

## BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

### REPRESENTATION NO. 86 OF 2023

In the matter of live arrears of MSEDCL prior to TPL Franchisee

Mr. Mohd. Zaman Sohrabali (ServiceNo.13012322741) ..... Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Bhiwandi (MSEDCL)... .....Respondent

Torrent Power Limited (TPL), Distribution Franchisee, Bhiwandi

Appearances:

Appellant : 1. Nadeem Ansari, Representative  
2. Abdul Kareem Momin, Representative

Respondent : 1. Ajay N. Bhasaketre, Addl. Ex. Engineer, TUC, MSEDCL  
2. Hemangi Bhogvekar, Nodal Officer/ Manager, TPL  
3. Sameer Desai, Manager, TPL


**Coram: Vandana Krishna [IAS (Retd.)]**

Date of hearing: 27<sup>th</sup> October 2023

Date of Order: 24<sup>th</sup> November 2023

### ORDER

This Representation was filed on 4<sup>th</sup> September 2023 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order

  
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dated 13<sup>th</sup> March 2023 passed by the Consumer Grievance Redressal Forum, MSEDCL, Bhandup (the Forum) in Case No. 220 of 2021-22 and Review Order of the Forum dated 9<sup>th</sup> August 2023 in Case No. 199 of 2022-23.

2. The Forum, by its order dated 13.03.2023 has partly allowed the grievance application in Case No.220 of 2021-22. The operative party of the Order is as below:


*“2. The Respondent is entitled to recover the pending dues along with interest from the Applicant consumer.*

*3.The Applicant consumer is granted ten equal monthly instalments for payment of the pending dues. The monthly instalments granted for the payment of pending dues are to be paid along with the current bills being issued by the Respondent from time to time till entire pending dues are fully paid by the consumer.*

*4. If the Applicant consumer fails to deposit the monthly installment along with the current bill amount, then the Respondent has authority to disconnect the electrical supply as per MSEDCL rules & Regulations.”*

3. The Appellant filed a review application against the order of the Forum. The Forum, by its order dated 09.08.2023 dismissed the review application. The Forum has also barred Nadeem Ansari to act as a representative unless the original Applicants are personally present for the hearing.

4. Not satisfied with the Original Order & Review Order of the Forum, the Appellant filed this present representation. The physical hearing was held on 27<sup>th</sup> October 2023. Both the parties were heard at length. The Respondent MSEDCL and its Franchisee, TPL filed their written replies dated 06.10.2023 and 30.09.2023 respectively. For easy understanding, the Respondent’s written submissions along with their arguments on 27.10.2023 are stated first as below: -

  
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**MSEDCL's Submission regarding TPL Distribution Franchisee: -**


- (i) The Electricity Distribution Network Assets and Billing in Bhiwandi area was handed over to M/s. Torrent Power Limited (TPL) as the Franchisee of MSEDCL for a period of 10 years from 26.01.2007 and further extended to 10 years.
- (ii) The Superintending Engineer (SE) of MSEDCL, Bhiwandi is the Nodal Officer to coordinate with TPL on various issues including recovery from 2007 to 2018. From 2018 onwards, SE (Thane Urban Circle), Thane is the Nodal Officer. Consumers used to approach this Nodal office for resolving the billing complaints, and this office resolved the grievances about billing complaints for the MSEDCL period.

**Submission:**

- (iii) The Applicant had filed a grievance before the Forum vide Case No.220 of 2021-22 with a prayer as below: -

*“to give directions to the Respondent to withdraw the MSEDCL dues with interest as the meter was defective and faulty and issue the bill as per Regulation 15.4.1 of Supply Code Regulations, 2005 / Regulation 16.4.1 Supply Code & SOP Regulations, 2021.”*

- (iv) The Appellant approached the Forum for review against the original order of the Forum with prayers as below:
  - a. *not to disconnect the power supply till the time of disposal of the petition.*
  - b. *to allow to pay the principal amount of MSEDCL dues preferably in instalments.*
  - c. *to provide CPL of TPL for the period from 2007 till date, CPL of MSEDCL from 1999 to 2007 and MSEDCL Mechanical Static Meter test report for the justification of the MSEDCL dues.*
- (v) Aggrieved by the Order & Review order of the Forum, the Appellant filed this representation with the following prayers **in his words:-**

  
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*“1. Not to disconnect the power supply till the time of disposal of the petition.*

*2. It is my desire allowed to pay the principal accumulated amount of MSEDCL dues preferably in installments.*

*3. The Hon. Chairman direct to the utility to provide MSEDCL CPL 1999 to 2007 and MSEDCL Mechanical Static Meter test report for the justification what is the amount of the MSEDCL it is my crux of the said matter. And if fail to furnished the same documents so utilities submit an affidavit in this regard.*

*4. The MERC regulation 7.8, 7.9 set aside or imposed both the parties.*

*5. Direct to the utilities as per the procedure of the law utility wants to approach the civil court for the MSEDCL arrears.*


*6. Kindly direct to the utility for release my electricity meter of service no. 690032149 / 013014911400.*

*7. It is my plea to provide the interest of the transparency justice in nature of the law on merit.”*

- (vi) The Appellant has changed his prayers in Review before the Forum and Ombudsman as compared to the original prayer before the Forum. The grievance of the Appellant is false, baseless, and frivolous without any documentary evidence; hence the present representation needs to be dismissed on this ground alone.


**Brief History of the Case: -**

- (vii) The Appellant is a LT consumer (Service No. 13012322741) having sanctioned load of 48 HP at present at H. No-1905 S. No-93, Krishna Compound, Near Shafik Hotel, Nagaon-I, Bhiwandi 421302 for running a power loom.
- (viii) The Appellant raised a grievance with the Forum on 04.03.2022 requesting to withdraw MSEDCL dues amounting to Rs.8,16,624/- with respect to Service No. 13012322741. The Appellant did not produce any material evidence or documentary proof in support of his demand to withdraw the dues pertaining to the MSEDCL period.

  
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- (ix) The said service connection is live and billed every month as per the reading obtained from the meter. Also, bills are raised as per the prevailing tariff guidelines approved by the Commission from time to time. **MSEDCL dues have been shown continuously and demanded regularly in all the monthly bills over the years. However, the Appellant has neglected to pay the same.**
- (x) The issue pertains to the period of two years provided in Section 56(2) to recover electricity dues. Section 56(2) provides a limitation of two years for recovery of dues by the licensee by disconnecting the electricity supply. It puts a restriction on the right of the licensee to recover any sum due from a consumer after a period of two years from the date when such arrears became first due. Action is permissible when the arrears have been shown continuously as recoverable in the electricity bills. Under Section 56, the consumer is liable to pay for the consumption of electricity, and the obligation to pay arises when a bill is issued. The period of limitation of two years starts only after the issuance of the bill. Here the electricity bills showing the arrears of MSEDCL are continuously issued by the utility.
- (xi) The liability to pay electricity dues is a statutory liability, and Section 56 provides the consequences when a consumer neglects to pay any dues for electricity. Section 56(1) provides that the power of the licensee to disconnect the supply when a consumer is in default of payment is without prejudice to his rights to recover such charge.
- (xii) Regarding the contention related to the Judgment of the Hon'ble Supreme Court in Civil Appeal No. 2846/2006, MSEDCL Circular No.65 and Commission's Case No. 36/2002 provide guidance for the consumer to approach the utility for their grievances relating to billing, electricity supply, change of name, supplementary/exorbitant billing.
- (xiii) **The Nodal Officer, Bhiwandi was responsible for issuing notices to consumers having MSEDCL arrears from 2007. Now it is very difficult to trace the notice to a particular consumer.**
- (xiv) The Supply Code Regulations 2005 provided that the utility should form an Internal Grievance Redressal Cell (IGRC) to resolve consumers' complaints and grievances

  
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regarding billing and supply matters etc. If a consumer is not satisfied with the remedy provided by IGRC, he can apply to the Forum for redressal of his grievance. If he is not satisfied with the order of the Forum, he has an opportunity to make a representation before the Electricity Ombudsman against the order of the Forum. This mechanism was available from the year 2005 to 25.02.2021. The Supply Code Regulations 2005 & Standard of Performance Regulations were replaced by Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standard of Performance of Distribution Licensee including Power Quality) Regulation 2021 (Supply Code & SOP Regulations 2021) which is in force from 25.02.2021. As per this latest regulation, a consumer can **directly approach the Forum** by filing a complaint or grievances pertaining to electricity supply or billing matters. However, in the present case, the Appellant failed to do so and **the consumer never raised any grievances for the MSEDCL arrears at that time.**

- (xv) The Appellant is making payment of the electricity bills of TPL for consumption charges, but demanded withdrawal of MSEDCL dues of Service No. 13012322741. The Appellant conveniently ignored paying the MSEDCL dues which have been shown / demanded from the consumer through monthly energy bills.
- (xvi) With reference to the Appellant's request regarding MSEDCL CPL from 1999 to 2007, it is not needed as MSEDCL had issued monthly bills to the consumers from 1999 to 2007.
- (xvii) The TPL replaced various meters under the Mass Meter Replacement Scheme in the year 2007. It was not possible to test all the replaced meters under this Scheme. Hence, it is impractical to provide the meter testing report as demanded by the Appellant in his prayer.
- (xviii) The Appellant has applied for a new service connection on the same premises but without clearing the arrears of the earlier existing connection. The Appellant applied for the new connection online. He paid the Processing Fee online, and the System mechanically generated a new service connection no. No.690032149.

  
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(xix) However, the Respondent TPL by its letter dated 30.04.2022 has intimated to the Appellant, as per the site visit of the Surveyor, that

1) *He needs to clear MSEDCL dues of Rs. 7,84,641.04 as on 30.03.2022 of the normal existing service no. 13012322741 found on the same office premises.*

2) *Complete physical separation is required based on Supply Code & SOP Regulations 2021.*

(xx) As per Regulation 6.2 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code & SOP of Distribution Licensees including Power Quality) Regulations, 2021,


***"If there are any outstanding dues against the premises for which the requisition of supply has been made, a new connection shall not be given until the time such dues are paid in accordance with the Regulation 12.5 of the code".***

The application for a new connection had already been canceled on 26.05.2022 because of pending MSEDCL dues amounting to Rs.8,16,624/- (including interest) as of date against Service No.13012322741. The same was intimated to the consumer vide letter no. TPL/HVCS-LT/2022-23/60, dated 30.04.2022.

(xxi) The Respondent has requested the Appellant to arrange for physical partition in the premises and **to clear the above mentioned MSEDCL dues**. Only then can he apply for a fresh connection in the premises, as per the prescribed format available at the Customer Care Center along with relevant documents and applicable charges.

(xxii) The Forum passed its order on 13.03.2023 in Case No. 220/2021-22, the details of which are referred to in Para 2. The Forum allowed the Respondent to recover the pending dues along with interest from the consumer, and granted ten equal monthly installments for payment of the pending dues.

(xxiii) Till this date, the Appellant has neither complied with the Forum's order nor paid the MSEDCL dues.

  
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- (xxiv) The Appellant approached the Hon'ble Ombudsman without any valid grounds. The Appellant has not submitted any material evidence on record before the Hon'ble Ombudsman to support his claim.
- (xxv) Till date, the supply of the Appellant is not disconnected; hence no loss is caused to the consumer at present. However, **new connections cannot be released in the same premises having live arrears of MSEDCL.**
- (xxvi) The Utility has complied with the regulations and has initiated action after observing all legal formalities.
- (xxvii) In view of the above, the Respondent prays that the representation of the Appellant be rejected.

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

- (i) The Appellant filed a grievance application before the Forum on 04.03.2022 for withdrawal of MSEDCL dues amounting to Rs. 8.16 lakhs. The Forum, by its order dated 13.03.2023 principally rejected the grievance of the Appellant. On the contrary, the Forum gave directions to the Respondent for disconnection of supply which is against Section 56(2) of the Electricity Act, 2003. The Section 56 (2) is reproduced as below:

*“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**”.*


It is against the right of consumer that the licensee should cut off the electric supply, when the issue of (fictitious) live arrears was pending since the year 2007.

  
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- (ii) The Appellant filed a review application on 27.03.2023 against the order of the Forum dated 13.03.2023. However, the Forum, by its order dated 09.08.2023 dismissed the review application. The Forum failed to understand the basic issue that MSEDCL outstanding dues are fictitious in nature.
- (iii) The TPL and MSEDCL did not send a single notice for disconnection of supply for MSEDCL live arrears under Section 56(1) of the Act from the year 2007. The alleged *recoverable amount* was *not* recovered by TPL. The Respondent has separately shown MSEDCL dues in the bills without showing due dates for the payments. Hence, the alleged arrears are time barred.
- (iv) The MSEDCL dues are continuously shown in the current monthly bills with interest since 2007. **Hence, it is a continuous cause of action.** There is no limitation for challenging such dues. The Regulation 7.8 and 7.9 of CGRF & EO Regulations 2021 are not applicable in the present case. The said regulations are equally applicable for both the parties. When the Respondent is claiming outstanding dues of the year 2007, the Appellant has equal right to withdraw the fictitious billing of that period due to defective meter.
- (v) **The MSEDCL actual accumulated arrears were Rs.2,45,638.45 (mostly principal amount) on 07/04/2007.** Now the MSEDCL arrears have become very huge due to high interest.
- (vi) The Appellant referred to Commercial Circular No. 65 of 2007 in support of his grievance. The relevant portion is reproduced below:  
*“MSEDCL including all the Licensees / Distribution Companies have to issue a General Public Notice for redressal of the grievances of all consumers who feel aggrieved by the supplementary / amendment / average bills issued by the respective distribution companies. The said grievance is to be registered / lodged by the aggrieved consumer within a period of three months from the date of publication of such Public Notice.”*

  
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The Respondent MSEDCL deliberately did not publicize this issue to the consumers in 2007. The Appellant is not able to clear such a huge amount at present.

(vii) The Appellant cited the following Supreme Court Order No. 2846 of 2006 in support of his case: -

*2. In response to the said notice, all the licensees/distribution companies in Maharashtra made their respective submissions before the Commission explaining under what circumstances the supplementary/amended bills were sent to the consumers. They tried to justify raising of such bills and stated that these bills were rightly sent as they found that some time the meters were not registering proper consumption and on that basis they tried to justify their action.*


*3. The Commission examined the matter in detail and vide its order dated 23.2.2005 in para 46 directed as under: -*

*" After considering all these facts and the submissions made, the Commission directs that the supplementary / amendment bills issued in the circumstances set out at para 42 and 43 above from 10<sup>th</sup> June, 2003 (the date of coming into force of EA, 2003) and up to notification of the Supply Code.*

*a. should be withdrawn, if due meter testing has not been done with the results intimated to the consumer.*

*b. any amounts collected should be refunded to the concerned consumers (without interest considering the earlier lack of clarity on this meter on the part of the licensees);*

*c. where meters have been found to be defective upon subsequent due testing (and the result intimated to the consumer), the bills may be adjusted for up to 3 months prior to the date of testing or meter replacement, whichever is earlier, and any amounts recovered in excess refunded without interest (in the case of*


  
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*'stopped' meters, the analogy of the Supply Code provisions should be applied for assessment);*

.....  
.....  
....."

18. Thus while we hold that the Commission has power to issue a general direction to licensees that they should abide by conditions of the license issued by them and charge only as per the tariff fixed under the Act so that the public at large should not be harassed, we are of the opinion that so far as the blanket direction given by the Commission for refunding the entire amount without making a proper investigation whether the issue of supplementary/amended bills was really warranted in every case or not is unsustainable. Here the Commission has gone beyond its jurisdiction. After all the distribution/ generating companies have to incur expenses for generation/distribution of power, and we cannot at the same time give license to the consumers to commit theft of electricity or to be benefited by improper functioning of the meter to the disadvantage of the distribution/generating company. Thus, keeping in view the equity of both the parties, we think it will be proper for us to direct that **all the licensees/distribution companies in the State of Maharashtra issue a general public notice** in two daily newspapers having wide circulation in the State, one English newspaper and one in vernacular language. **The notice shall state that whoever feels aggrieved by the supplementary/amended bill, he/she can approach the licensee/distribution company for redressal of their grievance within a period of three months from the date of publication of the notice.** In our view, that would meet the ends of justice instead of passing a blanket order as given by the Commission for refunding the money charged by the licensees/distribution companies by issuing supplementary/amended bills. The individual consumers may make a grievance before the licensee/distribution company that they have not consumed the electricity for which

  
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*they are charged or that the meter reading was not proper or that they have been excessively charged for the power which they have not actually consumed. Therefore, we direct that all the licensees/distribution companies shall issue a public notice in two daily newspapers having wide circulation in the State of Maharashtra, one in English language and the other in vernacular language requiring their respective consumers to make their representations for redressal of their grievances in respect of the supplementary/amended bills. The licensees/distribution companies shall decide the individual cases received by them after giving a fair opportunity of hearing to the consumers. The consumers who still feel not satisfied with the order passed by the licensees/distribution companies can approach the appropriate forum constituted under Section 42(5) of the Act and, if still not satisfied, with the order passed by the appropriate forum to approach the Ombudsman under Section 42(6) of the Act. Accordingly, we hold that while the Commission had a power to issue general directions to prevent harassment to the public at large by its licensees/distribution companies, but a blanket direction to refund the amounts collected by the licensees/distribution companies which has been given by the Commission was not warranted.*

The above instructions were given by the Hon'ble Supreme Court to the distribution licensees, but the licensee did not heed the same. After all these years, the Appellant is not able to clear such huge fictitious dues.

(viii) The Terms & Condition of the Franchisee Agreement between MSEDCL and TPL Distribution Franchisee for Bhiwandi in the year 2007 stipulate that:

*b) Notice would be sent to the consumer with arrears.*

*c) If the customer has not heeded the notice or paid his dues he would then be called by the Committee for settlement of his case.*

  
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*d) If he does not appear before the committee then the committee shall take ex-parte Decision as per merit of the case.*

As per the above Agreement, it was the responsibility of the utility to set up a committee to solve the grievances of the consumers regarding excess billing, etc., and to send notices to consumers, but the Appellant did not receive a single notice of disconnection till date.

- (ix) The Appellant applied for a new connection on 25.04.2022 in the name of Mohd. Saleem Mohd. Zaman Momin for Power-Loom purpose in the premises of the Appellant. There are two connections / services at present (service no. 690032149 & 013014911400). However, TPL Customer Care Center orally informed that the new connection applied for cannot be granted in the same premises, as the Appellant has not paid MSEDCL live dues. Regulation 7.8 should be applicable for both the parties equally. Hence, the fictitious dues are also time barred if the grievance is considered to be time barred.
- (x) The TPL was at fault for allowing a huge sum to accumulate, and no proper procedure was followed for recovery.
- (xi) The Appellant pointed out that selective orders were passed by the Forum in a similar Case No. 24/2022-23 in Case of Mr. Merajuddin Jamaddin Ansari in favour of the Consumer. In the present grievance, the same type of grievance was raised by the Appellant which was rejected. This is a contradiction, and the decisions of the Forum are expected to be seriously reviewed on this ground.
- (xii) The Appellant is a Senior Citizen, 81 years old, and not fit enough to attend the hearing in the Forum. Therefore, at the time of the hearing, the consumer's legal heir Mr. Kareem Momin attended the hearing with the representative, but the secretary of the Forum denied permission for the same.
- (xiii) The TPL has given a reply on 30/05/2012 under RTI as under: -


*“At the time of takeover, the metering of the consumers was in a state of despair. Majority of the meters were defective, stopped, missing damaged or not traceable on the site. There were no route maps available. In the absence of proper metering,*

  
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*rout map, the billing to powerloom services was done the basis of 150 units per HP for years together based on Hon MERC order in case no 36 of 2002 dated 21<sup>st</sup> February 2003 irrespective of consumer's actual usage. As a result, in the first billing cycle of TPL of Feb 2007, out of total 43279 powerlooms billed, 28757 services (66%) were billed on assessed basis and only 14522 (34%) were billed on meter reading basis."*

- (xiv) The above reply under RTI indicates that the MSEDCL arrears amount is fictitious in nature.
- (xv) The Appellant has registered an application on 12.06.2023 in MSEDCL for getting the consumer personal ledger from 1999 to 2007. The Appellant also registered an application in the MSEDCL and TPL for the meter testing report of the MSEDCL, Meter revamping slip of Mechanical Static Meter, but they have not provided the same till date. The said documents are the crux of the matter which would prove that the status of the mechanical static meter was faulty or defective.
- (xvi) In view of the above, the Appellant prays that
1. the Respondent be directed not to disconnect the power supply till the time of disposal of the petition.
  2. the Appellant be allowed to pay the principal accumulated amount of MSEDCL dues, preferably in installments.
  3. the Respondent be directed to provide MSEDCL CPL for the period of 1999 to 2007 and test report of MSEDCL Mechanical Static Meter which was replaced by TPL.
  4. Do not consider Regulation 7.8 & 7.9 of CGRF & EO Regulations 2020 regarding limitation of 2 years before the Forum.
  5. Direct the utilities as per the procedure of the law utility wants to approach the civil court for the recovery of MSEDCL arrears. (Note: This seems to be a contradiction with the prayer no. 2)

  
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6. Direct the utility for release of the electricity connection having service no. 690032149.


### Analysis and Ruling

6. Heard the parties and perused the documents on record. The Appellant is a powerloom consumer (Service No. 13012322741) having sanctioned load of 48 HP at present at H. No-1905 S. No-93, Krishna Compound, Near Shafik Hotel, Nagaon-I, Bhiwandi 421302 for running a power loom. The Appellant was/is billed every month as per actual reading of the meter.

7. The Appellant was the consumer of the erstwhile MSEB (now MSEDCL) up to 2007 and was billed as per the meter installed by MSEDCL. The Electricity Distribution Network Assets and Billing of Bhiwandi area was handed over to Torrent Power Limited as a Franchisee of MSEDCL for a period of 10 years from 26.01.2007, and the franchisee was further extended for 10 years up to 2027.

8. The TPL replaced various meters under its “Mass Meter Replacement Scheme”. According to TPL, it was not possible to test all the thousands of replaced meters under Mass Meter Replacement drive, nor was it necessary to do so. The accuracy of the meter was never challenged in all these years when the current bills were being paid by the Appellant. The TPL is billing as per actual reading of the new meter installed by TPL. The initial outstanding dues of Rs.2,45,638.45 as shown on 07.04.2007 have now reached Rs. 8,21,039/- as on Oct. 2023, as tabulated below:

Service No.	Name	Address	Category	Status	MSEDCL Dues		
					Total	Principal	Interest
13012322741	Mohd. Zaman Sohrab Ali	H.No.1905 S.No.93, Krishna Compd., Nr. Shafik Hotel, Nagaon-I, Bhiwandi	Powerloom	Live	8,21,038.8	1,76,113/-	6,44,925.4

  
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9. Admittedly, these dues are being continuously shown in the monthly bills right from 2007. The Appellant pays only the current bills but neglects to pay the accumulated outstanding dues of MSEB / MSEDCL right from the year 2007 on the alleged grounds that these dues are time-barred, as well as fictitious.

10. The following issues are framed to address the points raised: -

Issue No. 1: Is the recovery of dues time-barred?

It is necessary to study the provision of the Section 56(2) of the Act which is reproduced below:-


*Section 56 (2) of the Electricity Act, 2003*

*“(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 arrears 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 Hon'ble Bombay High Court in W.P. No.10764 of 2011 with other Writ Petitions has interpreted Section 56 (2) of the Act. Electricity supply was continuously used by the Appellant during the MSEB period. A meter was provided for recording the consumption. The bills were raised by the then MSEB on a month-to-month basis. These bills included two parts: -

- A) Current monthly bill
- B) Previous accumulated arrears

The Appellant did not pay the accumulated bills of arrears within time, which resulted in accumulation of outstanding dues of the consumer. TPL then took over the area under a Franchisee agreement. The TPL has also continuously shown these


  
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outstanding dues on each monthly bill. Since the Appellant failed to pay MSEDCL dues, interest was applicable to these live arrears which resulted in progressively increasing accumulated outstanding dues, which are being continuously shown in the monthly bills. We hold that TPL has the legal right to recover this amount. Hence, Issue No. 1 is answered in the Negative.

Issue No. 2: When did the cause of action arise?

The Appellant argues [in para 5 (iii) and (iv)] that the cause of action is continuous from 2007 till the grievance was raised, hence there is no limitation. Records show that TPL took over all the distribution network records of this area in the year 2007 as a franchise of MSEDCL. These records included the records of the Appellant showing accumulated arrears along with the current monthly bills. The Appellant has not disputed the fact that TPL continued to issue the monthly bills along with the previous accumulated arrears right from 2007 onwards. Thus, the Appellant was fully aware of the arrears which he did not dispute at that point of time. MSEDCL has clarified that system-generated disconnection notices were automatically issued from time to time; however, it is not possible to produce the old records today. MSEDCL has also clarified that based on the Hon'ble Supreme Court's directives, public notices were also issued for consumers with grievances to come forward. **The Nodal Officer, Bhiwandi was also issuing individual notices to consumers having MSEDCL arrears from 2007. Now it is very difficult to trace the notice to a particular consumer. There was a mechanism available for bill correction at the Nodal Office since 2007. The consumer could have approached the office, and the bill would have been rectified, if necessary, at that time itself. The MSEDCL dues were continuously shown on monthly bills issued by TPL, but the consumer never raised any grievances regarding the MSEDCL arrears at that time.** We, thus, hold that the cause of action arose around 2007.

  
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11. One of the prayers of the Appellant is that he should be provided the CPL of MSEDCL prior to 2007. The record shows that the TPL has already provided the CPL from 2007 onwards. This CPL clearly shows the accumulated arrears of the previous unpaid bills in each monthly bill. Since these accumulated arrears remained unpaid, interest continue to accumulate, and reached the point where the current arrears are Rs. 8,21,038.81 which still remain unpaid.


There is no need to go into the CPL prior to 2007, as it will not change the fact that there are outstanding arrears at least from 2007 onwards, which was not challenged by the Appellant at that point of time.

12. The Commission had introduced a Consumer Grievance Redressal Mechanism in the year 2003 itself.

At that time, the Appellant had an opportunity to approach the internal redressal system of the Respondent with its grievance within a period of two months. **If no remedy had been provided within this period, the Consumer could have submitted the Grievance to the Forum within twelve months from the date of the original intimation to the Distribution Licensee, as per Consumer Grievance Redressal Forum and Ombudsman Regulations, 2003.** The said Regulation 6.2 /6.3 is reproduced below: -

*“6.2 Any Consumer with a Grievance shall intimate the Distribution Licensee of such Grievance in the form and manner and within the time frame specified by the Distribution Licensee in its rules and procedures for redressal of Grievances.*

*6.3 Unless a shorter period is provided in the Act, in the event that a Consumer is not satisfied with the remedy provided by the internal redressal system of the Distribution Licensee to his Grievance within a period of two (2) months from the date of intimation or where no remedy has been provided within such period, the Consumer may submit the Grievance to the Forum. Provided that the consumer shall submit his Grievance to the Forum no later than twelve (12) months from the date of original intimation to the Distribution Licensee.”*

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



The Commission has amended these Regulations and issued new revised Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 on 20.04.2006. The relevant portion is reproduced below:-

***“6. Procedure for Grievance Redressal***


*6.1 The Distribution Licensee shall have an Internal Grievance Redressal Cell to record and redress Grievances in a timely manner. The IGR Cell of the Distribution Licensee shall have office(s) in each revenue district in the area of supply.*

*Provided that where the area of supply is the city of Greater Mumbai and adjoining areas, the IGR Cell of the Distribution Licensee shall have at least one (1) office for the area of supply. The Distribution Licensee shall endeavour to redress Grievances through its IGR Cell.*

*6.6 The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.”*

It is not understood why the Appellant did not knock at the door of the Forum at the relevant point of time, if there was any issue of billing. The cause of action first arose in 2007 when the monthly bills issued by TPL showed previous accumulated arrears. The Appellant was fully aware of these arrears, yet chose to neglect them, neither did he challenge them before the Forum. The limiting date for the Forum to have admitted the case of the Appellant would have been two years from the cause of action. However, the Appellant approached the Forum only on 04.03.2022 for withdrawal of MSEDCL dues, which is a delay much beyond the limitation period.

Even the Judgments dated 10<sup>th</sup> July 2013 and 21.08.2018 of the Bombay High Court, Nagpur Bench in W.P. No. 1650 of 2012, and Bombay High Court, Bench at Aurangabad in W.P. No. 6859, 6860, 6861 and 6862 of 2017 respectively have explicitly upheld the provision under Regulation 6.6 of the CGRF & EO Regulations 2006 (at present Regulation 7.8 of CGRF & EO Regulations 2020). In view of these Judgments, Regulation 6.6/7.8 remains valid and untouched. In a recent judgment, the Hon’ble Supreme Court in Civil Appeal No. 2960 of 2019 dated 13.03.2019 laid down that the plaint can be rejected if the suit is clearly barred by limitation.

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



Therefore, this provision of Regulation 6.6 / 7.8 is a settled position in law. I, therefore, do not find it necessary to delve into the other citations referred by the Appellant, because if Regulation 6.6 is ignored, then the entire pyramid of the grievance redressal mechanism will collapse, and the field will be open to all to contest the claim irrespective of the period elapsed from the cause of action. The provision of Regulation 6.6 will be frustrated and there will be complete chaos.

It is a settled position in law that if the matter is decided on limitation, there is no need to go into the merits of the case, that too regarding outstanding dues of 2007. In view of the above discussions, it is clear that the case of the Appellant in the instant representation is time barred. The Forum has rightly decided the case in light of the Regulation 6.6 of the CGRF Regulations 2006.


Issue No. 3: Whether the bills raised (prior to 2007) are fictitious in nature?

Since the matter is time barred, I do not find it necessary to delve into the merits of the case and need not go into this issue at this stage.

13. In view of the findings above, there is no need to interfere with the order of the Forum, and the Representation is therefore rejected and disposed of accordingly.

14. At the same time, we note the inaction on the part of TPL and as well as the Nodal Officer of MSEDCL for not pro-actively recovering the accumulated arrears, right from 2007 onwards. No doubt, these arrears are kept 'live' by including them in the monthly bills; however, no further action was taken to recover these dues or to follow up on the disconnection notices, with the result that the consumer also happily disregarded these arrears, probably on the assumption that no action would be taken for disconnection, and that these arrears would remain on paper.

15. In this regard, we would like to record our suggestions as follows. It is seen that accumulated arrears of MSEDCL are kept unpaid for years especially in Bhiwandi power looms area. Some of

  
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Secretary  
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these arrears date back to 2007 as in the present case. Even if the recovery of such arrears is legally valid, it may be practically impossible to recover these dues, unless an amnesty scheme similar to Vilasrao Deshmukh Scheme is introduced, giving some relief with an opportunity of a one – time clearance of dues, by partially / fully waiving of interest / penalty. The Respondent MSEDCL is advised to study the feasibility and desirability of designing such an amnesty scheme.

16. The instant Representation is rejected by imposing a cost of Rs.2000/- on the Appellant with a warning to avoid filing such time barred cases under the pretext of waiver of the outstanding dues despite being continuously shown in the energy bills.

17. The Secretariat of this office is directed to refund the balance amount of Rs.23000/- [Rs. 25000/- taken as deposit, and deducting Rs. 2000/- as cost imposed] to the Respondent for adjustment in the Appellant's ensuing bill.

18. The instant Representation is disposed of accordingly.

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

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

