

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 29 of 2017

Date: 30 May, 2017

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

In the matter of

Petition of M/s. Ankur Seeds Pvt. Ltd regarding disparity in implementing Tariff Orders of the Commission and non-compliance of the Electricity Ombudsman's Order dated 30.12.2016 in Representation No. 22 of 2016, a Review of Representation No. 51 of 2016 and clarification about the applicability of the Tariff category.

M/s. Ankur Seeds Pvt. Ltd.(ASPL) ...Petitioner

V/s.

Maharashtra State Electricity Distribution Company Limited (MSEDCL)...Respondent

Appearance:

For the Petitioner: ...Shri.A.V.Prabhune (Rep)

For the Respondent:Shri.M.G.Wath (Rep)

....Shri.S.N.Kene (Rep)

For Authorized Consumer Representative:Dr.Ashok Pendse (TBIA)

Daily Order

Heard the Representatives of Petitioner and the Respondent.

1. Representative of the Petitioner stated as follows:

- a) He re-iterated the submissions as stated in the Petition. Petitioner has approached the Commission for clarification of applicability of the Tariff Orders with regard to HT Agricultural category since there is misinterpretation by the MSEDCL field offices and conflicting Orders of the Electricity Ombudsman (EO) of Mumbai and Nagpur.
- b) MSEDCL was issuing the bills as per the Industrial Tariff from the date of connection, i.e. in 2008. In 2015, the Petitioner applied for Tariff category to be changed from Industrial to Agricultural since it carries out High-tech Agricultural activities. It continuously followed-up to change the Tariff category, but MSEDCL instead changed it to Commercial category after 9

months. It also issued supplementary bill amounting Rs. 1, 44, 84, 190/- for the Tariff difference recovery for the period from August, 2012 to March, 2016 and subsequently billed the Petitioner as per the Commercial Tariff. Hence Petitioner approached IGRC and CGRF, which rejected its grievance.

- c) Being aggrieved, Petitioner filed its grievance before the EO, Nagpur who, by Order dated 30 December, 2016 quashed the supplementary bill. MSEDCL instead continued showing this amount in the bill of the Petitioner as arrears. After filing of this Petition, MSEDCL filed a Writ Petition before the High Court of Judicature at Bombay, Bench at Aurangabad (WP No. 2054 of 2017) which is listed on 28 August, 2017. There is no stay granted and, in the absence of such stay, MSEDCL is obligated to comply with the EO's Order.
 - d) MSEDCL has violated the CGRF Regulations since the officer who has decided the Tariff of the Petitioner had also passed the IGRC Order, which is against the principles of natural justice.
2. Representative of MSEDCL stated as follows:
- a) The electricity used by the Petitioner is for Research and Development, which comes under Commercial Tariff category. The category of the Petitioner was changed after verification of its premises and nowhere is agricultural activity being carried out. Hence, the Petitioner's contention to categorize it as per Agricultural Tariff is incorrect, and the EO has also held that MSEDCL may categorize the Petitioner as HT Commercial from 28 March, 2016.
 - b) MSEDCL has filed a Writ Petition in the High Court challenging the EO's Order. The High Court has passed the following interim Order:
...."No coercive action be initiated against the Petitioner till the returnable date."
3. The Commission expressed its displeasure on non-compliance of the EO's Order and asked MSEDCL about its interpretation of the High Court's interim Order. MSEDCL replied that stay has been granted on the EO's Order by the High Court.
4. The Commission asked MSEDCL whether it had quashed the supplementary bill amounting to Rs. 1, 44, 84, 190/- before filing its Writ Petition. MSEDCL replied that, before filing its Writ Petition before the High Court on 2 February, 2017, bill for January, 2017 was issued to the Petitioner showing the amount of supplementary bill as arrears.
5. The Commission directed MSEDCL to submit its response on the following in 10 days :
- a) Position arising out of the High Court's Order.
 - b) Justification for contention that nothing can be done with regard to complying with the EO's Order after filing of Writ Petition before the High Court and its interim Order;
 - c) Whether "no coercive action" means that the EO's Order is stayed.

6. Representative of the Petitioner requested the Commission to take on record that MSEDCL had shown supplementary bill amounting to Rs. 1, 44, 84, 190/- as arrears till the April, 2017 bill. As the matter is sub judice before the High Court, the Commission may clarify the applicability of the Tariff Orders with regard to HT Agricultural category.
7. Representative of the Petitioner stated that it was served with disconnection notice for Rs. 1.5 crore, even though the matter was sub judice before the IGRC and the notice was served the day after the date of issue of bill. These facts were not considered by the CGRF and the EO. MSEDCL had made a false statement to the Commission that it has filed Writ Petition on 2 February, 2017 as the correct date is 21 March, 2016, which is only after serving the notice of this Petition by the office of the Commission.
8. Representative of the Petitioner stated that it has pointed out the irregularities in the functioning of the IGRC to the concerned higher authorities but no action was taken. The Commission should view this seriously as CGRF Regulations are for the benefit of the consumers.

The Case is reserved for Order.

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

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