

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

## REPRESENTATION NO. 63 OF 2023

In the matter of waiver of fictitious arrears of PD Consumer.

Satyanarayan T. Sharma. ....Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Panvel Urban Divn. .... Respondent  
(MSEDCL)

Appearances: -

Appellant : Satyanarayan Sharma

Respondent: 1. Satish Sarode, Executive Engineer  
2. Milind Suryathal, Addl. Ex. Engineer


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

Date of hearing: 10<sup>th</sup> August 2023

Date of Order : 26<sup>th</sup> September 2023

## ORDER


This Representation was filed on 23<sup>rd</sup> June 2023 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 26<sup>th</sup> May 2023 passed by the Consumer Grievance Redressal Forum, MSEDCL Bhandup Zone (the Forum). The Forum dismissed the grievance application of the Appellant by observing that the grievance application was beyond the period of two years and without any sufficient cause as per Regulation 7.8, 7.9 (c), (d) and (e) of CGRF & EO Regulations 2020.

  
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2. Aggrieved by the order of the Forum, the Appellant filed this representation. The e-hearing was held on 10.08.2023 through video conference. Both the parties were heard at length. The Appellant's written submissions and arguments are as below:

- (i) The Appellant is an Industrial Consumer (No. 028652900986/0) from 23.11.2006 for sanctioned load of 10 HP at Plot No. 1087, Kalamboli, Tal- Panvel, Dist- Raigad. The Appellant is a proprietary firm dealing in vehicle spare parts and the authorized distributor of Mann & Hummel – German Co., authorised dealer of Exide Industries Ltd. and Groz Industries, a German Collaboration Co., and Service Distributor of Castrol India Ltd. The Appellant was using the supply for the purpose of an engineering workshop. The Appellant was regular in payment of the electricity bills.
- (ii) The meter of the Appellant was burnt, and subsequently, a complaint of burnt meter was lodged with the Respondent on 10/06/2010. The Appellant paid Rs.3,150/- towards burnt Meter charges on 30/06/2010 vide Receipt No.5514834 as per burnt meter demand notice. The Respondent was duty bound to replace the burnt meter by a new meter. However, the Respondent did not replace the burnt meter and did not restore the supply. The Appellant, by his letter dated 15/07/2010, requested the Respondent to install a new meter at his Godown; however, the Respondent failed to do so.
- (iii) The Respondent installed a new meter only on 25/01/2011 in place of the burnt meter. The Respondent claimed that there was a shortage of meters, hence, the delay. **Thus, there was no electricity at the Appellant's premises for about six months from 30/06/2010 to 25/01/2011.** The Appellant suffered a tremendous business loss due to non-availability of electric supply.
- (iv) The Appellant received an accumulated wrong bill of Rs.21,780/- on 15/01/2011 for the period when there was no electricity. Therefore, the Appellant made a complaint of wrong bills to the Respondent on 27/01/2011. The Appellant, by letter dated 05/03/2011, demanded to revise the excess bill and pointed out that there was no electric supply for the period from 10/06/2010 to 25/01/2011. However, the monthly bills further increased to Rs.69,620/- as per bill received on 06.09.2012.

  
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- (v) The Appellant received a demand notice dated 27/03/2016 of Rs.64,750.18 from the Respondent towards outstanding dues of the bill. The Respondent failed to resolve the billing complaint raised by the Appellant in his earlier several correspondences.
- (vi) The Appellant again made a complaint dated 30/11/2020 to withdraw the false billing; however, there was no reply from the Respondent.
- (vii) The Respondent again by notice dated 15/12/2020 and 18/12/2020, demanded the outstanding amount of Rs.69,686/-. The Appellant on 20/01/2021, replied to it and pointed out the entire facts about the meter burnt on 10/06/2010 and various correspondence made from the year 2010 and again requested to resolve the long pending billing dispute.
- (viii) **The meter of the Appellant was permanently disconnected in the year 2020**, and there was no single unit of consumption recorded on the meter as the meter was installed but without electric connection.
- (ix) Due to no response from the Respondent, the Appellant through his Advocate sent a legal notice dated 03/11/2022 narrating the previous events and the billing complaint. The Appellant called upon the Respondent to restore the electricity connection and pay the amount of Rs.50,40,000/- towards business loss for 144 months which is calculated on the basis of Rs.35,000/- per month with interest @18% per annum.
- (x) As there was no positive response, the Appellant filed his grievance application before the Forum on 10/03/2023. The Forum by its order dated 26.05.2023 dismissed the grievance application of the Appellant by observing that the grievance application was beyond the period of two years. The Forum failed to understand that there was fictitious billing and the Respondent was duty bound to withdraw the same.
- (xi) The Appellant prays that the Respondent be directed
- a) to restore the electric supply immediately.
  - b) to revise the outstanding bill of Rs.64,750.18 on factual position.
  - c) to pay an amount of Rs.50,40,000/- towards business loss for 144 months due to non-supply of the electricity.

  
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3. The Respondent filed its reply by email dated 17/07/2023. Its submissions and arguments are stated as below:

Preliminary Objection on the Ground of Limitation:

- (i) The Appellant is an Industrial Consumer (No. 028652900986/0) from 23.11.2006 for sanctioned load of 10 HP at Plot No. 1087, Kalamboli, Tal- Panvel, Dist- Raigad initially. The Appellant's activity was found changed from industrial to commercial for the purpose of running an office and Godown. However, no further details of the inspection are available, as the records pertain to 2010 or before that.
- (ii) The Appellant approached the Forum on 10.03.2023. The grievance was filed with the Consumer Grievance Redressal Mechanism after about ten years when the cause of action arose in the year 2011 / 2012. Hence, the present Representation is not maintainable as per Regulation 6.6/7.8 of the CGRF & EO Regulations 2006/2020.


Facts In Brief

- (iii) There were arrears of Rs. 2647.16 as per bill of July 2010. The same was paid by the Appellant on 15.07.2010. The connected load of the Appellant was found to be 35 KW against the sanctioned load of 10 HP, as per record of Consumer's Personal Ledger (CPL). However details of inspection are not available.
- (iv) His meter was burnt probably due to overloading in the month of June 2010 and the Appellant paid the cost of burnt meter of Rs.3150/- on 30.06.2010 vide Receipt no. 5514834.
- (v) Meanwhile, the Respondent issued an assessment bill of Rs. 11201.72 towards tariff difference between Industrial and Commercial as per inspection and it was debited in the bill of August 2010.

  
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- (vi) The consumer's meter (Meter No. 15/00075312) was changed in the month of July 2011 (New Meter No.53/09342049). There was delay in meter replacement due to shortage of meters, and also because the Appellant was in arrears.
- (vii) As per CPL record, the arrears of the Appellant were Rs.55,376.15 in the month of Oct. 2011. The supply of the Appellant was disconnected immediately as per Section 56 (1) of the Electricity Act, 2003 for non-payment of arrears of Rs.55,376.15.
- (viii) The Appellant was permanently disconnected in Nov. 2011 for accumulated outstanding dues of Rs.59,322.09 on which the interest was calculated for 13 months (Oct. 2011 to Nov 2012) amounting to Rs.11,398/-. The said interest amount was debited in the month of Nov.2012.
- (ix) The Appellant approached the Respondent on 30/11/2020 with a high billing complaint, requesting to revise the PD bill. The same was discussed in detail with the Appellant. The Respondent then issued a revised provisional PD bill of Rs.16,200/- on the basis of data available on record by withdrawing fictitious arrears. Thus, the assessment bill was initially provisionally reduced from Rs.69,690/- to Rs. 16,200/-, and finally to Rs. 17,952/-. However, the Appellant did not pay the same.
- (x) The Appellant thereafter filed a Grievance with the Forum on 10/03/2023. The Forum by its order dated 26.05.2023 dismissed the grievance application of the Appellant. The Forum rightly observed that the grievance application is time barred as per provision of two years and also without any sufficient cause as per Regulation 7.8, 7.9 (c), (d) and (e) of CGRF & EO Regulations 2020. The first cause of action arose in 2011/12. Therefore, the period of two years for raising the grievance before the Forum expires in 2014 as per the Regulation 6.6 of the CGRF & EO Regulations 2006.
- (xi) In exercise of the powers conferred on it by sub-sections (r) and (s) of Section 181 read with sub-sections (5) to (7) of Section 42 of the Electricity Act, 2003 (36 of 2003) and

  
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all other powers enabling it in this behalf, the Commission notified the CGRF & EO Regulations 2003/2006. If the Respondent failed to take cognizance of a consumer's complaints / grievances, the consumer had an opportunity to approach the Grievance Redressal Mechanism framed under the Act, and the Regulations made thereunder. However, the Appellant did not do so.

- (xii) The Hon'ble Supreme Court in its judgment dated 13.03.2019 in Civil Appeal No. 2960 of 2019 has laid down that there is no necessity to go into merits, and a plaint can be rejected, if it is clearly barred by limitation.
- (xiii) The billing details of the Appellant for the month of Aug 2010 to Nov 2012 are summarized below:

Month	Amount	Description
Aug 2010	11201.72	Tariff difference recovery from Industrial to Commercial for the period (undetermined)
Aug 2010 to Oct 2010	1350	Fixed Charges (450x3=1350/-)
Nov 2010 to Jan 2011	8100	Fixed Charges (2700x3=8100/-)
May 2011 to Oct 2011	24350	Bill issued on lock status on average basis.
Nov 2011	Rs.59,322.09	Accumulated arrears for the period (undetermined)
Nov 2012	Rs. 11398/-	Interest Recovery from Oct 2011 to Nov 2012.

- (xiv) As per record, the meter was made PD in Nov. 2011. The allegation of the Appellant that the meter was removed in Jan. 2020 with no reading is totally baseless and the Respondent denies the same.
- (xv) In view of the above, the Respondent prays to dismiss the representation of the Appellant.

  
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4. During the hearing, the grievance was discussed in detail. It was observed that the grievance is time barred; still the Respondent was advised to revise the fictitious billing, if any, of the Appellant. The Respondent stated that since the grievance was more than 10 years old, various documents like inspection report etc., are not traceable, as the then working staff is totally transferred. A new team is working at present. However, in the interest of arriving at a settlement within the framework of rules, the Respondent agreed to submit the revised billing to this office.


5. As per the advice, the Respondent by its letter dated 12.09.2023 has submitted the bill revision proposal which was sent to their Competent Authority for approval. The proposal is tabulated as below:

Table 1

Month	Original bill Amt.(Rs.) A	Description	Revised Bill Amt.(Rs.) B	Description	Fictitious Arrears (Rs.) (A - B)
Aug-10	11201.72	Tariff difference recovery from Industrial to Commercial	11201.72	Tariff difference recovery from Industrial to Commercial	0
Aug-10 to Oct - 10	1350.00	Fixed charges (450x3=1350)	1350.00	Fixed charges (450x3=1350)	0
Nov-10 to Jan-11	8100.00	Fixed charges (2700x3=8100)	1350.00	Fixed charges (450x3=1350)	6750.00
Feb-11 to Apr-11	8100.00	Fixed charges (2700x3=8100)	1350.00	Fixed charges (450x3=1350)	6750.00
May-11 to Oct-11	24350.00	Bill issued on (Lock Status) average	2700.00	Bill issued on (Lock Status) average (450x6=2700)	21650.00
Nov-11	PD	PD	Nil	PD	
Nov-12	11398.00	Interest recovery from Oct 2011 to Nov 2012	Nil	Interest recovery from Oct 2011 to Nov 2012	11398.00
Aug-23	5191.00	Interest up to date	5191	Interest up to date	
<b>Total</b>	<b>69690.72</b>		<b>23142.72</b>	<b>with Interest</b>	<b>46548.00</b>
			<b>17951.72</b>	<b>Without Interest</b>	

Note : There is no Scheme for withdrawal of interest on PD arrears at present.

This proposal is yet to be approved by the Competent Authority. **The premises is in arrears and therefore it is not possible to release a new electricity connection in the said premises.**

  
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## Analysis and Ruling

6. Heard the parties and perused the documents on record. Initially, the Appellant was an Industrial Consumer from 23.11.2006 with a load of 10 HP at Plot No. 1087, Kalamboli, Tal- Panvel, Dist- Raigad. However, the Respondent contended that in August 2010, the connected load of the Appellant was found to be 35 KW against a sanctioned load of 10 HP as per record of Consumer's Personal Ledger (CPL), and also the Appellant had changed his activity prior to August 2010 from industrial to commercial (office & godown) without any intimation. The Respondent issued an assessment bill of Rs. 11201.72 towards tariff difference from Industrial to Commercial which was debited in the bill of August 2010.


7. His meter was burnt probably due to overloading in the month of June 2010 and the Appellant paid the cost of the burnt meter of Rs.3150/- on 30.06.2010 vide Receipt No. 5514834. The meter was subsequently replaced in July 2011, however there was a considerable delay in replacement of the meter.

8. When the documents of the Appellant were perused, it was observed as below:

- i) Letters of the Appellant dated 01.07.2010 & dated 20.03.2011 addressed to the Respondent clearly established that the use of power supply was for "Godown".
- ii) Legal Notice dated 03.11.2022 issued to the Respondent where it was clearly written as

*"1. My client states that, he is proprietary Firm, doing business of seller of vehicle spare parts and authorized distributor of Mann & Hummel – German Co., authorised dealer of Exide Industries Ltd., and Groz Industries, a German Collaboration Company, Heavy Duty Sales and Service Distributor of Castrol India Ltd., Importer of Electronic & other Items and Insurance company incorporated under the Companies Act.*

*2. My client states that complainant is doing the business of Distributor, Dealer, Seller and Importer and therefore he is **keeping the stock of the said goods and spare parts***

  
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*and electronic articles at their godown bearing plot No. 1087, Road No.12, KWC, Steel Market, Kalamboli.” (Emphasis added)*

From the above record, it is crystal clear that power supply was being used for the purpose of Godown. The Commission in its various tariff orders has already clarified that activities which are Non-Residential, Non-Industrial, and not covered under other tariff categories should be billed under Commercial tariff category. It is established that the Appellant had been using power for his office work and Godown.

The relevant abstract of Tariff Order of the Maharashtra Electricity Regulatory Commission, in Case of 19 of 2012 effective from 1<sup>st</sup> August 2012 is reproduced below:

*“LT II: LT – Non-Residential or Commercial LT II (A): 0 - 20 kW*


*Applicability:*

*Electricity used at Low/Medium Voltage in all **non-residential, non-industrial** premises and/or commercial premises for commercial consumption meant for operating various appliances used for purposes such as lighting, heating, cooling, cooking, washing/cleaning, entertainment/leisure, pumping in following (but not limited to) places:*

*a) Non-Residential, Commercial and Business premises, including Shopping malls /Show rooms.....”*

The use of the words “non-industrial” and “non-residential” indicates that unless the use is specifically for running an industry, any other purpose which is not covered under any other tariff category is to be billed under Commercial tariff category by default. In the instant case, the electric connection was taken for industrial purpose and subsequently the Appellant changed its use to commercial without any intimation.

9. The Appellant filed his Grievance on 10/03/2023 before the Forum which was dismissed by its order dated 26.05.2023 being time barred as per Regulation 6.6 / 7.8, of CGRF & EO Regulations

  
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2006 / 2020. It is noted that the cause of action arose in the year 2011/12, and the period of two years for raising the grievance before the Forum expired in 2014 as per the Regulation 6.6 of the CGRF & EO Regulations 2006 which was in force then. The Forum's order is upheld in principle; however the same is modified to the extent below for an amicable solution. The Respondent was advised to revise the bill by withdrawing any fictitious billing. Accordingly, the Respondent has revised the same which is tabulated in Table 1 above. The Respondent has implicitly agreed with the Appellant's statement that his electric supply was disconnected for about 6 months from 20/06/2010 to 25/1/2011, and has levied only fixed charges for this period in its revised bill. This office finds that the proposal of the Respondent is correct in general. However, it is also necessary to waive off the interest part of Rs.5191/- in the interest of resolving the grievance.


10. In view of above,

- a) The Respondent is directed to waive of the fictitious billing of Rs.51,739/- out of the total billing of Rs. 69691/-, and issue a revised bill of Rs. 17952/-
- b) The Appellant is supposed to pay the revised bill of Rs. 17952/-. Once this bill is paid and after compliance of the statutory requirements, a new electric connection may be given.
- c) Compliance to be submitted within two months from the date of issue of this order.
- d) Other prayers of the Appellant are rejected.

11. The representation of the Appellant is disposed of accordingly.

12. The Appellant has paid Rs. 25000/- towards deposit. The secretariat of this office is directed to refund the amount of Rs.17952/- to the Respondent to adjust in his PD bill as per the direction given in para. 10 (b) above, and refund the balance amount of Rs. 7048/- to the Appellant.

Sd/-  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)

  
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