# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 237 OF 2018

In the matter of application of tariff category and the delay

M/s. Royal Food Stuffs Pvt. Ltd ..... Appellant
(Plot No. 21,22)

V/s.

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

For Appellant : 1. R. M.Thorat, G.M.
2. V.A. Kamanna, Consumer Representative
3. Mukund Mahale, Consumer Representative

For Respondent : 1. R.B. Bagal, Addl Executive Engineer, Satara
2. Nisar S. Shikalgar, Jr, Law Officer,
3. Santosh C. Bhosale, Deputy Manager (F& A)

**Coram: Mr. R. D. Sankhe**

Date of Order: 25th January, 2019

ORDER

This Representation under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 *(CGRF Regulations)* against the Order dated 3rd August, 2017, passed by the Consumer Grievance Redressal Forum, MSEDCL, Baramati Zone *(the Forum)* was submitted on 1st October, 2018. The Appellant, however, by email dated 3rd October 2018 requested to withhold filing and to keep the representation pending to enable them to forward some more important documents. The Appellant did not submit any further document and hence after

registering the representation, notice was served on the Respondent MSEDCL on 29th November 2018.

2. The Forum, by its Order dated 3rd August, 2017 by majority view has allowed the grievance of the Appellant consumer and the licensee has been directed to apply agricultural tariff HT-V: HT-Agriculture from 1st June, 2015 as per the Tariff Order dated 26th June, 2015 of the Maharashtra Electricity Regulatory Commission (*the Commission*) in Case No. 121 of 2014. The licensee has been also directed to pay the differential amount to the consumer from 1st March 2016 alongwith interest as per Section 62 (6) of the Electricity Act, 2003 (*the Act*).

3. The Appellant has filed the Representation on 1st October, 2018 against the order of the Forum dated 3rd August, 2017. There is delay in filing this representation. The Appellant has stated that the Forum directed to refund the tariff difference from 1st March, 2016, however, the Respondent has only changed tariff from September 2017. The Appellant had doubt whether the Respondent would implement the order of the Forum. The Appellant, therefore, did not approach the Electricity Ombudsman. It is further stated that the Respondent, MSEDCL, after making payment to the Appellant for tariff difference from 1st March, 2016, has filed the writ Petition (WP) in High Court against the order of the Forum. The Appellant has, therefore, filed the representation and prayed to condone the delay. As to the merits of the case, the Appellant has stated as under: -

(i) The power supply was released to the Appellant consumer for cold storage purpose on 21st June, 2005 under HT-1-N industrial tariff category

(ii) The Commission in its Tariff Order dated 20.6.2008 in Case No.72 of 2007 created category of HT-V: HT-Agricultural tariff for HT Consumers only for pre-cooling and cold storage for Agricultural produce of farmer's, Co-operative Societies. Thereafter, the Commission, by its Tariff Order dated 17.8.2009 in Case No.116 of 2008 extended applicability of agricultural tariff for both, the LT & HT consumers for pre-cooling and cold storage for agricultural produce.

(iii) In the Tariff Order dated 16.8.2012 in Case No.19 of 2012, the Commission made provision for LT IV: Agricultural tariff from pre-cooling and cold storages from agricultural produce on LT supply.

(iv) In Tariff Order of the Commission dated 26th June, 2015 in Case No. 121 of 2014, LT – IV and HT – V category was made applicable to Agriculture metered

others, pre-cooling plants & Cold storage units for agriculture products – processed.

(v) The Commission by Tariff Order dated 3.11.2016 in Case No.48 of 2016 made applicable LT IV(C) : LT Agriculture – Others i.e. pre-cooling plants and cold storage units for agricultural products – processed or otherwise. Similarly for HT consumers made tariff category, HT V ( B) : HT Agriculture – Others i.e. for pre-cooling plants & cold storage units for agricultural products – processed or otherwise applicable. The MSEDCL should have accordingly applied HT-V Agriculture tariff to the Appellant instead of HT-I-Industrial with effect from 1st August, 2009.

(vi) The Appellant approached the Circle Office of MSEDCL, Satara on 16th February, 2016 requesting for change of tariff from Industrial to Agriculture and for refund of difference in tariff.

(vii) The Respondent inspected the premises on 15th March, 2016. The Respondent thereafter changed the tariff category from HT-I N to HT-V with effect from March 2016 and informed the Appellant accordingly by letter dated 12th April, 2016. The Superintending Engineer (the SE), Satara calculated the tariff difference from September 2012 to February 2016 amounting to Rs. 2,22,53,623/- and submitted to the Chief Engineer (Comm.) MSEDCL Mumbai by letter dated 16th May, 2016 for approval of refund of tariff difference. Approval for refund was also conveyed by the Chief Engineer (Comm.), Mumbai vide letter dated 13th July, 2016.

(viii) The SE, Satara changed the strategy and instead of refund, re-inspected the premises on 3rd September, 2016. The team also visited on 28th October, 2016 for re-inspection without intimating the Appellant. Even after this visit, the tariff was kept unchanged. However, the SE, Satara, with prejudice mind once again sent a team involving Addl. Ex. Engineer, Flying Squad Satara on 22nd November, 2016. The SE, Satara by his letter dt. 11th January, 2017 informed that the Respondent has changed tariff from HT-V Agriculture to HT-I N Industrial with effect from 1st March, 2016 on the basis of report of Addl. Ex. Engineer, Flying Squad. The SE, Satara also informed the Appellant vide letter dated 27th January, 2017 that supplementary bill for tariff difference with effect from March 2016 to November 2016 of amounting Rs.61,39,345/- has been

raised in bill for month of January 2017 and asked the Appellant to pay the amount immediately.

(ix) The SE, Satara also issued notice of disconnection as per Section 56 (1) of the Act vide letter dated 18.04.2017.

(x) The load bifurcation of cold storage unit is as under: -

Total Load – 688 HP (513 KVA) :

(a) Cold storage refrigeration equipment -368KVA – 71 %

(b) Seasonal Fruit Ripening Section - 22 KVA - 4 %

(c) All the utilities, administrative block units and R&D centre/testing laboratory located within the premises of the cold storage 43 KVA - 8 %

(d) Activities like drying, grading, sorting, packaging the allied activities which are essentially required to support the cold storage core activity – 82 KVA – 16 %

Fire Fighting System (Emergency Standby Load) 67 KVA.

The load of the Appellant is enhanced for 597 Kw as connected load of 577 as Contract Demand from August 2018 onward. Out which the load utilized for cold storage is 580 HP – 432.68 KVA i.e. 84.3%.

Allied activities is 108 HP – 80.57 KVA i.e. 15.70%.

(xi) The definition of agricultural produce given in Section 2 of The Agricultural Produce Act, 1926 provides that "Agricultural produce" shall mean any kind of produce mentioned in the First or Fourth Schedule or any kind of livestock or fish mentioned in the Fifth Schedule: Agricultural produce, "corn "has been included in the fourth schedule of the said Act. Similarly, one more definition of agriculture produce has been given in Section 2 (a) of the Agricultural produce (Grading and Marketing) Act, 1937.

(xii) The Respondent cannot discriminate between the consumers for application of tariff category as per Section 45(4) & 45 (5) of the Act, The Licensee MSEDCL has applied agricultural tariff in similar cases in respect of following consumers: -

(a) M/s.Pathan Fruits vide consumer No.0285510879505

(b) M/s.S.L.Agro Foods vide consumer no.176089052370.

(c) M/s. Monsoon Agro Bio Pvt. Ltd. vide Consumer no.170019031210

(d) M/s Daulat Agro (I) Industries Pvt. Ltd. vide Consumer No. 155919009560, etc.

Electricity Ombudsman Mumbai M.E.R.C.

(xiii) The Appellant has therefore prayed as under: -

(a) Condone the delay

(b) To implement change of tariff from 01.08.2009 and to refund excess amount of difference in tariff between HT-I and HT V at 13% interest as per Section 62(6) of the Act.

(c) To direct the MSEDCL (Licensee) to pay Rs. 5,00,000/- compensation to the Appellant for mental & physical agony.

(d) To direct MSEDCL (Licensee) to pay Rs. 1,00,000/- as cost of the representation.

(e) To direct MSEDCL (Licensee) to pay compensation for failure to meet standard of performance.

4. The Respondent MSEDCL has filed reply dated 17th December 2018. As regards delay in filing representation, it is stated as under: -

(i) The grounds mentioned by Appellant for delay condonation are totally false, frivolous and vexatious. Appellant has not filed separate application for condonation of delay and the prayer made in appeal is not legal and proper.

(ii) The Appellant has alleged that officials of MSEDCL were threatening and have habits to harass consumer is denied. Similarly, filing of appeal by the Respondent to Hon'ble High Court against the order of Forum has caused delay in filing the representation by the Appellant is not true and denied in toto.

(iii) The Respondent has already given refund of Rs. 57,39,263/- (Dec. 2016 to Aug. 2017) to the Appellant in billing month of Nov. 2017 and effect of change in tariff is given in month of September 2017. It is done under protest to avoid non-compliance of the order of the Forum.

(iv) Writ Petition (WP) No. 32294 of 2017 filed by the MSEDCL on 20.11.2017 against the order passed by Forum is pending admission before Hon'ble High Court at Mumbai.

(v) The Regulation 17.2 of the CGRF Regulations, 2006 provides that any consumer, who is aggrieved by the non-redressal of his grievance by the Forum, may make a representation to the Electricity Ombudsman within sixty (60) days from the date of the order of the Forum, provided that, the Electricity Ombudsman may entertain a

representation after the expiry of the said period of sixty (60) days if he is satisfied that there was sufficient cause for not filing it within the said period.

(vi) It was necessary to challenge the order of the Forum within 60 days. Appellant has challenged the said order after lapse of 362 days (considered till 28.9.2018).

(vii) Present Appellant have filed Caveat Application No. 4925 / 2017 and 4926 / 2017 before Hon'ble High Court Mumbai. Thus, the Appellant have adequate knowledge of law as well as of limitation.

(viii) The burden is on the Appellant to show that there was sufficient cause for delay. The Appellant should also come with bonafide reasons. If the Appellant has not given such reasons, Appellant is not entitled to be shown indulgence. The ground given in the application cannot be accepted as ignorance of law cannot be considered. The Appellant failed to make out sufficient cause for condonation of the delay in filing this representation. The representation, therefore, be rejected on the ground of delay. As to the merits of the representation, it is stated by the Respondent as under: -

(i) The Appellant is a HT consumer (No. 197459021230) having sanction load 275 KW and contract demand is 275 KVA for Industrial purpose from. 21.06.2005.

(ii) The Respondent inspected the premises of present Appellant on 15.03.2016. On the basis of inspection report, the Dy. Executive Engineer, Karad changed the category of Appellant consumer to HT V with effect from 1st March 2016.

(iii) Respondent issued letter dated 12.04.2016 to the present Appellant and informed that HT power supply to be used only for cold storage of Agricultural Produce and if it is found that power supply is used for any other activity, the revised tariff applied will be cancelled and action as per Section 126 of the Act will be taken. The Respondent issued bill of only tariff difference (plain recovery) between HT Industrial and HT Agricultural. The Appellant was not booked under Section 126 of the Act.

(iv) The Respondent again inspected the premises on 03.09.2016 and found that the Appellant is using cold storage of pulps of Mango, Guava, Strawberry storage of fruits & vegetables etc. Juice making units of all fruits as per season i.e. processing of fruits for preparation of juices. As per Commercial Circular No. 243 dtd. 03.07.2015, HT V Ag tariff is applicable only for pre-cooling plants & Cold storage unit for Agricultural produce. Hence, for

confirmation of usages and activity carried out by Appellant, the matter was referred to Flying Squad, Satara.

(v) The Flying Squad, Satara inspected the premises on 22.11.2016 in presence of consumer representative Shri. R. M. Thorat and found that consumer is using power supply for processing of different fruits such as pomegranate, mango and other fruits depending on season and found that connection is mainly utilized for processing and not for cold storage purpose.

(vi) The details of connected load produced by the Appellant consumer is not reliable and genuine.

(vii) It is pertinent to note that processing is the core activity of Appellant and cold storage is a secondary activity. Boiler activity is also present in consumer premises which is mainly used for processing activity. It proves that core activity of said consumer is processing and not cold storage. Therefore, the bill issued to Appellant is correct.

(viii) The Appellant has stated that the CE (Commercial) has accorded approval vide letter dated 13.7.2018. The CE (Commercial) in fact informed the SE to verify and confirm purpose of use since August 2012 and to take action accordingly.

(ix) Agriculture and the food industry are closely connected industries. The food industry is usually divided into food manufacturing and the eating-out industry. The food manufacturing is part of manufacturing industry and the eating-out industry is a service industry. Appellant is doing procedure on raw material and making products from them and after packaging, stores said products in cold storage till sale. Therefore, cold store is necessary to preserve said products till sale or export. Therefore, it is not possible to differentiate load consumption of manufacturing process and cold storage to charge them as per HT- Ag. The Appellant is Exporter of these products. The Appellant has published advertisement and offered to customers to purchase various food products for e.g. Jaggery and Confectionery, Milled Products and Mango Pulp and processed fruits. Thus, the present Appellant is doing the business of commercial nature.

(x) Respondent referred to the Order passed by Hon'ble MERC in Case No. 42 of 2015. The MERC has held that applicability of HT-I Industrial tariff is

defined in terms of the supply of electricity for Industrial purpose including various activities akin to processing.

(xi) The Appellant entered into agreement with Respondent on 4.11.2011 and mentioned specifically in his agreement that the electricity supply is required for manufacture of food products.

(xii) Appellant has alleged that the report of Flying Squad was not given at the time of inspection. The signature of consumer representative was taken on the blank remark column which was stated before Hon'ble IGRC, Satara on 15/2/2017 at the time of hearing.

(xiii) The purpose of behind establishment of said company is to carry on business in India and abroad to manufacture, process, prepare, preserve, bottle, buy, sell and deal whether as wholesaler or retailer or as exporters, importers or as principals of agents. and to carry on business in all natural, artificial synthetic or chemical edible food colour. Therefore, tariff applicable to said Appellant is proper. Memorandum of Association of present Appellant also supports of manufacturing activity.

(xiv) Being aggrieved by the order passed by the Forum, Respondent MSEDCL has filed WP St. No. 32294/2017 and same is pending as pre-admission stage. Representation is, therefore, liable to be dismissed.

5. The matter was heard on 3rd January, 2019 and again on 7th January, 2019. During the hearing, the Appellant argued on the lines of representation filed by them. The Appellant relied upon the Order dated 2nd September, 2004 of the Maharashtra Electricity Regulatory Commission (*the Commission*) in Case No. 21 of 2002, Order dated 13th May, 2016 of the Commission in Case No. 42 of 2015 filed by Seafood Exporters Association of India V/s. MSEDCL as well as Order dated 6th December, 2016 in Case No. 114 of 2015 and Case No. 119 of 2015 filed by Maharashtra Cold Storage Association V/s. MSEDCL. The Appellant also relied upon the Orders dated 12th June, 2013 and 9th October, 2014 passed by the Forum at Akola in support of the contention that the HT Agricultural tariff is applicable to the Appellant. It was, however, pointed out to the Appellant that there is delay in filing the representation and unless delay is condoned, the representation cannot be considered on merits. The Forum has also written a note below the Order dated 3rd August, 2017 specifically stating that if the consumer is not satisfied, the representation be filed against the Order of the Forum

before the Electricity Ombudsman (Mumbai) within 60 days from the date of the order and the address of the office of the Ombudsman was also given.

6. It was also brought to the notice of the Appellant that the representation against the order of the Forum has to be made before the Electricity Ombudsman in the form specified in Schedule B to the CGRF Regulations and it should be duly signed by the consumer. Clause (d) of the Schedule B requires declaration that the subject matter is not pending before any court. Admittedly, the Writ Petition has been filed in the matter and is pending in the High Court. The Appellant submitted letter during the course of hearing on 3rd January, 2019 that there is delay in filing the representation against the order of the Forum for the following reasons:

a. The Superintending Engineer (SE) Satara had changed the tariff from HT-I-N to HT-V (B) with effect from 1st March, 2016.
b. The SE, Satara withdrawn the tariff of HT-V (B) in the month of November 2016.
c. The Forum in its order directed to apply HT-V(B) tariff from 1st June, 2015 and to withdraw the supplementary bill.
d. The SE, Satara has filed WP No. 32294 of 2017 in the High Court at Mumbai.

7. The Appellant also argued that the Appellant waited for the implementation of the order of the Forum by the licensee and hence delayed to file representation before the Electricity Ombudsman. The Appellant prayed that the delay was neither deliberate nor intentional and the same may be condoned in the interest of justice. During the hearing on 3rd January, 2019, the Appellant stated that the Appellant would consider whether they intend to withdraw this representation and to communicate accordingly. The Appellant, however, by their letter dated 3rd January, 2019 communicated that the representation be kept in abeyance till the decision of the High Court on WP and the delay be condoned.

8. The Respondent MSEDCL, during the hearing submitted that this representation need not be entertained on merits as there has been abnormal delay in filing the representation. The Respondent stated that they have filed their say opposing the condonation of delay in filing the representation and the aspect of delay may be decided first. The Respondent pointed out that as per the order of the Forum, refund of Rs.57,39,263/- has been already given to the Appellant in the billing month of November 2017. This has been, however, done under protest

to avoid non-compliance of the order of the Forum. The Appellant stated that the WP has been filed by MSEDCL before the High Court at Mumbai on 20th November, 2017 against the order of the Forum dated 3rd August, 2017 and WP is at pre-admission stage and it is pending. The Respondent pointed out that as per Regulation 17.2 of the CGRF Regulations, representation has to be filed against the order of the Forum within 60 days. The representation was filed after delay of 365 days considering date of representation is 1st October, 2018. The Electricity Ombudsman has the power to entertain the representation after the expiry of the period of 60 days however, it is only if sufficient cause is shown for not filing the representation within the period of 60 days. No grounds has been made out by the Appellant for not filing the representation within the stipulated time and no sufficient cause has been shown or justification is given. The Appellant has not produced any single document in support to condone the delay. It is also pointed out by the Respondent that the Appellant has filed a Caveat in the High Court at Mumbai and it shows that the Appellant has adequate knowledge of law. The present representation therefore lacks bonafide and the Appellant must suffer for inaction. In support of the contention, the Respondent referred the judgment of the Supreme Court dated 24th March, 2014 in the matter of Brijesh Kumar and Others V/s. State of Haryana and Others, judgment of the Appellate Tribunal for Electricity (APTEL) dated 6th May, 2008 in the matter of Kokan Synthetic Fibres Processed Yarn Unit V/s. MERC as well as the Order dated 10th April, 2018 passed by the Central Electricity Regulatory Commission (CERC), New Delhi in the matter of Power Grid Corporation of India Ltd. V/s. Madhya Pradesh Power Management Company Ltd. and Others. The Respondent specifically urged that unless the delay is condoned, representation cannot be considered on merits.

9. Heard the parties.

10. Following issues are framed for consideration: -

a. Whether there is delay in filing the representation and whether delay deserves to be condoned?
b. Whether the Appellant is entitled for any relief?
c. What order?

11. The Forum has passed the Order on 3th August, 2017 on the grievance application filed by the Appellant. The Appellant has filed this representation on 1st October, 2018. The Appellant thereafter, by letter dated 3rd October, 2018 requested the office of the Electricity

Ombudsman to withhold their Case filed on 1st October, 2018 to enable them to give additional documents in the representation.

12. The Commission in exercise of powers conferred under Section 181 read with Section 42 of the Electricity Act, 2003 has notified the Regulations called as CGRF Regulations, 2006. Regulation 17.2 of CGRF Regulations provides as under: -

> *Any consumer, who is aggrieved by the non-redressal of his Grievance by the Forum, may make a representation for redressal of his Grievance to the Electricity Ombudsman within sixty (60) days from the date of the order of the Forum.*
>
> *Provided that the Electricity Ombudsman may entertain a representation after the expiry of the said period of sixty (60) days if he is satisfied that there was sufficient cause for not filing it within the said period.*

13. Regulation 17.9 of the CGRF Regulations also provides that the Electricity Ombudsman shall not entertain a representation unless a representation against the order of the Forum was not made within the period set out in the Regulations.

14. The Appellant, while filing the representation has not properly explained the delay of 365 days. The Appellant only stated that they were waiting for the compliance of the order of the Forum by the licensee and that the WP has been filed by the licensee challenging the order of the Forum.

15. The Respondent has strongly resisted the condonation of the delay. In the matter of Esha Bhattacharjee V/s. Raghunathpur Nafar Academy and Others reported in (2013) 12 SCC 649, the Hon'ble Supreme Court laid down the principles and held that lack of bonafide imputable to a party seeking condonation of delay is a significant and relevant fact. Similarly, in the matter of P.K. Ramchandran V/s. State of Kerala and Anr. reported in AIR 1998 SC 2276, the Supreme Court while considering the case of condonation of delay of 565 days, wherein no explanation much less a reasonable or satisfactory explanation for condonation of delay was given, held that the law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds. APTEL in the case of Kokan Synthetic Fibres Processed Yarn Unit has also held that the Appellant have to show due cause and that the Appellant failed to make out a sufficient cause for condoning the delay. The CERC in the matter of Power Grid Corporation of India has also observed that as per the Hon'ble Supreme

Court, sufficient cause is a condition precedent for exercising the discretion for condoning the delay and there should not be any negligence on the part of the party seeking the condonation.

16. There is delay of 365 days in filing this representation. The CGRF Regulations are statutory and provides period of limitation of 60 days for filing the representation. If, there is sufficient cause for not filing the representation within period of 60 days, the Electricity Ombudsman has power to entertain the representation. However, in the present case of the Appellant, there is no justification or sufficient cause is shown in filing the representation. The Appellant have requested to keep the representation in abeyance. Regulation 17.12 of the CGRF Regulations, however, provides that the Electricity Ombudsman shall decide the representation in two months. Therefore, the representation cannot be kept in abeyance.

17. The order passed by the Forum dated 3rd August, 2017 has been also challenged by the Respondent licensee in the High Court by filing WP. The Appellant consumer filed a Caveat Application on 29th October, 2017 and notice of the same was issued to the Respondent licensee as required under Section 148 – A of the Civil Procedure Code. The WP filed by the Respondent licensee is at pre-admission stage pending in the High Court. Clause 13 of Schedule 'B' provides for declaration for filing representation. It provides as under:

*13. (a) I/ We, the consumer /s herein declare that:*

*(i) the information furnished herein above is true and correct; and*
*(ii) I/ We have not concealed or misrepresented any fact stated in hereinabove and the documents submitted herewith.*

*(b) The subject matter of my / our representation has never been brought before the Office of the Electricity Ombudsman by me/ or by any one of us or by any of the parties concerned with the subject matter to the best of my/ our knowledge.*

*(c) The subject matter of my / our representation has not been settled through the Office of the Electricity Ombudsman in any previous proceedings.*

*(d) The subject matter of the present representation has not been decided by any competent authority/court/arbitrator and is not pending before any such authority / court / arbitrator.*

18. The aforesaid Clause (d) clearly provides that the subject matter of the representation is not to be pending before any court, authority or the arbitrator. In the present case, the licensee MSEDCL has already filed WP in the High Court challenging the order dated 3rd August, 2017 of the Forum. The licensee has been directed by the Forum to apply HT-V Agricultural tariff

from 1st June, 2015 and to pay the tariff difference alongwith interest as per Section 62 (6) of the Electricity Act, 2003. The Respondent MSEDCL has challenged this order on various grounds though they have complied the order of the Forum under protest to avoid allegation of non-compliance. The Appellant – consumer, while filing this representation in Schedule B has made a declaration but excluded specifically Clause (d). When this query was put forth to the Appellant during the hearing, there was no explanation from the Appellant and Appellant only stated that the petition has been filed by the Respondent licensee and not by the Appellant. Suppression of facts disentitles petitioner seeking a relief. The Appellant does not seem to have approached with clean hands. On one stage, the Appellant also stated during the hearing that the Appellant was considering as to whether they should file the representation against the order of the Forum or not since the partial relief has already been granted by the Forum to the Appellant consumer. The licensee, however, filed WP in the High Court and it is thereafter, the Appellant chose to file this representation.

19. It was always open to the Appellant consumer to file the representation within the time if they were not satisfied with the order dated 3rd August, 2017 passed by the Forum granting partial relief. This representation is, thus, not filed within the time limit provided in the CGRF Regulations. There is no just and sufficient reason explained by the Appellant consumer for the delay of 365 days. Therefore, it would not be just and proper to condone the delay. Issue No. (a) is answered in the NEGATIVE.

20. The present representation is being dismissed on the ground of delay. If delay is not condoned, it is not necessary to go into the merits of the case. Bombay High Court in the matter of Mahadeo Somaji Sarode V/s. Jyotiba Dhyan Upasak Shiksan Sanstha reported in 2004 (3) MH L.J. 1078 has held that unless delay is condoned, court cannot take cognizance of merits or otherwise of substantive matter. It is, therefore, not necessary to consider the merits of the case. Issue No. (b) is therefore also answered in the NEGATIVE.

21. In the result, this representation is dismissed.

22. An amount of Rs.25000/- taken as deposit be refunded to the Appellant consumer.

Certified to be a true copy
Shri D. S. Dumbre
Secretary
Electricity Ombudsman
M.E.R.C.

Sd/
(R. D. Sankhe)
Electricity ombudsman (M)