

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., Bhandup Urban Zone, Bhandup**

Case No. 295/2019

Date of Grievance: 30.03.2019

Date of Hearing : 9.04.2019

Date of Order: **EE/CGRF/BUZ/512dtd.10.12.2019**

In the matter of billing

M/s Sanchita Frozen Foods Pvt Ltd
Plot No M-7A, MIDC Industrial Area
Taloja Dist Raigad
PinCode -410208
(Consumer No. 028619029360)

VS

The Executive Engineer, ----- Respondent
M.S.E.D.C.Ltd.,
Vashi Circle,
Vashi.

Quorum:

1. Dr. Santoshkumar Jaiswal, Chairman.
2. Shri. Mr. Ravindra Avhad, Member Secretary.
3. Mrs. Sharmila Ranade, Member.

Present during the hearing:-

A] - On behalf of Appellant

Mr. Vijay Raut- Consumer Representative

B] - On behalf of Respondent

Mr. D.B.Pawar, Executive Engineer, Vashi Circle.

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'.

2. The applicant says that, HT V (B): HT agriculture – others tariff applied to his cold storage after due inspection of his cold storage done by MSEDCL and signing of the Agreement on 28.08.2018. His grievance against abrupt change of tariff from HT V (B) Agriculture others to HT- Industry made by SE Vashi without prior intimation. He had received the energy bill for the month of October 2018 as per the industrial tariff which he had paid full payment. He has now once again received the energy bill for the month of November 2018 as per the Industrial tariff. The payment for this bill will be made as per the Agriculture Tariff.
3. The Respondent submits that, the HT installations in r/o M/s Sanchita Frozen Foods Pvt. Ltd. is categorized under HT Industrial tariff category, since its date of application. i.e 29.05.2018(Exhibit A)

Consumer vide its application dated 29.05.2018 applied utility for revision of tariff from HT-I- Industrial to HT-Agricultural (Others) Claiming to have Cold Storage unit storing agricultural produce.

Based on consumer's application and on submission of subsequent undertaking that consumer would carry activity of storing agriculture produce, Consumers tariff was revised from HT-Industrial to HT-Agricultural Others.

It was later came to notice of this office regarding matter of Petition of Seafood Exporters Association of India (SEAOI) before MERC regarding wrongful Tariff categorization by MSEDCL. (Case no 42 of 2015) Points raised by SEAOI in the matter to Argue before Hon Commission in order to convince Hon Commission that SEAOI members are necessarily in manufacturing activity and hence need to be categorized under HT-I (Industrial) category are as below.

- a) In para 3 of said application Association states that
 - Most factories of Members of the petitioner association are admittedly situated in an Industrial area, namely the MIDC industrial area at Taloja which are in fact notified industrial premises. The term 'Industrial Area' is defined under Maharashtra Industrial Development Act, 1961 as under :-

- “2(g) “Industrial Area” means any area declared to be an Industrial area by state government by notification in the Official Gazette. Which is to be developed and where industries are to be accommodated’.

The aspect of the SEAOI.s members being allocated and function from Industrial plots by setting up their manufacturing units is admittedly known to MSEDCL.

- MSEDCL has ignored the fact that the Petitioner’s Members are taking 3- phase electricity supply at high voltage for industrial purpose. This aspect is has not been disputed by the Respondent. The activities undertaken by them at their Units in the Industrial Areas involve various machines and include various processes like thawing, washing, blanching, cooking, marinating, flash frying, manufacturing ice for cooling, retorting, drying, cold storage, incubations and testing. The processes set out in the Flow Chart annexed to the Petition clearly indicate the industrial activity carried out at the plants. The list of machinery used in the process is also vital and are not disputed by MSEDCL.

b) SEAOI and its members are functioning in industrial premises and carrying out industrial activity in their factory premises wherein the raw material is fish.

c) An industry which uses Fish as Raw material and subjects the fish to various processes and utilizes different machines for that activity cannot by any stretch of imagination be considered as being “Fisheries”.

The para 5 of said application states that

- Seafood manufacturing units cannot be categorized under the HT-II Commercial category on any ground because such units undertake various processing and manufacturing activities, Seafood products Units are not engaged in any rearing and breeding activities.
- However there is big difference between the raw material i.e Fish and the final products, i.e edible and cookable fish / seafood products. The raw fish in the latter case goes through various industrial and engineering processes.

Owing to submission of Seafood manufacturing units, Hon MERC upheld the say of SEAIOI and ruled in favor of SEAIOI, re-categorizing them as Industrial. In light of this information where Hon. Commission itself ruled that seafood processing activities would attract relevant HT or LT industrial tariff, the tariff of consumer M/s Sanchita Frozen Foods Pvt. Ltd. was changed to HT-Industrial.

We have gone through the contents of the application and reply filed by respondent dated 30.4.2019. It is appeared that the applicant was ready allotted with the electricity connection tariff of Industrial. However, the respondent have convert their category to HT Agriculture others. The consumer have given application dated 29.5.2018 to the utility for revision of tariff from HT -I Industrial to HT Agriculture other claiming to have cold storage unit storing agricultural produce on the basis of this application. The utility has changed the tariff from HT Industrial to HT Agricultural others.

It was observed by the utility that in the petition of sea foods association of India (CIOE,SEAIOI) before the MERC regarding wrongful tariff categorization by MSEDCL case No. 43/15. And therefore it was fixed to HT -I industrial category. It was observed by the MERC that the activity under taken by them at their units in the indusial area and various machine and include various processes.

MSEDCL has ignored the fact that the Petitioner's Members are taking 3- phase electricity supply at high voltage for industrial purpose. This aspect is has not been disputed by the Respondent. The activities undertaken by them at their Units in the Industrial Areas involve various machines and include various processes like thawing, washing, blanching, cooking, marinating, flash frying, manufacturing ice for cooling, retorting, drying, cold storage, incubations and testing. The processes set out in the Flow Chart annexed to the Petition clearly indicate the industrial activity carried out at the plants. The list of machinery used in the process is also vital and are not disputed by MSEDCL.

4. The process set out in the flow of chart carry out the industrial activity in their factory. We have to see the definition of agricultural produce, industrial area,

meaning of fisheries and the term agricultural produce mentioning the Maharashtra Agriculture Produce Marketing Act 1963. It is also observed by the CE (Commercial) in his letter No dated 8.04.19. The tariff as per HT -V (B) agricultural others tariff category to cold storage with no processing cold storage with processing are not in the line with MERC tariff order and to be denied. It is cleared that the rule made by MERC are binding on this Forum. Therefore when it was declared by the MERC that cold storage is not covered under HT agricultural (other) tariff, therefore this Forum is not inclined to grant relief of HT agricultural tariff.

Hence, we proceed to 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**

**MR. 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.