

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 170 OF 2023

In the matter of excess billing

Mohd. Zia Sharfuddin Khan Appellant
(Consumer No. 000270096743)

V/s.

Maharashtra State Electricity Distribution Co. Ltd.....Respondent
Thane Urban Circle (MSEDCL)

Torrent Power Limited (TPL), Distribution Franchisee, Shil, Mumbra, Kalwa

Appearances:

Appellant : Mohd. Zia Sharfuddin Khan

Respondent : 1. Ajay N. Bhasaketre, Addl. Ex. Engineer, TUC, MSEDCL
2. Mahesh Ghagare, Manager, TPL
3. Zahir Sayyad, Manager, TPL

Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 16th January 2024

Date of Order: 7th February 2024

ORDER

This Representation was filed on 10th November 2023 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity



(Dilip Dumbre)
Secretary

Electricity Ombudsman Mumbai

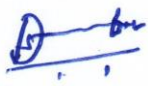


Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 11th September 2023 passed by the Consumer Grievance Redressal Forum, MSEDCL, Bhandup (the Forum). The Appellant paid the statutory deposit of Rs.25000/- on 12.12.2023 as per Regulation 19.22(h) of CGRF & EO Regulations 2020. Hence, the representation was registered on 12.12.2023. The Forum dismissed the grievance application in Case No. 54 of 2023-24. The Forum, in its order observed that:

“The cause of action in the present case arose from January 2019 to September 2019. It is also admitted that, from 2019 till filing of present case on 28.07.2023, the grievance has not been raised by the consumer before the Forum. This fact is admitted by both the parties. Therefore, the complaint is not maintainable before this Forum since the grievance pertains to a period beyond the period of limitation i.e. 2 years. Considering all, the Forum is of the opinion that the grievance filed by the Applicant cannot be entertained due to limitation and hence rejected.”

2. The Appellant has filed this representation against the order of the Forum. His main demand is to quash the average billing from Jan. to Sept. 2019 based on consumption of 685 units per month. The e-hearing was held on 16.01.2024 through Video Conference. Both the parties were heard at length. The Respondent MSEDCL and its Franchisee, TPL filed their written replies dated 15.01.2024 and 27.12.2023 respectively. For easy understanding, the Respondent’s written submissions along with their arguments are stated first in brief as below: -

- (i) TPL has been appointed as the Distribution Franchisee by the Respondent MSEDCL on 01.03.2020 for the purpose of operation and maintenance of electricity supply along with its billing to consumers in the area of Shil, Mumbra and Kalwa.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- (ii) The Appellant is a LT consumer (Service No. 000270096743) from 12th April 2018 under industrial tariff category having sanctioned load of 11 HP at Survey No. 69, Hissa No. 02, Gala No.41, Sagar Market, Shil Phata for running a plastic scrap grinding workshop. At present, the Appellant has given this gala on rent, and engineering fabrication activity is being done in the premises. The Appellant is billed under industrial tariff category at present.

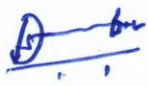
Time Barred as per Regulation 6.6/7.8 of CGRF & EO Regulations 2006/2020

- (iii) The cause of action in the present case arose from **January 2019 to September 2019**. However, the Appellant filed the grievance in the Forum on 28.07.2023 after a lapse of about 5 years. The claim of the Appellant is time barred and beyond limitation. Therefore, the claim of the Appellant is not maintainable at the initial stage itself and the representation be rejected on this ground alone. The Regulation 6.6/7.8 is quoted below:

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

Reply on Merit:-

- (iv) The supply of the Appellant was released on 12.04.2018. The consumption recorded on 31.05.2018 was 4916 kWh. The consumption was found to be 4915 units (4916-1) in 50 days, .i.e. as high as 2949 units per month. The consumption of Jun, July & Aug 2018 was 2929, 2587 & 2754 units per month, with recorded Contract Demand of 27 kVA. This clearly established that the Appellant was using unauthorized load in his premises. All of a sudden, this meter (Sr. No. 06639822) was replaced by a new meter (No. 03429134) in the month of Sep. 2018. Unfortunately, the Respondent does not have any records of that time to indicate


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



why the meter was replaced when proper meter readings were being taken. [Note: The possibility cannot be ruled out that there was some mal-intention or connivance in this regard to avoid recording high consumption and billing.]

(v) The Appellant was billed with 2500 (average) units in Sep.2018, but suddenly zero units in Oct. 2018 & Nov. 2018. The reading on this newly replaced meter in Nov.2018 was taken as 691.8 kWh. This meter was found burnt on 16.01.2019. [Note: We have studied the photograph on record of the burnt meter. It seems to have been deliberately and viciously burnt with a blow – torch or a similar device. The extent of burns and deformity indicates that it is more than a simple case of the meter getting burnt due to excess load.]

(vi) The Respondent listed the following correspondence made by the Appellant.

➤ Letter of the Appellant dated 07.02.2019 addressed to AEE, Shil Subdivision: This letter indicates that the meter was burnt on 19.01.2019 as per his self-declaration. The content in his letter was as below:

*I say that on 16th January 2019 my above-mentioned premises electric meter got burnt and therefore **my business has been stopped.***

.....

In the circumstances, I request you to kindly issue me new electric meter and replace my burnt meter for which I am ready to pay necessary charges as early as possible.

- Letter dated 28.08.2019 addressed to AEE, Shil Subdivision.
- Email dated 19.08.2020 to TPL.
- Letter dated 28.08.2020 addressed to TPL.

(vii) The Respondent argued that despite there being a mechanism of Fuse Call Off Complaint Centre round the clock at Shil, the Appellant preferred to lodge a complaint by addressing letters to the Respondent. If the Appellant's business had

(Dilip Dumbre)
Secretary

Electricity Ombudsman Mumbai

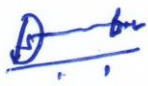


really stopped as he claimed, he would not have waited for days and months and years to make written complaints. He would have made personal visits right from Jan. 2019. His entire conduct seems suspicious and indicates afterthought.

- (viii) The said burnt meter (No. 03429134) was replaced by another new meter (No. 05555200444) by TPL on 27.02.2020, without taking any burnt meter charges [Note:- TPL is advised to take the statutory charges of burnt meter in future to avoid further complication in working. TPL has also not explained the long delay in replacing the burnt meter].
- (ix) The Appellant has put on record a photo of the burnt meter, from which it is observed that the meter was deliberately badly damaged by external means on the meter display counter so as to not get any reading. There was clear mal-intention here.
- (x) The Appellant is paying only part bills and hence the outstanding dues have accumulated.
- (xi) The Appellant was grossly underbilled for the disputed period of Jan.2019 to Sep.2019 with consumption of 685 units per month. The Appellant has not come with clean hands before this authority.
- (xii) In view of the above, the Respondent prays that the representation of the Appellant be rejected.

4. The Appellant's written submissions and arguments in brief are as below:

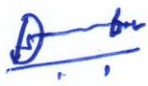
- (i) The Appellant is a LT industrial consumer (No. 000270096743) having sanctioned load of 11 HP as mentioned in Para 2 (ii). At present, the Appellant has given this gala on rent wherein engineering fabrication activity is being done. The Appellant is billed under industrial tariff category from the date of connection.
- (ii) This representation was filed on 10.11.2023 against the order of the Forum dated 09.08.2023. The deposit of Rs. 25000/- was paid on 12.12.2023 due to a financial


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



issue. There was a slight delay in following the procedure, hence the same be condoned. [Note: the delay is condoned].

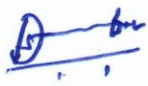
- (iii) The meter of the Appellant was burnt on 16.01.2019, and the Appellant claims that there was no power supply in his Gala from 16.01.2019. A written complaint of “off supply” was given to MSEDCL- Shil Subdivision office on 07.02.2019 & 28.08.2019.
- (iv) The MSEDCL wrongly continued to raise electricity bills for consumption of 685 units per month from January 2019 to September 2019 with excess demand charges. However, there was no power use in the premises, and hence excess demand charges and average of 685 units per month is not justified.
- (v) The last proper meter reading was taken in the month of November 2018 for 691 kWh. Based on that, further wrong bills were raised from December 2018 to September 2019, based on average consumption of 685 units per month.
- (vi) The burnt meter was replaced by the Respondent TPL on 27.02.2020 and the power supply was restored thereafter. The TPL did not take burnt meter charges.
- (vii) For the sake of argument, if the electrical meter was active then how was the meter reading recorded for only fixed 685 units with bill demand of 27 kVA from January 2019 to June 2019. Why was the bill for the month of July 2019 685 units with zero kVA bill demand charges, and why the status for August 2019 and September 2019 was temporarily disconnected, and still bills were raised for 685 units for these months. The meter was faulty, and therefore, contradictory from the billing records of MSEDCL.
- (viii) It was indicated in the Respondent-TPL’s reply that “as per their records the consumer connection falls in LT II Commercial Category (Previously LTMD Service)” which is absolutely wrong. The said connection is being billed under LT- V Industrial Tariff Category from the date of connection. It is surprising from where the Respondent has the record of the Consumer coming under LT-II


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Commercial Category. This reflects the attitude of the Respondent and its illogical approach on the given matter.

- (ix) It is indicated in the Respondent-TPL's submission that, *In the month of August 2020, the consumer had given its complaint to one of the offices of Torrent Power Ltd. stating that; meter was burnt on 16 January 2019, in the said complaint it is also mentioned that he had raised the similar complaint with MSEDCL in Feb' 2019. Based on his complaint, site visit was done by TPL representative. During visit the meter was not found at site and consumer had shown him the meter which was burnt, at the time of visit the power was not seen in use.* This statement of the Respondent is self-contradictory, **as the burnt meter was replaced by one of the TPL executive Mr. Abhishek by issuing meter replacement receipt dated 27.02.2020 for the same, and power supply was restored by him from the transformer.**
- (x) It was mentioned in the Respondent TPL's submission that, *the respondent relying on the order of CGRF 11TH September 2023 in representation 54/2023, that the representation Maintainable within 2 years of cause of action and the given matter is beyond the scope.* The Respondent TPL on various occasions responded to his complaint and sent him to the relevant office for resolution, vide email reply dated 27th August 2020: 11.41 AM, 24th October 2020: 11.48 AM, 23rd December 2022:5.28 PM. They never intimated to the Appellant that the said complaint was closed and disposed. This means the complaint was kept open. (That is why the Appellant claims not to have approached the Forum.) So, this Cause of Action should have been taken into consideration. Subsequently the grievance is tenable and duly maintainable. The Respondent TPL has accepted the current bill payments as and when the Appellant paid, and also assured to solve this complaint amicably. However, at the juncture of solving this complaint, the Respondent had taken the


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



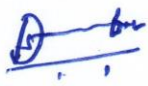
stand that the complaint is time barred. This is beyond the understanding of the Appellant.

- (xi) The Respondent turned a blind eye to the CPL data which is furnished by the Respondent on the direction of the Hon'ble Ombudsman. The CPL data shows the flaws and discrepancies from the period of November 2018 to September 2019, wherein fixed average units have been charged, which indicates that the meter reading was not recorded for the said period, and arbitrary bills were generated erroneously by MSEDCL. It appears from the record that the first bill of 685 units was generated in November 2018, and consistently the same 685 units were raised till September 2019 for a period of 11 months, despite giving intimation of burnt meter to the concerned MSEDCL office in February 2019 after clearing all the outstanding dues up to December 2018. These records and method of calculation is questionable.
- (xii) The Appellant prays that the Respondent be directed to quash the bill for 685 units per month with bill demand charges raised from January 2019 to September 2019. *[Note: In effect, the Appellant seems to be praying for zero billing for this period.]*

Analysis and Ruling

5. Heard the parties and perused the documents on record. The Appellant is a LT consumer (service no. 000270096743) having sanctioned load of 11 HP under industrial tariff category for plastic scrap grinding workshop. At present, this gala is given on rent and engineering fabrication activity is being done. The tariff category applied is industrial tariff.

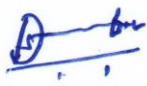
6. The Appellant contended that his meter got burnt on 16.01.2019. and that there was no power supply in his Gala from 16.01.2019.



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



7. The Respondent argued that merely a written complaint of “off supply” was given to MSEDCL- Shil Subdivision office on 07.02.2019 & 28.08.2019, and not immediately after the alleged incident if it so happened. The meter was seemingly deliberately badly burnt on the exterior part by some external means so as not to capture the actual reading on the meter display. This action clearly establishes the mal-intention of the Appellant. If the meter got burnt on 16th January leading to the closure of the Appellant’s business (as he claims), why did he not rush to the Respondent with his complaint on the very next day or over the next few days? One letter was sent in February 2019, and the next letter a few months later in August 2019. This indicates that the business might have been running on unauthorized use of power.

8. We have studied the CPL of the Appellant right from inception. It shows the consumption pattern as below: -


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Month	2018-19					2019-20				
	Meter No.	Initial Reading (KWH)	Final Reading (KWH)	Cons. (Units)	Consumer Status	Meter No.	Initial Reading (KWH)	Final Reading (KWH)	Cons. (Units)	Consumer Status
Apr	06639822	0	1	1	Live	03429134	691.8	691.8	685	Live
May	06639822	1	4916	4915	Live	03429134	691.8	691.8	685	Live
Jun	06639822	4916	7845	2929	Live	03429134	691.8	691.8	685	Live
Jul	06639822	7845	10432	2587	Live	03429134	691.8	691.8	685	Live
Aug	06639822	10432	13186	2754	Live	03429134	691.8	691.8	685	TD
Sep	03429134	1	1	2500	Live	03429134	691.8	691.8	685	TD
Oct	03429134	1	7	0	Live	03429134	691.8	691.8	0	TD
Nov	03429134	7	691.8	0	Live	03429134	691.8	691.8	0	TD
Dec	03429134	691.8	691.8	685	TD	03429134	691.8	691.8	0	TD
Jan	03429134	691.8	691.8	685	Live	03429134	691.8	691.8	0	TD
Feb	03429134	691.8	691.8	685	Live	03429134	691.8	691.8	0	TD
Mar	03429134	691.8	691.8	685	Live	03429134	691.8	691.8	0	TD
Month	2020-21					2021-22				
	Meter No.	Initial Reading (KWH)	Final Reading (KWH)	Cons. (Units)	Consumer Status	Meter No.	Initial Reading (KWH)	Final Reading (KWH)	Cons. (Units)	Consumer Status
Apr	03429134	691.8	691.8	69	TD	555520044	13328	13911	583	TD
May	03429134	691.8	691.8	0	TD	555520044	13911	14822	911	live
Jun	03429134	691.8	691.8	0	TD	555520044	14822	15947	1125	live
Jul	03429134	691.8	691.8	0	TD	555520044	15947	17335	1388	live
Aug	03429134	691.8	691.8	0	TD	555520044	17335	18014	679	live
Sep	03429134	691.8	691.8	0	TD	555520044	18014	19583	1569	live
Oct	0555200444	691.8	691.8	0	TD	555520044	19583	22028	2445	live
Nov	0555200444	0	2852	2852	TD	555520044	22028	23968	1940	live
Dec	0555200444	2852	2852	0	TD	555520044	23968	26235	2267	live
Jan	0555200444	2852	7670	4818	TD	555520044	26235	28399	2164	live
Feb	0555200444	7670	11562	3892	TD	555520044	28399	31260	2861	live
Mar	0555200444	11562	13328	1766	TD	555520044	31260	31260	2431*	live
Month	2022-23									
	Meter No.	Initial Reading (KWH)	Final Reading (KWH)	Cons. (Units)	Consumer Status					
Apr	0555200444	31260	31260	2431*	live					
May	0555200444	31260	31260	2431*	live					
Jun	0555204671	00000	00006	6	TD					
Jul	0555204671	00006	00006	0	TD					
Aug	0555204671	00006	00039	33	TD					
Sep	0555204671	00039	00271	232	TD					
Oct	0555204671	00271	00601	271	TD					



(Dilip Dumbre)
Secretary

Electricity Ombudsman Mumbai



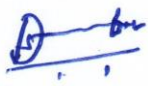
The following points raise suspicion:-

- i) The initial high meter readings (2500 to 4915 units per month) were suddenly followed by a drop to zero consumption for 2 months, and thereafter 685 units per month without satisfactory explanation.
- ii) Why was the meter replaced in September 2018 when it was clearly taking earlier readings? The last reading of August 2018 was '13186' KWH, showing consumption of 2754 units.
- iii) Even after replacement, the meter continued to show frozen reading of 691.8 KWH till September 2019. On what basis were consumed units of 685 assumed and billed?
- iv) Why and on what basis were consumed units reduced to zero thereafter, from October 2019 to October 2020?
- v) The meter was replaced in October 2020. It showed consumption of 2852 units in November 2020, 4818 units in January 2021, and 3892 units in February 2021. This indicates a much higher pattern of consumption. Yet the status was recorded as 'TD'.

All these facts point to possible connivance for wrongly recording lower consumption than actual.

However, even without going into the merits of the case, we find the grievance to be time-barred, due to the following reasons:-

The cause of action in the present case arose from **January 2019 to September 2019**. If the Appellant was unhappy with the billing in this period based on average 685 units per month, he should have raised his grievance at that time. However, the Appellant filed the grievance in the Forum on 28.07.2023 after lapse of about 5 years. 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 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.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



9. The Forum has principally given a reasoned order, however considering the facts and circumstances of the case, the Forum's order is modified as below:

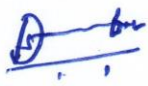
The Respondent is directed as under: -

- a) To revise the bill by waiving of the interest and DPC from Jan. 2019.
- b) To allow the Appellant to pay the revised bill in 8 equal monthly instalments. If the Appellant fails to pay any instalment, proportionate interest will accrue, and the Respondent has the liberty to take action as per law.
- c) Compliance to be submitted within two months from the date of issue of this order.
- d) The other prayers of the Appellant are rejected.

10. The Representation is disposed of accordingly.

11. The secretariat of this office is directed to refund Rs.25000/- taken as deposit to the Respondent for adjusting in the Appellant's ensuing bill.

Sd/-
Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

