

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

Case No. 12/2019

Date of Grievance: 28.05.2019

Date of Hearing : 16.07.2019

Date of Order: **EE/CGRF/BUZ/489dtd.30.11.19**

In the matter of refund of tariff difference amount with interest

M/s. Bhaskar EYE & Lens Implant Clinic,
Dr. Dilip Gaitonde,
2nd floor, Pradhan Building,
Mango stationary Shop, Next to sweet corner,
Gokhale Road, Thane- 400602.
(Consumer No.0000170447884)

VS

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

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. Pranab Shende- Consumer Representative

B] - On behalf of Respondent

Mr. Umesh Lele, Addl. Executive Engineer, Power
House Shil Sub Division

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. This application is filed by the consumer for grievances against the Respondent company MSEDCL to correct the tariff and category and refund of the amount. Petitioner/Applicant is a LT Consumer of MSEDCL having Consumer No. 000017047884, BU; 4727 Power House S/Dn , Sanction Load is 10 KW, Connected load (KW)10 KW,

Applicant is providing health care facilities and has secured the power supply from MSEDCL for the purpose of providing health care facilities. The power supply is connected on 08.04.2009 and since then the Applicant is receiving regular energy bills without any error in meter or any complaint from the representatives of the respondent company (MSEDCL), who use to visit, inspect and record the reading of the energy consumption of the electricity, for raising energy bills and the Applicant were paying towards the energy bills raised by the respondent company (MSEDCL) from time to time without any default.

The Tariff is made applicable as per Tariff order issued by the commission from time to time. As per section 62(3) Electricity Act, 2003, tariff is based on purpose of use. Section 2(15) of the electricity act provides that the consumer means any person who is supplied with electricity for his own use. Similarly section 43 of the act also provides that distribution licensee shall give supply to the occupier of the premises, Dr. Dilip Gaitonde is operating M/s. Bhaskar EYE and Lens Implant Clinic, is thus the end user of electricity supplied by MSEDCL.

Therefore applicant claims that the Respondent be directed to change the tariff according to MERC orders which is applicable from 1st of June 2015. There the billing cycle of a consumer is different with respect to the date of applicability of revise tariffs, they should be made applicable for the consumption on a pro rata basis. The bills for the respective periods as per existing and revised Tariffs shall be calculate on the pro rata consumption (Units consumed during respective period arrived at on the basis of average unit consumption per day multiplied by number of days in respective period falling under the billing cycle).

In this application applicant prayed for redressal of the grievances in respect to the non compliance of the tariff order issued by the commission for health care services and its refund for 24 months which is eligible and entitle to the consumer along with interest and cost.

3. The Respondent appeared and filed their point wise reply that the consumer is billed in LTII tariff and the supply date 08.04.2009. As per commercial circular no. 175 dtd. 16.08.2012, the new tariff category LT-X for public services is come into force. The said tariff category is applicable for providing health care facilities for public services. Now, they said consumer has applied for change in category from LT-II to LT-X, vide their application in month May 2018. After receipt of the inspection report for confirmation of activities the tariff is changed to LT X (B) with effect from August 2018 onwards for all months till.

It is further say that after verification of the activities, suitable change of tariff is applied from the date of application and as the activities prior to the application can't be ascertained, as 6.6 regulation the Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen the consumers prayed for refund by considering retrospective effect may be disallowed.

We have gone through the contents of the grievance application and also gone through the point wise reply submitted by the Respondent. It appears admittedly that there is commercial circular no 243 of MSEDCL that as per MERC tariff order dated 26.06.2015 in the case no 121 of 2014 that the date of revised tariff is applicable from 1st June 2015 and will continue till further orders. In this circular serial No.3 the separate category for Gov. school and hospitals are come under LT X (A) and private and other category LT X(B) is made for other public services the applicability for this tariff shall be applicable to educational institutions such as schools and colleges, and Hospitals, Dispensaries, primary Health Care Centers and Pathology Laboratories and Libraries and Public reading rooms other than those of State or Central Government, Municipal Bodies, Zilla Parishads, Panchayat Samities or Gram Panchyat; all offices of Government/Municipal Bodies, Local Authority, local self Government, Zilla Parishad, and Gram Panchayat; Police Stations, Police Chowkies, Post offices, Defence establishments (army, navy and air-force),Spiritual Organizations which are service oriented,

Railway/Monorail/Metro except traction, State transport establishments,; and State Transport Workshops, Transport Workshops operated by Local Authority, Fire Services Stations, Jails, Prisons, Courts, Airports (only activity related to aeronautical operations), Ports, Sports Club/Health Club/Gymnasium/Swimming Pool attached to the Educational Institution Hospital provided said Sports Club/Health Club/Gymnasium/Swimming Pool is situated in the same premises and is primary meant for the students/faculty/employees/patients of such educational Institutions and Hospitals.

For the implementation of this circular as per serial no 4 the field officers are directed to ensure that where ever the tariff category is redefined or newly created by the commission, the existing / prospective consumer should be properly categorized by the actual field inspection immediately and the data to be immediately update in the IT data base.

All the field officer shall sensitize staff about various aspect of the tariff order and give proper guidance to all the officers and the staff members working under them. These are only important guidelines and for the actual implementation, the filed officers are requested to refer the detail order of MERC of 26.06.2015 in case of 121/2014.

4. We have gone through the application filed by the consumer regarding grievances and also gone through the point wise reply of the Respondent. It appears admittedly that the connection of the electric supply of the consumer is covered under the Hospital Dispensary that is in the category of LT X (B) and therefore they are entitled for the said tariff from 1st June 2015. Now, as per Indian Electricity Act 2003 the limitation for recovery is given only for 24 months. The CGRF is bound to give the refund prior to 24 months of filing of case before CGRF. If we considered the MERC order which has given the conservation of tariff to the field officer by sensitizing the staff appears to be the different from case to case. Therefore, at this juncture we have to see that the right of consumer is protected regarding refund is for June 2016 onwards for all months. Hence, we found that the application made by the consumer regarding change of tariff which is already done by the Respondent to the consumer i.e. LTX (B). Now, question remains to decide is only about refund to be given

Therefore, the applicant consumer is entitled for May 2016 onwards for all months till difference in the tariff as per LT X (B) excluding the period from

the month when this tariff was changed by the Respondent from the date filing of this application before CGRF. As this amount of refund is out of the balance amount due to change of tariff therefore there is no need to grant interest in the result, the representation is hereby partly allowed.

Hence, we proceed to pass the following order:

ORDER

1. This application here by partly allowed.
2. The applicant is entitled for the refund from June 2017 onwards for all months till months prior to the date of filing this application to CGRF i.e. 28.05.2019. The period of getting tariff benefit from LT II to LT X (B) from date of conversion of tariff LT X (B) should be considered
3. The Respondent MSEDCL shall do needful to adjust the refund amount in the future bills.
4. No order as to the cost.
5. The Licensee is directed to report the compliance within one month from the date of this order.

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.

