

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2511 OF 2023

Vaibhav Deshmukh Infra Pvt .ltd

...Petitioner

Versus

Union Of India Thr The Ministry
Of Medium Small And Micro
Enterprises And Anr

...Respondents

Mr. Sushant Sudhakar Prabhune for petitioner.

Mr. Pralhad Paranjpe a/w. Ms. Priyanka Chavan for respondent no.1.

Mr. Rahul Sinha for (MSEDCL) I/B. PDS Legal for respondent no.2.

**CORAM: K.R. SHRIRAM &
RAJESH S. PATIL, JJ**

DATED: 16th March, 2023

PC:-

1. Petitioner is challenging a demand notice date 20th December 2022 and 07th February 2023 issued by respondent no.2/MSEDCL, changing petitioner's Ready-Mix concrete ("RMC") manufacturing plants tariff category from 'HT-I(A)-Industry' to 'HT-II (Commercial)' with retrospective effect and

thereby raising a bill of Rs. 15,62,720/- seeking retrospective recovery of differential tariff for the period 2020 to 2022.

2. We dispose the petition with the following directions.

ORDER

a) MSEDCL shall approach the MERC with an application/petition to reclassify petitioner's activity from 'Industrial' to 'Commercial' within one week.

b) MERC shall endeavour to dispose application/petition of MSEDCL within four weeks from receiving the application/petition subject to hearing petitioner, who shall be at liberty to file a reply to the application/petition filed by MSEDCL.

c) MERC shall also consider whether MSEDCL is entitled to reclassify petitioner with retrospective effect.

d) The order disposing application/petition of MSEDCL shall be a reasoned order by dealing with all submissions to be made by MSEDCL as well as petitioner.

e) Until MERC disposes the application/petition of MSEDCL, petitioner shall continue to pay in the 'Industrial' category and no coercive steps will be taken against petitioner.

f) The undertaking of petitioner that if

ultimately petitioner is classified as 'Commercial user' and not 'Industrial user' to pay all amounts of electricity dues is accepted.

3. Petition disposed. No order as to costs.
4. We clarify that we have not made any observation on the merits of the case.
5. We are informed that in another writ petition no. 1009 of 2023 filed by Ultratech Cement Ltd. & Anr. versus Maharashtra State Electricity Distribution Company Ltd. & Ors. where the issue was identical, we passed order on 23rd January 2023. It is almost two months since that order was passed and Mr. Sinha states, to a query posed by the court, that MSEDCL is still in the process of filing a petition/application before Maharashtra Electricity Regulatory Commission ("**MERC**"). We are surprised, for two months this application has not been filed before MERC which makes us wonder whether MSEDCL is serious in what they intended to do with parties like in this petition.
6. Since the issue as to whether Ready Mix Concrete ("**RMC**") manufacturing plant should be brought under the category from 'HT'I(A)-Industry' to 'HT-II (Commercial)' is yet to be decided by MERC, MSEDCL shall not raise any invoice on any party having RMC plants, by changing their

category from 'industrial' to 'commercial' until MERC decides that issue. We are constrained to pass this order in view of the inaction on the part of MSEDCL and to reduce the burden on this Court of parties rushing for orders and unnecessarily incurring cost. No coercive steps shall be taken until MERC decides the issue so long those parties pay their bill under the industrial category.

(RAJESH S. PATIL,J.)

(K.R. SHRIRAM,J.)