

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 21 OF 2026

In the matter of Rectification of Net Metering Import /Export Cross-Connection for Solar
Rooftop Connection

The Chairman, Sai Aamrai Common.....Appellant
(C. No. 170250341876)

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Padmavati Dn.Respondent
(MSEDCL)

Appearances:

Appellant : 1. Anil Mahajan, Former Chairman
2. Sachin More, Representative

Respondent : Sanjay Ghodake, Addl. Executive Engineer, Dhankawadi Sub/ Dn.


Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 14th May 2026

Date of Order: 3rd June 2026

ORDER

This Representation was filed on 9th February 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 19th December 2025 passed by the Consumer Grievance Redressal Forum, MSEDCL, Pune Kasaba Peth (the Forum) in Case No. 155 of 2025. The Forum, in its order, principally rejected the


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



grievance application. The order (originally in Marathi) is translated in English where the Respondent is directed as below:

1. *To withdraw the interest and delayed payment charges levied on the assessment bill;*
2. *To explain the Import and Export billing under the Solar Net Metering system to the Appellant; and*
3. *To grant the Appellant 10 equal monthly instalments, without interest, for payment of the assessed bill amounting to Rs. 14,16,488.78.*

The Appellant was supposed to deposit the statutory amount of Rs. 25,000/- along with this Representation in accordance with Regulation 19.22(h) of the CGRF & EO Regulations, 2020 which was done on 2nd March 2026. The present Representation was registered on the same day.

2. **Preamble:**

The Appellant referred the word “**Prosumer**” instead of **Consumer** as per the Electricity (Rights of Consumers) Rules, 2020. The details of these rules where the word ‘Prosumer’ is used are produced as below:

The Electricity (Rights of Consumers) Rules, 2020:

NOTIFICATION: *New Delhi, the 31st December, 2020*

G.S.R. 818(E) : *In exercise of the powers conferred by sub-section (1) read with clause (z) of subsection (2) of section 176 of the Electricity Act, 2003 (Act 36 of 2003), the Central Government hereby makes the following rules, namely:-*


1. ***Short title and commencement.-***

- (1) These rules may be called **the Electricity (Rights of Consumers) Rules, 2020.***
- (2) They shall come into force on the date of their publication in the Official Gazette*

2. ***Definitions:***

- (1) In these rules, unless the context otherwise requires,-*

.....


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



f. **Consumer:** means any person who is supplied with electricity for his own use by a distribution licensee or the Government or by any other person engaged in the business of supplying electricity to the public under the Electricity Act, 2003 or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a distribution licensee, the Government or such other person, as the case may be;

g. to l.

m. **Prosumer:** means a person who consumes electricity from the grid and can also inject electricity into the grid for distribution licensee, using same point of supply:

(2) The words and expressions used and not defined in these rules but defined in the Act shall have the meanings assigned to them in the Act and in absence thereof, the meanings as commonly understood in the electricity supply industry.


3. **Rights and Obligations:** - It is the duty of every distribution licensee to supply electricity on request made by an owner or occupier of any premises in line with the provisions of Act. It is the right of consumer to have minimum standards of service for supply of electricity from the distribution licensee in accordance with the provisions made in these rules.

4. **Release of new connection and modification in existing connection:-**

(1) The distribution licensee shall prominently display on its website and on the notice board in all its offices, the following; namely:-

(a) detailed procedure for grant of new connection, temporary connection, shifting of meter or, service line, change of consumer category, enhancement of load, reduction of load or change in name, transfer of ownership and shifting of premises etc.;

(b) address and telephone numbers of offices where filled-up application forms can be submitted;


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




- (c) address of website for online submission of application form;
- (d) complete list of copies of the documents required to be attached with the application;
- (e) all applicable charges to be deposited by the applicant.

.....

1. **Consumer as prosumer: -**

- (1) While the prosumers will maintain consumer status and have the same rights as the general consumer, they will also have right to set up Renewable Energy (RE) generation unit including roof top solar photovoltaic (PV) systems – either by himself or through a service provider.
- (2) Renewable Energy (RE) generation unit may also be set up on other part of the premises of the prosumers, apart from the roof, however the total generation capacity of the RE unit shall not exceed the limit as specified by the Commission.
- (3) The Commission shall lay down regulations on Grid Interactive Roof top Solar PV system and its related matters with timelines of not exceeding six months from the date of notification of these rules, in case the same has not been notified.
- (4) The regulations on Grid Interactive Roof top Solar PV system and its related matters shall provide for net metering for loads up to ten kW and for gross metering for loads above ten kW.
- (5) The distribution licensee shall facilitate the process for setting up of RE generation system at prosumers' premises. In this regard, the licensee shall-

15. **Grievance redressal mechanism .-** (1) The distribution licensee shall establish Consumer Grievance Redressal Forum (CGRF) under sub-section (5) of section 42 of the Act at different levels to cater the needs of the sub- division, division, circle, zone, company level. The forum shall be headed by an officer of the licensee of appropriate seniority. The forum shall consist of officers of the licensee and have


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



*not more than four members as consumer and **prosumer** representatives. The Appropriate Commission shall nominate one independent member who is familiar with the consumer affairs. The forum may be assigned different types of grievances depending on the nature of the grievance and the level at which it can be best resolved.*


3. A “Prosumer” is a consumer who both consumes electricity from the Distribution Licensee and generates electricity through a rooftop solar system, supplying excess energy to the grid. Under net metering, a bi-directional meter records both import and export of electricity, and excess exported energy may result in credit billing to the Society in accordance with applicable regulations. In short, after release of a Solar Roof Top connection, a “Prosumer” in all respects has the status of a “Consumer” under the regulatory frame work.

4. The Appellant has filed the present Representation challenging the order passed by the Forum. A physical hearing was conducted on 14.05.2026 through video conference. Both parties were heard at length. The Appellant’s submissions and arguments are stated as below. *[The Electricity Ombudsman’s observations and comments are recorded under ‘Notes’ where needed.]*

(i) The Appellant is a three-phase consumer bearing Consumer No. 170250341876 since 18.02.2018. The particulars of the electricity connection, date of inspection, assessment, etc. are summarised in Table 1 below.

Table 1:


Name of Consumer	Consumer No.	Address on Bill	Sanc. Load	Date of Supply	Date of Inspection	Assessment Details	Reason for Assessment
The Chairman, Sai Aamrai	170250341876	Common, Sai Aamrai Wing-B, S. No.2, Behind Ashok Leyland	34 KW	18.12.2014	05.03.2025 & 09.03.2025	Rs. 14,16,488.78 (87,092 units) in April 2025 bill for the period from Sep.2022 to March 2025 (31 months)	Recovery towards wrong cross connection of Import instead of Export and Export instead of import units


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai



This electricity connection is being utilised for the common purposes of the Society, including operation of water pumps, lifts, and common area lighting.

- (ii) The Appellant applied for 30 KW Solar Rooftop system with grid connectivity in July/ Aug. 2022. After statutory formalities, commissioning, testing etc. the Respondent synchronised the Solar Rooftop Net Metering system on 27.08.2022 with the MSEDCL System (software).
- (iii) From the date of connection (18.12.2014), the Appellant has been billed as per actual meter readings, and all electricity bills have been paid regularly without any default.
- (iv) The Assistant Engineer of the Respondent inspected the Appellant's installation on 05.03.2025 and 09.03.2025. Thereafter, an assessment bill dated 12.03.2025 for Rs.14,16,488.78 towards 87,092 units for the period from September 2022 to March 2025 (31 months) was issued and reflected in the April 2025 bill. The assessment was raised on the allegation of Net Metering Import/Export cross-connection in the Solar Rooftop Connection, i.e. the generation side was connected to the import side and the MSEDCL side to the export side. [Note: Actual solar generation was lesser than import from MSEDCL, however it was shown as more, due to the cross connection.] According to the Appellant, the said units were never reflected in the monthly meter readings and, despite monthly meter readings and inspection, the Respondent failed to detect the alleged wrong wiring for 31 months, which amounts to gross negligence on the part of the Respondent.
- (v) **In fact, the Appellant is a "Prosumer" and not merely a consumer, and therefore the provisions relating to retrospective recovery are not applicable to the present case. Hence, considering the definition and status of a "Prosumer," the impugned recovery is not maintainable.**
- (vi) Under the MERC Supply Code and Standards of Performance Regulations, 2021, periodic inspection, testing are mandatory and must be shared with the consumer. In this case, no such testing was ever conducted, amounting to a violation of regulatory obligations.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




- (vii) The Appellant filed a grievance before the Forum on 01.07.2025. The Forum, by its order, principally rejected the grievance application, but granted limited reliefs to the Appellant by directing the Respondent to: (i) withdraw the interest and delayed payment charges on the assessment bill; (ii) explain the Import and Export Units billing under the Solar Net Metering system; and (iii) allow payment of the assessed amount of Rs.14,16,488.78 in 10 equal monthly instalments without DPC and interest. The Forum failed to appreciate **the basic issue that the alleged mistake was attributable to the Respondent and not to the Appellant. Despite this, the Appellant–Society has been saddled with a huge assessment amount.**
- (viii) The Appellant- Society lacks the financial capacity to pay such a large assessment. Had the actual situation been communicated earlier, the Appellant could have installed additional solar rooftop capacity to meet its energy requirements.
- (ix) In view of the above, the Appellant prays that the Respondent be directed to
- Cancel the retrospective recovery of Rs.14,16,488.78 towards 87,092 units reflected in the April 2025 bill for the period from September 2022 to March 2025 (31 months) on account of the alleged wrong Import/Export connection of the net meter; and
 - Withdraw the interest and delayed payment charges levied from April 2025 onwards.

5. The Respondent's submissions and arguments are stated as below:

- The Appellant is a three-phase consumer bearing Consumer No. 170250341876 since 18.12.2014. The particulars of the electricity connection, inspection, and assessment are summarised in Table 1. The connection is used for common purposes of the Society such as water pumps, lifts, and common lighting.

Preliminary Submissions:

- The present grievance application filed by the consumer is devoid of truth and is misleading. The representation is not supported by any applicable rules or


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




regulations and is based on a misconceived interpretation of the provisions of law and facts.

- (iii) The Appellant appears to be under a misconception regarding the term “Prosumer.” Regulation 11 of the Electricity (Rights of Consumers) Rules, 2020 defines a “Prosumer,” which is elaborated in the Preamble above. The status of “Prosumer” arises in the context of installation and energization of a rooftop solar system under a net metering arrangement. However, upon energization of the rooftop solar generation system connected to an existing electricity connection, the person continues to remain a “consumer” of the Distribution Licensee, and all applicable rules, regulations, and conditions governing consumers become applicable forthwith. Rule 11 of the Electricity (Rights of Consumers) Rules, 2020 legally establishes the rights of consumers to become "Prosumer" (those who both generate and consume electricity). It gives consumers the authority to set up renewable energy generation units, such as rooftop solar photovoltaic (PV) systems, either independently or through a service provider.

Submissions on Merit: -

- (iv) The Appellant applied for a Solar Roof Top connection for 34 KW in the year 2022 load with routine formalities. The Respondent commissioned the Solar Roof Top Net Metering System with grid connectivity on 27.08.2022. At the time of commissioning, the Respondent installed an L & T make net meter (Sr. No. 22093470), three-phase, with a capacity of 100/5 A, along with external CTs having a ratio of 100/5 A. *[Note: At the time of installation of net metering, unfortunately the cross-connection was not detected by the Respondent.]*
- (v) The Respondent’s Assistant Engineer inspected the Appellant’s installation on 05.03.2025 and 09.03.2025 in the presence of the consumer and panch witnesses. During inspection, it was found that the CT-operated solar net meter was connected in reverse, due to which actual import consumption was recorded in the export column and export units were recorded in the import column. The reverse connection was technically verified in the presence of the consumer’s solar


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



contractor and corrected on 09.03.2025. The Inspection Reading on 05.03.2025 was as follows:

Table 2:


Inspection Readings of L&T Make Net Meter (3 Phase 100/5 A Capacity) with External CTs (100/5 A Ratio)				
	Date of Inspection 05.03.2025		Date of Inspection 09.03.2025	
	Export kWh	Import kWh	Export kWh	Import kWh
Main Readings	126856	45562	127483	45901
Slot A	46183	0	46473	0
Slot B	38129	29323	38257	29543
Slot C	3637	16237	3639	16355
Slot D	38914	2	39112	2

- (vi) After rectification of the wiring, in the presence of the Appellant's Solar Rooftop Vendor, the Import reading was considered as 1,27,479 kWh and the Export reading as 45,897 kWh for the purpose of provisional assessment.

The Commission in Tariff Order 323 of 2018 dated 30.03.2020 introduced levy of banking charges. The relevant portion of the order is produced as below:

17. Grid Support Charges for Rooftop Net Metering Arrangements

- a. To incentivize installation of RTPV, the Commission has decided not to impose any Grid Support Charge on RTPV under net-metering arrangement till cumulative installed capacity of RTPV in the State reaches 2000 MW. Subsequent to that Commission will reconsider option of imposing Grid Support Charge as provided under the Regulations*
- b. However, till the Grid Support Charges as envisaged in the Regulations stay exempted, in order to enable MSEDCL to at least recover cost of banking service, the Commission has decided to levy banking charge. For this purpose, the Commission has linked such Banking Charge to Wheeling Loss allowed in this Order i.e. 7.5% for HT and 12% to LT. Accordingly,*


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai




for RTPV connected on HT network, from the energy injected into the grid, 7.5% energy will be deducted by MSEDCL as a Banking Charge. Similarly, for RTPV connected on LT side such deduction of energy would be 12%.

- (vii) Accordingly, after deducting 12% bank charges from the Export units (45,897 × 12% = 5,510 units), the net Export units were arrived at 40,387 units. Accordingly, the escaped consumption was computed as 87,092 units (1,27,479 – 40,387), and it was concluded that consumption of 87,092 units for the period from September 2022 to 09.03.2025 had remained unbilled due to incorrect meter connection.
- (viii) Accordingly, the Respondent issued an assessment bill vide letter dated 12.03.2025 for a sum of Rs. 14,16,488.78, corresponding to 87,092 units consumed between September 2022 and March 2025 (31 months). Despite the said amount being incorporated into the April 2025 electricity bill, the Appellant has failed to make the necessary payment.
- (ix) The Appellant filed a grievance application before the Forum on 01.07.2025. The Forum, by its order, substantially rejected the grievance application and only granted the facility of payment of the assessment amount in 10 equal instalments without levying any interest or delayed payment charges. The Forum has duly and correctly analysed the matter from the technical perspective.

Legal Position:

- (x) The Respondent relies on the judgment of the Hon'ble Supreme Court dated 05.10.2021 in Civil Appeal No. 7235 of 2009 (*M/s Prem Cottex vs. Uttar Haryana Bijli Vitran Nigam*), to argue that since the Appellant consumed electricity, he is liable to pay the assessed amount, treating the present case as one of escaped billing. The Respondent further contends that Section 56(2) of the Electricity Act, 2003 does not apply as the Appellant continued to consume electricity throughout the relevant period of 31 months. The Appellant has consumed electricity for 31 months, and electricity is a costly and essential resource.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




- (xi) 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 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 Sep. 2022 to March 2025 in the present case.

- (xii) 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 ₹14,16,488.78 (87,092 units) for the period from Sep.2022 to March 2025 (31 months). A copy of the above judgment is placed on record.
- (xiii) 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 ₹14,16,488.78, including by


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



disconnection of electricity supply, institution of appropriate legal proceedings, or by adopting any other remedy available in accordance with law.


Consumption Pattern of the Appellant:

(xiv) The one-year consumption pattern of the Appellant prior to installation of the Solar Rooftop System is summarized below:

Table 3:

Consumer's Consumption Pattern before Solar Installation (Two Connections for A & B Wings)			
Month	Con. No : 170250341876 (Live)	Con. No : 170014659466 (PD on 17-Sep- 2022)	Total month wise cons. of both the connections
	Cons. (Units)	Cons. (Units)	Cons. (Units)
Sep-21	2546	1698	4244
Oct-21	2785	1651	4436
Nov-21	3631	1966	5597
Dec-21	2975	1538	4513
Jan-22	3119	1787	4906
Feb-22	3416	1796	5212
Mar-22	3051	1487	4538
Apr-22	4065	1682	5747
May-22	3248	1794	5042
Jun-22	3280	1842	5122
Jul-22	2782	2070	4852
Aug-22	2399	1363	3762
TOTAL	37297	20674	57971
Avg. Cons. Per month	3108	1723	4831

Out of the aforesaid two connections, the 2nd connection was permanently disconnected (in order to combine the 2 connections), and the sanctioned load of the remaining connection was enhanced to 34 kW for the purpose of solar power generation.


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai



The Details of Import consumption and Export units are tabulated as below:

Table 4:

Year	2022-23				2023-24				2024-2025				2025-26			
	Import	Export	Net Billed	Total	Import	Export	Net Billed	Total	Import	Export	Net Billed	Total	Import	Export	Net Billed	Total
Mth	Cons. (Units)	Generat ion (Units)	Units	Cons. (Units)	Generat ion (Units)	Units	Cons. (Units)	Generat ion (Units)	Units	Cons. (Units)	Generat ion (Units)	Units	Cons. (Units)	Generat ion (Units)	Units	Cons. (Units)
No.	1	2	3=1-2	4=1+2	5	6	7=5-6	8=5+6	9	10	11=9-10	12=9+10	13	14	15=13+14	16=13-14
Apr					4844	1962	2882	6806	3049	1251	1798	4300	1981	1272	709	3253
May					2760	1323	1437	4083	5406	2127	3279	7533	2258	1046	1212	3304
Jun					5577	1605	3972	7182	3663	982	2681	4645	4778	1365	3413	6143
Jul					4631	615	4016	5246	3552	627	2925	4179	3670	924	2746	4594
Aug					4403	866	3537	5269	3506	873	2633	4379	3540	770	2770	4310
Sep	6610	2220	4390	8830	3356	693	2663	4049	4347	1448	2899	5795	3866	1048	2818	4914
Oct	3345	1551	1794	4896	4180	1264	2916	5444	4449	1470	2979	5919	2818	0	2818	2818
Nov	3218	1155	2063	4373	5367	1380	3987	6747	4855	1003	3852	5858	6689	2533	4156	9222
Dec	4018	1130	2888	5148	4327	1124	3203	5451	4294	1020	3274	5314	3913	1367	2546	5280
Jan	3708	1420	2288	5128	2935	1122	1813	4057					3915	1091	2824	5006
Feb	2960	1984	976	4944	4751	1780	2971	6531	10484	2536	7948	13020	3285	1558	1727	4843
Mar	4560	2306	2254	6866	4324	1854	2470	6178					3558	2431	1127	5989
Total	28419	11766	16653	40185	51455	15588	35867	67043	47605	13337	34268	60942	44271	15405	28866	59676
Units/ Mth	4060	1681	2379	5741	4288	1299	2989	5587	3967	1111	2856	5079	3689	1284	2406	4973


There is an increase in the consumption trend after installation of the Solar Rooftop System, which is beyond the control of the Respondent.

- (xv) In view of the above, the Respondent prays that the representation of the Appellant be rejected and direct the Appellant to pay the outstanding dues in instalments.

Analysis and Ruling:

6. Heard the parties and perused the documents on record. The particulars of the electricity connection, inspection, and assessment are summarized in Table 1. The present dispute pertains to retrospective recovery raised by the Respondent for 31 months on account of reversal/cross connection of Import and Export CT wiring in the Solar Rooftop Net Metering arrangement.

7. The principal contention of the Appellant is that it is a “Prosumer” under Rule 2(1) (m) of the Electricity (Rights of Consumers) Rules, 2020 and therefore retrospective recovery is not permissible. This contention cannot be accepted. Rule 11 of the said Rules merely recognizes the right of a consumer to install a Renewable Energy generation system and operate as a “Prosumer.” The status of Prosumer does not extinguish or dilute the legal status of the


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




person as a consumer of the Distribution Licensee. A prosumer continues to consume electricity from the grid and remains governed by the provisions of the Electricity Act, 2003, MERC Regulations, and applicable tariff and billing provisions. Therefore, the Appellant cannot claim protection from lawful recovery merely on the ground of being a “Prosumer.”

8. The Solar Rooftop Net Metering System was synchronized with the Respondent’s grid on 27.08.2022. During inspection carried out on 05.03.2025 and 09.03.2025, the Respondent found that the CT-operated net meter was connected in reverse polarity/cross connection, due to which Import consumption was being recorded in the Export register and Export energy was being reflected as Import units. The inspection was conducted in the presence of the Appellant’s representative and the Solar Rooftop Vendor, and thereafter the wiring was rectified. The Appellant has not disputed the factual correctness of the reversed Import/Export recording, particularly since the rectification work was carried out in coordination with and in the presence of the vendor who had installed the Solar Rooftop System.

9. The Respondent thereafter recalculated the actual Import and Export units after rectification and determined that 87,092 units consumed during the period from September 2022 to 09.03.2025 had escaped billing. Consequently, a supplementary assessment bill dated 12.03.2025 for Rs.14,16,488.78 came to be issued.

10. The Appellant has mainly contended that the alleged mistake occurred due to negligence of the Respondent and therefore recovery for the past period is unjustified. However, mere negligence or oversight on the part of the Distribution Licensee in detecting incorrect wiring does not extinguish its statutory right to recover charges towards electricity actually consumed by the consumer. Electricity supplied and consumed is a valuable commodity, and charges lawfully payable towards such consumption cannot be avoided merely because the error remained undetected for some time.

11. The Section 56 (2) of the Electricity Act, 2003 is reproduced below:


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



“(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.”


This Section 56 (2) of the Act has been interpreted by the Bench of the Hon’ble Bombay High Court in its Judgment dated 12.03.2019 in W.P. No. 10764 of 2011 with Other Writ Petitions. In accordance with this Judgment, a Distribution Licensee cannot recover electricity charges for a period exceeding two years prior to the date on which such charges are first demanded.

12. 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.” (Emphasis added)

13. 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 Judgement are reproduced below:


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




2. *The appellant is carrying on the business of manufacturing cotton yarn in Panipat, Haryana. The appellant is having a L.S. connection, which got extended from 404.517 KW to 765 KW with C.D 449 KVA to 850 KVA, on 3.08.2006.*
3. *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.*
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*


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



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. Vs. State of Madhya Pradesh.

-
-
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”.*
22. *In fact, even before going into the question of section 56(2), the consumer forum is obliged to find out at the threshold whether there was any deficiency in service. It is only then that recourse taken by the licensee for recovery of the amount can be put to test in terms of the section 56. If the case on hand tested on these parameters, it will be clear that the respondents cannot be held guilty of any deficiency in service and hence dismissal of the complaint by the National Commission is perfectly in order.*
23.
-
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*


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




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 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.**

27. 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. ” **(Emphasis added)**

14. It is important to note that in the aforesaid Judgment, the assessment towards escaped billing on account of incorrect application of multiplying factor pertained to a period of approximately three years. In the present case also, the Respondent has issued a supplementary assessment bill dated 12.03.2025 for Rs.14,16,488.78 of 87,092 units for the period from September 2022 to March 2025, i.e. for 31 months, which is within the period of 36 months (three years).

15. 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 the Section 17(1) (c) of the Limitation Act, 1963. It is well established that Section 17(1) (c) of the Limitation Act, 1963 encompasses mistakes of both fact and law. In the present matter, the Respondent claims to have discovered the mistake of under-billing during the inspection conducted on 05.03.2025. Under the Limitation Act, a suit is ordinarily required to be instituted within three years from the date on which the cause of action arises. Although no suit has been filed in the present case, the underlying principle of limitation equally applies to actions initiated by the Respondent, which are expected to be taken within a reasonable and statutorily permissible period.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




16. At the same time we note that the Respondent failed to carry out periodic inspection and verification of the net metering arrangement. Being a Distribution Licensee, the Respondent was expected to undertake regular inspection of the premises, particularly in respect of high-value consumers and Solar Rooftop Net Metering installations. Had timely inspections been conducted, the alleged cross connection of the CTs and reversal of Import and Export recording could have been detected at an earlier stage, thereby avoiding accumulation of substantial retrospective liability.

17. The Forum has considered the relevant aspects of the matter and has passed a reasoned and speaking order. No infirmity is found in the findings recorded by the Forum warranting interference with the assessment of consumption and consequent billing. Hence, the prayer of the Appellant seeking cancellation of the supplementary bill cannot be granted.

18. In view of the above, the Respondent is directed to: -

- a) Withdraw the interest and delayed payment charges levied on the Assessment bill of Rs.14,16,488.78 for 87,092 units (September 2022 to March 2025) from April 2025 onwards till the date of this order.
- b) Permit the Appellant to pay the impugned bill amount in 10 equal monthly instalments without levy of DPC and interest during the instalment period. In the event of default in payment of any instalment along with the current electricity bill, the Respondent shall be at liberty to recover the applicable interest proportionately for the default period and take action in accordance with law.
- c) Compliance of this Order shall be submitted within a period of two months from the date of issuance of this Order.
- d) Other prayers of the Appellant stand rejected.

19. The Representation stands disposed of accordingly.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



20. The Secretariat of this Office is directed to refund the deposit amount of Rs.25,000/- to the Respondent for adjustment in the ensuing electricity bills of the Appellant.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

