BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 66 OF 2026

In the Matter of Retrospective Recovery on Account of Revision of Power Factor

Keyur Kitchenware… ……….. …… … ……………… …. ……..Appellant
(Cons. No. 001849025290)

V/s.

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

Appearances:

Appellant : 1. Keyur Nagda, Partner
2. Papu Yadav,
3. Mayur Mhatre, Representative.

Respondent: 1. Manik Rathod, Superintending Engineer, Vasai Circle
2. Shailesh Jain, Executive Engineer (Adm.), Vasai Circle

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

Date of hearing: 21st July 2026

Date of Order: 17th September 2026

ORDER

This Representation was filed on 22nd June 2026 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the order dated 7th May 2026 passed by the Consumer Grievance Redressal Forum, Vasai Circle (the

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Forum) in Case No. 013 of 2026. The Forum rejected the grievance application of the Appellant.

PREAMBLE: -

Salient Provisions of the MERC Clarificatory Order Dated 30.04.2020 in Case No. 79 of 2020:

MSEDCL, vide its email dated 20.04.2020, filed a Petition before the Commission seeking clarification on certain issues arising from the MYT Order dated 30.03.2020 in Case No. 322 of 2019. MSEDCL sought further clarification and guidance on certain provisions which, according to MSEDCL, had resulted in ambiguity in the implementation of the said Order.

The Commission considered MSEDCL's proposal regarding adoption of kVAh-based billing for HT consumer categories and approved it with effect from 01.04.2020.

……………………… ………………………

The Commission clarified that, for energy balancing of the Distribution Licensee and OA transactions, *"kVAh consumption in the month needs to be converted into kWh by using billing Power Factor.*"

The relevant portion of the clarificatory Order is reproduced below:

- ***MERC CASE No. 79 of 2020**: **Case of Maharashtra State Electricity Distribution Company Limited seeking clarification on certain issues of the MYT Order dated 30 March 2020 issued under Case No. 322 of 2019:***
  Certificatory Order Dated 30 April 2020

  5. Thus, the only issues which remain to be addressed in the present Petitions are as follows:

  (a)
  (b)
  (c) kVAh billing (Billing of Rooftop PV, Multipartite & sub-metered consumers)
  ……
  On all these issues, MSEDCL has sought certain clarification so as to implement the Commission's Order in correct perspective …..

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c. MSEDCL's Submission:

23. *…………………………..*

24. *MSEDCL submits that in Rooftop RE Installations, the energy exported into the grid must be supplied at power factor near to unity. If such consumer exports the energy at low power factor, then it will record more kVAh for same kWh units. In order to regulate the power factor, there should be provision to disallow units exported below specified power factor which may be fixed by the Commission. There are some multipartite consumers with HT connection. These consumers are HT as well as LT category. The Commission has allowed kVAh billing only for HT consumers. However, there is no clarity on billing of such multipartite consumers with HT as well as LT Consumers. Similarly, there are sub-metered LT consumers to the principal HT consumers.*

25. *Accordingly, MSEDCL sought clarity on billing of rooftop net metering consumers, methodology for billing of LT consumers which are part of a multipartite agreement with HT consumers and methodology for billing of sub metered LT consumers to the principal HT consumers.*

26. *In its submission, MSEDCL has suggested the following billing approach for these issues:*

    a. ***For roof top consumers**: First the netting off or settlement of units will be done in terms of kWh units, and the balance import units will be converted to kVAh using billing power factor of consumer for charging.*

    b. ***For Open Access Consumers:** All Open Access transaction in 15 min time block will be carried out in kWh units. For computation of charges viz. Energy Charge, Wheeling Charge, Transmission Charge, Cross Subsidy Surcharge, Additional Surcharge, kWh sale will be converted to kVAh considering billing PF of consumer.*

    c. ***Multipartite Consumers:** In this case the billing of the LT Consumers will be done as per kWh; units however the Principal HT Consumer billing will be on the basis of kVAh.*

    The kVAh of principal Consumers will be as below:

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{(kWh units recorded in main Meter on HT side) less (sum of all LT side kWh units)}/billing PF of consumer.

d. ***Sub metered consumers:*** *same methodology as per multipartite consumer.*

Commission's Analysis and Clarifications:

27. *The Commission notes that while allowing implementation of kVAh based billing in the MYT Order, the Commission has made following observation and also provided certain guidelines for implementation of kVAh billing as follows:*

"8.10.40 While determining per unit charges in kVAh, the Commission has used category wise PF which could be lower than unity. This makes per unit tariff lower than the tariff which would have been determined in kWh term. ***Further, in case of Energy Balance, the utility shall always maintain sale in kWh only****. Tax on Sale of Electricity and Electricity duty shall be converted from kVAh to kWh.* ***All the OA transactions will be maintained in kWh sale only, kVAh based sales shall be converted in kWh based on the Power Factor for the month provided in the Energy Bills****."*

28. *Thus, for energy balancing of the Distribution Licensee and OA transactions (adjustment of energy injected by OA generator and consumed by OA consumer in billing month for arriving at over or under drawl) needs to be maintained in kWh terms only. However, charges to be levied for such OA consumers such as Wheeling Charges, Energy Charges, Transmission Charges, Cross-subsidy surcharge, additional Surcharge etc. are approved in kVAh terms only. Hence, for the purpose of levying such charges to the OA consumer, applicable kWh consumption shall be converted into kVAh by using billing Power Factor for that month.*

29. *Regarding Rooftop arrangement, MSEDCL in its submission has not explicitly mentioned that it is seeking such clarification only in respect of rooftop installations of HT consumers. However, as kVAh billing is allowed only for HT consumers, for removing any doubt, the Commission clarifies that these clarifications will be applicable only to the rooftop installations of HT consumers. The Commission notes that in rooftop installations export or import of energy through banking facility is undertaken in kind i.e. energy banking facility is provided against energy injected into the grid. The Commission has already*

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clarified that all energy balancing for utility (energy procurement from generator and sales to consumers) and OA transaction will be maintained in kWh terms only. Transaction of energy under rooftop installation is similar to these transactions. Hence, the Commission clarifies that for any adjustment in kind such as netting off or settlement of units in rooftop installations of HT consumers the same will be done in terms of "kWh" and for levying charges on balance units, "kWh" shall be converted into "kVAh" by using billing Power Factor for that month.

30. *Regarding clarification sought for HT consumer having multiple LT connections (under Franchisee Agreement) or sub-metering for specific purpose of use different than main HT connection on LT side, the Commission notes that for LT consumers, kWh based billing is continued till Mid-Term Review Order. Hence, LT consumers need to be billed on kWh basis only. Under these circumstances, the Commission clarifies that residual units in kWh after billing LT consumers on kWh basis need to be converted into kVAh by using billing Power Factor for levying charges applicable for HT consumers.*

31. *Taking this opportunity, the Commission would like to clarify its observations relating to levying Electricity Duty and Tax on Sales of Electricity for HT consumer. The Commission in MYT Order has ruled that such Tax/Duty shall be converted from kVAh to kWh. Intention behind such direction is that if such taxes/duties are applicable in Rs/kWh terms then kVAh consumption in the month needs to be converted into kWh by using billing Power Factor for levying such taxes/duties to HT consumers. However, if such taxes are applicable on billed amount, no such conversion is required.*

32. *to 35 ……*

e. kVAh ***billing (Display of power factor on energy bill)***

"8.10.38 Several stakeholders have also raised concerns in term of kVAh based billing per se, if the same get implemented. The Commission has also taken a note of the concerns raised and is of the view that, in the present billing system, Consumer, based on the incentive/penalty levied in the monthly bill was kept informed of Power Factor (PF) maintained by it during the month. The Consumer was therefore in the position to take corrective action in case penalty was levied due to poor PF based on the information from the monthly Bill. However, with implementation of kVAh billing, any adverse impact due to poor PF will be recorded in increased consumption in kVAh and Consumer will not be aware of

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actual PF for the month unless it is being recorded and monitored separately. For smooth transition to new billing system and to keep Consumer aware at all times, ***the Commission directs MSEDCL to display PF (computed by considering leading and lagging RkVAh) recorded during the month in the bill of all the Consumer categories till further directions****. Further, such PF can be used for converting kVAh into kWh for arriving at payment to be made towards taxes / duties imposed by the GoM, if applicable. "*

36. MSEDCL submits that in the kVAh compatible energy meters installed by it, the measurement of kVAh is based on kVARh lag and lead; hence these meters record the power factor based on lag and lead consumption of kVARh. The power factor which is recorded by the meter can directly be produced on the electricity bill, hence there is no need of computation of power factor externally. Therefore, clarification is required relating to using power factor recorded in the meter, or computed power factor, for displaying on consumer bill.

37. ……………

38. MSEDCL in its submission has suggested that as meter is programmed for computation of kVAh as per formula approved by the Commission, there is no requirement for computation of PF externally. MSEDCL can use the power factor recorded by energy meter for displaying on consumer bill.

<u>Commission's Analysis and Clarification:</u>

39. The Commission notes the MSEDCL submission and clarifies that as meter is programmed for computation of kVAh (based on lag and lead consumption of kVARh) as per formula approved by the Commission, there is no requirement for computation of PF externally. MSEDCL may use the power factor recorded by energy meter for displaying on consumer's bill.

2. Aggrieved with the order passed by the Forum, the Appellant has filed the present representation. An e-hearing was conducted on 21st July 2026 through video conferencing, wherein the Appellant and the Respondent were present. The parties were heard at length. The Appellant's submissions and arguments are stated below: *[The Electricity Ombudsman's observations and comments are recorded under 'Notes' where needed.]*

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(i) The Appellant has been an industrial consumer (No. 001849025290) since 25.04.2004. The particulars of the consumer, and the assessment made pursuant thereto on account of revision of Power Factor are set out as below:

Table 1: -

Name of Consumer	Consumer No.	Address	Sanct. Load / Contract Demand	Date of Supply	Solar Roof Top Commissioning	Additional Demand raised
Keyur Kitchenware	001849025290	Gala No.5,6,7,8,9 Kunal Industrial Estate, Plot No.1 to 6, S.No. 53, H.No. 2&9, Village : Billalpada, Tal.Vasai	1498 kW / 800 kVA	25.04.2004	06.06.2020	₹12,35,931/- for the period July 2021 to August 2024 (about 3 years)

(ii) The Appellant is engaged in the manufacture and supply of stainless steel utensils and kitchenware products. As part of its commitment to sustainable and environmentally responsible operations, the Appellant has installed a 450 kW rooftop solar power system for generation and utilization of renewable energy. The Appellant applied for installation of a 450 kW rooftop solar system on 12.01.2020. The system was released on 06.06.2020 upon completion of the prescribed statutory formalities, including testing and obtaining permission from the Electrical Inspector.

(iii) The Respondent raised a demand of ₹12,35,931/- towards differential Power Factor (PF) charges for the period from July 2021 to August 2024, relying on Clause 39 of the MERC Clarificatory Order dated 30.04.2020 in Case No. 79 of 2020. The amount was recovered from the July 2025 billing month in six equal instalments. The disputed amount was paid under protest to avoid disconnection of electricity supply.

(iv) Aggrieved thereby, the Appellant filed a grievance before the Forum on 23.03.2026. The Forum rejected the grievance. The Forum failed to understand the basic issue that the Respondent billed as per PF recorded on the meter. The Forum passed a non-speaking and unreasoned order by merely reproducing the Respondent’s submissions without addressing or adjudicating the issues raised by the Appellant.

(v) The Clarificatory Order of the Commission dated 30.04.2020 merely records that no external computation of Power Factor (PF) is required, as the meter is programmed to compute kVAh in accordance with the formula approved by the Commission. The

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Commission further observed that MSEDCL "may use" the PF recorded by the energy meter for displaying it on the consumer's bill. The expression "may use" clearly indicates a discretionary provision confined to the purpose of bill display and does not confer any authority on MSEDCL to retrospectively reassess consumption, reopen finalized bills, or raise supplementary demands for past billing periods. Accordingly, the impugned demand for the period from July 2021 to August 2024 constitutes retrospective supplementary billing after finalization of the respective monthly bills and is, therefore, arbitrary, without authority of law, and unsustainable.

(vi) The impugned recovery sought by MSEDCL is ex facie barred by limitation under Section 56(2) of the Electricity Act, 2003 (the Act), as the alleged differential charges relate to billing periods prior to July 2023 and were never continuously reflected as recoverable arrears in the regular electricity bills issued to the Consumer. In the absence of continuous disclosure of the alleged dues as arrears, MSEDCL is legally precluded from recovering such amounts after expiry of the statutory period of two years. Accordingly, the retrospective demand pertaining to the period from July 2021 to June 2023 is illegal, arbitrary and unsustainable in law, and is liable to be quashed and set aside under Section 56(2) of the Electricity Act, 2003.

(vii) MSEDCL had continuous, complete and uninterrupted access to the Consumer's meter data, billing records, recorded Power Factor (PF), kVAh computations and all other relevant consumption particulars at all material times. The metering infrastructure, billing software, computation methodology and generation of electricity bills were entirely within the control and supervision of MSEDCL. The Consumer had no role or control whatsoever over the methodology adopted by MSEDCL for computation and issuance of monthly electricity bills.

(viii) The alleged differential recovery has not arisen due to any suppression, misrepresentation, tampering, fraud or wrongful act attributable to the Consumer. It is solely the result of MSEDCL's own billing methodology and computational practices, which were consistently followed over several years. MSEDCL possessed all the requisite data and technical capability to verify the applicable computations and raise

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bills in accordance with its interpretation of the prevailing tariff and regulatory framework at the relevant time.

(ix) MSEDCL regularly issued monthly electricity bills based on its own computation system and accepted payments without any objection or reservation. The bills were, therefore, treated as valid and finalized. The Consumer, acting bona fide, regularly paid the charges strictly in accordance with the bills raised by MSEDCL and arranged its financial and commercial affairs on that basis. The Consumer consequently had a legitimate expectation that finalized bills for past billing periods would not subsequently be reopened and reassessed.

(x) It is therefore impermissible and contrary to the principles of fairness, certainty and legitimate expectation for MSEDCL to retrospectively reopen concluded billing periods and impose upon the Consumer the consequences of its own alleged computational omissions, billing errors or subsequent changes in methodology. Administrative or computational lapses, internal reinterpretation of the billing methodology, or subsequent standardization of the billing process cannot, in the absence of specific statutory authority, justify retrospective supplementary recovery after a substantial lapse of time.

(xi) Accordingly, the impugned retrospective reassessment and recovery, being arbitrary, unreasonable and contrary to the principles of natural justice and legitimate expectation, is liable to be quashed and set aside.

(xii) The Maharashtra State Electricity Distribution Company Limited (MSEDCL) failed to inform the Consumer, at any time during the disputed period, that the meter-recorded Power Factor (PF) was allegedly below the prescribed level, that the PF used for billing purposes was being considered on an average basis, or that the bills issued were provisional and subject to future reassessment. No deficiency notice, warning, supplementary bill, or advisory requiring corrective action was issued during the relevant period. **Had the Consumer been promptly informed of the alleged low PF and its financial implications, the Consumer would have taken timely corrective measures, including installing, upgrading, repairing or maintaining suitable PF correction equipment, thereby avoiding the alleged subsequent liability.**

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(xiii) Regulation 16.2.2 of the MERC (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 requires the Respondent to provide the detailed basis of computation of the Consumer's bill. However, **MSEDCL has failed to furnish authenticated 15-minute interval meter data, detailed computation sheets, or the methodology adopted for arriving at the impugned differential PF demand of ₹12,35,931/-.** In the absence of such authenticated and verifiable records, the Consumer has no effective means to independently verify the correctness of the demand. The failure to disclose the underlying meter data and computation methodology deprives the Consumer of a meaningful opportunity to verify and effectively contest the alleged liability. The impugned demand is, therefore, unsubstantiated, arbitrary and contrary to the principles of natural justice, and is liable to be set aside.

(xiv) The Appellant, therefore, prayed for setting aside the impugned demand and the Forum's order, refund of ₹12,35,931/- with interest, declaration that recovery prior to July 2023 is barred by limitation under Section 56(2) of the Electricity Act, 2003, production of authenticated interval-wise meter data and computation records, and grant of appropriate compensation and costs.

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

(i) The Appellant has been an Industrial Consumer of the Respondent since 25.04.2004 for manufacturing of stainless steel utensils and kitchenware products. The particulars of the electricity connection are set out in Table 1.

(ii) The Appellant submitted an application for installation of a 450 kW solar rooftop system on 12.01.2020. The system was commissioned and released for operation on 06.06.2020 after completion of the prescribed statutory and technical formalities, including inspection, testing and approval of the Electrical Inspector. The solar rooftop system commenced generation from 06.06.2020.

(iii) The Appellant was billed on actual meter readings from July 2020 to June 2025. MSEDCL's Corporate Office subsequently observed that billing for July 2021 to August 2024 was not in accordance with Clause 39 of the MERC Clarificatory Order

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dated 30.04.2020 in Case No. 79 of 2020 **due to system issue**. The said Order clarifies that, since the meter is programmed to compute kVAh as per the Commission-approved formula, external PF computation is not required, and MSEDCL may use the meter-recorded PF for display on the consumer's bill.

(iv) The supplementary bill of ₹12,35,931/- was system-generated by MSEDCL's Corporate Office for the period from July 2021 to August 2024 and started to recover in six equal instalments of ₹2,05,988.69 each from July 2025. MSEDCL Corporate Office issued the July 2025 bill with the following remarks:

As per Clause No. 39 of clarificatory order by Hon. Commission dated 30.04.2020, the difference in energy charges (computational difference: calculated and metered PF) is being recovered from the billing month July 2025-in 1/6 Installments.

(v) On receipt of directions from the Head Office, MSEDCL issued a bill dated 22.08.2025 for ₹4,45,700/-, including the first instalment of ₹2,05,988.69, in accordance with Clause 39 of the said Clarificatory Order. The Corporate Office has already developed a programme in the Billing System specifically for consumers having Rooftop Solar installations. The Appellant paid the said bill and thereafter subsequently paid the remaining instalments along with the respective monthly current bills.

(vi) Aggrieved by the said demand, the Appellant filed a grievance application with the Forum on 23.03.2026. The Forum rejected the grievance application. The Forum observed that the differential recovery was made pursuant to Clause 39 of the Commission's Clarificatory Order dated 30.04.2020 and **constituted a system-level correction based on actual meter-recorded PF**. The differential amount was treated as legitimate dues, not a penalty, and was recovered in instalments **with calculation details provided to the Consumer**. The Forum further observed that Clause 39 clarifies that, since the meter is programmed to compute kVAh as per the Commission-approved formula, external PF computation is not required, and MSEDCL may use the PF recorded by the energy meter for display on the consumer's bill.

(vii) The recovery arises from compliance with Clause 39 of the Commission's Clarificatory Order dated 30.04.2020, which is statutory and binding. **The revised billing methodology was uniformly implemented for all applicable solar**

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consumers pursuant to MSEDCL Head Office directions as a system-level correction, and therefore did not require individual consent or prior intimation.

(viii) The revised billing methodology was implemented from Sep. 2024 onwards pursuant to MSEDCL Head Office directions and is uniformly applicable to all eligible solar consumers for standardization and regulatory compliance.

(ix) **During July 2021 to August 2024, bills were generated using a computational/average PF instead of the actual meter-recorded PF, resulting in under-recovery of applicable charges** in certain billing cycles. Upon subsequent system correction and verification of meter data, it was found that **the actual recorded PF was lower than the PF used for billing in several instances, e.g., in May 2023, the billed PF was 0.839 against the recorded PF of 0.704.**

(x) The differential amount represents the difference between the charges originally billed and those recalculated on the basis of actual meter readings. It is a recovery of applicable charges and not a penalty. Detailed month-wise calculations were provided to the Consumer, and recovery is being made in instalments in accordance with the applicable regulations, Commission orders and audit requirements. The revised charges and relevant details were communicated through the electricity bill, which serves as the official communication to the Consumer.

(xi) MSEDCL provided the Consumer with detailed calculations and explanations and facilitated recovery through instalments. The differential arose due to correction of the billing methodology based on actual meter data, with no deliberate withholding of information.

(xii) The Respondent relied upon the judgments of the Hon'ble Supreme Court in *Assistant Engineer v. Rahamatullah Khan* (Civil Appeal No. 1672 of 2020, decided on 18.02.2020), *Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Ltd. & Ors.* (Civil Appeal No. 7235 of 2009, decided on 05.10.2021), and *K.C. Ninan v. Kerala State Electricity Board & Ors.* (Civil Appeal Nos. 2109 and 2110 of 2004, decided on 19.05.2023). With regard to the Consumer's contention that the recovery is time-barred under Section 56(2) of the Electricity Act, 2003, it is respectfully submitted that Section 56(2) primarily governs disconnection of supply for non-payment of

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electricity dues and does not prescribe a limitation period for recovery of unpaid electricity charges. This is also evident from the heading of Section 56, namely, "Disconnection of supply in default of payment." Further, the Hon'ble Supreme Court, in *Assistant Engineer v. Rahamatullah Khan* (Civil Appeal No. 1672 of 2020, decided on 18.02.2020) and *Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Ltd. & Ors.* (Civil Appeal No. 7235 of 2009, decided on 05.10.2021), has held that Section 56(2) does not prescribe a limitation period for recovery of electricity arrears. Further, in *K.C. Ninan v. Kerala State Electricity Board & Ors.*, Civil Appeal Nos. 2109 and 2110 of 2004, decided on 19.05.2023, the Hon'ble Supreme Court observed that Section 56(2) of the Electricity Act, 2003 bars disconnection of supply in respect of dues remaining unpaid for more than two years, but does not extinguish the licensee's right to recover such electricity dues. Accordingly, MSEDCL submits that Section 56(2) does not bar recovery of electricity charges merely because the dues have remained outstanding for more than two years.

(xiii) In view of the above, the Respondent prays that the representation of the Appellant be rejected.

4. Post-hearing, the Respondent submitted its revised submissions in compliance with the directions of the Ombudsman, vide email dated 28.07.2026. The important points of the revised submissions are briefly summarized below:

(i) The recovery/debit adjustment was not an independent action of the Vasai Circle Office but was implemented in accordance with MERC Orders and MSEDCL Corporate Office instructions through the centralized billing system. MSEDCL is statutorily bound to implement the Orders, Regulations and Tariff directions issued by MERC under the Electricity Act, 2003. The field offices have no authority to modify, defer or selectively implement such Orders.

(ii) The recovery was effected in the July 2025 billing cycle through MSEDCL's centralized billing software, operated by the Corporate Office. Accordingly, the Circle Office had no discretion regarding the methodology, timing or quantum of the recovery.

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(iii) The requirement of prior intimation for regulatory recovery was decided by the MSEDCL Corporate Office in accordance with the MERC MYT Order. Accordingly, the Vasai Circle Office had no independent authority to issue separate prior communication for the recovery from 2020 to July 2025.

(iv) **Pursuant to the Hon'ble MERC Clarification Order, debit/credit adjustments were made in the July 2025 bills of 1,132 consumers across Maharashtra, including 28 HT Rooftop Solar consumers of Vasai Circle.** The adjustments were uniformly implemented through MSEDCL's centralized billing system and reflected in the respective electricity bills.

(v) The implementation was state-wide and uniformly applicable to all eligible consumers. Hence, the allegation of discrimination or arbitrary action by the Respondent Circle is misconceived.

(vi) Where the centralized system found consumers eligible for credit adjustments based on the applicable MERC provisions and actual PF and meter data, such credits were also granted. Similar adjustments were made in Kolhapur, Nashik and other Regions through the same centralized billing system, without field-level intervention.

(vii) The MERC (Grid Interactive Rooftop Renewable Energy Generating Systems) Regulations, 2019 provide the regulatory framework for Net Metering, Net Billing and energy accounting applicable to eligible consumers and Distribution Licensees in Maharashtra.

(viii) Accordingly, billing, energy accounting and commercial settlement for rooftop renewable energy systems are required to be carried out as per the applicable MERC Regulations and Tariff Orders. MSEDCL, as a regulated Distribution Licensee, has no authority to disregard or selectively implement such regulatory directions.

(ix) The impact of PF revision on kVAh consumption is illustrated below through a sample calculation for May 2021 in respect of HT consumer, M/s. Keyur Kitchenware.

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Table 2:

			Billed			Revised		
Bill Year	**Bill Month**	**Bill Date**	**Billed kWh**	**Billing PF**	**Billed Energy Units (kVAh)**	**Recorded PF**	**Revised Energy Units (kVAh)**	**Energy Units Difference (kVAH units)**
1	2	3	4	5	6=4/5	7	8=4/7	9
2021	May	07-Jun-21	130495	0.996	131019	0.975	133841	2822

(x) Under the clause No.39 of clarification order passed by Hon'ble Maharashtra Electricity Regulatory Commission (MERC) mentioned that, *"As meter is programmed for computation of kVAh (based on lag and lead consumption of kVARh) as per formula approved by the Commission, there is no requirement for computation of PF externally. MSEDCL may use the power factor recorded by energy meter for displaying on Consumer's bill."*

(xi) As per Clause 39, the recorded PF is required to be displayed on the bill. The recorded PF is also considered for applicable debit/credit adjustments in terms of Clauses 29 and 31 of the said Order. Accordingly, the PF recorded by the meter and its impact on kVAh consumption form part of the electricity billing computation. The resultant amount constitutes a charge for electricity due from the consumer and is recoverable under Section 56 of the Electricity Act, 2003.

(xii) Although the Clarificatory Order does not specifically provide for past recovery/refund, the applicable debit/credit adjustments were processed through MSEDCL's centralized billing system for eligible HT consumers. The recovery arising from the difference between the externally calculated energy charges and the charges based on recorded PF was effected from the July 2025 billing cycle and was reflected in the consumer's bill, with an option to pay the amount in six equal instalments.

(xiii) By providing the facility of six equal instalments, MSEDCL duly considered and safeguarded the consumer's interest while effecting the recovery.

(xiv) The electricity bill itself serves as communication to the consumer, as the revised charges and relevant details are duly reflected therein.

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(xv) Field officers are bound to implement the statutory Regulations and Tariff Orders issued by MERC and cannot act contrary to the regulatory framework. Accordingly, no deficiency in service, arbitrariness or mala fide can be attributed to the Respondent Circle Office, as the impugned billing was generated through MSEDCL's centralized billing system uniformly applicable to eligible consumers.

5. Post hearing, the Appellant filed a rejoinder to the Respondent's additional say, as under:

(i) The Appellant stated that the Respondent has failed to furnish the alleged Corporate Office implementation instructions or identify any statutory or regulatory provision authorizing retrospective recovery, reopening of finalized billing periods or recalculation of settled bills. An internal administrative instruction or centralized billing process cannot, by itself, create a financial liability or override the applicable statutory and regulatory framework. The Office Note dated 06.11.2024 of the Billing & Revenue Section records that MSEDCL had identified a system bug resulting in a mismatch between billed and recorded PF for kVAh-compatible meters. The scrutiny identified 1,132 affected HT consumers, comprising 890 consumers for recovery of ₹24,81,48,715/- and 242 consumers eligible for refunds of ₹33,62,265/-. The proposal to recover/refund these amounts through subsequent bills was an internal administrative proposal and does not constitute statutory authority for retrospective recovery.

(ii) The Appellant does not dispute the applicability of the MERC Regulations to HT rooftop solar installations. However, **Clauses 29, 31 and 39 prescribe billing and accounting methodology; they do not expressly authorize retrospective reopening of finalized bills or creation of fresh liabilities for past periods.** The Respondent's own statement that *"the past recovery or refund is not mentioned in the clause"* supports this position.

(iii) The Respondent's reliance on Section 56 of the Electricity Act, 2003 is therefore misconceived. Section 56 provides a mechanism for recovery of lawfully recoverable dues; it does not itself create or enhance liability. Unless the underlying retrospective

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demand is shown to be authorized by the Act, Tariff Orders, MERC Regulations or Clarificatory Order, Section 56 cannot validate its recovery.

(iv) The July 2025 bill merely stated that the difference in energy charges based on calculated and metered PF was being recovered in 1/6 instalments. No month-wise calculations, supporting technical data, Energy Accounting Statements, netting calculations or MRI/CMRI reports were furnished to enable the consumer to verify or effectively contest the demand. The facility of instalments concerns only the mode of payment and cannot establish the legality or recoverability of the underlying demand.

(v) The impugned bill was issued by the Respondent through its Vasai Circle Office. The Respondent cannot avoid scrutiny of the demand by attributing it to the Corporate Office or centralized billing system. The Forum has not held that the Vasai Circle Office cannot be proceeded against; internal administrative arrangements cannot prejudice the consumer's right to challenge the legality and validity of the demand.

(vi) An identical matter involving the same legal and technical issue of retrospective recovery of differential PF charges is presently under final adjudication before the Forum, with the Final Order expected in the second week of September 2026.

Analysis and Ruling

6. Heard the parties and perused the documents on record. The Appellant, an industrial consumer bearing No.001849025290 since 25.04.2004 (Table 1), is engaged in the manufacture of stainless steel utensils and kitchenware and commissioned a 450 kW Rooftop Solar System on 06.06.2020. The Respondent raised a demand of ₹12,35,931/- towards differential Power Factor (PF) charges for the period from July 2021 to August 2024, relying upon Clause 39 of the MERC Clarificatory Order dated 30.04.2020 in Case No. 79 of 2020. The said amount was recovered through the July 2025 bills in six equal instalments and was paid by the Appellant under protest.

7. The Appellant contended that the Clarificatory Order only prescribes the methodology for PF computation/display and does not authorize retrospective reopening of finalized bills

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or supplementary recovery; the expression "may use" in Clause 39 cannot be construed otherwise. The Appellant further contended that the demand prior to July 2023 is barred under Section 56(2) of the Electricity Act, 2003, as the alleged dues were never reflected as arrears. Since the meter data and billing methodology were entirely within MSEDCL's control and there was no suppression or wrongful act by the Appellant, retrospective recovery after issuance and payment of finalized bills was unjustified, particularly without any prior intimation regarding deficient PF or proposed reassessment.

8. The Appellant further contended that the July 2025 centralized debit adjustment affecting 1,132 HT consumers, including 28 HT Rooftop Solar consumers in Vasai Circle, was based on an alleged system bug, but MSEDCL failed to produce the Corporate Office instructions or statutory authority for retrospective recovery. The Office Note dated 06.11.2024 was only an internal document, and Clauses 29, 31 and 39 do not expressly permit reopening of finalized bills. Recovery in six instalments merely provides the mode of payment and does not establish liability. The Appellant therefore sought quashing of the ₹12,35,931/- demand and Forum's order, refund with interest, declaration of limitation under Section 56(2), production of supporting records, and compensation/costs.

9. The Respondent contended that the Appellant was billed on actual meter readings from July 2020 to June 2025; however, **MSEDCL Corporate Office subsequently found that the actual meter-recorded PF was not reflected in billing for July 2021 to August 2024 due to a system issue,** contrary to Clause 39 of the MERC Clarificatory Order dated 30.04.2020 in Case No. 79 of 2020. Clause 39 provides that, since the meter is programmed to compute kVAh based on lag and lead kVARh consumption as per the Commission-approved formula, external PF computation is not required and MSEDCL may use the PF recorded by the energy meter for displaying it on the consumer's bill. Accordingly, a supplementary demand of ₹12,35,931/- was centrally generated and recovered in six equal instalments from July 2025, representing differential energy charges based on the actual recorded PF and not a penalty.

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10. The Respondent further stated that the adjustment was centrally implemented pursuant to MERC Orders and Corporate Office directions for 1,132 HT consumers, including 28 HT Rooftop Solar consumers in Vasai Circle, with no discretion at Circle level. Relying on Clauses 29, 31 and 39 of the Clarificatory Order, it submitted that rooftop solar energy is accounted for in kWh, converted to kVAh using the applicable PF, and the recorded PF is used for billing. **The differential arose as computational/average PF had been used instead of the recorded PF, resulting in under-recovery.** The adjustment was stated to be a uniform system-level correction based on actual meter data.

11. The Respondent relied upon Assistant Engineer v. Rahamatullah Khan, Prem Cottex V/s Uttar Haryana Bijli Vitran Nigam Ltd. and K.C. Ninan v. Kerala State Electricity Board, contending that Section 56(2) of the Electricity Act, 2003 does not extinguish the licensee's right to recover electricity dues after two years, but principally restricts disconnection of supply. Hence, the impugned recovery was not barred by Section 56(2).

12. The Appellant's 450 kW rooftop solar power system was commissioned on 06.06.2020 upon completion of the prescribed statutory formalities. From the record, it is evident that the Appellant was correctly billed from 06.06.2020 to June 2021 and from September 2024 onwards, in accordance with the methodology prescribed under the MERC Clarificatory Order dated 30.04.2020 in Case No. 79 of 2020 *(Case of Maharashtra State Electricity Distribution Company Limited seeking clarification on certain issues arising from the MYT Order dated 30.03.2020 in Case No. 322 of 2019)*. However, during the intervening period from May 2021 to August 2024, the prescribed kVAh billing methodology was not correctly applied, resulting in under-billing. The actual meter-recorded PF during the said period was lower than the PF considered in the original billing, resulting in differential charges of ₹12,35,931/-, subsequently recovered by the Respondent. The abstract of the recovery debit bill adjustment is set out below, followed by the details thereof: *(**Note:** The Respondent submitted the statement for the period from **May 2021 to August 2024**; however, the period was incorrectly stated as **July 2021 to August 2024**.)*

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Table 3:

Name: Keyur Kitchenware; Consumer No.:001849025290 : Indicative Report										
Sr. No.	Bill Year	Bill Month	Bill Date	Billed			Revised		Difference (Billed-Revised)	Total Debit Amount (Rs.)
				Billed kWh	Billing PF	Energy Units in kVAh	Reading PF	Revised Units (kVAh) (as per Reading PF)	Energy Units (kVAh) Diff	
	1	2	3	4	5	6=4/5	7	8=4/7	9=8-6	10
1	2021	5	07-Jun-21	130495	0.996	131019	0.975	133841	2822	22,066.88
2	2021	6	07-Jul-21	181011	0.999	181192	0.992	182471	1279	10,110.66
3	2021	7	07-Aug-21	217653	0.999	217871	0.995	218747	876	6,923.85
4	2021	8	09-Sep-21	214249	0.999	214463	0.996	215109	646	5,107.62
5	2021	9	12-Oct-21	251280	0.999	251532	0.991	253562	2030	16,040.33
6	2021	10	11-Nov-21	242176	1	242176	0.997	242905	729	5,759.51
7	2021	11	06-Dec-21	157336	0.984	159894	0.955	164750	4856	38,414.72
8	2021	12	06-Jan-22	196294	0.998	196687	0.992	197877	1190	9,440.88
9	2022	1	03-Feb-22	164953	0.998	165284	0.992	166283	999	7,895.36
10	2022	2	05-Mar-22	164144	0.993	165301	0.974	168526	3225	25,491.69
11	2022	3	07-Apr-22	150489	0.997	150942	0.99	152009	1067	8,383.22
12	2022	4	06-May-22	132783	0.996	133316	0.99	134124	808	6,303.41
13	2022	5	06-Jun-22	126460	0.998	126713	0.995	127095	382	2,977.82
14	2022	6	07-Jul-22	97117	0.993	97802	0.97	100121	2319	18,809.67
15	2022	7	09-Aug-22	137722	0.998	137998	0.994	138553	555	4,427.73
16	2022	8	08-Sep-22	190358	0.997	190931	0.987	192865	1934	15,165.97
17	2022	9	05-Oct-22	189622	0.998	190002	0.996	190384	382	3,002.99
18	2022	10	05-Nov-22	112826	0.983	114777	0.908	124258	9481	74,635.23
19	2022	11	08-Dec-22	114154	0.969	117806	0.885	128988	11182	88,674.98
20	2022	12	07-Jan-23	118075	0.973	121351	0.929	127099	5748	45,628.23
21	2023	1	06-Feb-23	138428	0.981	141109	0.942	146951	5842	46,077.11
22	2023	2	07-Mar-23	116543	0.988	117959	0.934	124778	6819	53,598.86
23	2023	3	06-Apr-23	134444	0.997	134849	0.965	139320	4471	43,955.35
24	2023	4	06-May-23	122084	0.989	123442	0.918	132989	9547	87,876.49
25	2023	5	07-Jun-23	107394	0.839	128002	0.704	152548	24546	224,811.15
26	2023	6	08-Jul-23	124406	0.993	125283	0.937	132771	7488	68,864.22
27	2023	7	05-Aug-23	210035	1	210035	0.999	210245	210	1,923.05
28	2023	8	05-Sep-23	201475	0.999	201677	0.984	204751	3074	28,026.42
29	2023	9	07-Oct-23	229631	1	229631	0.999	229861	230	2,147.20
30	2023	10	06-Nov-23	201196	1	201196	0.999	201397	201	1,874.38
31	2023	11	05-Dec-23	159332	0.999	159491	0.993	160455	964	9,163.70
32	2023	12	04-Jan-24	173972	0.999	174146	0.992	175375	1229	11,717.88
33	2024	1	05-Feb-24	184631	0.99	186496	0.933	197890	11394	108,367.74
34	2024	2	04-Mar-24	220650	0.998	221092	0.984	224238	3146	29,860.23
35	2024	3	06-Apr-24	196378	1	196378	0.998	196772	394	3,733.15
36	2024	4	06-May-24	164879	0.999	165044	0.995	165708	664	6,646.15
37	2024	5	05-Jun-24	180162	1	180162	0.998	180523	361	3,618.42
38	2024	6	04-Jul-24	169865	1	169865	0.997	170376	511	5,161.99
39	2024	7	05-Aug-24	220046	0.993	221597	0.981	224308	2711	27,434.94
40	2024	8	06-Sep-24	220620	0.986	223753	0.971	227209	3456	34,849.38
				6765368		**6818264**		**6958031**	**139768**	**1,214,968.56**

13. **The following issues are framed for consideration:**

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Issue	Particulars	Remarks
Issue 1	Whether the Respondent is justified technically in recovering retrospectively towards differential PF charges on the basis of the actual meter-recorded PF?	Affirmative
Issue 2	What is the permissible period for recovery of differential PF charges from May 2021 to August 2024, based on the actual meter-recorded PF, in light of the judgment in Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Ltd. & Ors., Civil Appeal No. 7235 of 2009, decided on 05.10.2021?	Partially permissible for 36 months, i.e., September 2021 to August 2024

Issue 1:

We have carefully considered the submissions of both parties and perused the material available on record. It is not in dispute that the Appellant had commissioned a 450 kW rooftop solar system on 06.06.2020 and that kVAh-based billing was applicable to the Appellant. The record further establishes that the Appellant was correctly billed from 06.06.2020 to April 2021 and from September 2024 onwards, whereas, during May 2021 to August 2024, the billing system did not consider the actual meter-recorded PF for computation of the applicable charges, resulting in under-recovery. Though the Respondent has not disclosed any specific reason, the delayed adjustment appears to have resulted from a failure in the proper functioning or programming of the billing system during the relevant period.

The MERC Clarificatory Order dated 30.04.2020, particularly Clauses 29 and 39, provides the applicable methodology for HT rooftop consumers. Clause 29 requires netting/settlement of rooftop energy in kWh and conversion of balance units into kVAh using the billing PF. Clause 39 further clarifies that, as the meter is programmed to compute kVAh based on lagging and leading kVARh consumption in accordance with the Commission-approved formula, external computation of PF is not required and MSEDCL may use the PF recorded by the energy meter for displaying it on the consumer's bill.

In the present case, the differential amount of ₹12,35,931/- has been determined on the basis of the actual PF recorded by the meter and represents the difference between the charges originally billed and those chargeable on application of the prescribed methodology. The recovery is, therefore, in the nature of recovery of energy charges that were under-recovered due to incorrect/system-based computation.

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The contention of the Appellant that Clause 39 does not expressly authorize retrospective recovery also requires consideration. However, the absence of an express reference to "retrospective recovery" in the Clarificatory Order does not, by itself, extinguish the Respondent's entitlement to recover legitimate charges for electricity actually consumed where the liability arises from the tariff and billing methodology approved by the Commission. The essential question is whether the amount now recovered was otherwise legally chargeable under the applicable regulatory framework and is supported by reliable meter data and calculation.

As regards limitation under Section 56(2) of the Electricity Act, 2003, the Respondent has relied upon the judgments of the Hon'ble Supreme Court in *Assistant Engineer v. Rahamatullah Khan*, *Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Ltd.* and *K.C. Ninan v. Kerala State Electricity Board*. The said contention will have to be considered in the context of the nature of the present recovery, particularly whether Section 56(2) bars recovery of the underlying dues or only disconnection of supply on account thereof.

On the material available on record, we find that the impugned amount represents differential charges arising from application of the prescribed kVAh billing methodology to the actual meter-recorded PF and not a penalty or an independent levy. The Respondent has also demonstrated that the adjustment was centrally undertaken for similarly placed HT rooftop solar consumers and was not an individual or discretionary action of the Vasai Circle.

Accordingly, the retrospective recovery of ₹12,35,931/- towards differential PF charges is held to be justified technically.

Issue 1 is answered "Affirmatively".

Issue 2:

The Respondent has recovered retrospectively for the period from May 2021 to Aug. 2024. The monthly statement of the Appellant is summarised in Table 3. From the above table, it is clear that the Appellant consumed the above-mentioned units of electricity; however, he was

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under billed. However, it is surprising that the Respondent has taken such a long period (40 months) for rectification.

- The Section 56 (2) of the Electricity Act, 2003 is reproduced below:
  "(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity."
  This Section 56 (2) of the Act has been interpreted by the Larger Bench Judgment dated 12.03.2019 of the Hon'ble 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.
- 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. ……….."

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- 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:

> *"3. 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.*
>
> *4. **After 3 years of the grant of extension, the appellant was served with a memo dated 11.09.2009 by the third respondent herein, under the caption "short assessment notice", claiming that though the multiply factor (MF) is 10, it was wrongly recorded in the bills for the period from 3.08.2006 to 8/09 as 5 and that as a consequence there was short billing to the tune of Rs.1,35,06,585/-.** The notice called upon the appellant to pay the amount as demanded, failing which certain consequences would follow.*
> *…………. ………………… ……………………. ……………………….*
>
> *6. By an Order dated 1.10.2009, the National Commission dismissed the complaint on the ground that it is a case of "escaped assessment "and not a case of "deficiency in service". Aggrieved by the said Order, the appellant is before us.*
> *…………. ……………………… ………………………….. ………………………… ……… …………….. …………………….. ……………………. ………………….. ……………… …………..*
>
> *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.*

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……………………. ……………………………… …………………………… ……….. …..
………………… ……………………… …………………… …………………….. ………….

- It is important to note that in the above Judgment, the assessment period for escaped billing (due to wrong application of multiplying factor) is applied for about three years. In the instant case, the Respondent has issued a retrospective bill for 40 months (May 2021 to Aug. 2024).

- 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. The said Section of the Limitation Act, 1963 is reproduced as under: -

"17. Effect of fraud or mistake. — (1) Where, in the case of any suit or application for which a period of limitation is prescribed by this Act, —
……. ………………. ………………….
(c) the suit or application is for relief from the consequences of a mistake; or
…………. ……………………
the period of limitation shall not begin to run until the plaintiff or applicant has discovered the fraud or the mistake or could, with reasonable diligence, have discovered it."

THE SCHEDULE

PERIODS OF LIMITATION

[See sections 2(j) and 3

PART X – SUITS FOR WHICH THERE IS NO PRESCRIBED PERIOD

113. When the right to sue accrues

113	*Any suit for which no period of limitation is provided elsewhere in this Schedule*	*Three years*	*When the right to sue accrues*

There is no doubt that Section 17(1)(c) of the Limitation Act, 1963 applies to mistakes of both fact and law. In the present case, the Respondent discovered the under-billing only when the billing programme was modified by the Corporate Office with effect from September 2024.

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The cause of action, therefore, arose in September 2024, and the Respondent thereafter recovered the differential amount in six monthly instalments.

Although the Limitation Act, 1963 prescribes a period of three years for initiating proceedings from the date of accrual of the cause of action, the same principle of limitation is relevant while considering the extent of retrospective recovery. Accordingly, the retrospective recovery of differential PF charges shall be restricted to the period of three years immediately preceding the date of discovery of the under-billing, i.e. from September 2021 to August 2024.

Issue 2 is answered accordingly.

14. The order passed by the Forum is hereby modified to the following extent, in view of the findings and conclusions recorded hereinabove:

a) The Respondent is directed to revise retrospective recovery for the period from Sep. 2021 to Aug. 2024 towards differential PF charges for Sep. 2021 to August 2024 being based on the applicable kVAh billing methodology and actual meter-recorded PF.
b) The Respondent shall furnish the Appellant with the **month-wise calculation and meter-recorded PF data** forming the basis of the said recovery and shall give due adjustment of any amount found to have been recovered in excess.
c) Compliance to be submitted within two months from the date of issue of this order.
d) Other prayers of the Appellant are rejected.

15. The Representation is disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)

(Dilip Dumbre)
Secretary
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