



Consumer Grievance Redressal Forum, Kalyan Zone  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
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**NO. K/E/1624/1963 OF 2019-20**

Date of registration : 16/10/2019

Date of order : 02/12/2019

Total days : 47

**IN THE MATTER OF GRIEVANCE NO. K/E/1624/1963 OF 2019-20 OF Mr.DEEPAK PANDURANG TELWANE, SPECTRUM HOSPITAL, 2ND FLOOR, PRADHAN BUILDING, GURMIT TOWER, NEAR GANPATI CHOWK, AGRA ROAD, TISGAON, KALYAN, MAHARASHTRA, PIN CODE – 421 301 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT CHANGE OF TARIFF.**

Mr.Deepak Pandurang Telwane,  
Spectrum Hospital, 2nd Floor,  
Pradhan Building, Gurmit Tower,  
Near Ganpati Chowk, Agra Road,  
Tisgaon, Kalyan, Maharashtra,  
Pin Code – 421 301

(Consumer No.020020507790 LT-II Comm.) . . . (Hereinafter referred as Consumer)  
V/s.

Maharashtra State Electricity Distribution  
Company Limited

Through it's Nodal Officer/Addl.EE.

Kalyan Circle-I, Kalyan . . . (Hereinafter referred as Licensee)

Appearance : For Licensee - Shri.P.L.Kohale, AEE, Kalyan (W) S/dn.-III

For Consumer - Shri.PranabShende(C.R.)

[Coram- Shri.A.P.Bhavthankar -Chairperson, Shri.A.P.Deshmukh-Member Secretary  
Mrs.S.A.Jamdar- Member (CPO)].

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'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005]. Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation

has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

2) Consumer complaint no. 1963 of 2019, Shri.Deepak Pandurang Telwane for Spectrum Hospital, 2nd Floor, Pradhan Building, Gurmit Tower, Near Ganapati Chowk, Agra Road, Tisgaon, Kalyan, Consumer no. 020020507790/PC-5, BU No.4751, Connecting load 12.0 KW, date of connection 15 Mar 1994, Category LT-II Commercial V/s MSEDCL, Addl. Executive Engineer, Kalyan S/dn.-I. Dispute about change of tariff category from LT II commercial to LT X-B Public Services. Since the date of connection 15 Mar 1994 the above Name Consumer using the supply for his hospital, name and style as 'Spectrum Hospital'. Consumer was paying the bill, which was previously Categorized under LT II commercial till Mar-19. Consumer made Application to Addl. Executive Engineer, informing that change the billing category, which is applicable tariff to this consumer running as hospital dispensary clinic primary Health Centre and Diagnostic Centre Pathology. According to consumer, Utility charged commercial tariff to the consumer since date of Connection in view of circular no.311, Dtd.Oct-2018. Consumer submitted that he is running Hospital, Diagnostic Centre, Clinical Pathology Lab, named as Spectrum hospital, Gurmit tower near Ganapati chowk. According to Consumer proper category applicable i.e. LT X-B LT Public service category should have been applied. Therefore consumer raised the grievance to categorized the supply to the premises due to use of supply for Hospital and Laboratory Clinic Diagnosis Centre. Consumer also pray for, tariff difference excess recovered since 2012. Initially Consumer made application to Addl. Executive Engineer on 23/01/2019. Consumer attached Copy of Authorization, Copy of bill, Copy of MERC Regulation and Condition, Tariff Regulation 2005, MERC Tariff order 2015-2016, Various decision of Supreme court, Bombay high Court and Hon'ble Ombudsman. Consumer also relied on Circular 175,243,275 and claimed refund. Consumer also rely order of MERC in case no.82 of 2006. After filing the said application consumer in form no. X made Application to IGRC on Dt. 01/06/2018. All Set of documents also been enclosed including copy of registration at kalyan-Dombivali Municipal corporation, date of Registration 02/05/2013 date of certificate issued on 28/10/2016 and claimed the relief. After filing the said dispute, IGRC Registered the case Vide case no. 00920. IGRC issued notice to Respondent Utility on 4 April-2019. IGRC passed order partly in favour of consumer and changed the tariff supply categorization from LT II Commercial to LT X-B public services. The effect is given from date of application. However IGRC refused the claim of Refund on the ground that, the Claim of refund is beyond the period of two years.

Being aggravated by the order of IGRC, present consumer approached to the forum and filed his complaint in form no. 'A' on dtd.23/01/2019. After filing the said complaint, office issued notice to the Respondent Utility on 18/10/2019 and directed Respondent Utility to file reply on or before 04/11/2019. Respondent Utility appeared and filed reply on 02/11/2019. Respondent Utility Submitted that, supply is given to the consumer vide consumer number 020020507790 and the consumer was charged as per LT II commercial. Consumer made application on 24/01/2019 to the office as his supply is being used for medical purpose. In the month of Jan-2019 application is

made, however consumer claimed tariff difference refund from Mar-2012. The Categorization is done from Mar-2019 i.e. next billing cycle from the date of application. Respondent Utility Submitted that, the refund claim Aug-2012 to Feb-2019 is beyond period of 2 years and no spot verification and Inspection Report available. Utility submitted that, the registration Certificate issued on 28/10/2016 therefore refund was not allowed.

Respondent Utility filed copy of bill showing change of category from LT II Commercial to LT- X-B and copy of CPL along with the reply.

We have perused document filed by consumer and also documents filed by utility carefully. Copy of IGRC order is also filed on record we have minutely gone through reasoning and order given by IGRC.

Following point arose for our consideration to which we have recorded findings to the points for the reason given below :

**Points :**

- 1) Whether Consumer is entitled for change of category of supply from LT II Commercial to LT X-B public services, if yes, since what period?
- 2) Whether consumer is entitled for refund of tariff difference with interest.
- 3) What order?

**Reasoning :**

We have given Opportunity to Consumer and his Representative Shri. Pranav Shende. consumer was also present. We have also given opportunity to Respondent Utility and Representative appeared. It appears from the Dispute that the consumer is using the supply since 15 Mar 1994 the Said Supply name shown of Dr. Deepak Pandurang Telwane (Spectrum Hospital) However earlier category was changed and charged and recovery of commercial tariff was applicable since 15 Mar-1994 to Mar-2019. consumer made application first time in the month of Jan-2019. The action was taken by Respondent Utility and tariff was changed in the Mar-2019 and categorization was already made. As, the supply being used for public services use for Hospital Diagnostic Centre and Pathology Laboratory, the Certificate issued by Kalyan-Dombivali Municipal Corporation on 28/10/2016. The date of registration shown as per the certificate is 02/05/2013. It is obviously seen that the premises is used for Public Services Hospital, Diagnosis Centre and pathology lab. There is sufficient documentary evidence filed by consumer, which is already considered by utility for the purpose of change of categorization.

It is also seen from the earlier bills before Mar-2019 that, the recovery was made as per commercial tariff. Reason given by IGRC for disallow the claim from 2012 to Feb-2019 refund as claimed by the consumer is, there is no spot inspection report available for the claimed period. According to utility, no spot inspection report or document was produced by the consumer. But the supply being used as per the certificate produced by consumer, date of issuing certificate 28/10/2016. Therefore the refund should have been given by IGRC for difference of tariff which was excess claimed from consumer and already paid by consumer. The rejection of claim on the

ground of limitation is improper and illegal. Therefore the reason given by IGRC is not legal and proper hence the order of IGRC stands set aside.

We have perused the document produced by the Consumer, includes Registration Certificate, qualification and Registration Certificate of Maharashtra Medical Council and Kalyan-Dombivali Municipal Corporation Certificate of Registration of Nursing Home. In view of this, contention raised by Utility that, no spot Inspection and evidence was available does not sustain. In view of the judgment given by Hon'ble Ombudsman in case no. 138 of 2019 Dr. Arhis Shedbale, Samarth Netralay V/s MSEDCL, Panvel order dtd. 19/08/2019, the refund given by Hon'ble Ombudsman in his order is two years prior to date of application. Similarly the view is applicable in the present case as the same fact and circumstances available in dispute before us. Hence the date of application and raised grievance is on 24 Jan-2019. Therefore consumer entitled for refund restricted to 2 years period prior to the date of application. Therefore we are inclined to allowed the claim of consumer. The difference of categorization tariff excess paid by the consumer shall be adjusted in future bills also the amount the calculated to be shown separately. The consumer may not be liable to receive the interest on tariff difference refund amount. In this circumstances we are inclined to allow the complaint of consumer and proceed to pass following order.

Hence the Order

### ORDER

- 1) Consumer Complaint no.1963 is allowed.
- 2) The consumer entitled to change of tariff from LT Commercial II LT X-B Public Services deemed to effect 24 months prior to date of application.
- 3) Consumer also entitled to refund of Tariff difference amount which can be adjusted in future bills.
- 4) Consumer did not entitle to any Interest.
- 5) Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Date: 02/12/2019

Sd/-  
(Mrs.S.A.Jamdar)  
Member  
CGRF, Kalyan

Sd/-  
(A.P.Bhavthankar)  
Chairperson  
CGRF, Kalyan

Sd/-  
(A.P.Deshmukh)  
Member Secretary  
CGRF, Kalyan

**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,606/608, KeshavBldg, BandraKurla Complex,Mumbai 51”.

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or

- c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & 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.