

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
**World Trade Centre, Centre No.1, 13<sup>th</sup> Floor, Cuffe Parade, Mumbai 400005.**  
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**Case No. 128 of 2020**

**Cases of Guardian Castings Pvt. Ltd and 15 others seeking modification in Multi-Year Tariff Order dated 30 March 2020 in Case No. 322 of 2019 pertaining to the 10 hour single shift HT Industrial consumers.**

**Coram**

**I.M.Bohari, Member**  
**Mukesh Khullar, Member**

- |  |                       |
|--|-----------------------|
| 1. Guardian Castings Pvt.Ltd                     | .....Petitioner No 1  |
| 2. Mitc Rolling Mills Private Limited            | .....Petitioner No 2  |
| 3. Matsyodari Steel & Alloys Pvt. Ltd            | .....Petitioner No 3  |
| 4. Surya Ferrous Alloys Pvt. Ltd                 | .....Petitioner No 4  |
| 5. Bhagwati Ferro <i>Metal Pvt Ltd</i>           | .....Petitioner No 5  |
| 6. Bhagwati Steel <i>Cast Ltd</i>                | .....Petitioner No 6  |
| 7. Sant Gyaneshwar Steels Pvt. Ltd               | .....Petitioner No 7  |
| 8. Sohn Steel (P) Ltd                            | .....Petitioner No 8  |
| 9. G.D. Met Steel (P) Ltd                        | .....Petitioner No 9  |
| 10. Nilanjan Iron (P) Ltd                        | .....Petitioner No 10 |
| 11. Shri Karvir Nivasini Mahalaxmi Ispat (P) Ltd | .....Petitioner No 11 |
| 12. Bhuleshwar Steel and Alloys (P)Ltd           | .....Petitioner No 12 |
| 13. Indryani Ferro Cast (P) Ltd                  | .....Petitioner No 13 |
| 14. Mcenakshi Ferro Ingots (P) Ltd               | .....Petitioner No 14 |
| 15. M/S. Pushpak Steel Industry (P) Ltd          | .....Petitioner No 15 |

Vs

Maharashtra State Electricity Distribution Company Limited .....Respondent

Appearance

For Petitioner: - .....Shri. Anil D'Souza (Adv)  
For Respondent: - .....Shri. Ashish Singh (Adv)

## ORDER

**Date:10 December, 2020**

1. Guardian Castings Pvt.Ltd and 15 others have filed this Petition on 12 June, 2020 under Section 86 of Electricity Act, 2003 (**EA, 2003**) read with Section 94 of the Electricity Act, 2003 read the Maharashtra Electricity Commission (Conduct of Business) Regulations, 2004 seeking modification in Multi-Year Tariff Order of Maharashtra State Electricity Distribution Company Limited (**MSEDCL**) in Case No. 322 of 2019 dated 30 March 2020 in of MSEDCL pertaining to the 10 hour single shift HT Industrial consumers.

**2. Petitioner's main prayers are as under:**

*a) To issue the necessary order modifying the criteria of single shift tariff in the following manner:*

- i. "Single shift operation means running of operations at a stretch for maximum 12 Hrs."*
- ii. In case of industrial consumer under HT-Industry with single shift operation, Demand Charges at the rate of 50% of Applicable Demand Charges as per Tariff Schedule shall be levied.*
- iii. 10% of the total sanctioned load can be used outside the single shift of 12 hours;*

**3. Petitioners in its Petition has stated as follows:**

3.1 The Petitioners are engaged in the business of manufacture of steel and iron and are the consumers of MSEDCL. They are seeking the modification of the "10 hour single shift" provisions to "12 hour single shift" and thereby levy of lower demand charge approved for single shift HT consumers in the MYT Tariff Order.

3.2 The Petitioners have a 12-hour shift pattern with its employees and workmen. Depending upon the order book and its workload, the Petitioners either run their industries in 1 shift of 12 hours or 2 shifts of 12 hours each in a day. Apart from the employee and workmen terms, the Petitioners' output typically requires 12 hours shift for optimum utilization of all its resources.

3.3 MSEDCL in its MYT Petition had requested to allow levy 60% of approved fixed charges for single shift HT industrial consumers and the Commission vide its MYT Order in Case No 322 of 2019 dated 30 March, 2020 has allowed the same with following conditions

a) *Single shift operation means running of operations at a stretch for maximum 10 Hrs. For illustration, a consumer running 4hrs.in one stretch and 6hrs.in another stretch cannot be considered as running in a single shift. However, a maximum of three instances of running beyond 10hrs up to 12hrs is permitted in a billing cycle.*

b) *Consumer must declare in advance about one shift operation. In absence of such declaration, it shall be billed as per the applicable demand charges.*

c) *Billing will be done based on MRI/AMR Data.”*

3.4 The above provisions of the said Tariff Order pertaining to the 10 hour single shift are introduced with the twin object of rationalization of power usage and optimum utilization of power. It is intended that the consumers especially HT industrial consumers would get some flexibility in power utilization and running the respective manufacturing plants economically. This would also allow some flexibility to consumers.

3.5 The said Order further provides the condition that ‘*Demand Charges at the rate of 60% of Applicable Demand Charges as per Tariff Schedule*’ shall be levied if 10 Hour Single Shift is to be opted by the consumers. The other condition that the Order provides in the case of consumer opting for 10 hour single shift is that only 5% of the total sanctioned load can be used outside this 10 Hour Single Shift.

3.6 Considering the above rationale and objective behind the 10 hour single shift, it becomes clear that though the intention of the Commission and MSEDCL is laudable the objective sought to be achieved will not be fully achieved considering the “12 hours shift” pattern of the Petitioners. Further, the condition of ‘*Demand Charges at the rate of 60% of Applicable Demand Charges as per Tariff Schedule*’ for 10 Hour Single Shift is too high and needs rationalization. The Demand Charges at the rate of 60% of Applicable Demand Charges should be reduced to 50% of the Applicable Demand Charges. Similarly, the permission to use only 5% of the total sanctioned load outside this 10 hour single shift is harsh and requires upward revision to 10% of the total sanctioned load.

3.7 Section 61 of the EA, 2003 recommends that the factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments shall be considered by the appropriate Commission for specifying the terms and conditions for the determination of Tariff.

3.8 Further, tariff rationalization principles require that any Tariff category ought to promote efficiency, economical use of the resources. Such Tariff must promote good performance and optimum investments. Needless to mention that such category must not be rigid but needs to be flexible.

3.9 In the above circumstances, it is prayed to modify the relevant part of MYT Order specifying single shift for 12 hours and to extend the usage of 10% of total sanctioned load outside the single shift of 12 hours.

3.10 The above criteria of single shift are just and proper and act fairly to all the consumers as well as the MSEDCL. Such a formula does complete justice to all the stakeholders and does not act or impact adversely to anyone. There is huge labour shortage in Maharashtra due to covid19 pandemic. The consumers are suffering tremendous hardships due to economic slowdown and cancelations of orders.

**4. MSEDCL in its submission dated 3 September, 2020 has stated as follows:**

4.1 There is no provision in law allowing for “Modification” of a Tariff Order under which the present Petition has been filed. The only available legal provision is filing of “Review Petition”. It is a well settled principle of law that “Review Petitions” have to be decided within the four corners of law and have to pass the litmus test of admissibility before the same can be adjudicated. The ambit of “Review Petition” being narrow and precise, the Petitioner would then be expected to pass the hurdle of such requirement of law by evidencing that its “Review Petition” is maintainable in the specific facts and circumstances of its case.

4.2 The prayers in the present form and manner are without the force of law and in fact are against the provisions of law. Hence the Petition needs to be dismissed by the Commission being non-maintainable.

**5. At the time of E-hearing held on 2 December, 2020**

5.1 Petitioners and MSEDCL reiterated their submissions mentioned in their Petition/Reply.

5.2 Advocate of MSEDCL objected to the maintainability of the Petition. It has stated that if the Petitioners are seeking any modification/ change in the MYT Order it shall be in the form of Review Petition or an Appeal. Without exercising the options available as per the EA 2003, Petitioners cannot seek modification in the MYT Order. MSEDCL has not filed reply on merits.

5.3 Advocate of Petitioners stated that single shift concept has been introduced by MSEDCL for the first time in this MYT Order. Though it is beneficial for the industries to manage the load in these Covid-19 situations, 10 hrs shift concept is not an industrial practice. Labour Laws also specify 8 hrs or 12 hrs shift and therefore the Commission should consider these procedural requirements also. The Commission has ample powers under MERC (Conduct of Business Regulations) 2004 to modify its Order.

## Commission's Analysis and Ruling

6. Petitioners have filed this Petition seeking modification of condition for single shift i.e. from 10 hours stipulated in the MYT Order dated 30 March 2020 to 12 hours and further requested to levy only 50% of Demand Charges to such single shift consumers instead of 60% stipulated in the MYT Order.
7. MSEDCL has opposed maintainability of the Petition. It stated that EA 2003 and Regulation 85 of MERC Conduct of Business Regulations, 2004 specify the procedure for seeking modification through Review Petition or filing appeal with higher courts. Without exercising the options available as per the EA 2003, Petitioners cannot seek modification in MYT Order.
8. The Commission notes the objection raised by MSEDCL on maintainability of the Petition. At the same time, to avoid any multiplicity of proceedings the Commission is addressing the merits of the relief sought in the Petition. The Commission notes that MSEDCL in its MYT Petition has proposed as follows:

*“9.3.15 Further, it is proposed that the HT-Industrial consumers, running single shift operation shall be levied 60% of applicable demand charges. **Single shift operation means running of operations at a stretch for maximum 10 Hrs.** For illustration, a consumer running 4hrs.in one stretch and 6hrs.in another stretch cannot be considered as running in a single shift. **However, a maximum of three instances of running beyond 10hrs up to 12hrs is permitted in a billing cycle.** Consumer has to declare in advance about one shift operation. In absence of such declaration, he shall be billed as per the applicable demand charges. Billing will be done based on MRI/AMR Data. MSEDCL humbly requests the Hon'ble Commission to charge 60% of approved fixed charges for single shift consumers as proposed by MSEDCL”[emphasis added]*

The Commission in the MYT Order dated 30 March, 2020 allowed such proposal of MSEDCL with following observations:

*“8.7.18 Further, the Commission appreciates MSEDCL's proposal to give some relief to HT-industrial consumers operating in single shift by way levy only 60% of applicable Demand Charges subject to certain conditions. In order to facilitate such HT-industrial consumers during economic slowdown in few sectors, as pointed by some of the consumers during Public Hearings, the Commission accords its consent to proposal to levy 60% of Demand Charges in case of HT-industrial consumers operating in single shift subject to conditions as outlined under MSEDCL proposal along with illustration thereof.”*

9. Thus, after following due public hearing process the Commission has approved the proposal of MSEDCL for lower Demand Charges for single shift HT consumers and stipulated conditions for the same as proposed by MSEDCL. During public consultation

process, no specific comment was received on criteria for availing such benefit. Now post issuances of the Order, Petitioners cannot seek modification of such conditions just because it does not suit them. Any incentive / rebate offered in the Tariff Order becomes applicable only if conditions stipulated for the same are fulfilled. Changing such conditions for making them applicable to non-eligible consumers would be against the intent of such incentive/rebate. Lower Demand Charges for single shift consumers are introduced considering the fact that normally a single shift runs for 8 hours and such consumers get higher impact of Demand Charges due to lower utilisation of Contract Demand as compared to consumers running their industries for 2 or 3 shifts and thereby utilising Contract Demand for maximum possible time. MYT Order stipulated period upto 10 hours for single shift consumer to accommodate pre- and post-period of 8 hours shift. Thus, intention of allowing 60% of Demand Charges to Single Shift (upto 10 hours) was very clear and cannot be extended to consumer running their shift upto 12 hours.

10. Further, Petitioners are representing steel industries. The Commission has already approved various incentives to this category of consumers and has allowed levy of Demand Charges at 75% of approved level to steel plant running with electric arc furnace. Further through the MYT Order dated 30 March 2020, the Commission has introduced new incentivise/rebate such as bulk consumption rebate [2% to 1% on energy charge for different consumption slab] and incremental consumption rebate at Rs.0.75/kVAh beside 1% prompt payment discount continued from previous Tariff Orders. Therefore, the Commission has already approved various incentives and rebates which the consumers including the Petitioners can avail by complying with conditions stipulated for the same.
11. Petitioners also relied upon Covid-19 circumstances and requested the Commission to modify such condition stipulated for single shift consumer to provide additional relief to consumers in this difficult time. In the opinion of the Commission, this cannot be a ground for modifying conditions stipulated in the MYT Order post due public consultation process. Through its various Practice Directions, the Commission has already taken several measures to support industrial and commercial consumers in Covid-19 circumstances.
12. In view of foregoing, the Commission finds no merits in the relief sought in the present Petition and hence rules that the case needs to be rejected.
13. Hence, the following Order:

**ORDER**

1. Case No 128 of 2020 is dismissed.

Sd/-  
(Mukesh Khullar)  
Member

Sd/-  
(I.M. Bohari)  
Member

