents indicating that on many occasions we had power failure and hence supply was not continuous. Hence we should not have been billed as consumer on express feeder. (It may please be noted that this period is after our billing dispute period)

Further to submit that our billing dispute is for the period May 2014 (When definition of Express feeder introduced in SOP regulation 2014) to October 2016 (From November 2016 New tariff came force in which there is parity of tariff on consumer on express feeder and consumer on Non Express feeder). During this period our supply was from 33kv old MIDC substation, Dharangaon feeder. From this feeder the supply was also given to Low Tension consumer residing in Mahabal area as well as consumer in Big Bazar and MIDC area. As such again to submit that, as per SOP definition our supply is not from Express feeder. As well on many occasions we had to face power interruptions during this period. As such neither we had the supply from Express feeder nor do we get uninterrupted supply. As such we have wrongly been billed as consumer on express feeder. (please see our documents as we submitted during the hearing held on 7th December 2018 indicating we had to face power interruptions on many occasions).

Further MSEDCL in their reply submitted that for consumer on express feeder have to submit undertaking if they wish to avail continuous supply or non continuous supply. **In this reference we submit that as our supply is from NON Express feeder, hence there was no need for us to submit any such Undertaking.** For reference please find enclosed herewith Photo copy of applicable provision of applicability of tariff. **From this tariff copy, it is clear that for consumers on Non Express feeder there is NO tariff for continuous supply.**

MSEDCL in their reply have mentioned the MERC SOP 9.2 provision under which consumer has to apply for change of tariff. Our case was not of change of tariff and hence this provision is not applicable to us.

MSEDCL in their reply mentioned that there is change in the name of our company. However we submit that there should not be any effect of this change of name on applicability of tariff.

As per our submission we made on 7th of December 2018, we have submitted that our billing dispute should be considered for the period May 2014 to October 2016. During this period as Per Definition of SOP regulation 2014, our supply was Not from express feeder. However we have been charged with tariff of Express feeder consumer (continuous supply). Thus our case is of application of wrong tariff. Hence as per Sub Section 6 of section 62 of Electricity act, we may please be considered to get refund of excess amount wrongly charged by the MSEDCL along-with Interest.

In this reference we request your kind authority to also consider our earlier correspondence in which we have submitted documents to substantiate our say.

Submitted for your kind consideration please.

वितरण कंपनीची बाजू :- (लेखी निवेदनानुसार)

वितरण कंपनीचे संबंधीत मंडळ कार्यालयाचे नोडल अधिकारी तथा कार्यकारी अभियंता(प्रशासन), जळगाव यांनी त्यांचे पत्र क्र.००७१९२ दि.०६.१२.२०१८ अन्वये पत्रव्यवहार मंचापुढे सादर केला त्यात त्यांनी त्यांची बाजू खालील प्रमाणे मांडलेली आहे.

With reference to above subject , and letter under ref.no. 1 the say of this office regarding M/s Foundation Brake Manufacturing, Bhambhori, Jalgaon as per the letter under ref. No.3 From the Superintending Engineer (Tariff Regulatory Commission) letter no.14828 dated 18.06.2018.

The applicant may approach to the appropriate office of the Distribution Licensee or IGRC and file the grievance as per the prescribed format. The IGRC shall not admit any grievance unless it is filed within Two (2) years from the date on which the cause of action has arisen.

For your kind information and n.a.please.

वितरण कंपनीचे संबंधीत मंडळ कार्यालयाचे नोडल अधिकारी तथा कार्यकारी अभियंता(प्रशासन), जळगाव यांनी रोजनाम्यात नमुद केल्याप्रमाणे त्यांचा अतिरीक्त खुलासा त्यांचे पत्र क्र.००७३७२ दि.१५.१२.२०१८ अन्वये पत्रव्यवहार मंचापुढे सादर केला त्यात त्यांनी त्यांची बाजू खालील प्रमाणे मांडलेली आहे.

मे. फाउंडेशन ब्रेक्स मॅन्युफेक्चरींग प्रा.लि. या ग्राहकाच्या विज पुरवठा २२० के.व्ही बांभोरी (पथराड) या उपकेंद्रातून ३३ के.व्ही पाळधी फिडर वरून ३३ के.व्ही व्होल्टेजला दिला आहे. सदर फिडरवर कोणत्याही प्रकारचे लोडशेडींग होत नसुन Continuous वीज पुरवठा होत असतो. सदर फिडरवरून पाळधी उपकेंद्रासह इतर ३ ग्राहकांना विजपुरवठा देण्यात आलेला आहे. दरसंकेतानुसार Continuous , Non-Continuous दरसंकेत अस्तित्वात नाही. तसेच दरसंकेतातील तरतुदीनुसार ग्राहकास एच.टी Continuous ऐवजी Non-Continuous वीज पुरवठा हवा असल्यास ग्राहकाने या संदर्भात अर्ज करून प्रतिज्ञापत्र सादर करण्याची तरतुद होती. ग्राहकाने अर्ज सादर केल्यानंतर MERC SOP ९.२ नुसार अर्ज दिल्याच्या तारखेनंतर एक महिन्यानंतरच्या बिलींग सायकल मध्ये दरसंकेतात बदल करण्याची तरतुद होती. परंतु उपरोक्त ग्राहकाने अशा प्रकारचा अर्ज Continuous व Non-Continuous असा दरसंकेत अस्तित्वात असे पर्यंत प्रतिज्ञापत्र सादर केलेले नाही.

मे. फाउंडेशन ब्रेक्स मॅन्युफेक्चरींग प्रा.लि.असे नाव बदल हे ऑक्टो २०१३ पासून झालेले आहे. तसेच मे. फाउंडेशन ब्रेक्स मॅन्युफेक्चरींग प्रा.लि. यांच्या मालकी हक्क मे.बोश चेसीस सिस्टीम इंडीया लि. यांचेकडे होता.पुर्वीच्या मालकाने देखील यापुर्वी प्रतिज्ञापत्र सादर केलेले नव्हते.

सदर ग्राहकाला त्याच्या मागणीप्रमाणे HT-IC या दर संकेताप्रमाणे Aug २००९ ते Oct २०१६ पर्यंत बिलींग होत होते. दरसंकेत HT-IC Continuous, HT-I Non-Continuous हा दरसंकेत Oct २०१६ पर्यंत अस्तित्वात होता. त्यानंतर औद्योगिक उच्चदाब ग्राहकाकरीता १०२-HT-IA (General) व HT-I (Seasonal) असा Tariff दरसंकेत अस्तित्वात आहे. सदर ग्राहकाचे बिलींग चालु दरसंकेत १०२-HT-IA (General) प्रमाणे बिलींग होत आहे. सदर ग्राहक हा Oct १४ ते Sept १७ पर्यंत Open Access मध्ये होता. त्यामुळे दरसंकेत दुरुस्तीचा प्रश्न येत नाही. मे. फाउंडेशन ब्रेक्स मॅन्युफेक्चरींग प्रा.लि. बांभोरी यांचा अर्ज दि.१६.०८.२०१८ रोजी अंतर्गत तक्रार निवारण केंद्र मंडळ कार्यालय, जळगाव येथे प्राप्त झाला. अ.ग्र.नि.नि.मंडळ कार्यालय जळगाव यांनी पत्र क्र. SE/JAL/IGRC/००५८९० Date.११.१०.२०१८ सदर तक्रार ही दोन वर्षा पुढील कालावधी असल्यामुळे दाखल करून घेतलेली नाही.

अंतर्गत तक्रार निवारण कक्षाची कार्यवाही :-

अध्यक्ष, अंतर्गत तक्रार निवारण कक्ष, मंडळ कार्यालय, जळगाव यांनी सुनावणी न घेता पत्र क्र.००५८९० दि.११.१०.२०१८ अन्वये सदर तक्रारी बाबत ग्राहकास पत्र देण्यात आलेले आहे. त्यातील मजकुर खालील प्रमाणे :-

"We acknowledged the receipt of your Grievance Internal Grievance Redressal Cell (IGRC), Jalgaon on 16 th Aug 2018 and submit in reference to the captioned matter that the cause of action of your Grievance arose on Aug 2009. You were supposed to file your Grievance within 2 years from the date of cause of action but you have filed instant Grievance after 6 years without assigning any justifiable reason for the delay caused, therefore your Grievance can not be admitted in view of Rule 6.6 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal & Electricity Ombudsman) Regulations, 2006. "

Therefore this forum has no jurisdiction to entertain your Grievance as per Rule 6.8 (d) of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal & Electricity Ombudsman) Regulations, 2006.

मंचाचे निष्कर्ष :-

तक्रारदाची तक्रार, दाखल कागदपत्रे विजवितरण कंपनीचे म्हणने व कागदपत्रांचे अवलोकन केले असता असे दिसून येते की,

१. ग्राहक प्रतिनीधी यांनी सुनावणी दरम्यान सांगितल्याप्रमाणे मे.फाउंडेशन ब्रेक्स मॅन्युफेक्चरींग प्रा.लि. या ग्राहकाने वीजदर संकेत बदलण्यासाठी दि.१८.०६.२०१८ रोजी अधीक्षक अभियंता, जळगाव यांचेकडे पहिल्यांदा अर्ज दाखल केलेला आहे.
२. मा. उच्च न्यायालय, औरंगाबाद खंडपीठ, औरंगाबाद यांचे Writ Petition Nos. 6859, 6860, 6861 and 6862 of 2017 Decided On: 21.08.2018, अन्वये MERC (CGRF) Regulation 2006 कलम 6.6 बाबत नमुद केले आहे की, ग्राहकाने Cause of Action पासून दोन वर्षांचे आत मंचाकडे तक्रार करणे आवश्यक होते. परंतु, मे.फाउंडेशन ब्रेक्स मॅन्युफेक्चरींग प्रा.लि. या ग्राहकाने विहीत वेळेत तक्रार दाखल केलेली नाही. त्यामुळे, MERC (CGRF) Regulation 2006 कलम 6.6 नुसार मंचास सदर गाऱ्हाणे दाखल करुन घेता येणार नाही.
३. यासारख्याच मे.वेगा केमीकल्स या ग्राहकाच्या केस बाबत मा. उच्च न्यायालय, औरंगाबाद खंडपीठ, औरंगाबाद यांनी महावितरणचे अपील मान्य केले आहे.
४. MERC (SOP) Regulation चे कलम ९.२ नुसार अशाप्रकारे अर्ज प्राप्त झाल्यानंतर पुढील Billing Cycle पासून विजदर संकेत बदलणे महावितरणला क्रमप्राप्त आहे. परंतु, नोव्हेंबर २०१६ पासून Continues & Non-Continues असे स्वतंत्र दरसंकेत अस्तित्वात नसल्यामुळे दि.१८.०६.२०१८ नंतर दरसंकेत बदलवण्याचा प्रश्नच उदभवत नाही.

ग्राहकाचे प्रतिनिवेदन, विद्युत वितरण कंपनीचा खुलासा व सादर करण्यात आलेली कागदपत्रे या सर्व बाबींचा विचार करुन मंच या प्रकरणी खालील निर्णय देत आहे.

निर्णय

१. वरील निष्कर्षावरुन मंच सदर गाऱ्हाणे फेटाळत आहे.
२. महाराष्ट्र विद्युत नियामक आयोग (ग्राहक गाऱ्हाणे निवारण मंच व विद्युत लोकपाल), विनियम २००६ मधील विनियम क्र.६.१२ नुसार नोडल अधिकारी यांनी या आदेशाची पूर्ततेचा व आदेशातील दखल पात्र निष्कर्ष यावरील कार्यवाहीचा अहवाल मंचाकडे एक महिन्यात सादर करावा.
३. निर्देशित कालावधीत वितरण कंपनीने या आदेशाची अंमलबजावणी न केल्यास महाराष्ट्र विद्युत नियामक आयोग (ग्राहक गाऱ्हाणे निवारण मंच व विद्युत लोकपाल), विनियम २००६ मधील विनियम क्र.२२ अन्वये तक्रारदार महाराष्ट्र विद्युत नियामक आयोगाकडे दाद मागु शकतात.
४. या निर्णयाविरुद्ध तक्रारदार यांना अपील करावयाचे असल्यास, महाराष्ट्र विद्युत नियामक आयोग (ग्राहक गाऱ्हाणे निवारण मंच व विद्युत लोकपाल), विनियम २००६ मधील नियम क्र.१७.२ नुसार मा. विद्युत लोकपाल यांचेकडे, (द्वारा-महाराष्ट्र वीज नियामक आयोग, ६०६ केशवा बंगला, बांद्रा कॉम्पलेक्स (पुर्व) मुंबई-४०००५१) येथे या आदेशाच्या दिनांकापासुन ६० दिवसाच्या आत ते अपील करु शकतात.

— सही —

(अॅड.चंद्रकांत मोहन येशीराव)
सदस्य

— सही —

(विजयानंद संपतराव काळे)
सदस्य-सचिव तथा कार्यकारी अभियंता.

— सही —

(डॉ.भास्कर गोविंदा पालवे.)
अध्यक्ष

प्रत माहितीसाठी व योग्य त्या कार्यवाहीसाठी अग्रेषित :-

१. मुख्य अभियंता, मरा.वि.वि.कं.(मर्या), विद्युत भवन, परिमंडळ कार्यालय, जळगाव.
२. अधीक्षक अभियंता, मरा.वि.वि.कं.(मर्या)मंडळ कार्यालय, जळगाव.

— सही —

सदस्य-सचिव / कार्यकारी अभियंता
म.रा.विज वितरण कंपनी मर्यादित
ग्राहक गाऱ्हाणे निवारण मंच
जळगांव परीमंडळ, जळगांव