

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005
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Case No. 72, 73, 75 & 113 of 2015

Dated: 1 March, 2016

**CORAM: Shri. Azeez M. Khan, Member
Shri. Deepak Lad, Member**

1. In the Matter of Petition filed by M/s. Shri Ganesh Foundry Pvt. Ltd. and 34 others against MSEDCL under Section 142 & 146 of the Electricity Act, 2003 for non-compliance of the Electricity Ombudsman, Mumbai's Order dated 2 December, 2014 in Representation Nos. 66 to 100 of 2014 regarding refund of Tariff Difference.

(Case No.72 of 2015)

2. In the Matter of Petition filed by M/s. Aditek and 3 others against MSEDCL under Section 142 & 146 for non-compliance of the Order of the CGRF Kolhapur dated 31.12.2014 in Case Nos. 65 to 68 of 2014-15 regarding refund of Tariff Difference.

(Case No. 73 of 2015)

3. In the matter of Petition filed by M/s. Shilp Enterprises against MSEDCL under Section 142 & 146 for non-compliance of the Order of the CGRF Kolhapur dated 29 November, 2014 in Case No. 44 of 2014-15 regarding refund of Tariff Difference.

(Case No. 75 of 2015)

And

4. In the matter of Petition filed by M/s. Kolhapur Oxygen & Acetylene Pvt. Ltd. against MSEDCL under Section 142 & 146 for non-compliance of the Order dated 3 March, 2015 passed by Electricity Ombudsman, Mumbai in Representation No. 01 of 2015 regarding refund of Tariff Difference.

(Case No. 113 of 2015)

M/s. Shri Ganesh Foundry Pvt. Ltd. and 34 others.

M/s. Aditek

M/s. Shilp Enterprises

M/s. Kolhapur Oxygen & Acetylene Pvt. Ltd

.....Petitioner(s)

V/s.

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL)

.....Respondent

Appearance:

Representatives for the Petitioner(s):

Shri. Pratap Hogade

Representative for the Respondent:

Shri. S. S. Ranbhare

Daily Order

Heard the representative of the Petitioners and the Respondent.

Representative of the Petitioners, Shri Hogade submitted that the Cases are based on identical issues. He requested the Commission to club the proceedings in Case No. 72 of 2015, Case No.73 of 2015, Case No.75 of 2015 & Case No. 113 of 2015. The Commission decided to club the proceedings.

Shri Hogade submitted that all the Petitioners are Industrial consumers of MSEDCL and are situated in MIDC areas. On 16 August, 2012 the Commission issued Tariff Order in Case No.19 of 2012. MSEDCL issued a Commercial Circular on 5 September, 2012 for giving effect to Tariff Order, including exercise of change of option between continuous and non-continuous supply.

With regard to each Case Shri. Hogade submitted following:

1. All 35 Petitioners in Case No.72 of 2015 made applications to MSEDCL for change of category between 26 September, 2012 to 5 October, 2012. MSEDCL granted approval to change of tariff category with effect from 25 March, 2013 in Kolhapur District and from 28 February, 2013 in Sangli District. The cause of grievance was the delay in implementation of change of tariff. Petitioners exercised the remedies provided in CGRF Regulations, 2006. Electricity Ombudsman issued directions to MSEDCL to apply HTI-N Tariff from Second billing cycle from date of receipt of the applications.
2. All 4 Petitioners in Case No. 73 of 2015 made applications for change of category on 3 October, 2012. MSEDCL accorded approval to change of category after 5 months and approval was effective from next billing cycle after 25 March, 2013. The grievances were represented before CGRF, Kolhapur. CGRF Kolhapur issued a common Order on 31 December, 2014 and directed MSEDCL to apply HT-I-NC tariff to the Petitioners from the second billing cycle from the date of receipt of applications.
3. The Petitioner in Case No.75 of 2015 made an application for change of category to MSEDCL on 19 October, 2013. CGRF Kolhapur issued an Order on 29 November, 2014 and directed MSEDCL to apply HT-I-NC tariff to the Petitioners from September, 2013 and refund the excess amount with 6% interest.
4. The Petitioner in Case No. 113 of 2015 submitted application to MSEDCL for change of Tariff Category from HT-I-C to HT-I-N on 29 April, 2013 on the basis of

Regulation 9.2 of the MERC (SoP) Regulations. MSEDCL accorded approval for change of Tariff category after a long delay of nine months. The change of Tariff was effective from 31 January, 2014. Petitioner is aggrieved by the delayed applicability in change of tariff. The Electricity Ombudsman issued an Order on 3 March, 2015 and directed MSEDCL to apply HT-I-N tariff to the Petitioner for the billing period from June, 2013 to January, 2014 and refund the excess amount recovered within four months.

5. MSEDCL is relying on the pending Review Petition in Case No.94 of 2015 as a reason for non compliance. These two proceedings are distinct and different.

MSEDCL submitted that it has filed a Review Petition bearing Case No.94 of 2015 before the Commission in respect of disallowance of some amount in ARR on account of anomalies in change of category. Hence the issue is sub-judice before Commission. MSEDCL will be in a position to take decision in this regard after the Order of the Commission in Review Petition No.94 of 2015.

In response to the Commission's query regarding delay in compliance, MSEDCL submitted that during proceedings of Writ Petition No. 4967/2015 (against M/s. Shri Ganesh Foundry Pvt. Ltd. and 34 others), Writ Petition No. 4887/2015 (against M/s. Aditek and others) and Writ Petition No. 4892/2015 (against M/s. Shilp Enterprises) it informed the Bombay High Court that the same issue which is involved in these Petitions is pending before the Commission. Bombay High Court has disposed of these three Petitions on 7 September, 2015 with liberty to MSEDCL to institute a fresh Petition if the Commission decides the matter against MSEDCL. Further, MSEDCL has also withdrawn Writ Petition No. 4893/2015 (against M/s. Kolhapur Oxygen & Acetylene Pvt. Ltd).

The Cases are reserved for Order.

**Sd/-
(Deepak Lad)
Member**

**Sd/-
(Azeez M. Khan)
Member**