

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission
under Section 42(6) of the Electricity Act, 2003)

REPRESENTATION NO. 29 OF 2022

In the matter of change in tariff category and retrospective recovery

Kisan Biotech..... Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Baramati (MSEDCL). Respondent

Appearances:

Appellant : V.G. Jadhav, Representative

Respondent: 1. Ganesh Latpate, Executive Engineer, Baramati
2. Raghunath Gophane, Dy. Executive Engineer, Indapur

Coram: Vandana Krishna (Retd. IAS)

Date of hearing : 7th June 2022

Date of Order : 23rd June 2022

ORDER

The Representation is filed on 4th March 2022 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 4th January 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL, Baramati Zone (the Forum). The Appellant deposited Rs. 25,000/- in terms of Regulation 19.21(h) on 11.03.2022, hence, this Representation is registered on 11.03.2022.




(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



2. The Forum, by its Order dated 04.01.2022, has partly allowed the grievance application in Case No. 04/2021. The order is issued in Marathi Language giving direction that the previous supplementary bill issued by the Respondent be treated as cancelled. The Complainant to be billed under “Agricultural and Others” Tariff Category with average consumption pattern for the period from January 2019 to December 2020. The revised supplementary bill be paid by the Complainant within 30 days or otherwise the Respondent has liberty to act as per Regulations in force.

3. The Appellant filed this instant Representation against the said Forum’s order. The Appellant was heard on 07.06.2022 through Video Conference. Its submission and argument in brief are as below: -

- i. The Appellant is an Agricultural consumer (No. 179021883221) from 05.05.2005 having sanctioned load (SL) of 45 HP and Contract Demand of 42 KVA at post Galandwadi, Pune Solapur Road, opposite to Dr. Kadam Gurukul, Taluka Indapur. The Appellant is in production of Banana Plantation through Tissue Culture.
- ii. The Flying Squad of the Respondent carried out spot inspection of the site on 01.01.2021. As per inspection report, the Respondent issued supplementary bill of Rs.12,51,722.73 for 2,80,279 Units in the month of January 2021 towards accumulated consumption for the period of September 2016(?) to December 2020.
- iii. After that the Respondent issued supplementary bill of Rs. 9,42,230.19 towards tariff difference from Agricultural tariff to LT – Agriculture – Others Tariff Category for the period from June 2015 to January 2021.
- iv. The Respondent is duty bound to take readings regularly however, the Respondent fail to do so, hence, the Appellant is not responsible for the failure of the basic duty of the Respondent.
- v. The meter was defective as there was no display on the meter, however, the Respondent has billed for unreliable reading.
- vi. Thereafter, the Appellant approached the Forum on 03.08.2021. The Forum, by


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




its Order dated 04.01.2022, has partly allowed the grievance application by directing to be billed under Agricultural and Others Tariff Category with average consumption pattern for the period January 2019 to December 2020.

- vii. The premises of the Appellant was closed during lockdown period from March 2020 to December 2020 due to Covid-19 pandemic. The Forum did not consider this aspect. The average calculated for revision of bill is on higher side and needs to consider practically to decide the grievance.
- viii. The Appellant, by its letter dated 26.11.2021 requested to replace the defective meter.
- ix. In view of the above, the Appellant prays that the Respondent be directed to revise the supplementary bills for 24 months by taking practical approach of average consumption when meter was defective.

4. The Respondent filed its reply dated 19.05.2022. The Respondent was also heard on 07.06.2022 through Video Conference. Its written submission along with its argument in brief is as below: -

A. Preliminary Submission:

- i. The Appellant is a Low-Tension Agricultural Consumer (No. 179021883221) from 05.05.2005 having sanctioned load (SL) of 45 HP and Contract Demand (CD) of 42 KVA at post Galandwadi, Pune Solapur Road, opposite to Dr. Kadam Gurukul, Taluka Indapur. The Appellant is involved in High Tech Agriculture activity and is in the production of Banana Plants through tissue culture.
- ii. The Flying Squad of Baramati of the Respondent has carried out detailed inspection of the Appellant on 01.01.2021. During inspection, it was observed that the reading of the Appellant was 12,02,379 KWh as per MRI Report of the meter. The Appellant is to be billed for accumulated consumption of 2,80,279 Units for Rs. 12,51,722.73 for the period from September 2018 to January 2021.
- iii. The activity of the Appellant is Tissue Culture; however, the Appellant was billed as per Agricultural tariff instead of LT – Agriculture – Others. Hence tariff difference for the period from June 2015 to January 2021 was assessed for Rs. 9,42,230.19.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



B. Submission of the Facts of the Case: -

- iv. The Commission by its order dated 26.06.2015 in Case No. 121 of 2014 has created a new tariff Category for LT Agriculture – Others effective from 01.06.2015. The relevant portion of the said tariff order is quoted as below: -

“LT IV: Agriculture

LT IV (A): LT - Agriculture Un-metered – Pump sets

.....

LT IV (B): LT – Agriculture metered – pump sets.....

.....

LT IV (C): LT – Agriculture – Others


Applicability

This category shall be applicable for use of electricity / power supply at Low / Medium Voltage for:

- i.*
- ii.*
- iii.*
- iv. **High-Tech Agriculture** (i.e., **Tissue Culture**, **Green House**, **Mushroom activities**),
*provided the power supply is exclusively utilized by such Hi-Tech Agriculture consumers for purposes directly concerned with the crop cultivation process, and that the power is not utilized for any engineering or industrial process;.(Emphasis Added)**
- v.*
- vi.*

As per tariff order as referred, the activity of the Appellant is covered under LT IV (C): LT – Agriculture – Others from 01.06.2015.

- v. The Additional Executive Engineer, Flying Squad Unit, Baramati has inspected the premises of the Appellant on 01.01.2021. During inspection, it was found that the Appellant was using its electricity connection for tissue culture activity from the date of commencement. The Appellant was billed under *LT IV (B): LT – Agriculture metered*


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




– *pump sets*, whereas the activity of the Appellant falls under the category of Agriculture-Others tariff framed as per tariff order of the Commission dated 26.06.2015 as stated above.

- vi. The data retrieved from MRI (Meter Reading Instrument) Report that meter reading is 1202389 KWh which is unbilled units or saturated units. Accordingly in the Month of January 2021, the bill was issued to the Appellant as per Agriculture-Others Tariff Category which was towards saturated unbilled 2,80,279 units for Rs.12,51,722.73. The accumulated bill is for the period from September 2018 to January 2021. Thereafter during the billing month of March 2021 tariff difference of Rs. 9,42,230.19 for the period from June 2015 to January 2021 was given to the Appellant.
- vii. The Appellant filed grievance application before the Internal Grievance Redressal Cell (IGRC) on 30.04.2021 for high bill. The IGRC by its order dated 25.06.2021 has rejected the grievance application.
- viii. The Appellant approached the Forum on 03.08.2021. The Forum, by its Order dated 04.01.2022, has partly allowed the grievance and directed that the previous supplementary bill issued by the Respondent be treated cancelled. The Complainant to be billed under Agricultural and Others Tariff Category with average consumption pattern for the period January 2019 to December 2020.
- ix. On 07.04.2021, the meter of the Appellant was tested by the Meter Testing Division, Baramati, it was reported that the display is off due to loose wires of display, but it does not mean that the whole meter was defective. The said meter was replaced on 16.04.2021. On 03.02.2022, the Appellant has been informed that Order of the Forum dated 04.01.2022 is complied, under protest and is reserving its right to sue in the Court of Law.

C. Legal Matrix -

- x. That the Forum erred in allowing the application partially and allowed the Respondent to recover for the period from January 2019 to December 2020 whereas the Respondent is entitled for recovery from the date on which the mistake is identified as per the decision of Hon'ble Supreme Court in Civil Appeal no. 1672 of 2020.
- xi. The Forum, in its impugned Order has not considered the landmark judgment of the


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Hon'ble Supreme Court and has erred in setting aside the entire bill and only allowing the recovery for the period from January 2019 to December 2020.

xii. The Respondent therefore prays that the representation of the Appellant be rejected.

5. Post hearing, it was directed to the Respondent to test the meter in NABL laboratory in the presence of the Appellant. The Respondent by its email dated 20.06.2022 informed that the meter was tested and found in order.


6. As per the direction of the Hon'ble Electricity Ombudsman, the Respondent tested the meter in NABL Testing Laboratory Pune in presence of the Appellant. The meter was found in order. Hence, the Appellant intends to withdraw his grievance and informed this office vide its email dated 22.06.2022. Thus, there is no reason for this grievance to be continued with the Electricity Ombudsman (Mumbai).

Analysis and Ruling

7. Heard the parties and perused the documents on record. The Appellant is LT consumer (No. 179021883221) from 05.05.2005 having SL of 45 HP and CD of 42 KVA for its Tissue Culture Activity. The Flying Squad of Baramati of the Respondent has carried out detailed inspection of the Appellant on 01.01.2021. During inspection, it was observed that the reading of the Appellant was 12,02,379 KWh as per MRI Report of the meter. The Appellant is to be billed for accumulated consumption of 2,80,279 Units for Rs. 12,51,722.73 for the period of September 2018 to January 2021.

8. The activity of the Appellant is Tissue Culture; however, the Appellant was billed as per Agricultural tariff instead of LT – Agriculture – Others. Hence tariff difference for the period from June 2015 to January 2021 was assessed for Rs. 9,42,230.19.

9. However, after hearing, the Appellant vide its letter dated 22.06.2022 stated that the Appellant wishes to withdraw the instant Representation and requested to close the issue. Since the Appellant is withdrawing the instant Representation, no grievance survives further.



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



10. In view of the above, the Representation is taken to be withdrawn without any directions and disposed of accordingly.

11. The Secretariat of this office is directed to refund the amount of Rs. 25000/- to the Respondent.

Sd/-
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

