

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

" Vidyut Bhavan" Ratanlal Plot ,Akola. Tel No 0724.2434475

ORDER.

Complaint No. :- 35/ 2017

In the matter of grievance pertaining to revision of energy bill and refund of difference amount due to tariff difference with interest, with refund of wrongly charged Electricity duty with interest.

Quorum

Dr.V.N.Bapat- Chairman
Shri.D.M.Deshpande, Member(CPO)
Shri. R.A.Ramteke, Member – Secretary

Gurukrupa Digital Lab, :- Complainant
Patil Market, Mahasul Market, Akola.
Consumer No-310078005539

....Vrs.....

Ex. Engineer MSEDCL :- Respondent.
O.&M. ,Akola (Urban) Division,Akola.

Appearances: -

Complainant Representative :- Shri.Ashish Chandarana.

Respondent Represent :- Shri. W.N.Likhare, Assistant Engineer with
Shri N.B.Karpate, Dy. Manager
Urban Division, MSEDCL Akola.



1 On being aggrieved by the decision of IGRC Akola issued vide order No 4728 dated 16/11/2017, the complainant m/s Gurukrupa Digital lab of Patil Market Akola, approached this Forum with grievance under regulation 6.4 of MERC (CGRF and ombudsman) Regulation 2006 for resolving it.

2 Complainant's Case in brief is that, the Complainant is industrial consumer of N.A. MSEDCL from 15/11/2005. According to complainant some time in past, Flying squad of MSEDCL booked complainant in section 126 of EA 2003 and issued commercial tariff bill which was, subsequently quashed and set aside by Superintending Engineer, Electrical, Nagpur and industrial tariff was restored by passing Final order. According to Complainant N.A.MSEDCL repeated the act of change of tariff from Industrial to Commercial, despite S.E. electrical order arbitrarily without support of regulatory order and without giving any reason, from Sept 2016. According to complainant though grievance is resolved by IGRC Akola on 16/11/2017 in respect of payment of tariff difference with subsidy and refund of electricity duty, N.A.MSEDCL have not passed on credit to complainant in bill, till filing complaint with Forum . According to complainant N.A. MSEDCL failed to bring on record before IGRC, the reason for arbitrary change of tariff by N.A.MSEDCL from Sept 2016, thereby finding adverse comment by IGRC in their order. According to complainant IGRC Akola have not resolved the grievance about interest on tariff difference and electricity duty payable as per section 62(6) of E.A. 2003. Complainant annexed with complaint IGRC order dated 16/11/2017, energy bill for Sept 2016, DIC certificate dated 2005, and energy bills from Sept 17 to Nov 17. Complainant prays for refund of tariff difference with interest from Sept 2016, refund of Electricity duty from date of connection with interest and requested to initiate departmental enquiry against guilty officers / employees of

MSEDCL, for public loss of revenue payable in the form of interest to complainant and claimed cost of Rs 10,000./-

3 Reply came to be filed by N.A. MSEDCL on 06/01/2018 on issue of 15 days notice by the Forum, N.A.MSEDCL in their reply accepted facts about case under 126 and its restoration by SE Electrical Nagpur. According to N.A.MSEDCL said connection is in the name of Sachin Rameshrao Kale and same consumer has taken two electric connections in the same premises for different purposes of industrial and commercial, having Consumer No. 310078005539 and 310078721706 and admitted to have changed commercial tariff to industrial as per IGRC order on record. As per IGRC order industrial tariff is made applicable from Oct 2017 to Consumer No. 310078005539 and bill revision for amount Rs 332519.64 for tariff difference from Sept 2016 to Sept 2017 will be credited in forthcoming bill as reproduced by N.A.MSEDCL in their reply. According to N.A bill revision for Rs 125855.95 towards difference of E.D. payable to complainant for the period Feb 2009 to Sept 2017 is under process for approval of Competent Authority. According to N.A.MSEDCL, IGRC order dated 16/11/2017 is complied and hence prayed to reject the claim for interest and cost. MSEDCL annexed Bill revision for Rs. 332519.6/- and bill for Oct 17 with reply.

4 Shri. Ashish Chandarana learned representative for Complainant and shri. Likhare A.E. with shri. Karpate, Dy. Manager, learned representative for respondent MSEDCL, were present for the hearing held on 16/01/2017. Complainant's representative urged that IGRC order dated 16/11/2017 has not been complied by MSEDCL and specifically brought to the notice of Forum the adverse comment by IGRC "MSEDC representative could not brought on record the reason for arbitrarily change of tariff from Sept 2016 to commercial" and stressed that mere issuing the order for resolving the grievance is not expected from IGRC but there is duty cast on IGRC by law to solve the grievance and hence Nodal officer of IGRC should appear before CGRF and defend the complaint on behalf of MSEDCL. Mr. Ashish Chandarana urged that IGRC Akola have failed in their duty in the present complaint. Mr. Ashish Chandarana brought to the notice of Forum that N.A.MSEDCL in their reply, enclosed copy of

bill revision for tariff difference Rs.332519.95 and admitted claim for E.D Rs 457375.23 processed to authority but not credited to the account of complainant. Mr. Ashish Chandarana brought to the notice of Forum that, IGRC Akola have not dealt the grievance of interest payable on amount of tariff difference and Electricity duty and referred section 62(6) of EA 2003 and pressed for interest on excess amount recovered by N.A.MSEDCL at the rate of interest payable on security deposit by N.A.MSEDCL. Mr. Ashish Chandarana further brought to the notice of Forum that claim towards Electricity duty admitted by N.A.MSEDCL as per letter filed on record A.EE/Akola/2650 dt. 14/12/2017 for Rs 457375.23/- for the period Feb 2009 to Sept.- 17 is not as per Government notification and ordered by IGRC and requested Forum to admit the claim towards refund of Electricity duty with interest from date of connection ie 15/11/2005, Mr. Ashish Chandarana filed on record in support of his claim for interest at Prime lending rate of State Bank of India adopted by N.A.MSEDCL for payment of interest on S.D, the copy of common order passed by Hon Ombudsmen Nagpur in representation No. 55 of 2013, and order passed by APTEL in Appeal No 47 of 2011 and 1 A No 73 of 2011. Lastly Mr. Ashish Chandarana stressed for ordering departmental enquiry towards loss of revenue to N.A.MSEDCL by way of payment of interest to complainant and its recovery from guilty officers of MSEDCL as per principle laid down by Hon. Supreme court in the matter of Lucknow development authority Vs M.K.Gupta.

5 Mr. Karpate Dy. Manager and learned representative for N.A.MSEDCL admitted to have processed the bill revision towards tariff difference amounting Rs 332519.95/- and submitted before Forum to credit it in the CPL of complainant in the bill for JAN 2018 to be issued in Feb 2018 alongwith interest at the rate applicable for S.D. Mr. Karpate Dy.Manager admitted the claim for refund of Electricity duty recovered wrongly against Government notification with correction in bill for revision towards E.D. from date of connection 15/11/2005 with interest at bank lending rate and confirmed its credit to the account of complainant in the bill for month of JAN 2018 to be issued in Feb 2018. Learned representative for N.A.MSEDCL remain silent on the issue of prayer by

complainant for departmentally enquiry and recovery of loss of revenue from guilty officers/employees.

6 Having heard the parties and after considering material placed on record the Forum is of the view that -----

- i) The grievance towards refund of tariff difference is not disputed by N.A.MSEDCL, so also the interest at bank lending rate, so the amount payable to complainant be adjusted in forthcoming bill payable by complainant as admitted by N.A.MSEDCL.
- ii) The grievance towards refund of Electricity duty as calculated by N.A.MSEDCL and brought on record is incorrect and N.A.MSEDCL should revise refund of Electricity duty from date of connection ie 15/11/2005 and refund the amount with interest at the rate payable on security deposit in the forthcoming bill.
- iii) Forum found considerable substance in the submission of complaint about admissibility of interest as per bank lending rate as held by Hon'ble APTEL and Hon'ble Ombudsman.
- iv) There is substance in the plea of complainant as brought out during hearing that Nodal officer of IGRC should ensure compliance of their own decisions in case of any complaint which is addressed by IGRC. Non compliance of their own decisions should not become a cause for appeal before CGRF.
- v) Forum is of the opinion that the representative of N.A.MSEDCL pleading before CGRF is often ill- informed about the facts and figures in the case. Hence N.A. should always ensure that representative is made well aware of all the facts and figures of the matter pertaining to the case that he is pleading before the Forum.
- vi) N.A.MSEDCL remain silent on the prayer of complainant about departmental enquiry and recovery of loss of revenue from guilty officer but Forum finds considerable substance in the plea taken by complainant that it is negligence on the part of officers/ employees of the MSEDCL, responsible for payment of interest thereby putting loss of revenue to the MSEDCL and public money. Forum is of the view that

departmental enquiry should be conducted by the Competent Authority of MSEDCL for arbitrary change of tariff without reason from Sept 2016 and wrongful recovery of Electricity duty despite Government notification and MSEDCL circulars and recover the loss of revenue from guilty officers/ employees of MSEDCL as per principle laid down in the matter of Lucknow development authority VS M.K.Gupta in 1994 SCC (i) 243 decided by Hon. Supreme Court of India.

- vii) No order as to the cost as not stressed and brought out by the complainant in the proceeding as to why the cost is justified.

With these observations Forum proceeds to pass following unanimous order.

ORDER

- 1) That Complaint No 35/2017 is hereby partly allowed.
- 2) The N.A.MSEDCL is directed to refund excess recovered amount due to change in tariff from industrial to commercial with interest at bank lending rate applicable for security deposit from Sept 2016 to Sept 2017 and adjust the amount in forthcoming bill payable by the Complainant.
- 3) The N.A.MSEDCL is directed to refund the excess recovered amount in contravention to Government Notification towards Electricity duty with interest at bank lending rate applicable for security deposit for the period 15/11/2005 (Date of connection) to Sept 2017 and adjust the amount in forthcoming bill payable by the complainant.
- 4) No order as to the cost.
- 5) The N.A.MSEDCL is directed to recover the loss of revenue to N.A.MSEDCL on payment of interest from guilty officers/employees of N.A.MSEDCL, after due enquiry as per principle laid down in Lucknow development authority Vs M.K.Gupta in 1994 SCC (i)243 decided by Hon'ble Supreme Court of India.

- 6) The N.A.MSEDCL is directed to submit compliance report to the Forum within one month of issue of this order.

Sd/-
Member/Secretary

Sd/-
Member (CPO)

Sd/-
Chairman

Contact details of Electricity Ombudsman appointed by MERC (CGRF&EO) Regulations 2006 under Regulation 10:

THE ELECTRICITY OMBUDSMAN,
Office of Electricity Ombudsman (Nagpur)
Plot No.12, Shrikrupa, Vijaynagar, Chhaoni,
Nagpur-440 013. Phone:- 0712-2596670

No. CGRF / AKZ/ Akola/183

Dt. 24.01.2018

To,
The Nodal Officer,
The Executive Engineer MSEDCL,
O&M Division, Akola Urban.

The order passed on 24.01.2018 in the Complaint No. 35/2017 is enclosed herewith for further compliance and necessary action.


Secretary,

Consumer Grievance Redressal Forum,
MSEDCL, Akola Zone, Akola.

s/c

Copy fwcs to:-

- 1 The Superintending Engineer, MSEDCL, O&M Circle, Akola
- 2 Gurukrupa Digital Lab, Patil Market, Mahasul Market, Akola. Consumer No-310078005539