# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 4 OF 2020

In the matter of change of tariff category and retrospective recovery

Organica Mushroom Farm……..…….. Appellant

V/s

Maharashtra State Electricity Distribution Co. Ltd. Nashik (MSEDCL)……. Respondent

Appearances

For Appellant : 1. Satish Shah, Representative
2. T.N. Agrawal, Representative
3. Tarun Agrawal, Representative

For Respondent : 1. P.V. Bankar, Executive Engineer
2. D.R. Mahadik, Sr. Manager

**Coram: Deepak Lad**

Date of Order: 25th February 2020

ORDER

This Representation is filed on 30th December 2019 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the Order dated 22nd November 2019 passed by the Consumer Grievance Redressal Forum, MSEDCL, Nashik Zone (the Forum).

2. The Forum, by its order dated 22.11.2019 has partly allowed the grievance application in Case No.81 of 2019 and the operative part of the order is as below: -

> *"b) Applicant to pay Rs. 39,04,451/- in twenty-four monthly installments from today.*

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c) *First installment Rs. 1,65,000 /- (round figure) to be paid today itself.*
d) *After payment of the first installment and receipt produced before the concerned officials of the respondent, the electricity supply be reconnected.*
e) *In default of payment of any single installment in future, the interest to be charged on the then amount due and the amount due shall be immediately recovered."*

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

(i) The Appellant is a HT Consumer (No.049449023480) from 04.10.2013 having Contract Demand of 250 KVA and Connected Load of 240 KW at Village Goverdhan, S. No. 48/B, Gangapur Road, Nashik.

(ii) The Appellant is billed as per HT V: HT-Agriculture Tariff Category initially. As per Tariff Order dated 03.11.2016 of the Maharashtra Electricity Regulatory Commission (the Commission) in Case No. 48 of 2016, the HT V tariff category was further divided in two sub-categories namely HT V(A) : HT-Agriculture Pump sets and HT V(B): HT-Agriculture Others which include pre-cooling plants, floriculture and mushroom cultivation activities. This revised tariff was made effective from 01.11.2016.

(iii) The Appellant had received a letter dated 04.09.2018 from the Respondent claiming retrospective recovery of Rs.29,40,162/- towards tariff difference from HT-V(A) to HT-V(B) for the period November 2016 to March 2018. The Appellant protested this vide its legal notice dated 17.09.2018 but the same was not replied by the Respondent.

(iv) In the month of March 2019, the Appellant received the supplementary bill of Rs.29,40,162/- for tariff difference from HT-V(A) to HT-V(B) for the retrospective recovery. This is against the tariff philosophy and various judgments issued by the Ombudsman, the Commission and the Appellate Tribunal of Electricity (ATE).

(v) The Appellant approached the Respondent for its grievance; however, they did not give any relief. The Appellant filed the grievance application with Internal Grievance Redressal Cell (IGRC) on 20.06.2019. The IGRC, by its order dated 30.09.2019 has rejected the grievance. Not satisfied, the Appellant approached the Forum on 04.10.2019. The Forum, by its order dated 22.11.2019 directed to pay

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basic amount along with accrued interest and delayed payment charges (DPC) of Rs.39,04,451/- in 24 monthly instalments of Rs.1,65,000/-. The Appellant has already paid two instalments till date under protest to avoid disconnection.

(vi) The original recovery amount of Rs.29,40,162/- become first due on the date of issue of this bill i.e. 02.04.2019. The Respondent has agreed (in letter dated 04.09.2018) that they have noticed an error in the tariff category in April-2018 and change in tariff was abruptly implemented from the same month. This tariff category change was abruptly done without any prior intimation/notice by the Respondent from HT-V(A) to HT-V(B).

(vii) The Appellant is paying regular monthly bills at revised tariff category HT-V(B) made applicable by the Respondent from April-2018.

(viii) As per Regulation 13 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Other Conditions of Supply) Regulations, 2005 (Supply Code Regulations) for classification & reclassification of tariff category, the distribution licensee is to decide tariff category based upon usage by the consumer. Tariff category charged till March 2018 was of HT-V(A) which was suddenly / abruptly shifted to HT-V(B) without any prior intimation/ notice by the Respondent.

(ix) The Appellant has framed the following issues for its grievance as below: -

a. Whether the MSEDCL is within its legal right as per the Electricity Act, 2003 (the Act) to issue debit bill adjustment of Rs.29,40,162/- having retrospective effect from November 2016 to March 2018 for abrupt change of tariff category?

b. Whether retrospective recovery is permissible under the various judgments/orders/directives passed by the Commission and Appellate Tribunal for Electricity (ATE)?

c. As per Section 56(2) of the Act, what is the period, for retrospective recovery and from which date?

The above points are answered in the following manner.

Issue a and b: - The MSEDCL has got no legal right to raise supplementary bill arising out of the escaped billing due to error in reclassification of tariff and to disconnect the power supply as a legal means to exert pressure on the consumer

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for clearing its dues. As per Regulation 13 of the Supply Code Regulations, classification & reclassification of tariff category, distribution licensee to decide tariff category based upon usage by consumer. The consumer has no role to decide the tariff category on its own. The Respondent officials used to visit the premises monthly for taking reading of the meter and inspection of the installation. Further, as per MSEDCL's commercial circular No. 275 dated 18.11.2016, in the action plan it is clearly mentioned that the field officers are directed to categorise the consumers properly in the newly created tariff category/redefined category by actual field inspection. The data is to be immediately updated in the IT database. Here, MSEDCL officials failed to implement their own commercial circular No. 275 within reasonable time, say 30 days. However, tariff category was changed after 17 months from the date of issue of tariff order. This delay in implementation of revised category was due to failure on the MSEDCL's side and hence, they do not have legal right to hold the consumer responsible and ask to pay arrears. The Appellant relies on the orders passed by the Commission and the ATE on the issue of reclassification of tariff or abrupt change of tariff category. Accordingly, no retrospective recovery is permissible under the present Act, rules and regulations. The Appellant refers the Commission's order dated 11.02.2003 in Case No. 24 of 2001. The relevant portion is quoted below:

> *"No retrospective recovery of arrear can be allowed on the basis of any abrupt reclassification of a consumer even though the same might have been pointed out by the Auditor. Any reclassification must follow a definite process of natural justice and the recovery, if any, would be prospective only as the earlier classification was done with a distinct application of mind by the competent people. The same cannot be categorized as an escaped billing in the strict sense of the term to be recovered retrospectively. With the setting up of the MERC, order of the Commission will have to be sought as any reclassification of consumers directly affects the Revenue collection etc. as projected in its Tariff Order. The same could be done either at the time of the tariff revision or through a special petition by the utility or through a petition filed by the affected consumer. In all these cases, recovery, if any, would be prospective from the date of order or when the matter was raised either by the utility or consumer and not retrospective".* (Emphasis added)

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The Appellant also referred the order dated 07.08.2014 of ATE in Case No. 131 of 2013, wherein it is stated that tariff change is permissible from date of detection of error in tariff classification.

> "*According to the tariff schedule decided by the State Commission in the 2007 tariff order, the Appellant's unit engaged in the activities of filling and packing of oil falls under LT VII (A) – Commercial category. The Electricity Board had wrongly been billing the Appellant under LT IV – Industrial category. The State Commission has correctly decided that the Appellant would be charged under the LT VII (A) – Commercial category from the date of detection of the error i.e. 10.03.2008.*"

As per the above decision of the Commission and the ATE, no past recovery is permissible. The change of tariff category be applied prospectively from the date of detection of the error which is March 2019.

Issue c: - The Respondent submitted bill for past recovery vide debit bill adjustment made in the month of April-2019 and claimed arrears for the period from November 2016 to March 2018. Therefore, the billed amount becomes first due on the date of tendering bill to the consumer i.e. 02.04.2019. As per Section 56(2) of the Act, the MSEDCL was empowered to ask for arrears for retrospective period of 24 months before the date of first bill i.e. on 02.04.2019, unless such sum has been shown continuously as arrears. As per this Act, MSEDCL should not have claimed bill for the period prior to March-2017 as the bill was first raised on 02.04.2019. Hence the arrears claimed for the period from Nov-2016 to March-2017 (5 months) is against the provision of Section 56(2) of the Act which is liable to be set aside.

(x) The Appellant referred the Section 120 of the Act in support to justify the grievance which is reproduced as below: -

> *Section 120. (Procedure and powers of Appellate Tribunal): --- (1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall have powers to regulate its own procedure.*
> *(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908.*

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The ATE issued judgement dated 07.08.2014 in Case No. 131 of 2013, where it is stated that tariff change is permissible from date of detection of error in tariff classification and should not be retrospective. The ATE is the highest authority constituted under the Act and any judgement passed by this Authority are in accordance with the provisions of the Act and guided by the principles of natural justice.

(xi) The Appellant has disputed following points in the order of the Forum as below: -

(a) The Forum issued final order which is very brief and did not consider the submissions of the Appellant.

(b) The Forum failed to consider the provision under Section 56(2) of the Act regarding recovery of the arrears. The supplementary bill got first due on 02.04.2019 when 'debit bill adjustment' was made the first time in the energy bill. and, therefore, as per Section 56(2), the amount for the period prior to March 2017 (i.e. Rs. 7,68,336/-) should not be considered for recovery.

(c) The reason given by the Forum in Point No. 12 stating the applicant was not prompt in paying through under protest but rather opted to raise dispute before the grievance mechanism established as per the CGRF Regulations. The demand got increased from original amount to Rs.39,04,451/- is unfortunate as the Appellant have gone through procedure laid down by the Act for consumer protection. The Regulation 3.1 (a) states clearly that it shall protect the interest of consumer. The same has also been stipulated in Section 61 of the Act which mandates for safeguarding consumer's interest.

(xii) In view of the above, the Appellant prays that the Respondent be directed as below: -

(i) to withdraw the supplementary bill of Rs.29,40,162/- (revised to Rs. 39,04,451/- including interest till today) for retrospective recovery due to abrupt change of tariff category.

(ii) to consider the period 24-months from the date when the sum became first due in the form of debit adjustment charges i.e. 02.04.2019.

(iii) to waive DPC and interest levied in monthly bills if any.

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(iv) to compensate up to Rs.100000/- as per Regulation 8.2 (c) of the CGRF Regulations for loss suffered by the consumer for mental agony, defamation, man hours lost, travelling expenses, etc.

4. The Respondent filed its reply by letter dated 10.01.2020 stating in brief as under: -

(i) The Appellant is a HT Consumer (No.049449023480) from 04.10.2013 having Contract Demand of 250 KVA and Connected Load of 240 KW at Village Goverdhan, S. No. 48/B, Gangapur Road, Nashik. The activity of the Appellant is mushroom plant cultivation.

(ii) The Appellant was billed as per HT V: HT-Agriculture Tariff Category prior to October 2016 as per the tariff order in force and the Commercial Circular No.243. As per tariff order dated 03.11.2016 of the Commission in Case No. 48 of 2016 (effective from 01.11.2016), the HT V: Agriculture tariff category was further divided in two sub-categories namely HT V(A) : HT-Agriculture Pump sets and HT V(B): HT-Agriculture Others. Hence, mushroom cultivation activity is covered under HT V (B): HT-Agriculture Others. However, the Appellant was wrongly billed under HT V (A): HT-Agriculture Pump sets tariff category.

(iii) In the month of April 2018, the Respondent changed the Appellant`s Activity Code from HT-V (A) to HT-V (B) tariff category in the computerised billing system. The Appellant was billed wrongly as per HT-V (A) tariff category from November 2016 to March 2018. The Respondent by its letter dated 04.09.2018 claimed tariff difference amount of Rs.29,40,162/- towards change in tariff category from HT-V (A) to HT-V (B). As the Appellant did not pay the sum of tariff difference due, the Respondent reminded vide its letter dated 14.12.2018 for payment of the same. Despite this, the Appellant did not pay the tariff difference hence the Respondent debited the amount of Rs.29, 40,162/- in the bill of March 2019.

(iv) Appellant filed grievance in IGRC on 20.06.2019, however, the IGRC, by its order dated 30.09.2019 has rejected the grievance. Then the Appellant approached the Forum on 04.11.2019, during hearing on 08.11.2019, zerox copy of calculation sheet of tariff difference recovery from HT-VA to HT-V B was given to the Appellant with explanation. The Respondent pointed out that the claim of tariff difference was initially done by letter dated 04.09.2018 however the Appellant did

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not pay. Appellant was again reminded letter No. 7912 dated 14.12.2018 to pay the said amount and if not, the said amount will be debited in the electricity bill. Despite the Respondent continuously raising the claim of tariff difference due, the Appellant failed to pay it, hence, it was added in the electricity bill of March 2019.

(v) The Respondent referred the Judgment of Larger Bench of Bombay High Court in W.P. 10764 of 2011 along with other Writ Petitions on Section 56 (2) of the Act and the order of the Ombudsman in Representation 142 of 2019 dated 26.08.2019 in support of their claim. Hence, the claim of the Respondent is well within the provisions of the Act, Rules and Regulations.

(vi) The Respondent prays that the representation of the Appellant be rejected.

5. During the hearing on 23.01.2020, the Appellant argued its side specifically quoting ATE Judgment dated 07.08.2014 in Appeal No. 131 of 2013 and the Commission's order dated 11.02.2003 in Case No. 24 of 2001. The Appellant also argued its case citing Section 56 (2) of the Act. It further argued that the Respondent claimed the tariff difference amount in the bill of March 2019 for retrospective recovery from November 2016 to March 2018. This bill was issued on 02.04.2019. The amount becomes first due on 02.04.2019. As per Section 56(2), the Respondent is empowered to recover supplementary bill for 24 months prior to the date of issue of bill i.e. accordingly, the period will come to April 2017 to March 2019. Hence, the arrears claimed for the period from November 2016 to March 2017 (5 months) is liable to be set aside. The Appellant also argued that as per ATE Judgement, the Respondent, in case of escaped billing, can only prospectively bill the Appellant. The Appellant prayed that the Respondent be directed to revise the claim of tariff difference for the period from April 2017 to March 2018 without interest and DPC.

6. The Respondent argued during the hearing that the activity of the Appellant is mushroom cultivation. The tariff category applicable to the Appellant was HT V (B): HT – Agriculture Others as per tariff order dated 03.11.2016 in Case No. 48 of 2016 effective from 01.11.2016. The Respondent correctly applied HT V (B): HT – Agriculture Others from April 2018 which was supposed to be applied from November 2016. This mistake was intimated to the Appellant in the month of April 2018 when the correct code was updated in the system and communicated verbally that the legal retrospective recovery of tariff difference will be shortly

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issued. Accordingly, the Respondent vide letter dated 04.09.2018 informed the Appellant to pay the amount of tariff difference and cooperate in the matter. The Appellant did not respond. The Respondent reminded the Appellant through its letter dated 14.12.2018 for payment of tariff difference. The Appellant did not turn up for payment. Hence, it was added in the bill of March 2019 despite specifically pointing out to pay the retrospective arrears right in the month of September 2018. It means the Appellant was first put on notice through a specific letter in the month of September 2018 to pay the retrospective arrears for the period November 2016 to March 2018. The period of supplementary bill was taken 16 months from November 2016 to March 2018 as the tariff order was effective from 01.11.2016. This is as per the provision of Section 56(2) of the Act. The demand of tariff difference was continuously made from September 2018 onwards. The opportunity was given to the Appellant to pay the tariff difference amount to avoid interest and DPC from September 2018. However, the Appellant did not cooperate. The legal notice of the Appellant did not have any relevance hence not replied. The Forum, by its order dated 27.11.2019 has rightly decided the grievance. Considering all these facts, the Respondent prays for rejection of the representation.

## Analysis and Ruling

7. Heard the parties and perused the documents on record. It is an admitted position that the Appellant was billed at HT V(A): HT-Agriculture Pump Sets tariff category till March 2018. This tariff was changed to HT V (B): HT – Agriculture Others from April 2018. Pursuant to this change of tariff category, the Respondent raised plain tariff difference of Rs. 29,40,162/- first time vide its letter dated 4.09.2018 for the period November 2016 to March 2018 followed by reminder dated 14.12.2018. The Commission by its order dated 03.11.2016 in Case No. 48 of 2016 has created a new tariff Category for HT Agriculture – Others effective from 01.11.2016. The relevant portion of the said tariff order is quoted as below: -

> ***HT V (A): HT – Agriculture Pump sets***
>
> *This category shall be applicable for Electricity / Power Supply at High Tension for pumping of water exclusively for the purpose of Agriculture / cultivation of crops including HT Lift Irrigation Schemes (LIS) irrespective of ownership.*
>
> ***HT V (B): HT – Agriculture Others***
>
> *This tariff category is applicable for use of electricity / power supply at High Voltage for:*

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*a) Pre-cooling plants and cold storage units for Agricultural Products – processed or otherwise;*
*b) Poultries exclusively undertaking layer and broiler activities, including Hatcheries;*
*c) High-Technology Agriculture (i.e. Tissue Culture, Green House, Mushroom cultivation activities),*

*provided the power supply is exclusively utilized for purposes directly concerned with the crop cultivation process, and not for any engineering or industrial process;*
*d) Floriculture, Horticulture, Nurseries, Plantations, Aquaculture, Sericulture, Cattle Breeding Farms, etc;*

8. The Appellant claimed relief under the Commission's order dated 11.02.2003 in Case No. 24 of 2001 and ATE Judgment dated 07.08.2014 in Appeal No. 131 of 2013 on one hand while on the other, argued its case for relief under Section 56 (2) of the Act. When this fact was brought to the notice of the Appellant that it cannot approbate and reprobate at the same time, the Appellant finally pressed for relief under Section 56 (2) only. Further, notwithstanding this, the order of the Commission and the Judgment of the ATE are no more relevant in view of the Larger Bench Judgment dated 12.03.2019 in W.P. No. 10764 of 2011 and other Writ Petitions of the Bombay High Court interpreting Section 56 (2) of the Act.

9. The Respondent also claimed to have followed the provision of Section 56 (2) of the Act and issued the supplementary bill for the period November 2016 to March 2018 while the recovery on account of tariff differential was first raised through a specific letter in September 2018 followed by a reminder in December 2018. It is a different matter that bill was debited in March 2019.

10. The Section 56 (2) of the Act has been interpreted by the Larger Bench Judgment dated 12.03.2019 of the Bombay High Court in W.P. No. 10764 of 2011 with Other Writ Petitions. In accordance with this Judgment, the Distribution Licensee cannot demand charges for consumption of electricity for a period of more than two years preceding the date of the first demand of such charges. In this case, the Respondent has demanded the tariff difference bill on 04.09.2018 first time, followed with letter dated 14.12.2018 and debited in the month March 2019. Therefore, 24 months prior to its first demand i.e., 04.09.2018 will start from September 2016 to August 2018. However, the tariff came in force from 01.11.2016. Therefore, the retrospective recovery period will be limited to November 2016 to August 2018. But the tariff is already changed to HT V(B) from April 2018 onwards.

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11. The representation is decided in light of the provision of Section 56 (2) of the Act and the Larger Bench Judgment interpreting it, which are quoted below.

Section 56 (2) of the Act

> *"(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."*

The Larger Bench Judgment dated 12.03.2019 of the Bombay High Court.

> *"76. In our opinion, in the latter Division Bench Judgment the issue was somewhat different. There the question arose as to what meaning has to be given to the expression "when such sum became first due" appearing in subsection (2) of Section 56.*
>
> *77. There, the Division Bench held and agreed with the Learned Single Judge of this Court that the sum became due and payable after a valid bill has been sent to the consumer. It does not become due otherwise. Once again and with great respect, the understanding of the Division Bench and the Learned Single Judge with whose Judgment the Division Bench concurred in Rototex Polyester (supra) is that the electricity supply is continued. The recording of the supply is on an apparatus or a machine known in other words as an electricity meter. After that recording is noted that the electricity supply company/distribution company raises a bill. That bill seeks to recover the charges for the month to month supply based on the meter reading. For example, for the month of December, 2018, on the basis of the meter reading, a bill would be raised in the month of January, 2019. That bill would be served on the consumer giving him some time to pay the sum claimed as charges for electricity supplied for the month of December, 2018. Thus, when the bill is raised and it is served, it is from the date of the service that the period for payment stipulated in the bill would commence. Thus, within the outer limit the amount under the bill has to be paid else this amount can be carried forward in the bill for the subsequent month as arrears and included in the sum due or recoverable under the bill for the subsequent month. Naturally, the bill would also include the amount for that particular month and payable towards the charges for the electricity supplied or continued to be supplied in that month. It is when the bill is received that the amount becomes first due. We do not see how, therefore, there was any conflict for Awadesh Pandey's case (supra) was a simple case of threat of disconnection of electricity supply for default in payment of the electricity charges. That was a notice of disconnection under which the payment of arrears was raised. It was that notice of disconnection setting out the demand which was under challenge in Awadesh Pandey's case. That demand was raised on the basis of the order of the Electricity Ombudsman. Once the Division Bench found that the challenge to the Electricity Ombudsman's order is not raised, by taking into account the subsequent relief granted by it to Awadesh Pandey, there was no other course left*

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*before the Division Bench but to dismiss Awadesh Pandey's writ petition. The reason for that was obvious because the demand was reworked on the basis of the order of the Electricity Ombudsman. That partially allowed the appeal of Awadesh Pandey. Once the facts in Awadesh Pandey's case were clear and there the demand was within the period of two years, that the writ petition came to be dismissed. In fact, when such amount became first due, was never the controversy. In Awadesh Pandey's case, on facts, it was found that after re-working of the demand and curtailing it to the period of two years preceding the supplementary bill raised in 2006, that the bar carved out by subsection (2) of Section 56 was held to be inapplicable. Hence there, with greatest respect, there is no conflict found between the two Division Bench Judgments.*

*78. Assuming that it was and as noted by the Learned Single Judge in the referring order, still, as we have clarified above, eventually this is an issue which has to be determined on the facts and circumstances of each case. The legal provision is clear and its applicability would depend upon the facts and circumstances of a given case. With respect, therefore, there was no need for a reference. The para 7 of the Division Bench's order in Awadesh Pandey's case and paras 14 and 17 of the latter Judgment in Rototex Polyester's case should not be read in isolation. Both the Judgments would have to be read as a whole. Ultimately, Judgments are not be read like statutes. The Judgments only interpret statutes, for statutes are already in place. Judges do not make law but interpret the law as it stands and enacted by the Parliament. Hence, if the Judgments of the two Division Benches are read in their entirety as a whole and in the backdrop of the factual position, then, there is no difficulty in the sense that the legal provision would be applied and the action justified or struck down only with reference to the facts unfolded before the Court of law. In the circumstances, what we have clarified in the foregoing paragraphs would apply and assuming that from the Judgment in Rototex Polyester's case an inference is possible that a supplementary bill can be raised after any number of years, without specifying the period of arrears and the details of the amount claimed and no bar or period of limitation can be read, though provided by subsection (2) of Section 56, our view as unfolded in the foregoing paragraphs would be the applicable interpretation of the legal provision in question. Unless and until the preconditions set out in subsection (2) of Section 56 are satisfied, there is no question of the electricity supply being cutoff. Further, the recovery proceedings may be initiated seeking to recover amounts beyond a period of two years, but the section itself imposing a condition that the amount sought to be recovered as arrears must, in fact, be reflected and shown in the bill continuously as recoverable as arrears, the claim cannot succeed. Even if supplementary bills are raised to correct the amounts by applying accurate multiplying factor, still no recovery beyond two years is permissible unless that sum has been shown continuously as recoverable as arrears of charges for the electricity supplied from the date when such sum became first due and payable."*

*As a result of the above discussion, the issues referred for our opinion are answered as under:*

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(A) *The issue No. (i) is answered in the negative. The Distribution Licensee cannot demand charges for consumption of electricity for a period of more than two years preceding the date of the first demand of such charges.*

(B) *As regards issue No. (ii), in the light of the answer to issue No.(i) above, this issue will also have to be answered accordingly. In other words, the Distribution Licensee will have to raise a demand by issuing a bill and the bill may include the amount for the period preceding more than two years provided the condition set out in subsection (2) of Section 56 is satisfied. In the sense, the amount is carried and shown as arrears in terms of that provision.*

(C) *The issue No.(iii) is answered in terms of our discussion in paras 77 & 78 of this Judgment.*

12. In view of the above discussions and Larger Bench Judgment, the Respondent can recover retrospective recovery from November 2016 to March 2018 (16 months) as the demand was raised by specific letter dated 04.09.2018 and continuously followed thereafter.

13. In view of the above discussions, the Respondent is directed as under: -

(a) To recover the amount towards tariff differential for the period from November 2016 to March 2018. DPC and interest on tariff differential levied, if any, shall be withdrawn.

(b) To allow the Appellant to pay this amount in 14 monthly instalments along with current bill as the Appellant has already paid two instalments and arrears is for only 16 months. In case of default, the interest, DPC shall be levied.

(c) Compliance to be submitted within two months from the date of issue of this order.

14. The Forum's order is therefore revised to the above extent. Other prayers of the Appellant are rejected. The Representation is disposed of accordingly.

15. The secretariat of this office is directed to refund the amount of Rs.25000/- to the Appellant immediately.

Sd/-
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