

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 103 OF 2024

In the matter of change of tariff category and refund there of

Indian Oil Corporation Ltd..... Appellant
(Con.No.000079011975)

V/s.

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

Appearances:

Appellant : 1. Sunil Madhavan, Chief Plant Manager
2. Ajay Chafale, Representative

Respondent: 1. R.G. Bele, Executive Engineer
2. Rajiv Waman, Asst. Law Officer

Coram: Vandana Krishna (Retd. IAS)

Date of hearing: 19th July 2024

Date of Order: 20th September 2024

ORDER

This Representation was filed on 10th June 2024 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 16th April 2024 passed by the Consumer Grievance Redressal Forum, MSEDCL, Bhandup Zone (the Forum). The Forum by its order dismissed the grievance application of the

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Appellant in Case No. 122 of 2023-24. The Forum observed that the grievance is time barred as per Regulation 6.6/7.8 of CGRF & EO Regulations 2006/2020 respectively.

2. The Appellant has filed this representation against the order of the Forum. A physical hearing was held on 19th July 2024. Both the parties were physically present. The parties were heard at length. The Appellant's submissions and arguments are stated as below: *[The Electricity Ombudsman's observations and comments are recorded under 'Notes' in brackets where needed.]*


- (i) The Appellant is a HT Consumer ((No.000079011975) of the Respondent from 05/05/1990. The connection details are tabulated as below:

Table 1

Name of Consumer	Consumer No.	Address	Sanct.Load /Cont. Demand	Purpose	Date of Supply	Disputed Period for Change of Tariff from Industrial to Commercial	Online Application for change of tariff category	Month of Change of Tariff
Indian Oil Corporation Ltd. (erstwhile , Indian Oil Blending Ltd.)	000079011975	Plot No.100, TTC Industrial area, Navi Mumbai	1520 KW/ 680 KVA	Industrial (Lubricating Grease Manufacturing)	05/05/1990	Billed under Commercial Tariff instead of Industrial from 12/04/2019 to 04/09/2019 (Tariff Difference about Rs. 50 Lakhs)	4/9/2019	Sep. 2019 onwards as Industrial

Background:

- (ii) **“Indian Oil Blending Ltd. (IOBL)”** was a **Grease Manufacturing Plant** [which was a subsidiary company of **Indian Oil Corporation Ltd. (IOCL)**] under the Ministry of Petroleum & Natural Gas, Govt. of India at D-100 TTC Industrial Area, Kukshet Village Navi Mumbai 400705. Erstwhile, IOBL was amalgamated with IOCL from 14.07.2005 as per approval of **Ministry of Company Affairs, Govt. of India on 08.05.2006**. It is specified in Clause No.3.7 of the scheme of Amalgamation dated 08.05.2006 that


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“All the permits, quotas, rights,

.03. entitlements, licenses, including those related to tenancies, trademarks, etc of every kind and description of whatsoever of nature in relation to IOBL shall remain in force and effect in favour of IOCL and may be forced fully and effectively as if instead of the IOBL, IOCL has been Beneficiary or oblique thereto.”

A copy of this sanction letter was filed with the Registrar of Companies, Mumbai on 12/05/2006, and with effect from that date, IOBL ceased to exist, and merged in IOCL.

- (iii) Accordingly, a letter to this effect requesting for change of Name against the Consumer No.000079011975 was submitted to the then Superintending Engineer, Vashi Circle vide GPV/ENGG/MSEB on 28/01/2010 along with the requisite enclosures by then In-charge of this plant, i.e. A1 form application, “X” form, Declaration in “Z” Form on the Stamp paper of Rs.100/- notarized on 06/11/2009 and statutory documents. *[Note: The Respondent denied that this application was received in MSEDCL, as no inward number was mentioned on the application.]*
- (iv) However, the Change of Name was not executed by MSEDCL, and it continued communication & correspondence including monthly bills in the name of IOBL. The tariff was maintained under “Industrial” as the Appellant was/is a purely manufacturing unit.
- (v) Again, the Appellant sent a letter to the Respondent Vashi Circle office on 19/01/2019 after logging a request application (ID No. 000009596193) for change of name and transfer of security deposit to the existing Consumer No. 000079011975, in view of the above amalgamation.
- (vi) **Instead of changing the name as applied, the Respondent replied by its letter dated 28/01/2019 for resubmission of the application along with District Industries Center (DIC) Certificate in the name of the new / incoming consumer (IOCL) to avail Industrial Tariff.** Thus, this new


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requirement of DIC certificate was unnecessarily created at this point, even though there was no change of industrial activity.


- (vii) The Appellant vide its reply dated 19.02.2019 clarified that, vide Clause No. 3.9 of amalgamation order signed by Ministry of Company Affairs, Govt. of India: -

“The transferee company at any time after the scheme becoming effective in accordance with the provisions hereof, if so required under any law or otherwise, will execute deeds of confirmation or other writings or arrangements with any party to any contract or arrangement in relation to the transferor company to which the transferor company is a party in order to give formal effect to the above. The transferee company shall under the provisions of this scheme, be deemed to be authorized to execute any such writings on behalf of transferor company and to carry out or perform all such formalities or compliances, referred to above, on behalf of the transferor company.”

Thus the transferee company IOCL took over all rights of the amalgamated company IOBL.

The new requirement of DIC certificate suddenly imposed by MSEDCL on 28.01.2019 was unnecessary. This is the basic issue which was created by the Respondent without applying proper mind.


- (viii) Meanwhile, the Appellant had completed the following formalities,
- The Appellant again entered into a revised Land Lease Agreement with MIDC for the land at D-100, TTC Industrial Area, Kukshet Village, Navi Mumbai 400 705 on 01.01.2010 wherein it is specified that the plot was to be used by Lessee only for manufacturing purpose.
 - MPCB Consent to operate the manufacturing unit as per Format dated 28.05.16 which is valid till 28.02.2021.
 - **Factory Licence No. 10325 dated 09.02.2018 in the name of Transferee Company (IOCL) issued by Directorate of Industrial Safety & Health (DISH), clearly mentioning that this is a**


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manufacturing unit under U/C code 19201 producing lubricating grease, & is valid till 31.12.2027.

- (ix) **The Respondent suddenly issued the bill of April 2019 under “HT-Commercial Tariff” category instead of industrial without name change, without verifying the site when there had been no change in plant activity and production in the plant since 15th October 1990 when it was commissioned. [Note: It seems that MSEDCL unnecessarily clubbed the issue of change of name with the issue of tariff change.]**
- (x) Since the Appellant had no other option, the Appellant had paid the electricity bill of April 2019 under protest, and requested by its letter dated 29.05.2019 to reverse the decision of charging under commercial tariff, and to charge under industrial tariff as earlier, as the Appellant is a Public Sector Undertaking under Ministry of Petroleum & Natural Gas, Govt. of India, and a purely industrial and manufacturing unit.
- (xi) The Appellant further clarified vide its subsequent letter dated 12.06.2019 that, even as per Factory license S.No.10325 and Registration No.11170192010/-003 issued by Directorate of Industrial Safety & Health (DISH), Maharashtra, the Appellant is a Production/Manufacturing unit as per National Industrial Classification Code 19201 for “Production of liquid and gaseous fuels, illuminating oils, lubricating oils or greases or other products from crude petroleum or bituminous minerals”. Our registration number bears the said code which also certifies that ours is a manufacturing unit. The Appellant continued to receive bill in the month of May’19 under HT-Commercial tariff, and again paid the amount under protest.
- (xii) Vide letter dated 15.06.2019, MSEDCL informed that since the necessary DIC Certificate was not submitted by the Appellant to avail Industrial tariff, the tariff was maintained under HT-Commercial.
- (xiii) **However, it was clarified by DIC Office that DIC Certificate is not applicable for Large-Cap Companies where capital investment is of more than Rs. 100 Crores.**


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- (xiv) The Appellant by its letter dated 19.6.2019, submitted Industrial Entrepreneurs Memorandum vide IEM Number 1098/SIA/IMO/2019 dated 14.06.2019 issued by Ministry of Commerce & Industry which certifies that our Unit at D-100 TTC Industrial Area, Kukshet Village, Navi Mumbai 400705 is for “Manufacturing of Lubrication Greases” and comes under Item Code 19201 as per UIC.
- (xv) MSEDCL subsequently agreed to process the change of name, and sent letter/Demand Note on 11.07.2019 requesting to pay processing charges, stamp agreement for execution of the agreement towards name change from IOBL to IOCL, and transfer of SD amount to the latter. However, the Respondent did not process tariff reversal, and continued to bill under HT-Commercial tariff.
- (xvi) A fresh agreement was executed between IOCL & MSEDCL on 25.07.2019 after paying the necessary fees and charges. A request letter was again issued dated 30.07.2019 for reversal of Tariff to industrial. Consequent to the agreement, name change in favour of IOCL was effected vide letter dated 13.08.2019. However, tariff was maintained as HT-Commercial.
- (xvii) Since the Appellant did not get a positive response to their genuine claim for industrial tariff, the Appellant lodged an online complaint in MSEDCL’s Customer Compliant portal vide Complaint No.191596 dated 04.09.2019 (Application No. 22044808). The Appellant was advised by MSEDCL to submit an Undertaking on Rs. 200/- Notarized Stamp paper with its Product List and IEM Certificate, photographs of manufacturing unit, approved Plant layout with marking of MSEDCL Meter Room, which the Appellant complied with vide our letter dated 14.11.2019. However, no physical inspection of the plant was carried out by the Respondent.
- (xviii) The Appellant finally received a copy of the approval order from Respondent’s competent authority dated 25.02.2020 for reversal of Tariff from HT-Commercial to HT Industrial with retrospective effect from 04.09.2019 (the date of online application). The refund of tariff difference from Commercial to industrial for the period from 04.09.2019 to Jan. 2020 was adjusted, amounting


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to Rs.50,54,003/-, approximately 50% of the claimed refund. Thus the grievance (of not giving retrospective benefit from April 2019) first arose around 25.02.2020, just before Covid started.

- (xix) Due to the subsequent lockdown arising out of Covid-19 pandemic situation from March 2020, and limited presence in office, no communication could be exchanged in 2020 between the Appellant and MSEDCL for giving retrospective effect from April 2019 instead of September 2019.
- (xx) Subsequently, there was a lot of correspondence between the Appellant & Respondent vide MSEDCL's letter dated 11.01.2021, the Appellant's letter dated 15.01.2021 and MSEDCL's letter dated 03/03/2021 on the subject matter. Due to no response from the Circle Office, Vashi, the Appellant approached Joint Managing Director's office, MSEDCL, Kalyan vide Letter dated 12/08/2022, and had a meeting with Jt. Managing Director, MSEDCL and then Grease Plant in Charge, IOCL followed by a reminder letter dated 07/09/2022.
- (xxi) In response, Joint Managing Director, MSEDCL, Kalyan wrote to Superintending Engineer, MSEDCL, Vashi Circle to take "appropriate action" as per the rules & regulations vide Letter dated 25/08/2022. However, instead of taking a positive action, the Respondent (SE Vashi) again wrote to Corporate Office, MSEDCL, Bandra seeking guidance in the matter vide letter dated 16/09/2022, and subsequent reminder dated 13/02/2023.
- (xxii) The Appellant made umpteen visits to Respondent's Vashi Circle Office, Regional Director's office & Jt. M.D.'s Office and Corporate Office during this entire period, submitting all necessary supporting valid documents, clarifying their stand that there was only a case of change of name (in view of amalgamation of one PSU to another) and there had been no change in activity whatsoever in the premises since commissioning of the plant on 15.10.1990.
- (xxiii) Our demand is for refund of tariff difference of balance period from 1.04.2019 to 03.09.2019.
- (xxiv) The Appellant finally filed a grievance application in the Forum on 01.12.2023. The Forum by its order dated 16.04.2024 dismissed the grievance application


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on the ground that the grievance is time barred as per Regulation 6.6/7.8 of CGRF & EO Regulations 2006/2020 respectively. The Forum failed to understand the basic issue that in the interim there was continuous correspondence between the Appellant & the Respondent, besides the Covid period. Hence, the grievance is not time barred. Both the Organisations are Government Undertakings, and the issue should be resolved on merit.


- (xxv) In view of the above, the Appellant prays that the Respondent be directed
- a) to refund the balance tariff difference between commercial and industrial for period from 1 April 2019 (Billing date) to 03.09.2019 which amounts to about Rs. 50,00,000/- (Rs. Fifty Lakh Only), with interest at 12 % p.a.
 - b) to pay compensation of Rs. 10 lakhs towards undue harassment, loss of reputation and time, etc.

3. The Respondent filed its reply dated 5th July 2024. Its submissions and arguments are stated as below: -

- (i) The initial electric connection vide Con.No.000079011975 was released in the name of India Oil Blending Ltd. with Contract Demand of 680 KVA and Sanction load of 1350 KW on 05.05.1990, and was billed under industrial tariff category. IOBL was merged with IOCL with effect from 14.07.2005. The details of this connection are tabulated in Table 1.

Time Barred:

- (ii) The Appellant is claiming the refund of tariff difference of about Rs. 50 Lakhs from commercial to industrial for the period from 12/04/2019 to 04/09/2019. The Appellant applied on 04/09/2019 for a change of tariff on online WSS Portal from commercial to industrial tariff category, and its tariff was changed with effect from 04/09/2019. As such the cause of action arose from 12/04/2019 to 04/09/2019. The Appellant ought to have filed the grievance before the Forum within 2 years i.e. up to April 2021 from the cause of action. The Appellant filed the grievance in the Forum on 01/12/2023. The claim of the appellant is time


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barred and beyond limitation as per Regulation 6.6 / 7.8 of CGRF and EO Regulations, 2006 / 2020, which provides that the Forum shall not admit any grievance unless it is filed within 2 years from the date on which the cause of action arose. Therefore, the claim of the Appellant is not maintainable at the initial stage itself.

- (iii) To support the above submission the Respondent relied upon the Judgment of Aurangabad bench of Bombay High Court dated 21.08.2018 in W.P. Nos. 6859, 6860, 6861 & 6862 of 2017 in Case of MSEDCL Vs. Jawhar Shetkari Soot Girni Ltd. & Others. The High Court has held that cause of action would mean an actual date of legal injury/grievance caused to the consumer, and the time limit of two years will start there from, and journey of grievance through IGRC should reach CGRF within a period 2 years from the cause of action. This Judgment is squarely applicable in this case.
- (iv) The Respondent referred to the orders dated 16.08.2019 of the Electricity Ombudsman (Mumbai) in Case of M/s. G. M. Syntex V/s MSEDCL (Rep.No.68, 69 & 71 of 2019). The Electricity Ombudsman upheld the above views and dismissed the Rep.No.68, 69 & 71 of 2019.
- (v) The Bombay High Court, Nagpur Bench in its Judgment dated 08.01.2020 in W.P.No.1588 of 2019, MSEDCL V/s. Mahamaya Agro Industries has upheld the above view and held that limitation to file grievance before CGRF is two years from the date of cause of action.
- (vi) In view of above, the claim of Appellant is time barred.

Reply on Merit: -


- (vii) Since the date of supply (1990) till 19.01.2019, MSEDCL did not receive any application for change of name on the energy bill or any other letter giving intimation of the merger/amalgamation. Therefore, the statement of the Appellant that they submitted an application dated 28.01.2010 is denied by


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MSEDCL, which was never submitted to MSEDCL, as it did not bear any acknowledgment stamp.


- (viii) **On 19.01.2019 for the 1st time IOCL submitted an application along with a few documents, and requested for change of name on the energy bill of Con.No.000079011975. Pursuant to this application a letter dated 28.01.2019 was issued to the Appellant to submit the Signed “X” Form and DIC certificate in the name of the existing consumer so as to avail the existing Industrial tariff.**
- (ix) On 12.04.2019, the firm quotation was issued by MSEDCL. In this letter it was intimated that, as the Appellant did not submit the DIC certificate, his tariff would be revised to commercial.
- (x) **The tariff of the Appellant was then revised from HT-I Industrial to HT-II Commercial with effect from April-2019.** On 15.06.2019, MSEDCL replied to the Appellant’s Representation dated 18.05.2019 and requested to make payment of firm quotation for change of name, and further requested to submit the necessary certification in the name of India Oil Corporation Ltd. for reverting to Industrial tariff.
- (xi) Pursuant to the Appellant’s application dated 19.06.2019, for a revised quotation for change of name, and request for tariff change, a letter was issued by SE, Vashi on 04.07.2019 to the EE, Vashi for submitting an Inspection Report, and requesting the Appellant to submit the online application for tariff change.
- (xii) On 11.07.2019, a revised quotation for change of name was issued which was paid by the Appellant on 18.07.2019, therefore the change of name was sanctioned vide letter dated 13.08.2019 with effect from Sept.2019.
- (xiii) On 04.09.2019, Appellant applied online through WSS Portal for change of tariff, and submitted the relevant documents along with their letter dated 14.11.2019. On 29.11.2019 the proposal was submitted to the Regional Director for approval of change of tariff from HT-II Commercial to HT-I Industrial. *[Note: Actually, the initial change of tariff from industrial to commercial was effected suo moto by MSEDCL. The subsequent online application of the*


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Appellant dated 04.09.2019 was for reversion of tariff to industrial. Thus this application cannot be treated as a normal application for change of tariff.]

- (xiv) On 25.02.2020, the Regional Director accorded their approval for change of tariff (*actually reversion of tariff*) to industrial with effect from 04.09.2019 i.e. the date of online application for change of tariff. The tariff of the Appellant was therefore changed in Feb. 2020 with retrospective effect from Sep. 2019 and the tariff difference for the period of Sep 2019 to Jan.2020 was thereafter adjusted in the subsequent energy bills.
- (xv) The Appellant was aware of the change (reversion) of tariff with effect from 04.09.2019, and refusal of tariff difference for the period of April 2019 to Sept.2019, which was reflected in the Appellant's letter dated 13.03.2020. However, the Appellant, without availing legal recourse, preferred to file representations with MSEDCL. MSEDCL on 11.01.2021 replied to the Appellant's representation. However, even thereafter the Appellant continued to submit representations to MSEDCL without availing the proper recourse of law (i.e. approaching the Forum).
- (xvi) The Appellant did not submit the relevant DIC certificate even after the first intimation on 12.04.2019, therefore his tariff was rightly changed from HT-I to HT-II in April 2019. In the month of Nov.2019 the relevant DIC Certification was submitted, therefore his tariff was reverted in Feb.2020 to HT-I with effect from 04.09.2019 i.e. the date of online application for change of tariff. The Appellant thereafter unnecessarily continued to pursue the matter with MSEDCL even after refusal. The Forum cannot entertain a grievance which is brought after two years from its cause of action. In the present case, the cause of action first arose in April-2019 when tariff was changed to commercial, and secondly in Jan. 2020 when the tariff was reverted to industrial with effect from Sept.2019 as against the claim of April 2019. As such the present case is time barred and hence liable to be rejected.


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- (xvii) The Forum by its order dated 16.04.2024 dismissed the grievance application, being time barred. The Forum has rightly considered all issues and passed a reasoned order, therefore the order needs no interference.
- (xviii) In view of the above submissions, the Respondent prays that the Representation of the Appellant be rejected.

4. During the course of the hearing, both the parties pointed out that they are Government Undertakings. It is possible to reach an amicable settlement of their dispute. The Appellant/ Respondent sought time of 15 days for discussion to find an amicable solution, which was granted. However, the Appellant by its letter dated 12/08/2024 informed that the Respondent is not cooperating in the subject matter, and hence the Representation be decided as per Rules and Regulations in force.

Analysis and Ruling

5. Heard the parties and perused the documents on record. The “**Indian Oil Blending Ltd.**” was a **Grease Manufacturing Plant**, a subsidiary company of **Indian Oil Corporation Ltd.** under the Ministry of Petroleum & Natural Gas, Govt. of India at D-100 TTC Industrial Area, Kukshet Village Navi Mumbai. The IOBL had taken an electric connection (Cons.No.000079011975) having Contract Demand of 680 KVA and Sanctioned load of 1350 KW from 05.05.1990. The IOBL was merged with IOCL, its parent company, with effect from 14.07.2005 as per approval of Ministry of Company Affairs, Govt. of India vide F No. 24/14/2005-CL-III dated 08.05.2006. Though the merging of the two companies happened on 14.07.2005, the consumer continued to be billed under Industrial Tariff Category in the name of IOBL.

6. The IOCL applied for change of name from IOBL to IOCL on 19.1.2019 on the online portal of MSEDCL. At this point of time, ideally the Respondent should have effected the name change without going into the issue of tariff change. The Appellant / earlier consumer had not applied for change on tariff, as the activity / plant continued to be the same, i.e. grease



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manufacturing. Merely taking over a subsidiary government company by the parent government company did not necessitate tariff change. At this time the Respondent could have easily verified actual use / activity by a site visit, but for some reason did not conduct a site visit till much later, after creating the tariff dispute in the first place. The Respondent by its letter dated 28/01/2019 requested to submit DIC Certificate in the name of the incoming consumer (IOCL) so as to avail industrial tariff. We find that this letter was issued without any application of mind, and without proper justification. Firstly, the industrial activity (grease plant) continued from 1990, hence there was no reason to suddenly demand a DIC certificate. This was a large government sector undertaking whose activities could be verified even through its website, or a simple site visit. Secondly, the DIC certificate does not apply to large government undertakings with a turnover of more than Rs.10,000 crores. There was no apparent reason to suddenly increase the tariff suo moto from industrial to commercial without due diligence.

Since both the parties are large public sector undertakings, it was only proper that the authorities try to reach an agreement through mutual discussion, rather than approaching the Forum at the initial stage itself. The effort at direct correspondence with MSEDCL cannot be held against the Appellant, as there was just reason to expect and hope for reversion to the correct tariff (industrial) based on the correspondence. It is not clear why the Respondent continued its unjustified stand even after receiving this correspondence. The Appellant vide letter dated 19.02.2019 informed the Respondent that as per Clause No. 3.9 of the amalgamation order signed by the Ministry of Company Affairs, Govt. of India, the DIC Certificate was not necessary.

7. The Appellant contended that the Respondent issued the bill of April 2019 under “**HT-Commercial Tariff**” category instead of industrial without verifying the site, when there had been no change in plant activity and production in the plant since 15th October 1990 when it was commissioned. It was also clarified by DIC Office that DIC Certificate is not applicable for Large-Cap companies where capital investment is of more than Rs. 100 Crores. As the billing under commercial tariff category started from April 2019 onwards, the Appellant started preparing the documentation for DIC Certificate from April 2019. Meanwhile, the Appellant


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by its letter dated 19.6.2019, submitted Industrial Entrepreneurs Memorandum dated 14.06.2019 issued by the Ministry of Commerce & Industry, which certifies that its Unit at D-100 TTC Industrial Area, Kukshet Village, Navi Mumbai 400705 is for “Manufacturing of Lubrication Greases” and comes under Item Code 19201 as per UIC. We find that this document of GOI was sufficient proof of industrial activity. Hence there was no need to insist on the DIC certificate.

8. MSEDCL subsequently sent a revised Demand Note on 11.07.2019 requesting to pay processing charges and stamp agreement for execution of the agreement towards name change from IOBL to IOCL, and transfer of SD amount. The same was immediately paid. A fresh agreement was executed between IOCL & MSEDCL on 25.07.2019 after paying the necessary fees and charges and name change in favour of IOCL was effected vide letter dated 13.08.2019. However, tariff was maintained as HT-Commercial. The Appellant registered an online request of Tariff change (*actually reversion of tariff*) online on the web portal on 04.09.2019. (Application No. 22044808).

9. The Appellant received a copy of the approval order from the Respondent’s competent authority dated 25.02.2020 for reversal of Tariff from HT-Commercial to HT Industrial with retrospective effect from 04.09.2019 (the date of the second online application) The refund of tariff difference from Commercial to industrial for the period from 04.09.2019 to Jan. 2020 was adjusted amounting to Rs.50,54,003/-. Thereafter the Appellant is being regularly billed under industrial tariff category from Feb. 2020 onwards.

10. The Respondent has contended that the Appellant’s grievance is barred by limitation, and that the cause of action arose in April 2019 when the commercial tariff was first applied. However, we find that the actual cause of action arose later around 25.02.2020 when the Respondent officially communicated its decision of reversal of tariff, but only with retrospective effect from 04.09.2019. Prior to that date, the tariff request was being processed at the Respondent’s end, and the date of giving retrospective effect was yet to be decided. It was only on 25.02.2020 when this decision was communicated. After that the Covid-19


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pandemic started and the Hon'ble Supreme Court exempted the period from 15.03.2020 till 28.02.2022 from the limitation under the various Acts. Therefore, we hold that the limitation period in this case would start only from 01.03.2022. The Appellant filed its grievance before the Forum on 01.12.2023 i.e. 21 months after 01.03.2022. Hence, the grievance is not time barred, considering the exemption of the Covid period.

11. We have already discussed why the Respondent's stand was unjustified. In the first place, the Respondent should not have suo moto changed the tariff to commercial without even conducting the site visit or verifying the actual activity from the website of IOCL. Secondly, the Respondent should not have insisted on the new requirement of the DIC certificate, as the Ministry of Company Affairs, GOI had already clarified that the DIC certificate was not necessary.


12. If we look at the actual use of the premises, there is no dispute that the industrial activity continued throughout the disputed period. Hence, for all the reasons mentioned above, we hold that the Respondent's decision to apply commercial tariff from April 2019 was wrong and unjustified and needs to be corrected. We therefore direct the Respondent as under: -

- a. to apply industrial tariff from April 2019 to August 2019 i.e. the entire gap period for which the commercial tariff was applied.
- b. Other prayers of the Appellant are rejected.
- c. Compliance to be submitted within two months from the date of issue of this order.

13. The representation of the Appellant is disposed of accordingly.

14. The secretariat of this office is directed to refund the amount of Rs.25,000/- taken as deposit to the Respondent to adjust in the Appellant's ensuing bill.

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


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Secretary
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