

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 5 OF 2026

In the matter of accumulated consumption and billing

Sagar Kashinath Gire: Occupier..... Appellant
(Milind Narayan Gokhale, Cons. No. 160220668123)

V/s.

Maharashtra State Electricity Distribution Co, Ltd. Shivaji Nagar Dn. Respondent
(MSEDCL)

Appearances:

Appellant: Sagar Kashinath Gire

Respondent: Shekhar Murkute, Executive Engineer (Adm.), Ganeshkhind Circle


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

Date of hearing: 11th March 2026

Date of Order :9th April 2026

ORDER

This Representation was filed on 23rd March 2026 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 15th October 2025 in Case No. 70 of 2025 passed by the Consumer Grievance Redressal Forum, MSEDCL, Pune Zone (the Forum). The Forum has principally rejected the grievance, confirming that the Appellant has consumed the accumulated units recorded in the meter, which was previously unread. However, certain benefits have been granted. The original order is in Marathi, and the translated narration in English is reproduced below: -


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2. *The Respondent is directed to adjust the amount paid by the Appellant till date towards the assessed bill. The balance assessed amount shall be permitted to be paid in 12 equal monthly installments, without levying any interest or delayed payment charges.*
3. *The interest and delayed payment charges imposed on the assessed amount shall be withdrawn.*


2. The Appellant has filed this Representation against the order passed by the Forum. A physical / e-hearing was held on 11.03.2026 through video conference. The Appellant attended the hearing in person, while the Respondent participated through video conference. The parties were heard at length. The Respondent's submissions and arguments are stated as below. *[The Electricity Ombudsman's observations and comments are recorded under 'Notes'.]*

- (i) The Appellant was a three-phase LT Residential consumer since 25.09.2006 having a bungalow premises with a sanctioned load of 5 kW, and was billed under the Residential Tariff Category up to 02.10.2018. He applied on 26.02.2018 for enhancement of load from 5 kW to 26 kW along with change of tariff from residential to commercial, which was sanctioned on 01.06.2018. After completion of necessary formalities, the additional load was released, and a new three-phase meter (Sr. No. X0679861) was installed on 02.10.2018 with initial reading 00004 kWh. The particulars of this electricity connection are tabulated below.

Table 1:

Name of Consumer	Consumer No.	Address on Bill	Sanctioned load	Date of Supply	Date of inspection	Assesment Amount & Period
Milind Narayan Gokhale	160220881820	S. No. 114/1/1/7, Bhosale Farm, Mahalunge Pune-411045	Initially 5 kW (Residential); enhanced to 26 kW/ 33kVA (Commercial) w.e.f. 02.10.2018	25.09.2006	09.12.2024	₹84,19,495/- assessed for 5,02,018 units accumulated consumption (Oct. 2018 to Oct. 2024)

- (ii) As per the available records, the electricity supply of the Appellant was permanently disconnected on 31.12.2018 by the concerned Section Office due to non-payment of outstanding dues amounting to ₹1,44,964/-, which was fed into the



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system as a “PD (Permanent Disconnection) tag”, resulting in the stoppage of further billing thereafter. (Normally, the Respondent initially resorts to temporary disconnection of supply, wherein the meter remains installed at the site and the supply is disconnected by removing the fuse (male part) or by switching off the service, so as to provide the consumer an opportunity to clear the arrears and facilitate easy reconnection upon payment. If the consumer still fails to pay the outstanding dues within a reasonable period, the meter along with the service wire is removed and the supply is permanently disconnected in physical terms. In the present case, no specific record is presently available to indicate whether such physical removal was carried out, and it appears that **the meter remained at the site, which was a serious lapse.**)

- (iii) The Respondent’s Corporate Office, vide Circular dated 06.07.2013, had issued guidelines regarding recovery of arrears from Permanently Disconnected (PD) consumers. Accordingly, a special drive was arranged in Dec. 2024.
- (iv) During PD verification on 19.12.2024, the Respondent inspected the Appellant’s premises and found **that electricity was being used for commercial activity under the name ‘The Rustle Nest (Hotel & Resto-Bar)’**. A spot verification report and panchanama revealed that meter No. 0679861 (40–200 Amp, Secure make) recorded a reading of 5,02,022 kWh, indicating continuous consumption. The connected load of the Appellant was found as below:

Table 2:


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Sr. No.	Particulars	Quantity (No.)	Capacity (Watts)	Total Wattage (Watts)
1	LED Lights	22	20	440
2	Fan	4	60	240
3	AC	4	1200	4800
4	Fridge	3	250	750
5	Refrigerator	2	1000	2000
6	Oven Small	2	1000	2000
7	Oven Big	1	4800	4800
8	Coffee Machine	1	500	500
9	Deep Fridge	2	850	1700
10	Motor	2	746	1492
11	Motor	1	2238	2238
12	Mixer	2	373	746
13	Chimney	1	1492	1492
Total load : 23.198 kW				23,198
14	Misc. Load	Lightening load of outside & misc. load not taken		

[Note: The recorded Maximum Demand ranged between 20 kVA and 28 kVA during FY 2025–26 (April 2025 to February 2026)]


Though the consumer status in the system was ‘PD (Permanently Disconnected)’, the meter had remained on site due to an inadvertent omission in its removal. The Appellant continued to use electricity through the said meter without the knowledge of the Respondent. Consequently, the consumption remained unbilled since Oct. 2018, though it stood recorded in the meter. *[Note: When asked during the hearing why he had kept silent about not receiving any electricity bills for 6 years for running his restaurant, the Appellant could not give any satisfactory explanation.]*

- (v) Based on the said inspection and available records, the electricity consumption for the period from October 2018 to October 2024 was assessed through the computerized OBR system by applying B-80 billing each month. Considering the sanctioned load of 26 kW, the total consumption was assessed at 5,02,018 units for 73 months, which averages approximately 6,877 units per month. Accordingly, a supplementary bill amounting to ₹84,19,495/- was issued to the Appellant vide letter dated 20.12.2024. The Appellant was duly informed in detail of the said supplementary bill along with basis of its calculation.


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- (vi) The Appellant availed the benefit of 'Mahavitaran Abhay Yojana-2024' (Circular dated 29.08.2024) and paid ₹1,05,110/- on 31.12.2024 towards PD arrears of ₹1,18,964/- (Originally, in 2018 the arrears were ₹1,44,964/-; however, the PD amount was subsequently reduced after adjustment of the security deposit.) **The Appellant also made a part payment of ₹25,00,000/- on 01.01.2025 towards the supplementary bill of ₹84,19,500/-.** Thus Rs.59,19,500/- remained unpaid.
- (vii) The Appellant thereafter submitted a written request dated 26.12.2024 seeking permission to pay the balance amount in 10 equal installments. Considering the request and with approval from the competent authority, the Appellant was granted the facility of payment in 10 equal installments.
- (viii) The Appellant's meter was tested in the Testing Laboratory on 24.12.2024 in his presence and the test results confirmed that the meter was in order.
- (ix) Subsequently, in January 2025, the electricity connection was reconnected in the system under PD-to-Reconnect, with meter No. 055-0679861 showing an initial reconnection reading of 5,02,069 kWh. The reassessment of electricity consumption for the period October 2018 to October 2024 was carried out through the OBR system and duly approved in the computer system. The meter reading recorded during inspection on 19.12.2024 was 502022 kWh, confirming the total consumption of 5,02,018 units for the said period, averaging 6,877 units per month. *[Note: The assessment was carried out only up to October 2024. However, the Respondent has not clarified the billing for November and December 2024, as regular billing based on meter readings commenced only from January 2025 onwards. It is observed that unbilled consumption aggregating to 5,02,018 units, amounting to Rs. 84,19,495/-, has been billed up to October 2024, except for the contract demand charges for November and December 2024. Consequently, the supplementary bill is found to be substantially the same.]*
- (x) The consumption pattern of the Appellant from January 2025 also demonstrates regular electricity usage, thereby substantiating the assessment made by MSEDCL.


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- (xi) The Appellant filed a grievance application in the Forum on 26.03.2025. The Forum by its order dated 15.10.2025 substantially rejected the grievance holding that the Appellant had consumed the accumulated units recorded in the meter, but granted relief by directing adjustment of the amount paid and permitting payment of the balance in 12 equal monthly installments (instead of the earlier 10 instalments granted in December 2024) without interest and delayed payment charges. *[Note: Each instalment would to about Rs.5 lakhs p.m., in addition to current bills.]*
- (xii) The Appellant has illegally continued the electricity supply by extending the connection from the existing meter into the internal power supply system. He never approached or followed up with the MSEDCL authorities regarding the non-receipt of monthly bills, evidently for his own benefit. The hotel bungalow is situated slightly inside from the main road, and the MSEDCL field staff also failed to detect the unbilled consumption from October 2018 onwards, allowing the situation to continue until 19.12.2024. Although the Respondent could have initiated police action, the same was not pursued as the consumption was duly recorded in the meter. The establishment is a well-known hotel, frequently visited by guests including foreigners for its variety of international cuisine. The Appellant, therefore, has not approached this authority with clean hands. Having admittedly consumed electricity, he is legally bound to pay the charges for the same.

Legal Position:

- (xiii) The Respondent has relied upon the judgment of the Hon'ble Supreme Court in Civil Appeal No. 7235 of 2009 in the case of *M/s. Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Ltd.* regarding recovery of escaped billing.
- (xiv) The Hon'ble High Court, Nagpur Bench, in Writ Petition No. 8595 of 2022, by order dated 09.07.2025, has specifically observed in paragraph No. 3 of its order as follows:

“The position of law is now settled to say that the period of limitation as prescribed in Section 56(2) relates only to the disconnection of the electricity and not for the recovery of the tariff. Hence, the impugned order deserves to be modified with



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clarification that it is open for the petitioner to recover the tariff difference for the period from January 2019 to May 2019 in accordance with law.”

Accordingly, the Respondent is entitled to recover the unbilled amount for the period from October 2018 to October 2024.

- (xv) The Respondent relies upon the judgment of the Three-Judge Bench of the Hon’ble Supreme Court in *K.C. Ninan v. Kerala State Electricity Board & Ors.* (Civil Appeal Nos. 2109–2110 of 2004, decided on 19.05.2023), wherein it has been specifically held in paragraphs 118 to 131 that the right of a distribution licensee to recover additional or supplementary billing is legally sustainable. Accordingly, MSEDCL is fully entitled to recover the amount of ₹84,19,415/-. A copy of the above judgment is placed on record.
- (xvi) MSEDCL also relies upon the judgment of the Hon’ble High Court of Bombay in Writ Petition No. 3086 of 2024 (*MSEDCL v. Suhasini D. Naik*), decided on 21.08.2024. In the said judgment, the Hon’ble High Court, particularly in paragraph 9, has heavily relied upon the decision of the Three-Judge Bench of the Hon’ble Supreme Court in *K.C. Ninan v. Kerala State Electricity Board & Ors.*, after considering the earlier judgment in *M/s. Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Ltd.* The said decision, reported in 2023 SCC Online SC 663, reiterates the legal position that the limitation period of two years contemplated under Section 56 of the Electricity Act, 2003 does not apply to the recovery of supplementary bills raised by a distribution licensee. Therefore, MSEDCL is legally entitled to recover the outstanding amount of ₹84,19,495/-, including by disconnection of electricity supply, institution of appropriate legal proceedings, or by adopting any other remedy available in accordance with law.
- (xvii) The monthly electricity bill for February 2026 amounts to ₹1,79,714.16 for consumption of 8,320 units. The total outstanding dues stand at ₹51,33,364.27. As per the order of the Forum, the interest/DPC component shall be waived of subject to payment of installments. The basis of the assessed bill has already been explained


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in detail, and the revision of interest/DPC, if any, will be carried out in a transparent manner after payment of the last instalment.

(xviii) The Respondent prays that the representation of the Appellant be rejected and to direct the Appellant to pay the outstanding dues.

3. The Appellant's submissions and arguments are as under:


- (i) The Appellant is a three-phase LT consumer since 25.09.2006 for a bungalow premises initially sanctioned for residential use with a load of 5 kW. The connection details are shown in Table-1. The occupier, Sagar Kashinath Gire, initially entered into a tenancy Leave and License Agreement for the period from 15.09.2017 to 14.09.2022 for the use of the premises as a restaurant, having a built-up area of 140.40 sq. meters on a plot admeasuring 400 sq. meters. The said agreement has been renewed periodically thereafter.
- (ii) Since a higher load was required for the hotel business, the Appellant applied to the Respondent on 26.02.2018 through the Web Self Service Portal of MSEDCL for enhancement of load from 5 kW to 26 kW and for change of tariff from Residential to Commercial. After completing the required formalities and submitting the necessary documents, the Executive Engineer, Shivajinagar Division, MSEDCL, Pune approved the load enhancement on 29.05.2018, and the sanction letter was issued on 06.06.2018. A quotation of Rs. 23,494/- towards the increased load was issued and paid by the Appellant on 05.07.2018. Thereafter, upon completion of the required documentation including A1/D1 forms, a new three-phase meter (Sr. No. X0679861) was installed on 02.10.2018. The premises have been used for running a hotel business under the name "The Rustle Nest (Hotel & Resto-Bar)", which the Appellant has been operating since April 2018.
- (iii) After installation of the meter, the Appellant did not receive any electricity bills. The Appellant visited the Respondent's office several times and was informed that, due to technical issues, the bills were not generated and would be issued shortly; however, no written communication was provided. *[Note: During the hearing the Appellant admitted*


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that he had not made any written representations to the Respondent about not receiving any electricity bills.] During this period, the Appellant's hotel business also suffered heavy losses due to intermittent closure, internal partnership issues, and the COVID-19 lockdown from March 2020 to December 2020 and the second wave from January 2021 to June 2021, when government offices and commercial establishments, including the Respondent's services remained largely closed.

- (iv) On 19.12.2024, officials of the Respondent inspected the Appellant's premises and found that the meter (Make Secure, 40–200 AMP, Sr. No. X0679861) recorded a total consumption of 5,02,022 units, while no bills had been generated as the connection was shown as permanently disconnected in the records. The meter seals were intact and no tampering or electricity theft was noticed. The meter was seized for testing and was subsequently tested on 24.12.2024 in the Respondent's testing laboratory, where it was found in proper working condition. The same meter was thereafter reinstalled.
- (v) Thereafter, by letter dated 20.12.2024, the Respondent raised a bill of Rs. 85,19,500/- for the period October 2018 to October 2024 for the said consumption. The Respondent also demanded the previous outstanding dues of Rs. 1,18,964/- for December 2018, along with interest of Rs. 1,05,580/- for the period from December 2018 to October 2024, totaling Rs. 2,24,544/-. Thus, the total amount demanded was Rs.86,44,044/-.
- (vi) The bill does not provide month-wise unit consumption or applicable tariff details, and therefore lacks transparency. Further, after issuing the bill, the Respondent threatened disconnection of electricity supply. Under such circumstances, the Appellant paid Rs.1,05,110/- on 31.12.2024 towards PD arrears under "Mahavitaran Abhay Yojana-2024", and Rs. 25,00,000/- was paid by the Appellant on 01.01.2025 through cheque. The electricity supply was disconnected on 28.02.2025 without prior notice which was subsequently reconnected. Upon complaint by the Appellant, the distribution company issued a notice dated 03.03.2025 under Section 56(1) of the Electricity Act, 2003, demanding payment of the balance amount Rs. 59,19,500/- after adjusting Rs. 25,00,000/-, in 10 equal instalments of Rs. 5,91,950/- each.



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- (vii) The Appellant filed a grievance application in the Forum on 26.03.2025. The Forum by its order dated 15.10.2025 has disposed of the grievance by directing the Respondent to adjust the amount already paid by the Appellant towards the assessed bill, and the balance amount shall be payable in 12 equal monthly installments without levying any interest or delayed payment charges. Accordingly, the interest and delayed payment charges imposed on the assessed amount shall be withdrawn.
- (viii) **The demand for 73 months of electricity billing is illegal, as under MERC regulations and the Electricity Act, the distribution company can recover electricity charges only up to 24 months in cases where bills were not issued earlier.**
- (ix) Billing, meter reading, and issuance of notices are statutory duties of the distribution company, and the failure to perform these duties cannot be attributed to the consumer.
- (x) In view of the above, the Appellant prays that the Respondent be directed to:
- Revise the supplementary bill of Rs. 84,19,495/- for 5,02,018 units (October 2018 to October 2024) by restricting the recovery to 24 months, without interest or delayed payment charges, and allow payment of the revised amount in suitable installments.
 - Recover the remaining amount from the responsible officers.
 - Take appropriate disciplinary action against the concerned officers for the negligence and hardship caused to the Appellant.

Analysis and Ruling

4. Heard both the parties and perused the documents on record. The Appellant is an LT consumer whose load was enhanced from 5 kW to 26 kW apparently for running a hotel / restaurant business, and a new three-phase meter (No. X0679861) was installed on 02.10.2018. It is undisputed that the connection was mistakenly shown as “PD (Permanently Disconnected)” in the system on 31.12.2018 due to non-payment of arrears while in actual fact the meter continued to be installed on site and the connection continued uninterrupted.


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5. During verification carried out by the Respondent on 19.12.2024, it was found that the meter installed at the premises had recorded 5,02,022 units, clearly indicating continuous electricity consumption. The spot inspection and panchanama further revealed that the electricity supply was being used for running a commercial establishment namely “The Rustle Nest (Hotel & Resto-Bar)”. The meter was tested in the Respondent’s Testing Laboratory on 24.12.2024 in the presence of the Appellant and was found to be in proper working condition, with no evidence of tampering or malpractice. Thus, the consumption recorded in the meter cannot be disputed.

6. The records indicate that although the consumer status was marked as PD in the system, the meter remained installed at the premises due to an inadvertent lapse on the part of the field staff. As a result, electricity consumption continued to be recorded in the meter, but monthly bills were not generated. Based on the meter reading recorded during inspection, the Respondent assessed electricity consumption for the period October 2018 to October 2024 through the computerized billing system and issued a supplementary bill of ₹84,19,495/- for 5,02,018 units. The Appellant has not disputed the fact that electricity was consumed at the premises during the said period, since the hotel business was running.

7. The monthly consumption of the Appellant is summarized in Table 3 as below:

Table 3:

Month	Status	Cons. (Units)	Month	Status	Cons. (Units)
Apr-24	PD		Apr-25	Live	10854
May-24	PD		May-25	Live	10293
Jun-24	PD		Jun-25	Live	9266
Jul-24	PD		Jul-25	Live	8662
Aug-24	PD		Aug-25	Live	8169
Sep-24	PD		Sep-25	Live	8086
Oct-24	PD		Oct-25	Live	10086
Nov-24	PD		Nov-25	Live	7805
Dec-24	PD		Dec-25	Live	7967
Jan-25	Live	5282	Jan-26	Live	8606
Feb-25	Live	6105	Feb-26	Live	8320
Mar-25	Live	8643	Mar-26		0
Total		20030	Total		98114
Avg/ mth		6677	Avg/ mth		8919
Note :	The Appellant was PD on record from Dec. 2018 to Dec. 2024 for earlier outstanding dues of ₹1,18,964/-)				


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From the above table, it is clear that the Appellant consumed electricity; however, he was not billed till December 2024. It is surprising that the Respondent has taken such a long period of nearly 73 months for discovering the under billing of the Appellant. Hence, the Respondent is also equally responsible for failure in its own duty, pointing to deficiency in service.

8. The Appellant has contended that the demand for 73 months is illegal and that recovery can be made only for 24 months. However, this contention cannot be accepted in view of the facts and circumstances of this case.

9. The Section 56 (2) of the Electricity Act, 2003 is reproduced 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.”

Section 56(2) of the Electricity Act, 2003 has been interpreted by the Larger Bench of the Bombay High Court by its judgment dated 12.03.2019 in Writ Petition No. 10764 of 2011 along with connected writ petitions. The Court considered the conflict between *Awadesh Pandey* (restrictive view) and *Rototex Polyester* (permissive view) and held that the two-year limitation for recovery of electricity dues is substantive in nature. It was held that no recovery can be made beyond two years from the date the amount became “first due,” unless such dues are continuously reflected as arrears in the bills, failing which recovery is barred. The Court further held that a distribution licensee cannot raise belated supplementary bills after several years, as the same would be unjust, arbitrary, and contrary to legislative intent. It also emphasized that consumers act based on billed amounts and cannot be subjected to sudden retrospective demands. The concept of “first due” was clarified to mean that the licensee cannot defer liability by issuing a later bill, and any such interpretation would lead to absurd results. Accordingly, recovery beyond two years is impermissible unless the dues are continuously shown as arrears, and supplementary billing cannot be used to defeat the statutory limitation.


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10. The Hon'ble Supreme Court of India in its Judgment dated 18.02.2020 in Civil Appeal No.1672 of 2020 in case of Assistant Engineer, Ajmer Vidyut Vitran Nigam Limited & Anr. V/s. Rahamatullah Khan alias Rahamjulla has held that:

“9. Applying the aforesaid ratio to the facts of the present case, the licensee company raised an additional demand on 18.03.2014 for the period July, 2009 to September 2011. The licensee company discovered the mistake of billing under the wrong Tariff Code on 18.03.2014. The limitation period of two years under Section 56(2) had by then already expired.


Section 56(2) did not preclude the licensee company from raising an additional or supplementary demand after the expiry of the limitation period under Section 56(2) in the case of a mistake or bona fide error. It did not however, empower the licensee company to take recourse to the coercive measure of disconnection of electricity supply, for recovery of the additional demand.”

11. The Respondent cited the Judgment of the Hon'ble Supreme Court in Civil Appeal No. 7235 of 2009 in case of M/s. Prem Cottex V/s. Uttar Haryana Bijli Vitran Nigam Ltd. for recovery of escaped billing. The important paras of this Judgment are reproduced below:

“4. After 3 years of the grant of extension, the appellant was served with a memo dated 11.09.2009 by the third respondent herein, under the caption “short assessment notice”, claiming that though the multiply factor (MF) is 10, it was wrongly recorded in the bills for the period from 3.08.2006 to 8/09 as 5 and that as a consequence there was short billing to the tune of Rs.1,35,06,585/-. The notice called upon the appellant to pay the amount as demanded, failing which certain consequences would follow.

6. By an Order dated 1.10.2009, the National Commission dismissed the complaint on the ground that it is a case of “escaped assessment “and not a case of “deficiency in service”. Aggrieved by the said Order, the appellant is before us.”

11. In Rahamatullah Khan (supra), three issues arose for the consideration of this Court. They were (i) what is the meaning to be ascribed to the term “first due” in Section 56(2) of the Act; (ii) in the case of a wrong billing tariff having been applied on account of a mistake, when would the amount become first due; and (iii) whether recourse to disconnection may be taken by the licensee after the lapse of two years in the case of a mistake.


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12. On the first two issues, this Court held that though the liability to pay arises on the consumption of electricity, the obligation to pay would arise only when the bill is raised by the licensee and that, therefore, electricity charges would become “first due” only after the bill is issued, even though the liability would have arisen on consumption. On the third issue, this Court held in *Rahamatullah Khan (supra)*, that “the period of limitation of two years would commence from the date on which the electricity charges became first due under Section 56(2)”. This Court also held that Section 56(2) does not preclude the licensee from raising an additional or supplementary demand after the expiry of the period of limitation in the case of a mistake or bonafide error. To come to such a conclusion, this Court also referred to Section 17(1) (c) of the Limitation Act, 1963 and the decision of this Court in *Mahabir Kishore & Ors. V/s. State of Madhya Pradesh*.

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21. The raising of an additional demand in the form of “short assessment notice”, on the ground that in the bills raised during a particular period of time, the multiply factor was wrongly mentioned, cannot tantamount to deficiency in service. If a licensee discovers in the course of audit or otherwise that a consumer has been short billed, the licensee is certainly entitled to raise a demand. So long as the consumer does not dispute the correctness of the claim made by the licensee that there was short assessment, it is not open to the consumer to claim that there was any deficiency. This is why, the National Commission, in the impugned order correctly points out that it is a case of “escaped assessment” and not “deficiency in service”.

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26. The matter can be examined from another angle as well. Subsection (1) of Section 56 as discussed above, deals with the disconnection of electric supply if any person “neglects to pay any charge for electricity”. The question of neglect to pay would arise only after a demand is raised by the licensee. If the demand is not raised, there is no occasion for a consumer to neglect to pay any charge for electricity. Sub-section (2) of Section 56 has a non-obstante clause with respect to what is contained in any other law, regarding the right to recover including the right to disconnect. Therefore, if the licensee has not raised any bill, there can be no negligence on the part of the consumer to pay the bill and consequently the period of limitation prescribed under Sub-section (2) will not start running. So long as limitation has not started running, the bar for recovery


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and disconnection will not come into effect. Hence the decision in Rahamatullah Khan and Section 56(2) will not go to the rescue of the appellant.

Therefore, we are of the view that the National Commission was justified in rejecting the complaint and we find no reason to interfere with the Order of the National Commission. Accordingly, the appeal is dismissed. ”

12. It is important to note that in the above Judgment, the assessment period for escaped billing (due to wrong application of multiplying factor) is applied for about three years. In the instant case, the Respondent has issued a bill of ₹ 84, 19,495/- for 5, 02,018 units in Dec. 2024 towards accumulated consumption for the period from Oct. 2018 to Oct. 2024, which is about 73 months (more than 6 years).

13. The Judgment of the Hon’ble Supreme Court dated 05.10.2021 in Civil Appeal No. 7235 of 2009 in case of M/s. Prem Cottex V/s. Uttar Haryana Bijli Vitran Nigam Ltd. refers to Section 17(1) (c) of the Limitation Act, 1963. The said Section of the Limitation Act, 1963 is reproduced as under: -


“17. Effect of fraud or mistake. — (1) Where, in the case of any suit or application for which a period of limitation is prescribed by this Act, — ”

(c) the suit or application is for relief from the consequences of a mistake; or

(d) the period of limitation shall not begin to run until the plaintiff or applicant has discovered the fraud or the mistake or could, with reasonable diligence, have discovered it; or in the case of a concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production:

Provided that nothing in this section shall enable any suit to be instituted or application to be made to recover or enforce any charge against, or set aside any transaction affecting, any property which—

(i) in the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know, or have reason to believe, that any fraud had been committed, or


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(ii) in the case of mistake, has been purchased for valuable consideration subsequently to the transaction in which the mistake was made, by a person who did not know, or have reason to believe, that the mistake had been made, or

(iii) in the case of a concealed document, has been purchased for valuable consideration by a person who was not a party to the concealment and, did not at the time of purchase know, or have reason to believe, that the document had been concealed.

**THE SCHEDULE
PERIODS OF LIMITATION**

[See sections 2(j) and 3


PART X – SUITS FOR WHICH THERE IS NO PRESCRIBED PERIOD

113. When the right to sue accrues

113	<i>Any suit for which no period of limitation is provided elsewhere in this Schedule</i>	<i>Three years</i>	<i>When the right to sue accrues</i>
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14. There is no doubt that Section 17(1) (c) of the Limitation Act, 1963 covers both mistakes of fact as well as law. The Respondent discovered the mistake of under billing when the premises were inspected on 19.12.2024 in the presence of the Appellant and the bill of accumulated consumption was sent in Dec. 2024. The ‘non-billing’ period started from October 2018. The Limitation Act, 1963 describes that the suit can be filed within 3 years from the date of cause of action. In the instant case, it similarly applies that action has to be taken at least within the prescribed period of limitation of three years from when the ‘non-billing’ period started, i.e. the supplementary bill should have been issued by October 2021, as 3 years is an adequate period to discover such a lapse and to rectify it. Working backwards, if the supplementary bill was raised only in December 2024, it can cover only a 3-year period from December 2021 onwards.

15. The Supreme Court of India in *M/s. Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Ltd.* has clarified that though the liability to pay electricity charges arises upon consumption, the amount becomes “first due” only when a bill is issued, and therefore the limitation under


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Section 56(2) commences from the date of such billing. The Court further held that a distribution licensee is entitled to raise an additional or supplementary demand even beyond the period of two years in cases of mistake or bona fide error, as supported by Section 17(1)(c) of the Limitation Act, 1963, and such a demand on account of short billing would not amount to deficiency in service but would fall within the category of “escaped assessment.” It was also observed that a consumer can be said to have neglected payment only after a demand is raised, and in the absence of such demand, the limitation period would not begin to run, thereby not attracting the bar under Section 56(2). Accordingly, the Court upheld the licensee’s right to recover **short-billed amounts discovered subsequently, provided the claim arises from a genuine mistake and is otherwise legally sustainable.**

16. The Ratio of Judgments of the Hon’ble High Court, Nagpur Bench, in Writ Petition No. 8595 of 2022, by order dated 09.07.2025, the judgment of the Three-Judge Bench of the Hon’ble Supreme Court in *K.C. Ninan v. Kerala State Electricity Board & Ors.* (Civil Appeal Nos. 2109–2110 of 2004, decided on 19.05.2023) and judgment of the Hon’ble High Court of Bombay in Writ Petition No. 3086 of 2024 (*MSEDCL v. Suhasini D. Naik*), decided on 21.08.2024 are not applicable in the instant case.

17. The Respondent failed to inspect the premises for about 73 months. Had it done so earlier, the mistake would have come to notice much earlier, and the high amount of retrospective bill for 73 months could have been avoided. Hence, we hold that retrospective recovery towards accumulated consumption should be limited to three years counting from the date of issue of the supplementary bill.

18. A clear distinction must be drawn between the ratio of the Supreme Court of India in *M/s. Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Ltd.* and the Larger Bench judgment of the High Court of Judicature at Bombay dated 12.03.2019. In *Prem Cottex*, the Hon’ble Supreme Court was dealing with a limited case of **short assessment arising from a bona fide mistake** (wrong multiplying factor) detected within a relatively short period, and held that a


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supplementary demand in such circumstances would not amount to deficiency in service and that limitation under Section 56(2) would commence only upon issuance of the bill. However, the Larger Bench of the Bombay High Court, while interpreting Section 56(2) in detail, has categorically held that the **two-year limitation is substantive in nature** and that recovery of dues beyond two years is impermissible unless such dues are continuously reflected as arrears in the bills, thereby emphasizing statutory finality and consumer protection. Unlike *Prem Cottex*, which turned on a specific instance of bona fide error, the Larger Bench has expressly cautioned against **belated and accumulated recovery of stale claims over long periods**, holding that permitting such recovery would be arbitrary, unjust, and contrary to legislative intent. Thus, *Prem Cottex* cannot be read as laying down a blanket proposition permitting unlimited retrospective recovery, especially in cases involving prolonged inaction and non-reflection of arrears, and the present case, involving recovery for an extended period, squarely attracts the stricter limitation principle laid down by the Bombay High Court.

19. Therefore, we hold that in the instant case, the valid recovery period will be three years period retrospectively from Dec. 2021 to Nov. 2024. This will provide considerable relief to the Appellant, by restricting recovery to 3 years instead of 6 years.

20. During the Covid-19 period, the Appellant's hotel business suffered significant losses due to intermittent closure, internal partnership issues, and the **COVID-19 lockdown from March 2020 to December 2020 and the second wave from January 2021 to June 2021**, when government offices and commercial establishments, including those of the Respondent, remained largely closed. The Covid-19 lockdown period was already over when the above-mentioned recovery period of 3 years starts (in December 2021). Hence, we can safely assume a consumption pattern as per the recent trend. The recent established consumption pattern is already tabulated in Table 3. The MRI data submitted by the Respondent was analyzed and the consumption pattern of the Appellant shown in Past History is tabulated as below:

Table 4:


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MRI Data of the meter : Consumption History during the non-billing period			Actual Consumption recorded from April 2025 to Feb. 2026		
Sr. No.	Month	Cons. (Units)	Month	Status	Cons. (Units)
1	Feb-24	8676.8	Apr-25	Live	10854
2	Mar-24	10755.6	May-25	Live	10293
3	Apr-24	10232.8	Jun-25	Live	9266
4	May-24	10034.2	Jul-25	Live	8662
5	Jun-24	9198.6	Aug-25	Live	8169
6	Jul-24	8089.6	Sep-25	Live	8086
7	Aug-24	7985.0	Oct-25	Live	10086
8	Sep-24	7547.2	Nov-25	Live	7805
9	Oct-24	8367.4	Dec-25	Live	7967
10	Nov-24	7738.4	Jan-26	Live	8606
Total		88625.6	Feb-26	Live	8320
Avg. /Mth		8862.56	Mar-26		0
			Total		98114
			Avg/ mth		8919

21. The consumption pattern of the Appellant during the non – billing period was found to be 8,863 units per month as per the MRI history report of the meter, which is broadly consistent with the actual average consumption of 8,919 units per month observed during the recent period from April 2025 to February 2026. Accordingly, the assessment for the period of three years (December 2021 to November 2024) shall be carried out on the basis of 8,863 units per month as reflected in the MRI consumption pattern. Based on the above analysis, the order of the Forum stands modified to the aforesaid extent.

22. The Respondent is directed as under: –

- a) To revise the supplementary bill of ₹84,19,495/- {for 5,02,018 units of accumulated consumption (October 2018 to October 2024)} by considering average consumption of 8,863 units per month for the period from December 2021 to November 2024, and to withdraw interest and Delayed Payment Charges (DPC), if any, levied from December 2024 onwards till the date of this order.


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- b) To permit the Appellant to pay the revised balance bill in 12 equal monthly instalments without any interest and DPC. In the event of default in payment of any instalment, proportionate interest shall become payable, and the Respondent shall be at liberty to take action in accordance with law.
- c) Compliance of this order shall be submitted within two months from the date of issuance of this order.
- d) All other prayers of the Appellant stand rejected.

23. The Representation is disposed of accordingly.

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

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

