GUJARAT ELECTRICITY REGULATORY COMMISSION
BEFORE THE ELECTRICITY OMBUDSMAN, GUJARAT STATE
Polytechnic Compound, Barrack No.3, Ambawadi,
Ahmedabad-380015

CASE NO. 66/2017

Appellant: Director
Majestic Projects Pvt. Ltd.,
The Metropol Hotel, Nr. RTO Circle,
Subhashbridge Corner, Ahmedabad-380027.

Represented by: Shri Kirtibhai N. Shah, Authorized representative.
Shri Darshilbhai H.Vora, Authorized representative.

V/s.

Respondent: Manager
Torrent Power Limited
Zonal Office, Naranpura. Ahmedabad-380013.

Represented by: Shri Vipul Patel, Manager, TPL, Ahmedabad
Mrs. Mansi Joshi, Manager, TPL, Ahmedabad
Mrs. Zeel A. Shah, M.T., TPL, Ahmedabad.

:::**PROCEEDINGS**:::

1.0. The Appellant had submitted representation aggrieving with the order 1099 dated 14.06.2017 passed by the Consumer Grievances Redressal Forum, Torrent Power Limited, Ahmdabad in case No. 36/2017. The representation was registered at this office as Case No.66/2017. The hearing was kept on 07.09.2017.

2.0. Appellant has represented the case as under.

2.1. Appellant is a consumer of Respondent. Appellant had applied before Respondent on 05.08.2016 quoting GoG Notification No. GHU/2016(32)/ELD/12-2016/384/E dated 30.03.2016 issued by EPD in the matter of reduction of electricity duty to the Hotel/ Restaurant.

2.2. Respondent has charged reduced rate Electricity Duty in the energy bill of Appellant from August,2016 onwards (not from 01.04.2016).

2.3. It is submitted that as per said Notification, the reduction of Electricity Duty rate is applicable from 01.04.2016.

2.4. Appellant stated that as per website of Hon'ble Collector of Electricity Duty, office of the Collector of Electricity Duty, Gandhinagar has mentioned that the consumer is entitled to get the benefit of reduced rate of Electricity Duty if he has applied within one year.

2.5. Appellant has submitted copy of the following documents:

(1) Government Resolution No. GHU/2016(32)/ELD/12-2016/384/E dated 30.03.2016 issued by EPD, GoG.

(2) Circular dated 07.05.2016 issued by office of Collector of Electricity Duty, addressed to DISCOMs including TPL for procedure.

(3) Copy of advertisement published by DGVCL, PGVCL, MGVCL, UGVCL dated 27.08.2017 in Sandesh Newspaper with regard to reduction of Electricity Duty for Hotel, Restaurant and Hospitals. Reduction of Electricity Duty is available from 01.04.2016 after submission of application along with required documents.

2.6. Appellant stated that it is well established practice that any change in Duty/Tax structure from Government in respect to the Government Resolution and covers the organization/public in a large scale, the concern government department issue (in present case CED) either public notice, Circular or guidelines for smooth implementation, so that people as well as duty collecting organization should not find any difficulty. This documents clarifies the procedure and applicability of the change in Duty.

2.7. Aggrieving by CGRF order dated 16.06.2017, Appellant has respectfully stated that there is clear guideline available for implementation of the Circular of CED for reduction in Electricity Duty. He has requested to pass an order to refund excess Electricity Duty charged by Respondent for the period April,2016 to July,2016.

3.0. Respondent has represented the case as under.

3.1. Respondent has denied the contention raised by Appellant and stated that present appeal of Appellant is related with demand of benefit of Electricity Duty at lower rate w.e.f 1st April,2016 instead of August,2016 billing cycle, which was made applicable as per directives of Collector of Electricity Duty, Gandhinagar.

3.2. It is stated that as per Energy & Petrochemical Department's Notification dated 30.03.2016 the GoG has reduced the rate of Electricity Duty in respect of energy consumed by Hotels/ Restaurants from 25% to 15% w.e.f. 1st April,2016 for HT Units and 25% to 10% for LT Units.

3.3. With reference to the above Notification, Officer of Respondent had met Collector of Electricity Duty, Gandhinagar and seek guidelines for applicability of lower Electricity Duty. In the meeting it was decided that lower rate benefit should be given to the consumers with effect from 1st April,2016 in cases wherein applications were received from 01.04.2016 to June,2016. On applications received from 1st July,2016 onwards, lower duty rates should be given from current billing cycle applicable to the respective customers. Respondent has designed self-declaration form to be obtained from customers and public advertisement in newspapers guiding customers to apply along with required proof through online as well as office of Respondent.

3.4. Appellant had applied for benefit of lower Electricity Duty for Service No.2227536 and 8001080 on 05.08.2016. Hence Respondent had applied lower electricity duty from billing cycle of August,2016 in respect of both services.

3.5. Respondent had received complaint from Appellant on 22.12.2016 for benefit of lower Electricity Duty w.e.f. April,2016 instead of August,2016. Respondent had sent letter dated 23.12.2016 seeking guidance from Collector of Electricity Duty along with letter of Appellant.

3.6. Respondent had received letter from Collector of Electricity Duty, Gandhinagar intimating that Electricity Duty is Government revenue

and any type of complaint against DISCOM is in purview of Collector of Electricity Duty and not in Forum. Moreover in the said letter it is clearly stated that benefit of lower Electricity Duty rate given to Appellant w.e.f. 5th August,2016 is in order. However, any submission against it should be referred to Collector of Electricity Duty only. Forum has also decided the grievance accordingly.

:: ORDER ::

4.0. I have considered the contentions of the Appellant and the Respondent and the facts, statistics and relevant papers, which are on record, and considering them in detail, my findings are as under.

4.1. The grievance represented is related with applicability of Electricity Duty rate as published by Collector of Electricity Duty, Gandhinagar.

4.2. As per Para 2.5(1), Collector of Electricity Duty, Gandhinagar has published Notification for recovery of Electricity Duty from electricity consumers.

Electricity Duty rate of Appellant being HT consumer was of 25% and after Notification published on 30.03.2016, Electricity Duty rate was reduced from 25% to 15% w.e.f. 1st April, 2016.

4.3. As per Para 3.4, Respondent has given effect of reduced rate of Electricity Duty w.e.f. August,2016 as per application of Appellant dated 05.08.2016.

As per Para 3.5, on receipt of complaint of Appellant regarding reduced rate of electricity duty effective from April,2016, Respondent has asked clarification from Collector of Electricity Duty, which was replied by Collector of Electricity Duty as per Para 3.6 stating that grievance related with Electricity Duty is well within the purview of Collector of Electricity Duty, Gandhinagar.

4.4. Appellant is a registered HT consumer of Respondent. Respondent has pointed out that the issue raised by Appellant is regarding applicability of rate of Electricity Duty. As per Para 3.6, on ground of jurisdiction to decide the present grievance CGRF has directed Appellant to approach before relevant authority.

4.5. It is required to refer the definition of 'complaint' and "grievance." The "complaint" and "grievance" has been defined under Regulation 1.5(d) and 1.5(h) of the Consumer Grievance Redressal Forum and Ombudsman Regulations,2011, Notification No.2 of 2011.

Definition:

1.5(d):
"Complaint" means any complaint made by a Complainant, either in writing, including e-mail and facsimile modes, or verbally over phone if such numbers are specified by a Licensee for lodging complaints, or by visiting personally such offices of the Licensee which are designated by the Licensee for registering the complaints, to a Licensee, which may, without limitation, include complaints relating to:

(i). any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by the Licensee in pursuance of a licence and/or any contract or agreement or under the Electricity Supply Code or in relation to Standards of Performance of Licensees, as specified by the Commission;

(ii). any unfair trade practice or restrictive trade practice which has been adopted by the Licensee in providing Electricity Service; or

(iii). Electricity Services which are being offered for use to the public in contravention of the provisions of any applicable law including safety code, rules and regulations, as prescribed by competent authorities under the relevant laws or established through prudent industry practices, and as a result whereof the life and safety of the human beings, livestock or property is put at risk and endangered.

1.5(h):
"Grievance" shall mean a grievance of the Consumer arising out of the failure of the Licensee to register or redress a Complaint, and shall include any dispute between the Consumer and the Licensee with regard to any Complaint or with regard to any action taken by the Licensee in relation to or pursuant to a Complaint.

4.6. The Forum and Electricity Ombudsman are established for redressal of grievances of the consumers and 'grievance' and 'complaint' has been specifically defined in the CGRF and Ombudsman Regulations as mentioned above.

It is not the case of the Appellant that the Appellant has complained about any fault, imperfection, shortcoming or inadequacy of supply. In fact, it is the case of the Respondent for recovery of Electricity Duty as per provisions of Collector of Electricity Duty, Gandhinagar. Notification dated 30.03.2016 is issued by GoG. Thus, complaint filed or the issue raised by Appellant does not constitute a 'complaint' as defined under CGRF & Ombudsman Regulations. Therefore, it is to

be held that Forum or Electricity Ombudsman has no jurisdiction to entertain the complaint filed by Appellant raising the issue of applicability of rate of Electricity Duty.

4.7. As mentioned above, Forum as well as Electricity Ombudsman have no jurisdiction to entertain the complaint or representation of the Appellant as the issue raised by the Appellant does not constitute a 'complaint' as per CGRF and Electricity Ombudsman Regulations. The representation filed by the Appellant is dismissed with no order. Appellant may file his complaint before relevant authority for applicability of rate of Electricity Duty.

4.8. I order accordingly.

4.9. No order as to costs.

4.10. With this order, representation/Application stands disposed of.

(Dilip Raval)
Electricity Ombudsman
Gujarat State

Ahmedabad.
Date: 14.09.2017.