

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

## REPRESENTATION NO. 84 OF 2023

In the matter of recovery of long-standing outstanding dues of PD Consumer.

Hubert Lewis.....Appellant

V/s

Maharashtra State Electricity Distribution Co. Ltd., Thane 1 (MSEDCL).... Respondent

Appearances: -

Appellant : Paresh Lewis

Respondent: 1. Chandramani Meshram, Executive Engineer, Thane 1 Dn.  
2. Abheshree Tawade, Asst. Accountant


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

Date of hearing: 6<sup>th</sup> October 2023

Date of Order : 10<sup>th</sup> October 2023

## ORDER

This Representation was filed on 17<sup>th</sup> August 2023 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 25<sup>th</sup> July 2023 passed by the Consumer Grievance Redressal Forum, MSEDCL Bhandup Zone (the Forum). The Forum dismissed the grievance application of the Appellant by observing that


  
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*“.....as per the record, the live consumer number 000028005857 and the P.D. consumer number 000020197617, both are in the name of Hubert Lewis at the same address. It is not the case of Applicant that, both the consumer numbers of different persons who are not connected to each other. Therefore, as per the guidelines mentioned by M.S.E.D.C.L. circular no. P- Com / Accts /19021 dated 06.07.2013, the Applicant is liable to clear dues of PD connection....”*

2. Aggrieved by the order of the Forum, the Appellant filed this representation. The e-hearing was held on 06.10.2023 through video conference. Both the parties were heard at length. The Appellant's written submissions and arguments are as below:

- (i) The Appellant (Hubert Lewis) was a consumer having Consumer No.000020197617 from 01.01.1987 at Louiswadi, Express Highway, Thane for residential purpose. The supply of the Appellant was permanently disconnected in the year 2006 as the said premises were demolished for redevelopment. The late Hubert Lewis expired on 28.10.2022 due to illness. Hence, the grievance was filed by his son, Paresh Lewis.
- (ii) The Appellant was running a small-scale business from his home. The residential premises was in deteriorated condition. Hence the Appellant had constructed a small separate structure in its open space and had taken a separate Commercial Connection (Consumer No.000028005857) at the same address, i.e., at Louiswadi, Express Highway, Thane for 0.5 KW. The said commercial connection was released on 20.05.2006.
- (iii) The Appellant received an excessive bill of Rs. 12210/- for his residential connection (Consumer No.000020197617) in Jan 2006. The Appellant approached the Respondent for bill revision, and the then billing authority of the Respondent (Divisional Accountant, MSEDCL Urban Division Thane) revised the said bill for Rs. 200/- on 14.02.2006. The Appellant paid this bill on 14.02.2006, and thereafter the Appellant requested for disconnection of power supply. The supply of the Appellant was

  
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subsequently disconnected in July 2006. However, this revision of the excessive bill to Rs.200/- was not reflected in the computerized billing record of the Respondent.

- (iv) The Respondent inspected the premises of the Appellant (PD Consumer No. No.000020197617) on 16.02.2022 during an inspection drive. During the inspection, the Respondent claimed the outstanding dues of the previous consumer. The Appellant showed the bill revision file of the old residential consumer (no. 000020197617) to the checking squad of the Respondent.
- (v) The Appellant received a huge bill of Rs. 50440/- including interest from 2006 for his commercial connection (No. 000028005857 in April 2022 showing debit bill adjustment of Rs. 49,670/- towards PD arrears. Since April 2022, the Applicant is paying the electricity bill with principal amount and interest every month.
- (vi) The Appellant was earlier receiving bills in the range of Rs. 600/- to Rs. 700/- per month. But now-a-days, they are getting bills in the range of Rs. 50,000/- to Rs. 51,000/-. The Appellant submitted that his father (Hubert Lewis) was following up on this issue, but due to his death, the Occupier (Paresh Lewis) is trying to settle these Arrears.
- (vii) Due to no response from the Respondent, the Appellant filed his grievance in the Forum on 03.03.2023. The Forum by its order dated 25<sup>th</sup> July 2023 dismissed the grievance application. The Forum failed to understand the basic issue that the Respondent has illegally transferred the outstanding dues of the residential connection (No. 000020197617) whose revised bill of Rs.200/- was already paid by the Appellant.
- (viii) The Appellant is ready to settle the case amicably in the interest of justice.
- (ix) In view of the above, the Appellant prays that the Respondent be directed to waive of Rs.49,670/- of the previous consumer (No. 000020197617), and the interest paid by him be refunded.

3. The Respondent filed its reply by email dated 12.09.2023. Its submissions and arguments are stated as below:

- (i) The Appellant (Hubert Lewis) was a residential consumer of MSEDCL (erstwhile MSEB) having consumer No.000020197617 from 01.01.1987 to July 2006 at

  
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Louiswadi, Express Highway, Thane. The Appellant did not pay outstanding dues of Rs. 15140/-. The claim of the Appellant that the dues were settled by payment of Rs.200/- in 2006 is not reflected in the CPL records. The original file is not traceable. The supply of the Appellant was permanently disconnected in July 2006 as per Consumer Personal Ledger (CPL). The PD bill of this consumer is kept on record.

- (ii) There was a special drive for checking of Temporary/ Permanently Disconnected Consumers on site as per direction of Corporate Office of the Respondent as per Guidelines given by MSEDCL for recovery of PD arrears vide number P.Com/Accts/ No 19021 dated 06.07.2013 which states that:

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

- (iii) The Respondent inspected the premises of the Appellant (PD Consumer No. No.000020197617) on 16.02.2022. During the inspection, it was observed that the Appellant has taken another commercial connection having the same name and same address. The Details of the live and PD connections are tabulated below:

Table 1


  
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Name of Consumer	Consumer No.	Address	Purpose	Sanctioned Load (KW)	Date of Connection		Date of Inspection	Remarks
Hubert Lewis	000020197617	Louiswadi, Express Highway, Thane	Residential	0.5	01.01.1987	PD Arrears Rs.12,950/- + Interest Rs. 36,720/- = Total Rs. 49,670/-	16.02.2022	PD consumer from July 2006
Hubert Lewis	000028005857	Louiswadi, Express Highway, Thane	Commercial	0.5	20.05.2006	nil		Live Consumer on which PD arrears of Rs. 49,670/- were transferred in April 2022

- (iv) Hence, the PD arrears of Rs. 49,670/- (Principal Amount: Rs. 12,950/- and Interest: Rs. 36,720/-) of the above-mentioned PD connection was transferred (by debit B-80 adjustment after approval from Head office) on to the live Consumer No.000028005857.
- (v) Thereafter, the consumer submitted an application on 29.04.2022 to Gadkari subdivision office of MSEDCL and stated that the PD arrears settled amount of Rs.200/- had already been paid in the year 2006 after revision of the bill, and declined to pay the PD arrears transferred on to the live consumer.
- (vi) **All office records related to this matter were searched and verified. It is found that there is signature of Divisional Accountant dated 14.02.2006 and it is written on the bill to pay only Rs. 200/- by revision of arrears of Rs. 12,210/-, which is seen on the energy bill of Jan. 2006. However, this correction/ revision of the bill was not reflected in the Online system, offline records or in the CPL etc. A payment of Rs. 200/- was made on 18.02.2006. However, this payment was made on account, and it is not mentioned anywhere on the account slip that this was a revision. The Respondent put the abstract of CPL for better understand as below:**

Table 2

  
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Month	Initial Reading (KWH)	Final Reading	Cons. (Units)	Billing Status	Remarks	Net Bill Amount (Rs.)	Bill Payment (Rs.)	Date of payment
Feb-05	807	830	23	Normal		82.06	80	03.01.2005
Apr-05	830	855	25	Normal		170.01		
Jun-05	855	3144	2289	Normal		9883.87	170	06.05.2005
Aug-05	3144	3405	261	Normal	Cons. for 2 months (Avg. billing refunded of Rs. [ (-)11021.12]	969.2	90	12.07.2005
Nov-05	900	900	36	Inaccessible*		990.17	140	20.09.2005
Dec-05	900	3851	2951	Normal	cons for 4 months	12735.34		
Jan-06	3851	3937	86			12206.38	150	03.01.2006
Feb-06	3937	3937	0		(-) 843.26 Bill Revision	12334.44	200	14.02.2006
Mar-06	3937	3937	607	Inaccessible*		14869.99		
Apr-06	3937	3937	607	Inaccessible*		17945.36		
May-06	3937	3937	607	Inaccessible*		20937.13		
Jun-06	3937	4506	569	Normal	cons. for 4 months (Avg. billing refunded of Rs. (-)8337.83)	15139.50		
Jul-06				PD		Arrears Rs. 14539.08 +Interest Rs. 600.42	<b>Total 750</b>	
Note	<p>This clearly indicates that PD arrears are correct, as consumption of 3699 units ( Final Reading 4506 in Jul-2006 - Initial Reading of 807 on Feb. 2005) was done for the period from Feb. 2005 to July 2006. However, the Appellant paid only Rs. 750/- during this period.</p> <p>*Billing seems to be done on average basis.</p>							


Considering the above consumption and billing from Feb.2005 to July 2006, this alleged bill revision of Rs. 200/- has no meaning at all.

- (vii) Hence, the final bill of Rs. 12,950/- after adjustment of security deposit is in order.  
Hence the Final PD Bill served to the consumer is as below:

Table 3

Description	Amount ( Rs.)
Total Principal PD Arrears	12950
Accrued Interest as per Tariff Order of The Commission	36720
<b>Total PD Arrears with Interest payable</b>	<b>49670</b>

These PD Arrears are transferred on the live consumer having same ownership.

  
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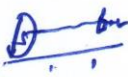
- (viii) The Appellant filed his grievance with the Forum on 03.03.2023. The Forum by its order dated 25<sup>th</sup> July 2023 rightly dismissed the grievance application having no merit.
- (ix) The billing grievance is time barred as per Regulation 7.8 of CGRF & EO Regulations 2021, as the cause of action happened in 2006 which is beyond two years from the year 2023. [Note: This argument is not acceptable. The cause of action arose in April 2022 when a bill of Rs. 50,440/- was issued.]
- (x) The PD Arrears are fully recoverable as per Regulations of the Commission and the latest Judgment of Hon'ble Supreme Court dated 19.05.2023.
- (xi) In view of the above, the Respondent prays to dismiss the representation of the Appellant.

### **Analysis and Ruling**

4. Heard the parties and perused the documents on record. The Appellant was a residential consumer (No.000020197617) from 01.01.1987 to July 2006 at Louiswadi, Express Highway, Thane. The Appellant did not pay outstanding dues of Rs. 15,140/- which accumulated from February 2005 to June 2006, and hence his supply was permanently disconnected in July 2006.

5. The Respondent contended that there was a special drive for checking of Temporary/ Permanently Disconnected Consumers on site. The Respondent inspected the premises of the Appellant (PD Consumer No. No.000020197617) on 16.02.2022, when it was observed that the Appellant has taken another commercial connection having the same name and same address. The details of the live and PD consumer are already tabulated in Table 1 of Para 4. The Respondent transferred these outstanding dues of Rs. 49,670/- on to the live commercial connection (No. 000028005857) in April 2022.

6. The Appellant has contended that a settlement had taken place by revising the bill of arrears from Rs.12210/- to Rs.200/- by the Divisional Accountant of the Respondent. We

  
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have examined this claim in detail from the bill of January 2006 paid in February 2006. A copy of this bill only shows that an amount of Rs. 200/- was paid “on account” by the consumer against the outstanding amount of Rs. 12206/-. However, nowhere it is mentioned that this was a final settlement of the entire bill. Further, this payment was made on 14.02.2006, whereas the connection was made PD in the month of July 2006. Therefore, it is not possible for the settlement (by payment of Rs.200/-) to have taken place even before the connection was made PD. Further consumption occurred after February 2006 i.e. up to June 2006.

7. Considering the various submissions of the parties, the following issues are framed for determination of the case.


**Issue 1:** Whether the MSEDCL is within its legal right to recover outstanding dues of a permanently disconnected consumer no. 000020197617 after 16 years?

The answer is in the AFFIRMATIVE.

The Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 came in force from 25.02.2021. The regulations relating to old outstanding dues of permanent connection (PD cases) is reproduced below:

*“12. Change of Name*

*12.5: Any charge for electricity ..... which remains unpaid by a deceased Consumer or the erstwhile owner / occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives / successors-in-law or transferred to the new owner / occupier of the premises, as the case may be, and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner / occupier of the premises, as the case may be”*

  
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16. Billing .....

16.9.2. No sum due from any Consumer shall be recoverable after the period of Two (2) 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 as per Section 56 (2) of the Act **except for permanently disconnected Consumer.** .....  
..... **(Emphasis added)**

16.9.3. In case of premises which are permanently disconnected or demolished for reconstruction, the liability of the arrears, if any, shall be passed on to the owners / occupiers.

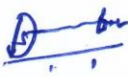
It is clear from the above provision that the Respondent is entitled to recover arrears even beyond 2 years, in the case of a PD consumer. The electricity dues, where they are statutory in character under the Electricity Act, 2003 and as per the terms and conditions of supply, cannot be waived of in view of the provisions of the Act itself, more specifically Section 56 of the Electricity Act, 2003.

Hon'ble Supreme Court by its Judgment dated 19<sup>th</sup> May 2023 in Civil Appeal No 2109- 2110 of 2004 in Case of K C Ninan V/s Kerala State Electricity Board & Ors., has concluded regarding the recovery of PD arrears as below:

*"I. Conclusions*

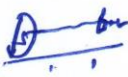
328. *The conclusions are summarised below:*

- a. *The duty to supply electricity under Section 43 of the 2003 Act is not absolute, and is subject to the such charges and compliances stipulated by the Electric Utilities as part of the application for supply of electricity;*
- b. *The duty to supply electricity under Section 43 is with respect to the owner or occupier of the premises. The 2003 Act contemplates a synergy between the consumer and premises. Under Section 43, when electricity is supplied, the owner*

  
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- or occupier becomes a consumer only with respect to those particular premises for which electricity is sought and provided by the Electric Utilities;*
- c. For an application to be considered as a 'reconnection', the applicant has to seek supply of electricity with respect to the same premises for which electricity was already provided. Even if the consumer is the same, but the premises are different, it will be considered as a fresh connection and not a reconnection;*
  - d. A condition of supply enacted under Section 49 of the 1948 Act requiring the new owner of the premises to clear the electricity arrears of the previous owner as a precondition to availing electricity supply will have a statutory character;*
  - e. The scope of the regulatory powers of the State Commission under Section 50 of the 2003 Act is wide enough to stipulate conditions for recovery of electricity arrears of previous owners from new or subsequent owners;*
  - f. The Electricity Supply Code providing for recoupment of electricity dues of a previous consumer from a new owner have a reasonable nexus with the objects of the 2003 Act;*
  - g. The rule making power contained under Section 181 read with Section 50 of the 2003 Act is wide enough to enable the regulatory commission to provide for a statutory charge in the absence of a provision in the plenary statute providing for creation of such a charge;*
  - h. The power to initiate recovery proceedings by filing a suit against the defaulting consumer is independent of the power to disconnect electrical supply as a means of recovery under Section 56 of the 2003 Act;*
  - i. The implication of the expression "as is where is" basis is that every intending bidder is put on notice that the seller does not undertake responsibility in respect of the property offered for sale with regard to any liability for the payment of dues, like service charges, electricity dues for power connection, and taxes of the local authorities; and*
  - j. In the exercise of the jurisdiction under Article 142 of the Constitution, the Electric Utilities have been directed in the facts of cases before us to waive the outstanding*

  
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*interest accrued on the principal dues from the date of application for supply of electricity by the auction purchasers.*

*329. Pending applications, if any, shall stand disposed.”*

Considering all these aspects, Issue 1 is answered in the AFFIRMATIVE.

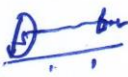
**Issue 2:** Whether the Appellant Cons. No. 000028005857 (which is live) is liable to pay the arrears of PD Consumer No. 000020197617 having the same name and same address?

The Issue 2 is answered in the AFFIRMATIVE.

8. The Regulation 12.5 of the Supply Code & SOP Regulations 2021 has already been examined in para 7 above. As tabulated in Table 2 of Para 4, the Appellant consumer is liable to pay the outstanding dues and the Respondent has rightly transferred these outstanding dues on to the live consumer.

9. The Appellant filed his Grievance on 03.03.2023 before the Forum which was dismissed by its order dated 25.07.2023, considered as time barred as per Regulation 6.6 of CGRF & EO Regulations 2006. It was wrongly noted by the Forum that the cause of action arose in the year 2006, and that the period of two years for raising the grievance before the Forum expired in 2008. Actually, the grievance seems to have arisen when the outstanding bill of Rs.49,670/- or so was issued in April 2022. Hence it could not be considered as time barred.

10. Another anomaly is noted, which indicates inexplicable incompetence on the part of the Respondent. A new commercial connection (Cons. No. 000028005857) was released by the Respondent on 20.05.2006 on the same address and same name without recovering outstanding dues of the permanently disconnected residential consumer (no. 000020197617). From 2006 to 2022, no effort was made to recover the PD arrears, while interest kept

  
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accumulating. Further, there is no explanation as to how the Divisional Accountant of the Respondent settled the dues by reducing them to Rs.200/-, without reflecting this in the CPL. We express displeasure for this type of handling of this issue. The Respondent is advised to take care to avoid such instances in future.

Considering the gravity of the grievance, we find it necessary to waive of the total interest of Rs. 36,720/- from the final PD arrears bill of Rs. 49,670/-, and we hold that the Appellant has to pay only a net amount of Rs. 12,950/- of principal arrears.


11. In view of the above, I hereby pass the following order.

- a) The Respondent is directed to issue a revised PD Bill of residential consumer No. 000020197617 for Rs.12,950/-by waiving of interest of Rs.36,720/- out of the total billing of Rs. 49,670/-. The interest and DPC levied on the commercial consumer No. 000028005857 be waived of totally till the date of this order.
- b) The Appellant is directed to pay the revised bill of Rs. 12,950/- immediately.
- c) Compliance to be submitted within two months from the date of issue of this order.
- d) Other prayers of the Appellant are rejected.

12. The representation of the Appellant is disposed of accordingly.

13. The Appellant has paid Rs. 25000/- towards deposit. The secretariat of this office is directed to refund the amount of Rs.25000/- to the Respondent to adjust in the live commercial Connection No. 000028005857 of the Appellant.

Sd/  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

