

## BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 95 OF 2023

In the matter of Refund of Interest on Security Deposit

Anni C. Shetty .....Appellant  
(Hotel Devi Jyoti) (Consumer No. 000440132570)

V/s.

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

Appearances:

Appellant : Not present

Respondent: 1. Dhananjay Mohod, Additional Exe. Engineer, Vashi  
2. Anirudha Ghatage, Additional Exe. Engineer, Vashi


**Coram: Vandana Krishna [I.A.S.(Retd.)]**

Date of hearing: 19<sup>th</sup> December 2023

Date of Order : 9<sup>th</sup> January 2024

### ORDER

This Representation was filed on 18<sup>th</sup> September 2023 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the order

  
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dated 27.07.2023 passed by the Consumer Grievance Redressal Forum, Bhandup (the Forum) in Case No. 143 of 2022-23. The Forum dismissed the grievance application of the Appellant.

2. Aggrieved by the order of the Forum, the Appellant has filed this representation. A physical hearing was held on 19.12.2023. The Appellant was not present for the hearing; however, he informed that the case be decided on merit as per the documents on record. The Respondent was heard at length. The Respondent filed its reply dated 19<sup>th</sup> October 2023. For easy understanding, the Respondent's submissions and arguments are stated first as below. The Electricity Ombudsman's observations and comments are recorded under 'Notes' in brackets where needed.

- (i) The Appellant is a 3 phase Commercial Consumer (No. 000440132570) from 15.02.1995 having sanctioned load of 37 KW and Contract Demand of 46.25 KVA at House No. 263A, 1<sup>st</sup> floor, Navi Mumbai- 400703. The Appellant is using this power supply for running a hotel.

**Time barred Case:**

- (ii) The Appellant filed a grievance with the Forum on 27.12.2022 requesting for
- a refund of Interest on Security Deposit (SD) from the date of supply.
  - copy of I.T. report generated for the same to verify the correctness (date of supply) and CPL from Jan. 2019 to Oct. 2022.
  - issue of TDS certificate as per the Income Tax Act 1964.
  - to resolve the grievance raised in April 2019 in connection with abnormal billing.
  - to initiate appropriate action on the defaulters (Asstt. Accounts) for negligence on their part as well as violation of H.O. orders for years together.
- (iii) The claim of the Appellant is time 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

  
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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 and the representation be rejected on this ground alone.

- (iv) The Respondent referred to the Judgment of Bombay High Court, Bench at Aurangabad in W P. No. 6859, 6860, 6861 and 6862 of 2017 decided on 21.08.2018 where the Regulation 6.6 was upheld by the High Court.
- (v) The Respondent also referred to the Judgment dated 08.01.2020 of the Bombay High Court, Nagpur Bench in W.P. No.1588 of 2019 in Case of MSEDCL V/s Mahamaya Agro. Industries. The High Court has upheld the above said judgment, and held that the limitation to file grievance before the Forum is two years from date of cause of action.
- (vi) The Respondent also referred to the orders dated 16.08.2019 of the Electricity Ombudsman in Rep.No.68, 69 & 71 of 2019 in respect of M/s. G. M. Syntex, which have upheld the above view and dismissed the grievances.
- (vii) In view of the above, the claim of the Appellant is time barred and therefore liable to be rejected. There is no need to go into the merit of the case, however, as contended below, the case does not sustain even on merit.

**Reply on Merit:-**


- (viii) The Respondent stated that interest on SD is credited through the System. The SD amount was fixed normally to one billing cycle, up to the current month, as per Supply Code Regulations 2005 which was effective from 20.01.2005 to 24.02.2021. The Supply Code & Standard of Performance Regulations 2021 came in force from 25.2.2021, and the amount of (SD) was increased to twice the average billing of the consumer for the last twelve (12) months.

  
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- (ix) An “abnormal interest” SD Report is created through the System by the Billing & Revenue Department of the Respondent, by filtration of the billing data for inspection purpose. This includes cases where the interest payment is quite large, i.e. more than Rs.10,000/- per year. The number of consumers in this abnormal report is very less, where actual inspection is required for verification of documents. The Appellant was also shortlisted in this report. Hence, the interest of the Appellant was held up for some financial years for verification. The Respondent had released the interest due from time to time after verification. *[Note: It is not clear for which years interest was released, and for which years interest has been held up.]*
- (x) The Respondent argued that Shri Hemant Hatkar, Consumer Representative is acting as an agent to create such grievances in the Consumer Grievance Redressal Mechanism. The various orders referred by the Appellant (in support of their grievance) have been filed by the said consumer representative (Shri Hemant Hatkar) who is a retired Divisional Accountant of the Respondent. He cannot be friends of all these consumers. He did not have a pre-existing relationship with the Appellant (such as: a relative, neighbor, business associate or personal friend); and might be receiving direct or indirect remuneration for appearing before the Forum. His communication language is rude, and he creates a barrier between the original consumers and the Respondent. The Respondent requested to take appropriate action against the consumer representative to restrict agents in the system.
- (xi) The Respondent assured that the verification of records has been completed. The interest, if any, pending for the last few years will be reconciled and will be released after getting approval of the Competent Authority.

3. The written submissions and arguments of the Appellant are stated in brief as below: -

  
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Electricity Ombudsman Mumbai



- (i) The Appellant is a 3 phase Commercial Consumer (No. 000440132570) from 15.02.1995. The details of sanctioned load, Contract Demand are shown in Para 2 (i). The Appellant is using this power supply for running a hotel namely “Devi Jyoti”.
- (ii) The Appellant has authorized Shri.Hemant Hatkar who is a family friend to act as his representative on his behalf.
- (iii) The Respondent is duty bound to award interest on SD every year, as per Head Office Circulars issued by the Chief Engineer (Commercial) of the Respondent from time to time. The interest on the SD of the Appellant remains to be awarded for years together since the date of connection. This can be easily ascertained from the data base of the I.T Department of the Respondent. *[Note: The Appellant has not clarified the exact years of non-payment of interest.]* This is a case of non-compliance of H.O. order for years together, and hence it is required to be viewed seriously.
- (iv) The TDS certificate is required to be issued as per the provisions of the Income Tax Act, 1964. The Appellant, in its letter dated 15.04.2019 requested to credit the interest amount, but it has not been resolved till today. The Respondent was not bothered to reply to their letters.
- (v) The Appellant filed a grievance in the Internal Grievance Redressal Cell (IGRC) in the year 2019. The IGRC by its order dated 23.05.2019 directed to issue interest and the necessary TDS certificate to the Appellant. The order of the IGRC was not complied with.
- (vi) The Appellant approached the Forum on 27.12.2022. The Forum, by its order dated 27.07.2023 dismissed the grievance by observing that the grievance is time barred as per Regulation 6.6/7.8 of CGRF & EO Regulations 2006/2020 respectively.
- (vii) The Forum failed to understand the basic issue that interest payment is ongoing, hence the grievance is not time barred as per Regulation 6.6/7.8. The Respondent failed to credit the interest of SD in the bill as per their own guidelines.

  
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*[Note: If the Appellant was not satisfied with the IGRC's order dated 23.05.2019, he should have approached the Forum, at the most, within 2 years, i.e. by 23.05.2021. However, he actually approached the Forum only on 27.12.2022, which is time barred.]*


- (viii) The Appellant referred to various orders of the Bhandup Forum where the Forum has awarded interest on SD as below:

Sr. No.	Name of Consumer	Forum's Order No. & Date
1	Cinemax Pvt. Ltd.	528 dated 07.03.2015
2	J. Enterprises	33 dated 31.10.2017
3	Rajdeen Restaurant	110 dated 21.10.2019
4	Cheiro Caters Pvt. Ltd.	248 dated 16.11.2019
5	Siddanchal Club Ltd.	233 dated 29.11.2022

- (ix) The Appellant also referred to the order of the Electricity Ombudsman (Mumbai) in Case of 203 of 2022 dated 03.02.2023 in support of its grievance.
- (x) In view of the above, the Appellant prays that the Respondent be directed,
- To award interest on SD since not paid.
  - to provide IT Generated Report and CPL for verification from the date of connection or from April 2010 onwards.
  - to issue TDS certificate as per provisions of Income Tax Act, 1964.
  - to take appropriate action against the defaulter staff of the Respondent considering the laxity, gross negligence on their part.

4. During the course of hearing, the Respondent was directed to send details of SD credited in the last five years. The Respondent by its email dated 02.01.2023 submitted the details of SD credited from 2014 to 2022 which is tabulated below:

Table 1:

  
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Consumer No.	year begin date	calculation date	cumulative sd deposit	interest credited	tax deducted	updated on
000440132570	01-Apr-14 12:00:00 AM	20-Apr-15	52110.00	4652.00	0.00	08-Jun-17 12:28:37 PM
000440132570	01-Apr-15 12:00:00 AM	28-Apr-16	73730.00	5621.00	1124.00	08-Jun-17 12:31:02 PM
000440132570	01-Apr-16 12:00:00 AM	27-Apr-17	88290.00	9326.00	1865.00	08-Jun-17 12:34:27 PM
000440132570	01-Apr-17 12:00:00 AM	01-Apr-17	94050.00	8900.00	1780.00	26-Apr-18 11:42:38 AM
000440132570	01-Apr-18 12:00:00 AM	01-Apr-18	97670.00	9411.00	1882.20	23-Apr-19 12:40:15 PM
000440132570	01-Apr-19 12:00:00 AM	01-Apr-19	97670.00	9815.84	1963.17	15-Apr-20 10:33:54 PM
000440132570	01-Apr-20 12:00:00 AM	01-Apr-20	97670.00	4541.66	0.00	28-Apr-21 8:41:09 PM
000440132570	01-Apr-21 12:00:00 AM	01-Apr-21	97670.00	4150.98	0.00	21-Apr-22 9:49:40 PM
000440132570	01-Apr-22 12:00:00 AM	01-Apr-22	101820.98	4179.00	0.00	05-Apr-23 7:52:45 PM

## Analysis and Ruling

5. Heard both the parties and perused the documents on record. The Appellant is a 3 phase Commercial Consumer from 15.02.1995. The details of sanctioned load, Contract Demand, address etc. were shown in Para 2 (i). The Appellant is using this power supply for running a hotel.

6. The Appellant contended that the interest on security deposit has not been credited for years together since the date of connection. This can be easily ascertained from the database of the I.T Department of the Respondent. However, the Appellant failed to point out specifically in which year the security deposit was not given, and the grievance period is vague in nature. The Appellant also pointed out that the TDS certificate was not received.

7. The Respondent contended that the interest is calculated through the system and is normally passed on to the consumer by way of credit in the month of April/May of the financial year, as per the provision of Supply Code Regulations in force. Cases where abnormal interest was calculated due to wrong posting of SD and other reasons are captured through the system and sent for verification in the field for ascertaining the exact position. Thereafter, interest is released to the consumer as per the merit of the case. In the present case, the Appellant has already credited

  
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security deposit as per Table 1. If the Appellant still has a specific grievance of interest & TDS, he will be welcomed and responded to accordingly.

8. The provisions of interest on security deposit as per the Electricity Supply Code and Other Conditions of Supply Regulations, 2005/ Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality, Regulations, 2021( Supply Code & SOP Regulations 2021) are nearly the same. The provision in Regulations 2021 is reproduced as below:

*“13.11 The Distribution Licensee shall pay interest on the amount of security deposited in cash (including payments made through NEFT/RTGS, cheque and demand draft) by the Consumer at a rate equivalent to the Bank Rate of the Reserve Bank of India: Provided that such interest shall be paid where the amount of security deposited in cash under this Regulation 13 is equal to or more than Rupees Fifty.*


*13.12 Interest on cash security deposit shall be payable from the date of deposit by the Consumer till the date of dispatch of the refund by the Distribution Licensee.”*

9. The Distribution Licensee is duty bound to provide interest on the Security Deposit held with the Licensee. Normally, the interest on security deposit is calculated through the System annually, and is released to the consumers normally in the month of April/May of the next Financial Year. There were some problems of consumers when the billing data was migrated to the corporate office in the year 2018/19, which might have led to some procedural delay.

10. It is necessary to refer to the concerned Regulation for determining the cause of action. The relevant Regulation of CGRF & EO Regulations 2006 /2020 is reproduced below:-

*“6.6 The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.”*

It is seen from Table 1 that interest has been credited right from 2015 to 2022. In fact, it seems to have been credited twice in April 2017. However, TDS tax seems not to have been deducted from April 2020 onwards. The Respondent claims that some delay occurred from 2018

  
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/19 when billing data was migrated. Hence, the cause of action seems to have arisen, either in 2018, or at the latest in April 2020. The two-year period would thus be valid at the most till April 2022. By his own admission, the Appellant approached the Forum only on 27.12.2022 which is beyond the limitation period. Similarly, if we count the cause of action as the IGRC order dated 23.05.2019 as mentioned in para 3 (v), even then the Appellant should have approached the Forum within two years, i.e. by 23.05.2021. In either situation, the grievance was time barred.


Nevertheless, the Appellant is eligible for claim of interest on SD as per Regulation 13.11 & 13.12 of Supply Code & SOP Regulations 2021. It has been confirmed with the Respondent that interest on SD was released as mentioned in Table 1.

11. In view of the above, both the parties are advised to sit together to resolve the interest and TDS issue, and to take appropriate action in the matter. The Respondent is also directed to release the interest in the next financial year through the system to avoid confusion in the matter.

12. The compliance report be submitted within a period of two months from the date of issue of this order.

13. The instant Representation is disposed of accordingly.

Sd/  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

