

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 38 OF 2023

In the matter of transfer of outstanding PD dues on to a live consumer

Mudassir Ahmed Noor Mohammad Shaikh... ..Appellant
(Cons. No. 13892800311) & (Cons. No. 13892801422)

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Bhiwandi (MSEDCL).....Respondent
Torrent Power Limited (TPL), Distribution Franchisee, Bhiwandi

Appearances:

Appellant : 1. Mudassir Shaikh, Consumer
2. Iftekhar Momin, Representative
3. Munwwer Ahmad

Respondent : 1. Ajay N. Bhasaketre, Addl. Executive Engineer, TUC, MSEDCL
2. R. S. Shanbhag, AGM, TPL
3. H. M. Bhogavekar, Manager, TPL

Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 27th June 2023

Date of Order : 28th July 2023

ORDER

This Representation was filed on 28th March 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 9th February 2023 passed by the Consumer Grievance Redressal Forum, MSEDCL,



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Bhandup (the Forum). The Forum by its order dated 09.02.2023 in Case No. 179 of 2022 has dismissed the grievance application by observing that the cause of action occurred in Oct.2019 while the consumer approached the Forum on 17.01.2022 which is beyond two years from the date on which the cause of action arose.

2. The Appellant, being aggrieved by the order of the Forum has filed this representation. A physical hearing was held on 27th June 2023 where all the parties were present except for Respondent MSEDCL who attended the hearing through video conference. The Appellant's submissions and arguments are stated in brief as follows: -


- (i) The Appellant is a power loom consumer (Service No. 13892801422) having sanctioned load of 27 HP from 17.05.2007 at House No. 1085/A, Kargil Compound, near Al Badar Masjid, Karivali, Tal Bhiwandi. The actual name of the Appellant is **"Mudassir Ahmed Noor Mohammad Shaikh"**, however, the name on the electricity bill is shown as **"Mubassir Mohd. Ismail"**,
- (ii) The Respondent, by its letter no. BHW/CNPB/DT/SC/804 dated 29.08.2019 issued a notice for transfer of TPL dues to the Appellant from Service No. 13892800311 (arrears of 7,26,410/-) to the Appellant's Service No. 13892801422 illegally. The details are tabulated below for understanding.

Table 1:-

Service No.	Name	Address	Arrears (Rs.)		Service Status
			MSEDCL	TPL	
13892800311	Mudassir Mohd. Ismail	H.No.1461/1, Kariwali, Bhiwandi	0	7,26,410/-	PD

It was alleged by TPL that the consumer no. 13892800311 had the same name with the same photo, hence was the same person.


- (iii) The Appellant made a complaint of missing of photos on 19.10.2019 at Bhoiwada Police Station, Bhiwandi which was registered under lost property as 0442 of 2019. The Appellant claimed that his photos might have been stolen and misused.
- (iv) The Appellant by his letter dated 06.06.2021 replied to the said notice that "Mudassir Mohd. Ismail" is another person having a separate identity, and not the


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Appellant. The Appellant never used the power supply of this service no. 13892800311, which has a different address.

- (v) The Appellant put on record the House Tax Receipt of the premises of service no. 13892801422 which is in the name of **Mudassir Ahmed Noor Mohammad Shaikh**. The Appellant has also requested to change the name of service no. 13892801422 from “**Mubassir Mohd. Ismail**” to “**Mudassir Ahmed Noor Mohamad Shaikh**”, but the Respondent failed to do so till date.
- (vi) The Appellant was never called by the Respondent TPL for verification of documents and discussion for their alleged claim that the owner of both the services is the same.
- (vii) There was lockdown in the entire State from 22.03.2020 due to Covid 19 pandemic. The lockdown was partially opened after some months. The Appellant could not approach the Forum within two years from the date of cause of action (29.08.2019) due to restriction of movement in the State. After control of Covid-19 pandemic, the Appellant filed a grievance application with the Forum on 17.01.2022. The Forum by its order dated 09.02.2023 dismissed the grievance application. However, the Forum failed to understand that.
 - (a) The Appellant is not the owner/ occupier of service no. 13892800311, and hence the Appellant has nothing to do with the outstanding dues of this service.
 - (b) The Appellant never issued cheques of Bombay Mercantile Bank in the year 2008/09 for payment of dues of service No. 13892800311, which the Respondent had claimed during the hearing with the Forum.
- (viii) The Appellant submitted additional documents on 05.07.2023 as below:
 - (a) Copy of passport where the name is indicated as “Shaikh Mudassir Ahmad”.
 - (b) Aadhaar Card where the name is indicated as “Mudassir Ahmed Noor Mohammad Shaikh”.
 - (c) Copy of driving license where the name is indicated as “Mudassir Ahmed Shaikh”.
 - (d) Pan Card where name indicated as “Mudassir Ahmed N Shaikh”.


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- (e) Identity card of Election Commission of India where name indicated as “Mudassir Ahmed Shaikh”.

All these documents clearly established identity of the Appellant as Mudassir Ahmed Noor Mohammad.

- (ix) In view of the above, the Appellant prays that,
- the Respondent TPL be directed to withdraw arrears of Rs. 7,26,410/- (along with interest and delayed payment charges till date) from his service no. 13892801422 which was illegally transferred from service no. 13892800311.
 - the delay for filing the application in the Forum be waived of in the interest of justice.

3. The Respondent MSEDCL and its Franchisee, TPL filed their written replies dated 26.05.2023 and 22.05.2023 respectively. The Respondent’s written submissions along with their arguments on 27.06.2023 are as below:

- (i) The Appellant approached the Forum on 17.01.2022 against the transfer of outstanding dues of PD consumer Service No. 13892800311 (Mudassir Mohd. Ismail) to live consumer Service No. 13892801422 (Mubassir Mohd. Ismail). The grievance of the Appellant was rejected by the Forum’s order dated 09.02.2023 being time barred. The Appellant approached the Electricity Ombudsman on 28.03.2023 without any merit and without having any sufficient cause.
- (ii) The Service No. 13892801422 is registered in the name of Mubassir Mohd. Ismail for 27 HP for Power loom purpose at “H.No:1085/A, Kargil Compound, Nr. Al-Badar Masjid, Kariwali, Bhiwandi”.
- (iii) **Being the same name for both the Service numbers, a notice for dues transfer from PD to live service was issued vide letter No BHW/CNPB/DT/SC/804 on 29.08.2019.** Copies of A-1 form (application) of both the services submitted by the applicant in Sept 2007 for load extension are attached, which clearly proves that both the services belong to the same person. Details then were as under :




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Table 2:

Sr. No.	Service No.	Name	Address	Arrears (Rs.)		Service Status	Remark
				MSEDCL	TPL		
1	13892800311	Mudassir Mohd. Ismail	H.No.1461/1, Kariwali, Bhiwandi	0	7,26,410/-	PD	Dues from Service No.13892800311 to Service No. 13892801422 was transferred in October-2019.
2	13892801422	Mubassir Mohd. Ismail	H.No:1085/A, Kargil Comp, Nr. Al- Badar Masjid, Kariwali, Bhiwandi	0	55,070/-	Live	

- (iv) The applicant raised a grievance vide letter dated 07.09.2019, which was clarified and replied vide letter No. BHW/CNPB/DT/SC/819 dated 10.09.2019.
- (v) A notice was issued after verification of documents which were found in order, and the two names, Mr. Mubassir & Mr. Mudassir were found to be of the same person. The same has been shown to the Appellant personally. Notice was issued as per law & regulations of Maharashtra Electricity Regulatory Commission (the Commission) and circulars of MSEDCL. Accordingly, dues were transferred in Oct. 2019.
- (vi) The applicant filed his grievance before the Forum on 17.01.2022 after period of 2 years from the date of cause of action (29.08.2019). Hence, the grievance is not maintainable as per Regulation 7.8, 7.9 of CGRF & EO Regulations 2020. The Applicant claims that he has attached a letter dated 06.06.2021 along with the papers to the Forum; however till date it has not been received, which may please be noted.
- (vii) **Also, it is notable that the payment of electricity bills in both the services has been made through the same bank account viz. Cheque No. YK127615 (BMC Bank), YK127616 (BMC Bank), YK127636 (BMC Bank), YK127638 (BMC Bank) and YK127647 (BMC Bank) on 23.10.2008, 24.10.2008, 26.02.2009, 30.03.2009 and 28.04.2009. Copies of the said documents are kept on record, which clearly prove that both the services belong to the same person i.e., the Appellant. Being dues of the same person, it is his moral responsibility to clear the outstanding dues.**
- (viii) A copy of statement from 2007 till date for PD Service No. 13892800311 is tabulated along with details of the last payment made.


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Sevice No. 13892801422 of Mubassir Mohd. Ismail (Live)			Sevice No. 13892800311 of Mudassir Mohd. Ismail (PD)		
Date	Cheque No.	Bank	Date	Cheque No.	Bank
24.10.2008	YK127616	Bombay Mercantile	23.10.2008	YK127615	Bombay Mercantile
26.02.2009	YK127636	Bombay Mercantile	28.04.2009	YK127647	Bombay Mercantile
30.03.2009	YK127638	Bombay Mercantile			

Please find Payment screenshots as per below:

Service No. 13892801422

Show

Clear


ALL Payment Details - Internet Explorer

11/06/2009 15:05	75	21	921/1	101289				
11/06/2009 14:53	76773	41	921/1	101282				
30/03/2009 10:23	31800	41	905/2	96949	D	YK127638	29/03/2009	BOMBAY MERCANTILE CO
10/03/2009 15:38	130000	41	905/2	94591				
26/02/2009 13:18	75	21	905/2	93502				
26/02/2009 12:59	115000	41	905/2	93488	D	YK127636	26/02/2009	BOMBAY MERCANTILE CO
24/10/2008 15:38	95000	41	921/2	95979		YK127616	24/10/2008	BOMBAY MERCANTILE CO
04/06/2008 14:03	70000	41	912/2	46913		YK260972	04/06/2008	BANK OF MAHARASHTRA

Service No. 13892800311

Show

Clear

 ALL Payment Details - Internet Explorer

Date	Amount	Type	M/C No.	Rcpt No.	Status	ChequeNo.	ChequeDt.	Bank Name
24/03/2015 10:40	158000	41	814/2	33593				
09/02/2015 16:20	102000	41	104/1	19551	D	YK000030	08/02/2015	HDFC BANK LTD.
19/12/2014 15:55	85837	41	813/2	10267				
19/11/2014 13:52	135000	41	802/2	5455				
06/09/2012 13:30	50	21	905/4	238579				
06/09/2012 13:30	44400	41	905/4	238578				
18/07/2012 11:56	50	21	912/2	366620				




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Service No. 13892800311

Show

Clear


 ALL Payment Details - Internet Explorer

18/07/2012 11:56	50	21	912/2	366620			
18/07/2012 11:55	41170	41	912/2	366617			
15/05/2012 14:51	50	21	912/2	356742			
15/05/2012 14:50	52495	41	912/2	356741			
07/03/2012 15:19	50	21	901/3	231550			
07/03/2012 15:18	51700	41	901/3	231549			
29/12/2011 12:06	54021	41	901/3	211614			
14/12/2011 15:43	50	21	912/2	325993			

Service No. **13892800311**

Show

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14/12/2011 15:43	50	21	912/2	325993				
14/12/2011 15:42	53771	41	912/2	325992	D	YK462542	13/12/2011	BOMBAY MERCANTILE CO
08/09/2011 13:07	50	21	904/4	99348				
08/09/2011 13:07	62898	41	904/4	99347				
01/06/2011 12:11	50	21	901/5	186254				
01/06/2011 12:10	61000	41	901/5	186253				
04/03/2011 14:56	35960	41	912/2	262071				
13/01/2011 15:06	36617	41	911/2	83820				

Service No. **13892800311**

Show

Clear

 ALL Payment Details - Internet Explorer


13/01/2011 15:06	36617	41	911/2	83820			
13/01/2011 15:04	3110	14	936/2	15191			
30/11/2010 16:00	32248	41	904/4	40135			
25/09/2010 16:41	34080	41	905/4	72807			
08/07/2010 15:59	28730	41	904/2	16933			
13/05/2010 12:13	52482	41	906/2	160183			
28/02/2010 10:08	32545	41	905/4	14565			
02/01/2010 15:10	33840	41	901/5	95728			



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Service No. **13892800311** Show Clear

 ALL Payment Details - Internet Explorer


02/01/2010 15:10	33840	41	901/5	95728				
31/10/2009 10:14	24361	41	901/5	80863		YK462511	31/10/2009	BOMBAY MERCANTILE CO
20/08/2009 17:02	67069	41	922/1	73546				
28/04/2009 14:27	104780	41	901/5	37226		YK127647	28/04/2009	BOMBAY MERCANTILE CO
03/04/2009 12:22	75	21	905/2	97636				
03/04/2009 12:21	150000	41	905/2	97635				
23/10/2008 16:55	75	21	903/2	32730				
23/10/2008 16:52	130000	41	903/2	32728	D	YK127615	23/10/2008	BOMBAY MERCANTILE CO

Details of dues as on date are as under: -

Sr. No.	Service No.	Name	Address	Arrears (Rs.)				Service Status	Last Payment Date	TD/PD Date	Remarks
				MSEDCL (Rs.)	Principal Amt.	Interest	Total Amt.				
1	13892800311	Mudassir Mohd. Ismail	H.No.1461/1, Kariwali, Bhiwandi	0	0	0	0	PD	24.03.2015	26.10.2015/ 23.02.2028	Dues from Service No.13892800311 to Service No. 13892801422 was transferred in October 2019.
2	13892801422	Mubassir Mohd. Ismail	H.No:1085/A,Kargil Comp, Nr.Al- Badar Masjid,Kariwali,Bhiwandi	0	4,19,583/-	6,16,273 /-	10,35,856 /-	Live	17.05.2023		

- (ix) The extension of load for both these services (No. 13892800311 & No. 13892801422) was applied on 17.09.2007. Identical photos of the Appellant were fixed on applications of both these services, including same mobile number and in the same handwriting. After receipt of due notice, the Appellant made a complaint of missing of photos on 19.10.2019 Bhoiwada Police Station, Bhiwandi. This clearly indicates that the Appellant is an offender and is trying to hide the factual position by filing artificial complaints. Considering the chronology of events, the Appellant did not approach the grievance mechanism with clean hands.
- (x) The notice of transfer of dues was served on the following grounds :

- 1) **Guidelines given by MSEDCL for recovery of PD arrears** vide number P.Com/Accts/ No 19021 dated 06.07.2013 which states that:


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- “(i) In premises of any PD consumer in arrears, if there is other live connection of same PD consumer or of his legal successor found, then entire PD arrears with interest and DPC should be diverted on such live connection.*
- (ii) If any PD consumer in arrears is having any live electricity connection in same or other subdivision, division, circle or zone, then the entire PD arrears with interest and DPC should be diverted on said live connection of same PD consumer. As mentioned in point 4 and 6 above dues of PD service can be transferred to live services of same and different premises also.”*


2) In addition, a few Judgements on which the Respondent TPL relies upon are :-

- a) **The Hon'ble Madras High Court in Vijaya Laxmi Vs. Assistant Engineer in W.P. No. 6194 and 7950 of 2003 decided on 25th September 2003.** The Hon'ble High Court held as under:

"Where any consumer having more than one service connection, defaults in payment of dues relating to any one of the service connections, the Board may cause other service connections in the name of the Appellant to be disconnected till all the arrears due for all the service connections are paid, notwithstanding the fact that the service connections are covered by separate agreements".

- b) **The Hon'ble Madhya Pradesh State Consumer Disputes Redressal Commission in M.P. Electricity Board Vs. Akhtar Bi in Appeal No. 188 of 2003 decided on 04th October, 2004.** The Hon'ble State Commission held as under:

“It will be thus seen that the licensee-Board is entitled to disconnect any electric supply line or other works, through which energy may be supplied and may discontinue the supply of the defaulter consumer until the amount due from him is paid off. Section 24 does not restrict power of the appellant-Board to invoke this provision only in respect of the electric connection for which the consumer has fallen into arrears. The words "any electric supply line" used in Section 24 makes it abundantly clear that a **person having more than one supply lines may suffer disconnection of any or all those**


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lines, if he falls into arrears in payment of dues in respect of any one or more such lines".

- 3) Also, in similar matter, TPL completely relies on the Order passed by Hon'ble Electricity Ombudsman in Case No 78 of 2008 which clearly interprets Section 56(1), and 56(2) of the Act and Regulation 10.5 of the Supply Code Regulations, 2005, thereby empowering for transfer of dues.
- (xi) The Service No. 13892801422 is live and is billed every month as per the reading obtained from the meter. However, on sympathetic grounds, TPL had considered the Appellant's request for part payment on various occasions. It is specifically pointed out that the Appellant had never approached the office of the utility for payment and has approached the Forum only after issue of the notice for recovery, which indicates the intention of the consumer.
- (xii) The Respondent stated that TPL took over as the franchisee for the distribution network of electricity supply in Bhiwandi on 26.01.2007 and there were serious law and order issues in Bhiwandi at the initial stage, hence disconnection and forceable recovery was delayed mainly from the year 2007 to 2012.
- (xiii) The Representation is also time barred as per Regulation 7.8 of the CGRF & EO regulations 2020 which is already emphasized at Para 3 (vi).
- (xiv) In view of the above, the Respondent prays to dismiss the said grievance.

Analysis and Ruling

4. Heard the parties and perused the documents on record. The Appellant is a power loom consumer (Service No. 13892801422) having sanctioned load of 27 HP from Sept. 2007 at House No. 1085/A, near Al Badar Masjid, Kariwali, Tal Bhiwandi. There is one more service no. 13892800311 in the name of "Mudassir Mohd. Ismail" at H.No.1461/1, Kariwali, Bhiwandi. From the A-1 forms available on record, it is seen that the load extension of both these services were applied to the Respondent on the same day i.e. on 17.09.2007 by the same person having identical photograph, same mobile number and same handwriting on the extension form, except that the signature on one form was in Urdu and on another in English.


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The Appellant could not provide any satisfactory explanation for this. During the hearing the Appellant's argued that some unknown miscreant might have stolen his photograph and used his name to apply for load extension in his name. However, this argument seems far fetched and without any substance.

5. This service no. 13892800311 was disconnected on 26.10.2015 for outstanding dues after giving a statutory notice of 15 days as per Section 56(1) of the Act. This service no. 13892800311 was permanently disconnected on 23.02.2018. The Respondent, by its letter no. BHW/CNPB/DT/SC/804 dated 29.08.2019 then issued "dues transfer notice" to the Appellant from service no. 13892800311 (arrears of Rs.7,26,410/-) to Service No. 13892801422. The details of name, address, arrears etc., are captured in Table 1. The Appellant contended that he is not the owner /occupier of service no. 13892800311, and that the Respondent made fabricated documents for recovery of alleged arrears. He never used this service and is not responsible to pay these accumulated arrears. On the other hand, the Respondent argued that both these connections are of one and the same person. TPL also relied on details of the Appellant's cheques which were used to make payment of electric bills of both the connections from the years 2008 to 2015 or so. These cheques related to the same bank account. When confronted with these facts during the hearing, the Appellant sought to give some implausible and confusing explanation for the same. He said that the said person "Mudassir Mohd. Ismail" used to do some business with him, and the Appellant might have handed over some cheques to him for payment of electricity dues. This statement is quite contradictory to his earlier statement claiming that he does not know any such person and has nothing to do with his connection. The entire deposition of the Appellant is found to be dubious and unreliable.

6. Considering the various submissions, arguments, judgments, and orders referred to by the Appellants and the Respondent, this Authority has framed the following basis issue to consider the maintainability of this representation.

Issue: Whether grievances submitted before the Forum are maintainable as per the Regulation 6.6 /7.8 of CGRF & EO Regulations 2006/2020?

The answer to this Issue is NEGATIVE.


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7. The cause of action arose on 29.08.2019 when the Respondent TPL issued a notice for transfer of arrears of Rs.7,26,410/- from Service No. 13892800311 to the Appellant's service No. 13892801422. The Appellant claimed that he sent a protest letter on 06.06.2021 which the Respondent denied receiving. Even if the Appellant issued such a protest letter it is irrelevant. Only a formal grievance before the Forum is relevant in this regard. The Appellant approached the Forum on 17.01.2022 after expiry of more than 2 years 3 months, which is clearly time barred as per provisions of Regulation 6.6/7.8 of CGRF & EO Regulations 2006/2020. This Regulation clearly states that a complaint has to be filed within 2 years from the date on which the cause of action has arisen. Hence, the claim of the Appellant cannot be considered, being time barred and beyond limitation. This period of two years is considerably long and hence the Covid 19 Pandemic period does not influence this period. The Covid lockdown was imposed only in March 2020. The Appellant had time from September 2019 to March 2020 to file his grievance even before the lockdown, but he did not do so. The Issue is answered as NEGATIVE.


8. 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.

9. The Forum has given a reasoned order and hence, there is no necessity to interfere in the Forum's order. The order of the Forum is upheld.

10. The representation of the Appellant is rejected and disposed of as above.

11. The secretariat of this office is directed to refund the amount of Rs. 25000/- taken as deposit to the Respondent to adjust in his ensuing bill of Service No. 13892801422.

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


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

