

**BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)**

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

**REPRESENTATION NO. 27 OF 2021**

In the matter of billing

Smt. Shaila Rizwan ..... Appellant

V/s.

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

Appearances

Appellant : 1. Abdul Kadir Rizwan  
2. Vinay Vasant Vaze

Respondent : 1. Santosh R. Garud, Executive Engineer, Rajgurunagar  
2. Umesh S. Chavan, Addl. Ex. Engineer, Lonavala S/Dn.

**Coram: Mr. Deepak Lad**

Date of Hearing: 11<sup>th</sup> June 2021

Date of Order: 25<sup>th</sup> June 2021

**ORDER**

The Representation is received on 31<sup>st</sup> March 2021 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations 2006) against the Order dated 18<sup>th</sup> February 2021 passed by the Consumer Grievance Redressal Forum, MSEDCL, Pune Zone (the Forum).

2. The Forum, by its Order dated 18<sup>th</sup> February 2021 in the Grievance Application in Case No. 16/2020 has directed as below: -

- “2. The claim of the Respondent Utility for recovery of supplementary bill for the period exceeding 24 months is dismissed.*
- 3. As against what is stated against item No. (2) of the order hereinabove, the Utility is directed to reassess the exact liability of the consumer on the basis of 1038 units/month for the period of twenty four (24) months preceding the date of detection and issue fresh demand bill to the consumer accordingly within the period of Feb.2020 from the date of receipt of this order.*
- 3. As the consumer was already paid the 50% of the then disputed supplementary bill amount of Rs.2,50,530/- i.e. 1,25,265/- the Respondent Utility may recover the arrears of balance accumulated bill, as per revised working based on the directions of the Forum in three (3) equal monthly installments along with current bills,*
- 4. The interest, DPC and penalty shall not be charged to the consumer.”*

3. Aggrieved by the order of the Forum, the Appellant filed this representation stating in brief as below: -

- (i) The Appellant is residential consumer (No.181012946184) from 04.07.2014 having sanctioned load of 21 KW at Plot No.12, Sector No.C-3, Gold Valley, Lonavala. This is basically a bungalow which is specifically used as second home.
- (ii) The Appellant was out of India with her family from the month of February 2017 to February 2020. Hence, the bungalow was not in use. There was credit bill in the month of October 2017 which continued further period.
- (iii) In February 2020, when the Appellant again started to utilize the said bungalow then she noticed that the Appellant did not receive any electricity bill hence she approached the Respondent to get the electricity bill. Then, the Respondent handed over a supplementary bill of Rs.2,50,530/- dated 04.02.2020, and directed to pay the same immediately. Meanwhile, Appellant`s power supply was disconnected on 04.03.2020, without any mandatory notice as per Section 56(1) of the Electricity Act, 2003 (Act). The Appellant had credit in energy bill in the year 2017 and thereafter, the said premises was in non-use from April 2017 to February 2020.
- (iv) The Appellant thereafter filed complaint with the Forum under Regulation 6.5 of the

CGRF Regulations 2006 for urgent interim relief of reconnection and quashing the supplementary bill. Meantime, the lockdown was declared in India from middle of March -2020 due to Covid -19 epidemic. The Appellant wanted to shift her residence to this weekend home. Hence, the Appellant paid Rs.1,25,265/- towards 50% of alleged supplementary bill on 28.07.2020 under protest subject to final decision of the Forum. The Appellant also paid Rs.20,250/- towards Additional Security Deposit.

- (v) That, as per Spot Verification Report (SVR) of the Respondent dated 02.03.2020, and reply of the Respondent date 06.07.2020, it was revealed that the power supply is live on site, but it was shown Permanently Disconnected (PD) in the record of the billing system.
- (vi) The meter was tested in Meter Testing Laboratory on 05.03.2020 by the Respondent. During testing, the meter could not be tested as meter is having no display and meter data could not be retrieved. It is also mentioned in reply dated 06.07.2020 that, the manufacturer also given the report that, the memory chip found 'burnt'. This eventually means the meter is faulty however the copy of report was not provided. It is crystal clear that meter has No Display and stopped recording during the period of March 2017 to February 2020 (36 Months).
- (vii) That, the Respondent, on the basis of connected load assessed 602 units consumption per month for the period of March 2017 to February 2020 and accordingly supplementary bill of Rs.2,50,530/- was given.
- (viii) It was contended that, when the Appellant had credit in energy bill of March 2017, why her supply was made PD in billing system? The above bungalow was her holiday home and hence there is no regular use. It is further stated that most of the time during this period, the Appellant was out of India and hence she neither used the premises nor did she get any opportunity to complaint for non-receipt of bill.
- (ix) The Appellant filed the grievance in the Forum on 15.06.2020. During hearing, the details of her family travel history to abroad along with copy of Lease Agreement of the rented premises in London was provided to the Forum on 27.01.2021 through email but unfortunately the Forum did not pay attention to the said email and on contrary

blamed the consumer for not providing the detail proof of aforesaid abroad travel history. The copy of email, Lease Agreement, and details of proof of abroad travel history i.e., entries in passport with various visa stamps is kept on record.

- (x) The Appellant had therefore contended that it should be charged only for three months as per the provisions of Regulation 15.4.1 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Other Conditions of Supply) Regulations 2005 (Supply Code Regulations 2005). The said Regulation is reproduced as under: -

*“15.4.1: Billing in the Events of Defective meters*

*Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the consumer’s bill shall be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report of the meter alongwith the assessed bill.*

*Provided that, in case of broken or damaged meter seal, the meter shall be tested for defectiveness or tampering. In case of defective meter, the assessment shall be carried out as per clause 15.4.1 above and, in case of tampering as per Section 126 or Section 135 of the Act, depending on the circumstances of each case.*

*Provided further that, in case the meter has stopped recording, the consumer will be billed for the period for which the meter has stopped recording, up to a maximum period of three months, based on the average metered consumption for twelve months immediately preceding the three months prior to the month in which the billing is contemplated.”*

- (xi) That, as such the Respondent can recover and adjust energy charges up to 3 months prior to the date of detection of error. As such supplementary bill given by Respondent of Rs.2,50,530/- is totally against the Supply Code Regulations 2005 and therefore liable to be set aside.
- (xii) The Forum, by its Order dated 18.02.2021 has directed to recover as per reassessment of 1038 units per month for the period of twenty four months. The Forum did not understand the basic issue that the meter was defective.
- (xiii) That, the Forum in instant case exceeded its jurisdiction. The Forum considered that it was calculated at lower side and taking one more step that the Forum directed MSEDCL to calculate consumption during above period at higher side as per formula

developed by the Forum without giving any cogent and valid reasons for the same. The Forum totally failed to understand its role of protection of consumers' rights and give decision within four corners of Regulations framed by the Commission and should not use its own logic for assessment of units when there was provision of assessment provided under the said Regulation in case meter has no display. Hence, the observation of Forum that consumer shall be assessed for 1038 units per month instead of 602 units is arbitrary unjustified, and hence required to be set aside.

- (xiv) That, the Forum failed to appreciate that, the lockdown was declared in India from 20.03.2020 and since then the Appellant shifted to this weekend home and started regular use therefore the monthly consumption from July 2021 is showing increased trend. Therefore, its increased consumption could not be based for assessment of previous period of No Display. The Forum failed to understand that it is mistake of MSEDCL to show meter PD in system though live on site. The Forum also failed to appreciate that it is negligence of MSEDCL for not issuing bill for period of 36 months and duty bound to change the faulty meter with reasonable period of three months. That, on basis of said erroneous decision of the Forum, the Respondent has issued revised bill of Rs.3,37,475/- for 24912 units.
- (xv) In view of the above, the Appellant prays that the Respondent be directed to revise the bill as per Supply Code Regulations 2005.

4. The Respondent MSEDCL, by its letter dated 05.05.2021 sent its reply stating in brief as under: -

- (i) The Appellant is 3 phase residential consumer (No.181012946184) from 04.07.2014 having sanctioned load of 21 KW at present at Plot No.12, Sector No.C-3, Gold Valley, Lonavala. The Appellant was installed Genus make meter having capacity of 50/5 A.
- (ii) The Respondent has carried out site verification of the Appellant's premises on 02.03.2020. During inspection, it was observed that the consumer was PD on record in the computerized billing system, however the power supply of the Appellant was

found live on the site. The meter was not showing any reading even though the supply of the meter found in order. There was No Meter Display on the meter, due to which it was not possible to take actual reading. The Appellant did not pay the arrears / energy bills since December 2016 because of which the supply of the Appellant was temporarily disconnected. The Appellant was made PD in February 2017 due to outstanding dues of the bill.

- (iii) The meter of the Appellant was tested in Meter Testing Laboratory on 05.03.2020. During the testing, it was found that the meter display was not visible. The MRI Data was also not able to be retrieved from the meter. Hence, the meter was sent to the Manufacturer, M/s Genus Ltd. for detailed analysis of the meter. However, the Genus Ltd. reported that memory chip of the meter found burnt and hence the data of the meter could not be retrieved.
- (iv) As per Consumer`s Personal Ledger (CPL), it is stated that the said meter was PD on record but was live on site due to oversight. The Appellant has also agreed that the supply is live in her premises, however, she was not receiving the bill since April 2017.
- (v) There are limited consumers on the Distribution Transformer Centre (DTC) of the said Bungalow Residential Colony. The Energy Audit meter was installed on DTC which is functioning properly. Hence, the supplementary bill on the basis of DTC meter consumption was issued for Rs. 2,50,530/- for 21069 units for the period from March 2017 to February 2020. It is tallied in general with connected load considering second home and limited use only on one day of week. The 15 days` disconnection notice was served to the Appellant for payment of supplementary bill, but the Appellant did not pay the same. The supply of the Appellant was temporarily disconnected.
- (vi) The Appellant filed the grievance with the Forum on 15.06. 2020. In the meanwhile, the Appellant has requested for reconnection of supply. As suggested, the Appellant paid 50% of the disputed bill amount i.e., Rs.1,25,265/- on 27.07.2020. The supply of the Appellant was restored on 29.07.2020.
- (vii) After installation of new meter, the consumption pattern of the consumer was found to be 1038 units per month whereas the Appellant was issued bill on the basis of assessed

units of 602 units per month under the presumption / consideration of the weekend use of the bungalow.

- (viii) The Forum, by its Order dated 18.02.2021 has directed to revise the supplementary bill considering consumption pattern of 1038 unit per month for 24 months only prior to the date of detection of error without any interest and DPC.
- (ix) The revised supplementary bill of Rs. 3,37,475/- for 24912 units consumption was issued to the Appellant in the bill of March 2021.
- (x) In view of the above, the Respondent prays that the Representation of the Appellant be rejected.

5. The hearing was held on 11.06.2021 on e-platform through video conferencing due to the Covid-19 epidemic and the conditions arising out of it.

6. The Appellant argued its case in line with the written submission, which is already captured above, therefore, not repeated here. The Appellant further argued that the Appellant was out of India for the period from February 2017 to February 2020, and hence, she did not use the premises. Moreover, she was not able to file complaint with the Respondent for non-receipt of bills. The Genus make meter installed at her bungalow is defective as there was no display on it and meter data also could not be retrieved from it. The manufacturer also declared the meter defective. This was brought to the notice of the Forum during the proceedings, but it failed to understand the basic issue of the defective meter. The Appellant stated that she is now regularly residing in her second home since August 2020 due to Covid-19 epidemic. A new meter was installed at the premises on 29.07.2020 after payment of 50% of the supplementary bill. The consumption of electricity at present is of regular use and hence, the Forum has erred in applying the present consumption pattern for retrospective recovery. Hence, the Appellant prays to set aside the Forum's order and direct the Respondent to revise the bill considering the meter as defective.

7. The Respondent argued that the meter was temporarily disconnected in the month of January 2017 for arrears of Rs.9581.92 which the Appellant did not pay from December 2016. The supply

of the Appellant was made PD in February 2017 due to outstanding dues of the bill. However, the meter was live on site due to oversight. This serious irregularity was noticed during inspection in March 2020. The Appellant never pointed out this fact to the notice of the Respondent which resulted in the Appellant remaining unbilled from March 2017 to February 2020. There was No Display on the meter, due to which it was not possible to take actual reading. The meter of the Appellant was tested in Meter Testing Laboratory on 05.03.2020 where it is declared that the meter is not working. The meter was sent to the Manufacturer, M/s. Genus Ltd. for detail analysis of the meter who also reported that memory chip of the meter is burnt and hence the data of the meter cannot be retrieved. There are only 16 residential consumers including the Appellant on one DTC. The Energy Audit meter was installed on DTC which is functioning properly. Hence, the supplementary bill based on DTC meter consumption was issued for Rs.2,50,530/- for 21069 units for the period from March 2017 to February 2020 considering 602 units per month. It fairly tallies with the connected load considering the consumption of a second home which is mostly used on weekends and holidays i.e. limited use. The supplementary bill is revised as per direction of the Forum considering consumption of 1038 units per month for Rs.3,37,475/- for 24912 units consumption and issued to the Appellant in the bill of March 2021.

8. The undersigned endeavoured to promote settlement between the parties. The Appellant as well as Respondent agreed so in the interest of justice. The Appellant specifically stated that if the bill is revised with justified consumption for 24 months as per Section 56 (2) of the Act, she is ready to settle the grievance accordingly.

9. It is noted that the consumer was not billed for almost three years for the reasons best known to the Respondent. In addition, when the meter was read at the end of almost of three years, display of the meter was found defective. Therefore, it is difficult to ascertain as to when the meter became faulty. The approach of the Respondent, in considering the DTC Energy Audit as the said DTC was supplying only to 16 residential bungalows colony and DTC Energy Meter being in order as informed by the Respondent, is comparatively more technical and reasonable in assessing



the Appellant. Therefore, the Respondent was directed to submit its calculation sheet showing assessment of 602 units per month.

10. As per the direction during the hearing, the Respondent vide its email dated 12.06.2021 has submitted the Load Verification Report, Assessment calculation sheet, and also documents of releasing additional load. After perusing these documents, it is observed that the Respondent had initially sanctioned the load of 6.45 KW. Thereafter, the Appellant applied for additional load up to 21 KW. Hence, the load was enhanced from 6.45 KW to 21 KW in the month of January 2015 with CT operated meter of 50/5 A of Genus make having Sr. No. 6263303 installed at the premises. However, this meter was not updated in the billing system of the Respondent. In the meantime, the Appellant was billed under lock, RNT and inaccessible status for many months together for the old meter. This irregularity was noticed during March 2020. There was No Display on the meter, due to which it was not possible to take actual reading. The meter was subsequently found to be defective in the local laboratory as well as in the Manufacturer's laboratory. As per inspection report dated 02.03.2020, the connected load was found 20.1 KW. As per assessment guidelines of the Respondent, considering the use of gadgets, per day consumption was assessed as 120.4 units per day. Considering weekend/ second home use, the Respondent assessed 602 units per month from April 2017 to February 2020 and issued supplementary bill of Rs.2,50,530/- for 21069 units on 04.03.2020. It is tallied in general with the Energy Audit meter installed on DTC.

### **Analysis and Ruling**

11. Heard the parties and perused the documents on record. The Appellant agreed that watch and ward of the premises was there who used to visit the premises for upkeep. The Appellant argued that her husband was out of India for a considerable period. On this, the undersigned has pointed out that the Appellant has submitted the passport record entries of her husband, Mr. Abdul Kadir Rizwan which is not a conclusive and substantive proof of the litigant being with her husband outside India. Even if it is assumed that the Appellant had been out of India, entries in the passport of her husband shows that he had been back to India many times during March 2017

to February 2020. Therefore, the argument advanced on the strength of foreign travel cannot be relied upon. When he was countered as to how it went unnoticed that they were not being served electricity bills for a pretty long time, the Appellant choose to remain silent. The Appellant also remained silent when queried as to how the premises was in dark when it is being used as a second home with meter intact. The Appellant finally gave up and advanced the argument that the bill may be issued as per rules keeping in view, the provisions of Section 56 (2) of the Act which is considered by the Forum but on wrong assumption of monthly consumption. Since August 2020, the Appellant is now residing at her second home due to the Covid-19 epidemic. Hence, the present consumption pattern of the Appellant is tabulated below: -

<b>Appellant's present consumption pattern</b>					
Month	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21
Consumption (Units)	1037	2234	3270	2775	2810
Month	Feb-21	Mar-21	Apr-21	May-21	Jun-21
Consumption (Units)	2758	1563	3098	1535	2758

12. In view of the above, the present regular consumption during the lockdown of Covid-19 epidemic cannot be compared with the previous consumption and therefore cannot be blindly applied for past billing. However, the Respondent has assessed the Appellant on her factual position considering the consumption pattern of 602 units per month which fairly tallies with DTC Energy Audit as submitted by the Respondent. If the meter is considered faulty in a particular month, therefore, the benefit accrued under the relevant Regulation will be highly on lower side and therefore, technically correct approach is necessary to be followed and the Appellant has also consented for appropriate billing considering as the second home. Therefore, I concur with the assessment done by the Respondent at the rate of 602 units per month. However, recovery shall be restricted to 24 months prior to March 2020 as against 35 months (April 2017 to February 2020) proposed by the Respondent which will be in line with Section 56 (2) of the Act which is quoted below: -

*“(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”*

13. In view of above, the Respondent is directed:
- (a) To revise the supplementary bill considering 602 units per month for 24 months from March 2018 to February 2020 without DPC and interest levied, if any, and to be added in the ensuing current bill.
  - (b) Compliance to be submitted within two months from the date of issue of this order.
14. The Forum’s order is therefore revised to the above extent. Other prayers of the Appellant are rejected. The Representation is disposed of accordingly.
15. I will be failing if I do not appreciate the efforts taken by the Sub Divisional Officer of the Respondent in adopting an out of box logic developed in fairly assessing the consumer particularly when there is practically no meter data available for assessment over a period of 3 years. While I appreciate on one hand, it is also important to note that the state of affair of reading and billing the consumers at large in Lonavala Subdivision is utterly bad and concerted efforts needs to be taken by the Respondent to improve the billing. The Respondent is further directed to fix up the responsibility on the concerned for not having read the meter for a pretty long period. It is also advised that the Respondent may direct the Appellant and the similarly placed consumers in that area to submit reading and photo of the meter through its mobile App when the reader is unable to reach the site.
16. The secretariat of this office is directed to refund the amount of Rs.25000/- (deposited by the Appellant) to the Respondent for adjusting it against the Appellant’s ensuing bill.

Sd/-  
(Deepak Lad)  
Electricity Ombudsman (Mumbai)