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Consumer Grievance Redressal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S.Marg,Bhandup (W),
Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/ 285/ 403

Date: 31.10.2019

Hearing Date: 13.06.2019

CASE NO.285/2019
M/s. Bukee ice & Cold Storage,
Plot No. 83, MIDC, Taloja,
Navi Mumbai-410218

(CONSUMER NO.028619024480) (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution Company Limited
through its Nodal Officer,
Vashi Circle,Vashi

. . . . (Hereinafter referred as
Licensee)

Appearance : For Licensee	Shri. D.B.Pawar, Executive Engineer, Vashi Circle.
For Consumer – -	Mr. Tulshiram Mane Consumer Representative. Mr. G.N.Bansode

**[Coram- Dr. Santoshkumar Jaiswal - Chairperson, Shri. Ravindra Avhad –
Member Secretary and Sharmila Ranade - Member (CPO)].**

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 subsection 5 to 7 of

section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'.

Above name consumer filed this complaint in Schedule Form 'A' before this Forum on dated 12.02.2019. After filing this complaint notice was issued to the respondent utility on dated 13.02.2019. After service of notice respondent utility appeared and filed reply on 09.04.2019.

We are consumer of MSEDCL bearing consumer no. 028619024480 is name of Bukee Ice and Cold storage plot No. L-83 MIDC Taloja Consumer No. 028619024480. We have taken electrical supply for our factory on 25.08.2000. Under non-continues industrial supply we here paid bills as per above tariff. But in the month of July 2016 we found that the bill were charged us wrong tariff as "continues industrial tariff " Then we written complaint to the SE,Vashi Circle and they has instructed to their staff to check and submit actual facts.

On receipt of the letter the Addl. Executive Engineer Panvel-I Sub Division and the Executive Engineer Panvel has reported wrong tariff was feed to consumer from the billing month December 2008 on receipt of that report, the SE, Vashi has issued correct tariff bill form the billing month of September 2016. But not credited the bills charged from the wrongly from December 2008 to August 2016. Hence we have submitted an application for credit and personnel visit to circle office the finally the credit was given for the period for September 2014 to August 2016.

But we are visited to circle office time to time for refund of tariff difference for the period December 2008 to August2014. But any one was not given any response hence we approached to IGRC. After hearing IGRC has dismissed this case. Now we are prayer to this Forum we are not known as

expert like MSEDCL to which tariff was applicable in detail and at the connection MSEDCL was charging correct tariff but employee of MSEDCL was changed tariff in Dec.2008 onwards without any information given to us the tariff was changed from non continuous Industrial to continuous industrial. Hence kindly request to Forum please give credit/refund tariff difference from December 2008 to August 2014 bills with RBI interest rate. Take action against guilty employee at MSEDCL. Compensation Rs. 5 Lacs towards continuing mental harassment and torture for so many years.

That M/s. Bukee Ice and cold storage, is our HT consumer Bukee Ice and Cold storage plot No. L-83 MIDC Taloja Consumer No. 028619024480, it is using 22KV H.T> power supply from dt.25.08.2000, under tariff HT-1A and its connected load is 150KW and connected Demand is 150KVA. The express feeder tag was inadvertently shown as 'Yes' for period December 2008 to September 2016. That due to the wrong feeding of express feeder tag as 'Yes', the billing to this consumer is done under the Ht-1A express feeder tariff category. The consumer also was paying the bills as per this express feeder tariff category without raising any objection for near about 8 years.

That the consumer has first time submitted its application on dated 07.07.2016 for correction of feeder tag and to change the tariff from continuous to non-continuous. Thereafter, consumer vide letter dtd. 10.10.2016 requested us for refund of tariff difference from December 2008 due to change of feeder tag from express to non-express and thereby changing tariff from Ht-IC to HT-I NC. That the consumer vide this letter dtd.10.10.2016 first time claimed refund of tariff difference and that too from the December 2008 i.e. of near about 8 years period. Then as per the application of consumer we revised the bills only of last two years prior to the effect given as continuous to non-continuous i.e. for period sep.2014 to

August 2016 and credit of Rs.948541/- is given to consumer. And refund for the balance earlier period is rejected as time barred. Then the consumer filed the grievance before the IGRC,Vashi Circle on dtd. 05.10.2018 for refund of tariff difference amount form the December 2008 to August 2014. After the hearing the IGRC dismissed the case.

The consumers vide its letter dtd. 10.10.2016 first time claimed refund of tariff difference and that too from the December 2008 i.e. of near about 8 years period. The cause of action for this grievance of refund is araised in December 2008 and this consumer is filing this grievance before this Forum. That means this consumer has filed this grievance near about after 10 years from the date of cause of action araised. Our submission is that there will be no relief, if you sleep over your rights' on this principle alone this grievance is liable to be rejected.

It is most respectfully submitted that the consumer has not followed the procedure by filing the grievance within 2 years from the date on which the cause of action has arisen. As per regulation,6.6 of MERC Regulation 2006, the Forum shall not admit any grievance unless.

It was brought to the notice of the utility regarding matter of petition of seafood exports association of India regarding wrong full tariff categorization by MSEDCL in case No.42/2015 point raised by SEAIO in the matter to Honb'le Commission in order to convince the Hon'ble commission that SEAIO members is not necessary of manufacturing activities and hence the need to be categories under HT I industrial category in light of the observation of Hon'ble Commission itself rule that sea foods activities food attract relevant HT or LT industrial tariff and therefore this tariff was change to HT industrial.

We have gone through the pleadings of both sides and heard both side at length. We also gone through the provision of law and case law cited by both sides, it appears that the MERC Rules and provision of APMC Act, If it collectively read then it will not attract the connection of consumer is to be treated as agricultural one. The utility has clearly shown that the Act performed by the consumer regarding provision of cold storage cannot be treated as the agricultural act but it is industrial Act and purpose.

Therefore it is cleared from the evidence of record that the connection given to the consumer is industrial-one. Hence the claim or prayer made by applicant that their electricity connection be treated as Agriculture one is not sustainable. Hence we pass the following order.

ORDER

This application is hereby dismissed.

No order as to the cost.

I Agree/Disagree

I Agree/Disagree

**MRS. SHARMILA RANADE,
MEMBER
CGRF, BHANDUP**

**Dr. SANTOSHKUMAR JAISWAL
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

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,

Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051"

- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non- compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission (consumer Redressed Forum and 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.