

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 53 OF 2020

In the matter of billing

M/s. Famous Fashion Pvt. Ltd.....Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Vashi (MSEDCL).....Respondent

Appearances

For Appellant : 1. Tulshiram Mane, Representative
2. G.N. Bansode, Representative

For Respondent : 1. Pranay Chakravorty, I/c Executive Engineer, Vashi
2. P. W. Bhojar, Dy. Executive Engineer
3. G. A. Mali, Asst. Legal Officer


Coram: Deepak Lad

Date of hearing: 27th August 2020

Date of Order : 15th October 2020

ORDER

This Representation is filed on 11th June 2020 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the Order dated 11th February 2020 passed by the Consumer Grievance Redressal Forum, MSEDCL Bhandup Zone (the Forum).



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2. The Forum, by its Order dated 11.02.2020 has dismissed the grievance application in Case No. 31 /2019.

3. Aggrieved by the order of the Forum, the Appellant has filed this representation stating in briefly as under: -


- (i) The Appellant is a 22 KV HT consumer (No.000119023750) from 19.07.1999. At present, its Contract Demand (CD) is 180 KVA and Connected Load (CL) of 250 KW at present at Plot No. C-6/7, TTC MIDC Industrial Area, Pawane, Navi Mumbai.
- (ii) The Appellant purchased the said premises in the year 2016 from M/s. Kamat Printers Pvt. Ltd. No Objection Certificate (NOC) towards transfer and change of activity was obtained from MIDC vide its letter dated 06.09.2016. The Appellant submitted application for change of name of electricity connection on 27.11.2017 to the Respondent.
- (iii) The Appellant informed the Respondent vide its letter dated 18.01.2018 which is acknowledged by the Respondent on 14.02.2018 intimating that the Appellant has started installation of machineries from June 2017 and started sample production from July 2017. The installation work is still in progress and as soon as the installation work is completed the Respondent will be informed accordingly.
- (iv) As per letter of the Appellant dated 18.01.2018, the Executive Engineer, Vashi (EE Vashi) vide its letter dated 14.03.2018 informed the Superintending Engineer Vashi (SE Vashi) that the Appellant has taken over the company formerly known as M/s. Kamat Printers Pvt. Ltd. The inspection of the said premises was already carried out on 17.11.2017 and verified the industrial activity at the above premises. Further, presently major part of electrical machinery installed is for laundry purpose.
- (v) Accordingly, the EE Vashi vide its letter dated 01.08.2018 has submitted inspection report to the SE Vashi regarding the activity of the Appellant. The



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said report states that the said activity is observed for only industrial purpose from 17.11.2017.


- (vi) The Appellant submitted application (dated 12.07.2018) on 19.07.2018 for change of tariff category from Commercial to Industrial effective from the date of change of name. The Appellant has completed the erection work and started the main production activity of jean pants which can be inspected whenever needed. Accordingly, the SE Vashi vide its letter dated 23.08.2018 has approved the change of tariff category from commercial to industrial.
- (vii) The Appellant has submitted application on 31.01.2019 for refund of tariff difference from December 2017 to August 2018.
- (viii) Since no action taken by the Respondent on refund of tariff difference, the Appellant filed a grievance with the Internal Grievance Redressal Cell (IGRC) on 12.03.2019 which was dismissed on 23.05.2019.
- (ix) Then the Appellant approached the Forum on 09.07.2019. The Forum, by its Order dated 11.02.2020 has dismissed the grievance application after six months. The Forum failed to understand that the main activity of the Appellant is manufacturing of garments and load of laundry is part of the garment factory. The Appellant referred the tariff order dated 12.09.2018 of the Maharashtra Electricity Regulatory Commission (the Commission) in Case of 195 of 2017 where it was considered the laundry work under industrial tariff. The Forum has mentioned that at the time of hearing, the Appellant admitted that it is doing business of garment and their use is of HT Commercial and therefore agreed to pay the tariff as per commercial tariff. Hence the claim made by the Appellant is not proper one.
- (x) Against this order of the Forum, the Appellant filed this representation with the following prayers: -
- (a) Refund of tariff difference from commercial to industrial tariff category for the period from December 2017 to August 2018 with RBI interest rate.
- (b) Compensation of Rs.100/- towards mental harassment and torture for two years though it is not claimed with the IGRC and the Forum but claimed



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currently due to continuous mental harassment and torture caused for two years.


4. The Respondent MSEDCL filed its reply dated 19.08.2020 stating briefly as under:-
- (i) The Appellant is a 22 KV HT consumer (No.000119023750) from 19.07.1999 having CD of 180 KVA and CL of 250 KW at present at Plot No. C-6/7, TTC MIDC Industrial Area, Pawane, Navi Mumbai.
 - (ii) Initially, the consumer was in the name of M/s. Kamat Printers Pvt. Ltd. whose activity was under industrial tariff category. The Appellant (Famous Fashion Pvt. Ltd.) purchased this property as per certificate of incorporation pursuant to change of name issued by Registrar of Companies on 15.11.2016 as per paper produced later on.
 - (iii) The EE Vashi inspected the Appellant's premises on **17.11.2017** and submitted its Inspection Report vide letter No.6341 dated 13.12.2017 to the SE Vashi. The said report has confirmed the activity of the Appellant as '**Laundry**'.
 - (iv) The application for change of name has been made online vide ID- 11710911 dated 13.12.2017 and application in hard copy along with relevant documents received on 16.12.2017. Also, the Appellant made application for change in CL from 200 KW to 250 KW and reduction in CD from 200 KVA to 110 KVA immediately.
 - (v) In line with Tariff Order dated 03.11.2016 of the Commission in Case No. 48 of 2016 and observation recorded during inspection on 17.11.2017, the activity of the Appellant was 'Laundry'. The consumer (Kamat Printers Pvt. Ltd.) was billed under industrial tariff category. As there was change of activity from industrial to Laundry which is considered under Commercial tariff Category as per Tariff Order dated 03.11.2016 of the Commission in Case No. 48 of 2016. Hence, tariff category of the Appellant was changed from HT I: Industrial to HT II: HT Commercial with effect from December 2017.
 - (vi) The initial activity of the Appellant is 'Laundry' as per inspection report dated 17.11.2017. Accordingly, the Appellant executed Agreement on 24.01.2018 between the Respondent MSEDCL and the Appellant for change of name as well


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as for change in load as 250 KW CL and 110 KVA CD mentioning purpose as 'Laundry'. Applicable Tariff as per tariff order of the Commission as HT II: HT Commercial which was already effected in the bill of December 2017 onwards.

- (vii) Later on, as per the Appellant's application received on 14.02.2018 intimating that the Appellant has started installation of machineries of garments processing of wearing apparel, the EE Vashi vide letter No. 2084 dated 14.03.2018 informed that presently major part of electrical machinery installed is for Laundry purpose.
- (viii) The Appellant vide letter dated 12.07.2018 informed that they have completed the erection work and started production activity after getting the change of name and further requested to change their activity. Accordingly, the SE Vashi vide its letter No. 4549 dated 20.07.2018 directed the EE Vashi to inspect the premises for verification of activity carried out and utilization of power supply at the Appellant's premises.
- (ix) The EE Vashi of the Respondent vide letter No. EE/Vashi/T/Spot Insp/4479 dated 01.08.2018 informed that activity regarding manufacturing of wearing apparel is observed at the Appellant's premises.
- (x) As per Office Note dated 02.08.2018, the change in tariff category from Commercial to Industrial has been approved and conveyed to the Appellant for payment of necessary processing charges and execution of agreement thereon vide letter no. SE/VC/T/HHG-Tariff-IND/KK-089/2018-19/5212 dated 23.08.2018.
- (xi) As per Appellant's application for additional HT power supply up to the extent of Connected Load 250 KW and Contract Demand 180 KVA received on 23.08.2018, same has been sanctioned for 'Manufacturing of Wearing Apparel' with applicable Tariff as HT-IA: HT Industrial-General (22 KV) vide letter No. 5810 dated 21.09.2018 and accordingly agreement was executed on 21.09.2018 for the above mentioned purpose and Tariff. Also, the bill of September 2018 and onwards are issued as per HT-IA: HT Industrial Tariff Category.


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Reply On Merits:


(xii) The Respondent pointed out that the Appellant wrongly referred the letter No. 2084 dated 14.03.2018 of EE Vashi wherein it has been informed that ‘presently major part of electrical machinery installed is for Laundry purpose’, however the Appellant in this para represents that the tariff was not changed to industrial. The Respondent states that the Appellant was doing laundry activity which is defined under commercial tariff category as per tariff order of the Commission. Hence there is no question to change the tariff category immediately. The Appellant claimed for change of tariff category from commercial to industrial vide its letter dated 12.07.2018 (received on 19.07.2018) to the SE Vashi intimating that it has completed the erection work and started production activity of manufacturing of jean pants and requested to inspect the premises whenever needed. After receipt of this letter of the Appellant, the EE Vashi intimated to SE Vashi vide its letter dated EE/Vashi/T/Spot Insp/4479 dated. 01.08.2018 wherein it was informed that activity regarding manufacturing of wearing apparel is observed at consumer’s premises. This letter is part of recommendation and SE Vashi being competent authority has changed tariff under industrial tariff category from the billing month of September 2018 onwards after execution of agreement on dated 21.09.2018.

(xiii) The Respondent cited the Section 62 (3) of Electricity Act 2003, which says

“The Appropriate Commission shall not, while determining the Tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer’s load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply & the purpose for which the supply is required.”Emphasis added.

As per MSEDCL Commercial Circular No. 175 dated 05.09.2012 (based on tariff order of the Commission) categorizes purposes like washing/ cleaning under Commercial Tariff category with effect from 01.08.2012. Refund of tariff difference between Commercial and Industrial for the period December 2017 to August 2018 is not justified as there was activity of ‘Laundry’ in the said period


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and the said activity squarely falls under HT Commercial Tariff Category. Even consumer has agreed for the said purpose of 'Laundry' and agreement executed on 24.01.2018 for change of name as well change in connected load and contract demand. Later after confirmation of activity as manufacturing of wearing apparel and subsequent agreement on 21.09.2018, the tariff changed to HT Industrial from September 2018 bill.

(xiv) In view of the above, the Respondent prays that the Representation of the Appellant be rejected.

5. The hearing was scheduled on 27.08.2020 on e- platform through Video Conference due to Covid-19 epidemic as the conditions were not conducive for conducting the hearings through physical presence.


6. During the hearing, the Appellant argued on the line of its written submission. It argued that it is a private limited company having HT connection at present. The said premises were purchased from M/s. Kamat Printers on 16.08.2016 for its garment business. On 13.12.2017, change of name application was given. On 24.01.2018, change of name was effected. When the inspection of the factory was done by the EE Vashi, it was observed that load wise major activity of the Appellant was laundry and not readymade garments. Hence, commercial tariff was applied from December 2017. Laundry is a part and parcel of the main activity. The machineries are being fixed as per the use. The Appellant informed vide its letter dated 18.01.2018 that it has started sample production from July 2017 after getting permission from various departments. The EE Vashi informed vide its letter 14.03.2018 that there was industrial activity as per inspection dated 07.11.2017. Further the Appellant applied vide its letter dated 12.07.2018 for change of tariff category from Commercial to Industrial indicating that the Appellant has completed the erection work and started the main production activity of jean pants. The Appellant started billing on industrial activity from September 2018 onwards. However, the Respondent did not refund tariff difference from Commercial to Industrial activity for the period December 2017 to August 2018 and hence the application was made on 31.01.2019. The Respondent did not take any action hence the Appellant approached the grievance mechanism. The Appellant prays that the Respondent be directed to refund of tariff



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difference from commercial to industrial tariff category for the period from December 2017 to August 2018 with RBI interest rate.

7. The Respondent MSEDCL reiterated its submission that the activity of the Appellant found laundry during inspection on 17.11.2017. The consumer (Kamat Printers Pvt. Ltd.) was billed under industrial tariff category. As there was change of activity from industrial to Laundry which categorized under Commercial tariff Category as per Tariff Order dated 03.11.2016 of the Commission in Case No. 48 of 2016. Hence, tariff category of the Appellant was changed from HT I: Industrial to HT II: HT Commercial from December 2017. The consumption pattern of the Appellant was 16000 to 25000 units for laundry activity which include very smaller consumption of few trial production of jean pants. The Appellant approached this office with intimating trial production and installation work is in progress vide its letter dated 18.01.2018 which received the Respondent on 14.02.2018 and then vide its letter dated 12.07.2018 (vide inward No. 1323 dated 19.07.2018) requested for change of tariff category from Commercial to Industrial indicating that the Appellant has completed the erection work and started the main production activity of jean pants which is ready for inspection. As per Section 4.13(b) of the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period of Giving Supply and Determination of Compensation) Regulations, 2014 (SOP Regulations 2014), change of tariff category to be done within two billing cycle. Accordingly, the Respondent changed its tariff category as industrial from September 2018. The Respondent argued that the Appellant first time claimed on 12.02.2019 for the refund of tariff category from industrial to commercial for the period December 2017 to August 2018 after thought. The Appellant consumed the power for laundry purpose. The agreement is executed for laundry purpose. Considering all these factual conditions, the Respondent prays that the Representation of the Appellant be rejected.


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Analysis and Ruling


8. Heard the parties and perused the documents on record. Appellant was requested for additional documents of (i) Invoices for the period November 2017 to October 2018 duly signed (ii) Finished products and their despatched memos. The Respondent submitted additional submission indicating inspection report letter dated 13.12.2017 and other allied papers.

9. The Appellant has filed the Representation on 11.06.2020 in this office. However, the Forum issued order on 11.02.2020. As per Regulation 17.2 of the CGRF Regulations, the Appellant should have filed this representation within 60 days i.e. on or before 11.04.2020. However, it is filed after 120 days from the date of the order of the Forum. Moreover, the Appellant did not pray for condonation of delay. Therefore, it is technically time barred. However, considering Covid-19 epidemic and the situation arising out of it, the representation is admitted, and the delay is condoned.

10. There are following important issues in the instant representation which are pivotal in deciding it.

- (a) The Appellant purchased the property from M/s. Kamat Printers Pvt. Ltd in 2016 which was billed at Industrial tariff.
- (b) On the instructions of the higher authority, the EE Vashi inspected the premises on 17.11.2017 and informed vide its letter dated 13.12.2017 that the major load installed at the premises is being used for Laundry purpose. Accordingly, the SE Vashi changed the tariff category from industrial to commercial from the billing month of December 2017.
- (c) The Appellant submitted online application for change of name on 13.12.2017 through the module made available by the Respondent on its portal.
- (d) The Appellant through its letter dated 18.01.2018 (received on 14.02.2018) addressed to the EE Vashi, intimated that its machineries is at various stages of installation from June 2017 and started sample production from July 2017. It is



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taking permission from various Government departments. The letter also says that it is unable to complete full erection of the machineries and as soon as the said work is completed, it will inform the Respondent.

- (e) The Appellant vide its application dated 12.07.2018 (Inward No. 1323 dated 19.07.2018) requested for change of tariff category from Commercial to Industrial indicating that the Appellant has completed the erection work and started the main production activity of jean pants which is ready for inspection and can be inspected whenever required. Accordingly, the Respondent vide its letter dated 23.08.2018 informed the Appellant for approval of change of tariff category from Commercial to Industrial and requested to pay statutory administrative charges mentioning that revision of tariff will be effected only after payment of statutory charges and execution of fresh power supply Agreement in the name of the Appellant. The Appellant applied for additional load on 23.08.2018 (online ID 15390070) and the Respondent sanctioned additional load vide its letter dated 21.09.2018 for CL of 250 KW and CD of 180 KVA. The industrial tariff category was effected from September 2018.

11. From the above sequence of events, it is observed that the Appellant at its own has informed that its machinery is at various stages of installation and after erection is over, it will inform the Respondent. On 12.07.2018, the Appellant informed the Respondent that its erection work is over and now the tariff category be changed. Thus, 12.07.2018 is the first instance when the Appellant has requested the Respondent to change the tariff category from Commercial to Industrial. Pursuant to this request, tariff category is changed from September 2018 after payment of requisite charges and execution of agreement, etc. Therefore, Appellant's letter dated 30.01.2019 (received on 12.02.2019) requesting the Respondent to refund the tariff difference from Commercial to Industrial tariff category from December 2017 to August 2018 appears to be afterthought, particularly when it was being billed at Commercial tariff category from December 2017 and further the Appellant paid the bills without any demur from December 2017 to July 2018 (the month in which the Appellant applied for change of tariff category).


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12. Here, a pertinent question pops up as to how the Appellant applied for change of category in July 2018 when it was sure that its activity is fully Industrial from the very beginning. Not only this, it further paid all charges, executed an agreement which was signed by him and it recorded its activity as Laundry. After having entered into an agreement, it applied for refund of tariff differential between Commercial and Industrial on 30.01.2019. (received on 12.02.2019). Therefore, the entire script of the Appellant is afterthought. In view of this glaring fact, submission of documents with respect to production, invoices take a back seat and becomes irrelevant. The tariff applied from December 2017 to August 2018 under Commercial category is in accordance with the tariff order of the Commission dated 03.11.2016 in Case No. 48 of 2016. In this order, Laundry is covered under Commercial tariff category. The relevant portion of the said tariff order is quoted as below.

“HT II: HT- Commercial Applicability: This tariff category is applicable for electricity used at High Voltage in non-residential, nonindustrial and/or commercial premises for commercial consumption meant for operating various appliances used for purposes such as lighting, heating, cooling, cooking, washing/cleaning, entertainment/ leisure and water pumping in, but not limited to, the following premises:


a).....
f) Tailoring Shops, Computer Training Institutes, Typing Institutes, Photo Laboratories, **Laundries, Beauty Parlours and Saloons;**” **(Emphasis added)**

Therefore, the Respondent pursuant to the application dated 12.07.2018 (received on 19.07.2018) has changed the tariff from Commercial to Industrial tariff category as per the activity of the Appellant under the same order.

13. In view of the above discussions, I am of the opinion that the Appellant is not entitled for refund of tariff difference from December 2017 to August 2018.

14. In view of the above, there is no merit in the grievance. Hence, I do not find it necessary to interfere with the order of the Forum. The representation is disposed of accordingly.

Sd/-
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