

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 1 OF 2022

Direction of Hon'ble High Court, Bombay in W.P. No. 3652 of 2019

In the matter of outstanding dues of electricity bills.

Shuddhodhan (SRA) Co-operative Housing Society (Proposed) & Anr..... Appellant

V/s.

Adani Electricity Mumbai Ltd. (AEML) & Ors. Respondent

Appearances:

Appellant : Mahendra G. Wavale, Representative

Respondent: 1. Mritunjay Kumar Jha, Dy. General Manager & Nodal Officer
2. Jayesh Kulkarni, AVP
3. Jaypal Vadgave, AVP
4. Sameer Doshi, AVP


Coram: Deepak Lad

Date of hearing: 14th February 2022

Date of Order : 4th March 2022

ORDER

This Representation is filed on 5th January 2022 as per the Order dated 25th November 2021 passed by the Hon'ble High Court, Bombay in Writ Petition (W.P.) No. 3652 of 2019 along with Interim Application (L) No. 18674 of 2021.


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2. The Hon'ble High Court, Bombay observed that the above W.P. involves several disputed questions of fact. In view thereof, the Petitioner Society (Appellant Society) can be referred to the Ombudsman appointed by the State Commission. The Hon'ble High Court, Bombay passed the following order on 25.11.2021 which is reproduced as below: -


- “i. The Ombudsman shall treat the above Writ Petition as a complaint filed by the Petitioner Society and after hearing all concerned dispose off the same by a speaking Order, within a period of six weeks from the date of this Order.*
- ii. The Order dated 12th October, 2021 shall continue for a period of six weeks and if the Order of Ombudsman is against the Petitioner Society the same shall continue for a further period of one week thereafter to enable the Petitioner Society to move before the appropriate forum seeking appropriate reliefs.*
- iii. This Order will not preclude the Respondent No. 2 from taking action as per law including disconnecting the electricity supply in case of breach of the Order dated 12th October, 2021.*
- iv. The above Writ Petition as well as Interim Application are accordingly disposed off.”*

3. As directed by the Hon'ble High Court, Bombay, the Appellant Society has filed the present Representation on 05.01.2022 stating as under: -

- (i) The Appellant Society is a proposed Cooperative Housing Society at Shuddhodhan /Samata Nagar, Siddharth Colony, Chawl No. 1 behind, Eastern Express Highway, Survey No. 14, CTS No 471(Part), Village Chembur, Mumbai 400071. This Representation is signed by the Committee Members of the Appellant Society which is tabulated below: -


| Sr.No. | Name of Committee Member | Designation |
|--------|--------------------------|----------------|
| 1 | Sneha M. Jadhav | Chief Promoter |
| 2 | Shobha R. Kamble | Promoter |
| 3 | Renuka Sonawane | Promoter |
| 4 | Pradip K. Katare | Promoter |
| 5 | Smt. Vinita Kondvilkar | Promoter |
| 6 | Smt. Amina Jalil Shaikh | Promoter |

- (ii) The Appellant Society consists of 313 Members. The Appellant Society and its Managing Committee is approved by Joint Registrar Slum Rehabilitation Authority (SRA) and hence, it has a Legal Right, to act on behalf of 313 Members.


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- (iii) The Appellant Society request to consider its Complaint / Petition and do the needful as per the directions of the Hon'ble High Court, Bombay in its order dated 25.11.2021 in W.P. No. 3652 of 2019 with Interim Application (L) No. 18673 of 2021 and Interim Application (L) No. 18674 of 2021.
- (iv) The Members of the Society are slumdweller besides poor persons, and almost more than 95% Members are belonging to scheduled caste and are staying in hutments, unfit for human habitation. Out of 313 members of the Appellant Society, 125 members have electricity connections in their names, and the remaining 188 (313-125) members do not have any electricity connections in their names.
- (v) The electricity is an essential service, and the electricity is required for the purpose of decent living and for the education of their children. Therefore, the Appellant Society would suffer great inconvenience, hardship and is required to be continued and the Respondent be directed not to initiate any action of disconnection of electricity supply.
- (vi) Siddharth Colony Vikas Seva Sangh (Proposed) is an organisation of the residents of the Siddharth Colony area. The Appellant Society is/was a part and parcel of the Siddharth Colony. Adishakti Developers and its Associate, Ruparel Buildcon was Developer for the Siddharth Colony Vikas Seva Sangh (Proposed) Slum Area. There was an arrangement between the said Adishakti Developers and the erstwhile Reliance Infrastructure Pvt. Ltd. (R-Infra) which is taken over by the Respondent, AEML. The Sangh clearly specified in its letter dated 08.06.2018 that Adishakti Developers and its Associate, Ruparel Buildcon has paid Rs.10.50 Crores to the erstwhile R-Infra. This payment of Rs.10.50 Crores is out of settlement reached between the Developer and the Respondent. The same was required to be adjusted against the so called outstanding dues of the Members of the Appellant Society for the period July 2008 to July 2016.
- (vii) Since no electricity bills were raised/ issued by the Respondent to these 125 Members of the Society for the period from July 2008 to July 2016, the Respondent cannot claim any amount of electricity bills from these 125 Members. The



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Appellant Society states that the Respondent has not submitted any documentary evidence to show that the electricity bills for the period July 2008 to July 2016 have been served to the 125 Consumers who are Members of the Appellant Society.

- (viii) The Appellant Society submits that the legal provisions as contemplated under the Electricity Act, 2003 (the Act) is required to be considered and forms a part of this Representation. Without prejudice to the facts, the application filed by the Appellant Society is required to be considered under the Provision of Section 56(1) and 56(2) of the Act. The claim of outstanding dues is beyond period of limitation and hence, the Respondent is not entitled to any recovery as per Section 56 (2) of the Act.
- (ix) All the claims, allegations and Legal Notices which are annexed by the Respondent in the nature of Disconnection Notices are of the period after the year 2016. There is no evidence on record to show electricity bills have been issued and served upon the 125 Members of the Appellant Society.
- (x) The Appellant Society craves leave to add, alter, and amend this petition with the permission of this Authority.
- (xi) In view of the above facts and circumstances, the Appellant prays that the Respondent be directed to
- (a) To cancel claim of outstanding electricity bills for the period from July 2006 to July 2016 for which electricity bills were never issued, nor any demand notice given, nor electricity disconnected of the Appellant Society.
 - (b) To accept the electricity bills for the period after 2016 on monthly basis.
 - (c) Not to disconnect the electricity connections of the Appellant.


4. The Respondent was in receipt of the notice of this office dated 06.01.2022. The Respondent has filed Praecipe vide email dated 28.01.2022 pointing out that the Appellant Society along with Shreeman Housing and Infrastructure Developers LLP preferred a Writ Petition No.3652 of 2019 before the Hon'ble High Court, Bombay. The Hon'ble High Court, Bombay vide its order dated 25.11.2021 disposed of the said Writ Petition. The Respondent submits that the Writ Petition No.3652 of 2019 has itself been directed to be treated as a


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complaint before this Authority. The order dated 25.11.2021 also directs that the Representation be disposed of after hearing all concerned. Shreeman Developers was arrayed as Petitioner No. 2 in the above Petition. The Writ Petition was also duly affirmed by the Petitioner No.2. Under the circumstances, it is imperative that Petitioner No.2, Shreeman Developers is put to notice of the present proceedings as it is in the Writ Petition. The Respondent, AEML therefore humbly prays to issue notice of the present proceedings to Shreeman Housing and Infrastructure Developers LLP, which was a party to Writ Petition No.3652 of 2019 as Petitioner No. 2.

5. Subsequently, the Respondent filed its reply on 31.01.2022 which is in brief as under: -
- (i) The present Representation is filed on 05.01.2022 before this Hon'ble Authority by the Appellant pursuant to the order dated 25.11.2021 passed by the Hon'ble High Court, Bombay in Writ Petition No. 3652 of 2019.
 - (ii) As per the averments made by the Appellant, the Appellant is a society of occupiers on the property bearing CTS No.471 Part, Mouje Chembur, Taluka Kurla, Shuddodhan Nagar, Near Siddharth Colony, Chembur, Mumbai 400071.
 - (iii) The Appellant has filed the present Representation seeking reliefs as prayed in the Writ Petition No. 3652 of 2019, inter alia, directions against the Respondent to
 - a) Not to disconnect the electricity connection to the hutments of the members of Appellant Society.
 - b) Not to demand any amount in respect of electric bills for the electricity consumed in the hutment of the members of the Appellant Society from the period July 2008 to July 2016.
 - c) To waive electricity bills admittedly pending from as far back as July 2008 and/or to recover them from M/s. Ruparel Buildcon Pvt. Ltd.
 - d) To direct the Respondent to accept the electricity bills for the period August/ September 2018 and thereafter from the members of the Appellant Society.


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- (iv) It is imperative to note that the order dated 25.11.2021 (*supra*) passed by the Hon'ble High Court, Bombay refers in turn to the order dated 12.10.2021 passed by the Hon'ble High Court, Bombay in the said proceedings. Therefore, a copy of the order dated 12.10.2021 which deals with the case of the Petitioners for the period July 2008 to July 2016. The order dated 25.11.2021 which disposed of the Petition has specifically repeated, reiterated, and referred to the order dated 12.10.2021 while disposing of the Writ Petition. Therefore, the issue relating to outstanding electricity bills for the period 1st July 2008 to 31st July 2016 is to be considered by this Hon'ble Authority. The order dated 25.11.2021 (*supra*) has affirmed the order dated 12.10.2021 and continued the operation and effect of the same for period of six (6) weeks. This is also clear from a subsequent order dated 22.10.2021 passed by the Hon'ble High Court, Bombay.
- (v) At the outset, the Respondent submits that nothing contained in the Representation shall be deemed to have been admitted by way of non-traverse.
- (vi) The following preliminary objections, submissions, brief facts and para wise reply are imperative for the proper adjudication of the present Representation and therefore this Hon'ble Authority may consider the following in conjunction, wherever the context so requires.
- (vii) **Preliminary Objections:**
- a) It is humbly submitted that vide order dated 25.11.2021, the Hon'ble High Court has observed that the grievances raised by the Petitioner Society can be referred to the Ombudsman appointed by the Maharashtra Electricity Regulatory Commission (State Commission) and further inter alia directed that Ombudsman shall treat the above Writ Petition as a complaint filed by the Petitioner Society and after hearing all concerned dispose of the same by a speaking Order within a period of six weeks from the date of said Order. In accordance with the directions in the aforesaid Order of the Hon'ble High Court, it was for the Appellant to approach this Hon'ble Authority in a time bound manner without any delay, that too when the Writ Petition filed by them was directed to be treated as a Complaint. However, in spite of this the


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Appellant has deliberately filed the present Representation on the eve of lapse of entire six weeks for the reasons best known to the Appellant. Therefore, it is humbly submitted that the present Representation has been grossly delayed by the Appellant Society though the Appellant Society was well aware of the fact that the interim protection granted by the Hon'ble High Court, Bombay in its order dated 25.11.2021 read with 12.10.2021 was for a definite period which ended on 06.01.2022.

- b) Further, it is pertinent to bring to the notice of this Hon'ble Authority that, the aforesaid Writ Petition before the Hon'ble High Court was filed and affirmed by Shuddhodhan SRA CHS (Proposed) through (1) Shri Devdas Bhimrao Kamble, Promotor of Shuddhodhan SRA Co-op Housing Society (Proposed) and (2) Mahendra Madhukar Wavale, the Designated Partner of Shreeman Housing and Infrastructure Developers LLP. The Respondent further brings to the notice of this Hon'ble Authority and draws its attention to the fact that, the present representation filed before this Hon'ble Authority is under the signature of some persons who are allegedly claiming to be Promoter / manager of Shuddhodhan SRA CHS (proposed), whereas these persons who have signed the representation before this Hon'ble Authority are not one and the same as those who had filed the Writ Petition before the Hon'ble High Court. The Respondent humbly submits that this aspect of the authorization of the signatories to the present Representation ought to be clarified by the Appellants to ensure transparency in facts.
- c) It is submitted that the persons claiming to be Chief Promoter/ Promoter / Manager of Shuddhodhan SRA CHS (Proposed) have not submitted any documents to establish that they are authorized and duly appointed to the aforesaid position. These technical issues need to be clarified to maintain the requisite transparency and accountability in the present proceedings.
- d) At the further outset it is submitted that the representation filed before this Hon'ble Authority is signed by the alleged Chief Promoter/ Promoter /


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Manager of Shuddhodhan SRA CHS (Proposed) who are purporting to represent the consumers claiming to be members of the Appellant. These signatories to the present Representation are seeking to espouse the case of the Appellant Society almost in a representative proceeding. The matter relates to non-payment of electricity bills. The facts and non-payment figures of each of the consumers would differ. There cannot be filing of a representative proceeding in matters relating to individual money claims. There cannot be a universal declaration in respect of diverse bills of different consumers.

- e) The Respondent referred the Judgment of the Hon'ble High Court of Madras in Case of Ratnaswami Vs. Prince of Arcot's Endowments – AIR 1938 Mad 755, the Hon'ble High Court of Madras stated as below:


“Though the point is not covered by Indian authority, the law seems quite clear under the corresponding English rule, that the procedure pertaining to representative suits is inapplicable to actions of debt, to money claims or to liabilities in contract or in tort.”

This decision of the Hon'ble High Court, Madras was considered by Subba Rao C. J. (as he then was) in Case of Rajah of Bobbili Vs. Damera Ramarao Garu – AIR 1957 AP 956, wherein he held with reference to Ratnaswami (supra) as under:

“The observations may be confined to cases where the parties seek to recover amounts or property under a contract.”

The representative proceeding which seeks to espouse a common interest and a common grievance itself reveals the modus operandi of occupiers of an area going in for slum rehabilitation not paying electricity bills prior thereto.

The very fact that a representative proceeding is sought to be adopted for individual bills reveals that there was a common intent not to pay bills as the subject area was going in for slum redevelopment / rehabilitation. The Petitioners are bound to give proper list of the names of the consumers with


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their respective consumer numbers and arrears qua electricity bills in respect of each of them.

However, this document does not detail the individual facts relating to each of the consumer in respect of whom the Appellant desire the relief as stated in the Petition.


f) The layout of the premises occupied:

It is necessary to have a complete clarity of facts in any adjudication. Electricity connection is granted to a premises. The term premises is defined under Section 2 (51) of the Act as under:

“2(51) “premises” includes any land, building or structure;”

Therefore, the Appellant Society has to be directed to furnish in the present proceedings, to this Hon’ble Authority and this Respondent, the layout for which the present Complaint /Representation is being preferred. Section 43 of the Act which deals with providing electricity connection also refers to **“owner or occupier of any premises”**. It is necessary to have a clarity as to the actual premises which will be occupied by Appellant Society, particularly as the Writ Petition itself mentions rehabilitation / re-development on adjoining plots and names other builders, etc.

g) Non-Compliance with Regulation 19.17 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 [CGRF & EO Regulations 2020]: The Appellants have not produced or submitted any Authority letter from such respective consumers to establish that they are authorized to represent their grievance before this Hon’ble Authority and therefore, it is humbly submitted that the present Representation is liable to be rejected solely on this ground. In this respect the Respondent would like to draw kind attention of this Hon’ble Authority to Regulation 19.17 and 19.22 of the CGRF & EO Regulations 2020 which inter alia provides as under: -


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“19.17 Any party to any proceedings before the Electricity Ombudsman may either appear in person or authorise any representative other than an Advocate (within the meaning of the Advocates Act, 1961), to present his case before the Electricity Ombudsman and to do all or any of the acts for the purpose, subject to production of duly authenticated authorisation made by the party in favour of such representative, and subject to the condition that he, -

- (a) is appearing on an individual case basis;*
- (b) has a pre-existing relationship with the Complainant (such as: a relative, neighbour, business associate or personal friend);*
- (c) is not receiving any form of, direct or indirect, remuneration for appearing before the Electricity Ombudsman and files a written declaration to that effect;*
- (d) demonstrates to the Electricity Ombudsman that he is competent to represent the party.*

..... (Emphasis added)

19.22 The Electricity Ombudsman shall entertain a representation only if all the following conditions are satisfied:

(a) It has been filed by the Complainant being the aggrieved consumer either directly or through his duly authorised representative or the Association representing the consumer/s;


..... ” (Emphasis added)

- h) The Respondent humbly submits that Regulation 7.9 of the CGRF & EO Regulations 2020 provides the circumstances when the Consumer Grievance Redressal Forum (the Forum) shall reject the grievance of the consumer. The Regulation 7.9 of the CGRF & EO Regulations 2020 in this respect is reproduced as under: -

“7.9 The Forum shall reject the Grievance at any stage under the following circumstances:

(a) In cases where proceedings in respect of the same matter and between the same Complainant and the Licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority.

(b) In cases, which fall under Sections 126, 127, 135 to 139, 152, and 161 of the Act.


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(c) In cases where the Grievance has been submitted two (2) years after the date on which the cause of action has arisen.

(d) In cases of recovery of arrears where the bill amount is not disputed; and

(e) In the case of Grievances, which are:

(i) frivolous, vexatious, malafide;


(ii) without any sufficient cause; or

(iii) where there is no prima facie loss or damage or inconvenience caused to the Complainant or the consumers who are represented by an association or group of consumers:

.....”(Emphasis added)

i) Barred by Limitation:

In the instant case, the Appellant had directly filed Writ Petition before the Hon’ble High Court, Bombay. The Hon’ble High Court, Bombay, in its order dated 25.11.2021 observed that the said Writ Petition may be considered as complaint before this Hon’ble Authority. In the interest of justice, it is crucial to draw attention of this Hon’ble Authority that in the entire Representation, the Appellants have not disputed the bill amounts of each individual consumer. Moreover, the alleged cause of action in the present Representation is more than two (2) years old, and therefore the present Representation is barred by the limitation as provided under the CGRF & EO Regulations 2020. Furthermore, the concocted story narrated by the Appellant is false, vexatious and without any substance and amounts to nothing but the abuse of the process of law. The en-masse non-payment of bills at a particular location / premises by a group of consumers itself reveals the malafide intent of taking advantage with ulterior motive of a developer taking over under slum rehabilitation / redevelopment and thereby availing the electricity service free of charge. Against, such malafide background, the aspect of limitation ought to be considered strictly. Regulation 7.9 (c) of the CGRF & EO Regulations 2020 provides for a complaint / Representation to be filed within the stipulated period of two (2) years as under:


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“7.9 The Forum shall reject the Grievance at any stage under the following circumstances:

.....

(c) In cases where the Grievance has been submitted two (2) years after the date on which the cause of action has arisen;


..... (relevant extract)

The present Representation is filed with an ulterior motive and intention to evade the liability to pay the overdue amount which has accrued due to non-payment of electricity bill and therefore the present representation is liable to be dismissed.

- j) The Respondent submits that the aforesaid preliminary objections are independent and without prejudice to each other. The present Representation is liable to be rejected on the grounds mentioned as preliminary objections.
- k) Without prejudice to the contentions made under the Preliminary Objections, the Respondent submits the brief facts of the case and submissions along with the para wise reply herein under:

(viii) Brief Facts of the Case and Submissions:

- 1) At the outset, it is submitted that the present Representation is wholly misconceived, in facts and law, and is liable to be dismissed *in limine* with costs. It is submitted that the present Representation is filed seeking reliefs, inter alia, directions against the Respondent to waive electricity bills admittedly pending from as far back as July 2008 and/or to recover them from M/s Ruparel Buildcon Pvt. Ltd, which on the face of it is wholly untenable and unsustainable in the facts and circumstances of the present case. It is submitted that what the Appellant seeks to do is to avoid liability for amounts due and payable for electricity admittedly consumed by them and therefore the present Representation deserves to be rejected solely on this ground. This



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Hon'ble Authority has been established under Section 42 (6) of the Act. It derives its powers, authority, and jurisdiction from the parent statute. Any dispute which the Appellants or Shreeman may have with any other Builder / Developer, or any other Authority cannot be agitated before this Hon'ble Authority. In fact, while disposing off the Writ Petition No. 3652 of 2019, the Hon'ble High Court, Bombay has clearly passed its Orders in respect of outstanding electricity bills for the period July 2008 to July 2016. The present proceeding is confined to the period July 2008 to July 2016. Therefore, to show their bonafide, particularly in view of unconditional and unequivocal statements made in the Writ Petition on oath before the Hon'ble High Court, Bombay, the Appellants/ consumers claiming to be Members of the Appellant Society / Consumer – Occupiers of the said premises should pay all the arrears prior to July 2008 and post July 2016, in deference to the letter and spirit of the orders passed by the Hon'ble High Court, Bombay.

- 2) The consumers who claim to be members of Appellant Society are under obligation to abide by the provisions of the Act, and Regulations framed thereunder and to pay for the supply of electricity based on the prevailing tariff rates. Regulation 7 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 (the Supply Code & SOP Regulations 2021) provides for the agreement between the consumer and Distribution Licensee. The Regulation 7.1 of the Supply Code & SOP Regulations 2021 reads as under:

“7.1. The application form submitted by the Applicant shall constitute an agreement between the Consumer and the Distribution Licensee: Provided that Distribution Licensee may incorporate terms and conditions in the application form itself and such clause(s) shall not contravene the provisions of the Act and other Rules and Regulations in force.”


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- 3) The consumers claiming to be the members of the Appellant Society cannot evade to make payment of electricity regular consumption dues which has been accrued due to non- payment.
- 4) The consumers claiming to be members of the Appellant cannot evade payment of bills and cannot take shield of non-receipt of electricity bills. There is clear admission by the Appellant about the liability to pay as is evident from the averments made in the Writ Petition. The Respondent has raised monthly bills to all its consumers at regular interval as provided under the law including for the consumers claiming to be members of Appellant. The Regulation 16.5 of the Supply Code & SOP Regulations 2021 provides that consumer should approach distribution licensee in the event of non-receipt or loss of electricity bill and further provides that the consumer who neglects to pay his bill is liable for levy of delayed payment charges and interest on arrears. Regulation 16.5.3 & 16.5.10 of the Supply Code & SOP Regulations 2021 inter alia enunciates as under:

“


16.5.3. In case the Consumer does not receive the bill or having received the bill, has lost the bill, he shall, before the receipt of the next bill, report the same to the officer designated by the Distribution Licensee to address such cases.

16.5.10. The Consumer who neglects to pay his bill is liable for levy of delayed payment charges and interest on arrears in accordance with relevant orders of the Commission and/or appropriation of security deposit. A notice of disconnection to a Consumer under Section 56 of the Act shall be served in the manner provided for in Section 171 of the Act: (Emphasis added)

Second proviso of Regulation 16.5 provides that:

Provided further that the non-receipt of bill or loss of bill does not entitle the Consumer from discharging his obligation to make payment within the due date for payment of electricity charges:” (Emphasis added)


It is humbly submitted that the aforesaid provisions were also there in the Maharashtra Electricity Regulatory Commission (Electricity Supply Code


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and Other Conditions of Supply) Regulations, 2005 which was in force at the relevant time. The Respondent craves leave to refer to and rely upon the same as and when required.

- 5) The Respondent craves leave to rely upon the data and records maintained by it during course of its business to establish that the Respondent has regularly raised, printed, and dispatched the bills for delivery. The Respondent has data to establish that the electricity bills of the consumers had been printed for dispatch. It is submitted that the data is voluminous, therefore, sample is kept on record, and with the permission of this Hon'ble Authority, the Respondent craves leave of this Hon'ble Authority to refer and rely upon the same as and when necessary or required. The Respondent submits that for delivery of the bills raised to the consumers including the consumers claiming to be members of the Appellant, the Respondent has engaged courier services agency under the Agreement and Work Orders (WO) which were issued to the Courier Agency from time to time. Its record for the period 1.4.2013 to 30.06.2014 and data pertaining to payment made to Vendors by the Respondent for delivery of monthly consumption bill from year 2003 to 2020.
- 6) It is submitted that consumers claiming to be members of Appellant have never approached the Respondent with any complaint related to non-receipt of the electricity bills. The Appellant is trying to mislead this Hon'ble Authority with their malafide intention to avoid the legitimate demand of electricity bills raised to the consumers claiming to be members of the Appellant, by the Respondent. The Appellant has not denied that consumers claiming to be its members were being supplied with electricity for the period 2005 till date, however they have failed to produce any evidence to establish their efforts to make payment of electricity bills raised to them from time to time. In fact, the Appellant have concocted a false and unfounded narrative to avoid liability to pay electricity dues. This seems to be a peculiar case of en-masse no receipt of bills by numerous consumers of a particular area which was to go in for slum rehabilitation / renovation. All these consumers


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continued to consume electricity without any intimation about non-receipt of bills, is a notion which is palpably preposterous. It is a fact that as a Distribution Licensee, R-Infra and presently AEML were subjected to threats, intimidation and law and order situation when attempts were made to recover amounts or disconnect electricity for non-payment.

- 7) The Appellant has raised issue related to Sections 56 (1) & 56(2) of the Act, and applicability of the Limitation Act, 1963. At the outset, the Respondent has taken measures and efforts to recover the dues and has issued notices under Section 56 (1) of the Act, despite which the consumers claiming to be members of the Appellant neglected to pay their dues. It is further humbly submitted that provision of Section 56 (2) of the Act is not applicable in the present case as the consumers claiming to be members of the Appellant failed to pay the dues for electricity admittedly consumed by them therefore, the unpaid amounts from the previous month were continuously shown in the bill of subsequent month as due and recoverable as arrears of charges for electricity supplied. Section 56 of the Act stipulates as under: -

“Section 56. (Disconnection of supply in default of payment): -- (1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days’ notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Provided that the supply of electricity shall not be cut off if such person deposits, under protest, -

(a) an amount equal to the sum claimed from him, or


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b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months,


whichever is less, pending disposal of any dispute between him and the licensee.

(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.”

In the instant case the electricity bills to the consumer including consumers claiming to be members of the Appellant have been raised on regular interval as per the provisions of law and the claims made by the Appellant are baseless and deserve to be dismissed.

It is further submitted that the Hon’ble Apex Court in its judgement dated 05.10.2021, passed in **Civil Appeal No. 7235 OF 2009 M/s Prem Cottex v/s Uttar Haryana Bijli Vitran Nigam Ltd & Ors.** has interpreted Section 56(2) of the Act that, if , the outstanding amount of electricity bill is continuously shown in the electricity bill of the consumer then the period of limitation as provided under sub section 2 of Section 56 will not be attracted and hence the Respondent is entitled to issue the bills from time to time for the electricity dues, therefore the bar for recovery of the amount will not come into effect.


Without prejudice to the aforesaid facts and even otherwise if the submission of the Appellant is assumed to be true that the bills were not raised, then in this regard the Respondent submits that it is clearly settled in the same aforesaid judgement that “ *if the licensee has not raised any bill, there can be no negligence on the part of the Consumer to pay the bill and consequently the period of limitation prescribed under subsection (2) will not start running.*”


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In view of the above submissions, Appellant's entire contention does not hold any merit and the present Representation hence deserves to be dismissed.


- 8) The bills to the consumers claiming to be members of the Appellant have been raised as per the tariff applicable from time to time and the levy of interest on arrears and delay payment charges have been levied in accordance with the tariff orders as approved by the State Commission from time to time. The demand raised on the respective consumers by the Respondent is valid and legally payable. It is submitted that under the tariff approved by the Commission, the consumers claiming to be members of the Appellant are already enjoying the benefits of low tariff, as their tariffs are subsidized under the Commission's tariff order. However, if the dues are not paid by them for the actual electricity consumed, it will lead to extra burden by way of increase in the electricity charges on the other consumers of the Respondent, who diligently pay their regular monthly electricity consumption bills.
- 9) The Respondent has filed its detailed Affidavit-in-reply refuting the contention of the Appellant by putting forth the correct facts and details before the Hon'ble High Court in Writ Petition No. 3652 of 2019.
- 10) Initially, from 2004 to 2018, R-Infra provided uninterrupted supply of electricity during the said period as per the provisions of the Act, not only to consumers claiming to be members of the Appellant, but also to residents of the entire Siddharth Colony Vikas Seva Sangh (Proposed) consisting of more than 3500 consumers, of which the Appellant is a small part. Accordingly, R-Infra regularly raised and dispatched bills to each of the individual consumers from time to time.
- 11) The present Representation, however, has been filed by Shuddhodhan SRA C.H.S. (Proposed), a proposed society of which about 313 persons are members as per the list annexed to the same. Of these, only 125 people are consumers of electricity supplied by the Respondent as per its records, from whom an approximate amount of Rs 2,75,39,156.55 is due and payable as on 31st January 2020 as arrears of charges for electricity supplied. The present


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reply is therefore restricted only to dues with respect to such consumers. A proforma copy of a bill for the month of January 2020 of one of the members/ consumers i.e. Prabha C Bhosale having consumer No. 100229092, is kept on record.


- 12) There has never been any agreement whatsoever between the Respondent and Adishakti Developers (the Respondent No. 4 in the aforementioned Writ Petition) or any third party for payment of the said arrear of charges by the latter and/or discharging the consumers /Appellant's liability to pay the same.
- 13) After fruitlessly following up from time to time with residents/ consumers of Siddharth Colony, including consumers claiming to be members of Appellant, the Respondent took necessary steps for recovery of arrears of charges for electricity admittedly supplied to the residents/ consumers of Siddharth Colony Vikas Seva Sangh (Proposed) including consumers claiming to be members of Appellant by issuing notices from time to time with respect to disconnection of the electricity supply under Section 56 (1) of the Act. However, the residents physically prevented the Respondent from taking necessary steps in furtherance of the same through use of illegal force with the aid of anti-social elements. The officers of the Respondent were threatened with dire consequences if the electricity was disconnected. The Respondent was therefore constrained to address a letter dated 04.07.2016 to the Deputy Commissioner of Police, Chembur requesting them to provide necessary assistance to its officers so as to enable them to carry out the necessary legal action as provided for under the Act. The Respondent has been, from time to time, regularly constrained to address letters to the Police authorities seeking such help. The Police authorities, however, have replied saying that since more than 3900 people are present at the various sites of disconnection, a serious law and order situation could arise. The Respondent has contemporaneously issued disconnection notices under Section 56 (1) of the Act to each of the consumers claiming to be members of the Appellant


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for unpaid arrears of charges for electricity supplied. Sample copies of the disconnection notices are placed on record. The complete record is voluminous, and therefore not annexed to the present reply. The Respondent craves leave to refer to and rely upon the same as and when necessary.


- 14) It is submitted that the Siddharth Colony Vikas Seva Sangh, which represents the residents / consumers of Siddharth Colony, addressed a letter dated 19.01.2017 to the Respondent enquiring about the arrears of charges for electricity supplied outstanding as on date. In response to the aforesaid letter, the Respondent addressed a letter dated 20.01.2017 stating the dues of the residents of the Siddharth Colony to be Rs.59.43 crores.
- 15) Since no amounts towards payment of dues were forthcoming, the Respondent addressed several letters dated 27.02.2017 till 26.04.2017 to the Deputy Commissioner of Police, requesting assistance to enable its officers to carry out the necessary legal action as provided for under the Act. Accordingly, meetings were also held by the Respondent with the concerned Police authorities in this regard. With the view to avoid any untoward confrontations, the said Authorities arranged a joint meeting between the representatives / members of Siddharth Colony Vikas Seva Sangh (Proposed), including members of the Appellant and officers of the Respondent. In this meeting, the Respondent as well as the police authorities jointly appealed and requested to the representatives of the consumers to make payments of outstanding arrears of electricity dues to avoid disconnection of electricity supply. Despite this, there was complete non-cooperation by the consumers. As a result, the Respondent was constrained to disconnect the electricity supply. Accordingly, the Respondent vide its letter dated 26.04.2017 requested Police authorities to provide protection for carrying out the same. The police authorities vide their letter 29.04.2017 inter alia informed that they are providing the Police Assistance. Accordingly, with the help of Police authorities, the Respondent


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disconnected electricity supply of around 100 consumers in accordance with the provisions of the Act.


- 16) Despite this coercive action, the consumers claiming to be members of the Appellant failed to pay the arrears of charges of electricity supplied. The Respondent was therefore constrained to address further letters dated 04.07.2017, 28.07.2017, 02.08.2017, 10.08.2017 and 19.08.2017 seeking aid of the Police authorities to provide protection to their officers so as to enable them to carry out the necessary legal action as provided for under the Act. Accordingly, with the aid of the concerned Police authorities, the Respondent disconnected the supply of residents of Siddharth colony, including consumers claiming to be members of the Appellant for two days in the month of August 2017 in accordance with the provisions of the Act.
- 17) In light of the aforesaid steps taken by the Respondent, one Mr. Raju Vishnu Waghmare representing members of Siddharth Colony, addressed a letter dated 23.08.2017 to the Respondent and attached eight postdated cheques for a total sum of Rs.13,50,00,000/- towards part payment of arrears of charges for electricity supplied (This includes one postdated cheque of Rs.10 crores, along with seven postdated cheques of Rs. 50 lakhs each). Further, the said letter unequivocally states a sum of Rs.40 Crores to be outstanding as on date as arrears of charges for electricity supplied. In fact, the cumulative outstanding from residents of Siddharth Colony as on 22.08.2017 was approx. a sum of Rs. 65 crores. Further, vide its letter dated 23.08.2017 Siddharth Colony Vikas Seva Sangh (Proposed) sought details from the Respondent of eight postdated cheques submitted by them on company letter. Also addressed a letter dated 31.08.2017 seeking details on company letter related to four postdated cheques of total Rs.35 Crores submitted by them.
- 18) On 29.09.2017, the said Siddharth Colony Vikas Seva Sangh (Proposed) who were representing residents / consumers of Siddharth Colony, addressed a letter to the Respondent seeking to replace the cheque (for a sum of Rs. 10 Crores which had been tendered along with the letter dated 22.08.2017) came


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to be replaced by another Cheque of the same amount on 06.10.2017. Subsequently, this cheque was again replaced on 09.10.2017.

- 19) On 13.10.2017, the said Siddharth Colony Vikas Seva Sangh who were representing residents of Siddharth Colony, addressed a letter to the Respondent seeking to return the aforesaid three cheques which were deposited and subsequently dishonored with Demand Drafts of Rs. 10 Crores (i.e. with two Demand drafts of Rs. 7 crores and Rs. 3 crores) drawn in favour of the Respondent. The Respondent accordingly addressed a letter dated 15.12.2017 acknowledging credit of the said amount against the respective consumers/ residents as per the list provided by Siddharth Colony Vikas Seva Sangh for the said purpose.
- 20) Despite the Respondent having allowed sufficient time and having not precipitated the matter, the latter continued with their hostilities against the former's representatives. On 30.01.2018, a non-cognizable offence was registered by the police authorities at the Chembur Police Station under Section 506 of the Indian Penal Code, upon a complaint by one Mr. Dilip Anand Ghatge, who had been appointed by the Respondent for distribution of bills. The said Mr. Dilip Anand Ghatge had been manhandled and subjected to physical harm by the residents of Siddharth Colony in order to wrongfully prevent him from distributing the electricity bills.
- 21) Further, the Respondent had deposited 2 cheques of Rs.50 lakhs each on 28.11.2017 tendered by and /or behalf of the Siddharth Colony Vikas Seva Sangh, which were dishonored. Accordingly, the Respondent had served notice under Section 138 of the Negotiable Instrument Act, 1881 to all concerned. On 11.01.2018, Respondent deposited cheque of Rs.10 Crores and two cheques of Rs.50 Lakhs each. These three cheques were also dishonored. Accordingly, the Respondent filed necessary proceedings under the Negotiable Instrument Act, 1881 before the Metropolitan Magistrate Court and the same is sub-judice. The Respondent craves leave to refer to and rely upon the said proceedings as and when necessary.


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- 22) Since the residents/consumers of Siddharth Colony, including consumers claiming to be members of the Appellant failed to clear outstanding dues, the Respondent was again constrained to take necessary steps in furtherance of disconnection of electricity supply for arrears of charges for electricity supplied.
- 23) In light of the aforesaid events, the Siddharth Colony Vikas Seva Sangh addressed a letter dated 08.06.2018 expressly admitting that arrears of charges for electricity supplied to its members have been continuously outstanding for the last 14 years due to delay/ dispute with respect to the SRA Scheme. The letter expressly clarified that the amount of Rs.10,50,00,000/- was paid by one Mr. Amitbhai Ruparel /Mr. Lokeshbhai Khandelwal of Ruparel Buildcon Private Limited, the builder under the said SRA Scheme. The letter further assured the Respondent that the entire outstanding amount of all the residents / consumers of Siddharth Colony, would be paid in its entirety. The letter also assured the Respondent that a sum of Rs. 22 lakhs /month would be paid without delay in a timely manner towards current / future bills.
- 24) At no point of time did any member/ organization related to Siddharth Colony, including the Appellant ever raise a dispute with respect to supply/ usage of electricity, issuance of electric bills, quantum of arrears of charges for electricity supplied and/ or their liability to pay the same. It has never been the case of any of the said residents, including consumers claiming to be the members of the Appellant, that the liability with respect to the same has been assigned to any builder/ third party with the consent of the Respondent agreement/ arrangement between the Respondent and/ or any builder/ third party.
- 25) To the utter shock and surprise of the Respondent, the Appellant addressed a Legal Notice dated 20.07.2018 claiming a case completely contrary to the correspondence as set out hereinabove which is kept on record. Further, on 11.09.2018, with a view to politicize the issue and pressurize the Respondent,


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a letter was addressed by the Siddharth Colony Vikas Seva Sangh to the Hon'ble Ex-Chief Minister Shri. Devendra Phadnavis requesting him to grant time for making payments towards arrears of electricity charges owed by the residents / consumers of Siddharth Colony. In response to the above-mentioned letter, Hon'ble Minister of State for Social Justice & Empowerment Govt. of India Shri. Ramdas Athawale, addressed a letter dated 19.09.2018 stating that having conferred with Hon'ble Chief Minister a period of three months has come to be granted to the residents of Siddharth Colony. The Respondent was accordingly requested to desist from disconnecting the electricity of the said residents till 22.12.2018.


- 26) The consumers claiming to be members of the Appellant Society have, from time to time employed every possible measure to avoid / delay payment of arrears of charges for the electricity supplied. The present representation is also nothing but an attempt to delay and evade the payment of the said overdue amounts. The Appellant has, with an intent to mislead this Hon'ble Authority, suppressed the correspondence between the parties as set out hereinabove. On this ground alone, the present Representation is required to be dismissed *in limine*, and the Appellant be put to the strictest terms for having abused the process of law.
- 27) Without prejudice to the above, the Respondent shall now deal with the Representation (copy of Writ Petition attached with representation):
- a. The Respondent is unaware of and denies that there are 313 slum dwellers on the said property who have been using the electricity in their respective structure, and therefore they are the consumers within the meaning of Section 2(15) of the Act. As on date only 125 people are consumers of electricity supplied by the Respondent as per its records, from whom an approximate amount of Rs.2,75,39,156.55 is due and payable as on 31.01.2020 as arrears of the charges for the electricity supplied. The Respondent denies that the Appellant is entitled to incorporate members with the object of


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bringing such members under the scope of the present Representation.


- b. The appointment of Shreeman Housing Society as a developer under the SRA Scheme is not within the knowledge of the Respondent. The same is not admitted and the Appellant is put to strict proof thereof.
- c. The Respondent submits that the Respondent No.1 (the State of Maharashtra) and Respondent No.3 (the Slum Rehabilitation Authority) have only been made parties to the proceedings before the Hon'ble High Court in Writ Jurisdiction to create a facade of maintainability. The contents of the said paragraph with respect to payments of electricity bills by the various builders as more particularly setout therein is not within the knowledge of the Respondent and is therefore not admitted. Further, the Appellant has itself conceded that assurances were given by one M/s. Ruparel Buildcon Pvt. Ltd. to it. Any such assurances are a matter between the said builder and the Appellant; and in no way discharges the liability of the said consumers claiming to be members of the Appellant qua the Respondent. Further, the present proceedings are conducted in accordance with and under CGRF & EO Regulations 2020. Therefore, the question of adjudication of dispute if any, between the Appellants and any other Builder / Developer in the present proceedings does not arise as the same would be without any jurisdiction.
- d. The Respondent specifically states that it is unaware of and denies that there has been any arrangement between the said M/s Adishakti Developers and the Respondent and / or that under the said arrangement, the Respondent did not issue the electricity bills to consumers claiming to be the members of the Appellant from July 2008 to July 2016. The Respondent repeats and reiterates as setout


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hereinabove, the circumstance under which the said amount of Rs. 10 Crores came to be paid to the Respondent and denies any thing contrary thereto. The said payment in no way discharges the liability of the said consumers claiming to be members of the Appellant qua the Respondent, and therefore the Respondent denies that any amount prior to 01.08.2016 is required to be paid by Adishakti Developers or Ruparel Buildcon or any other third party whosoever. It is further submitted that the order dated 25.11.2021 read with order dated 12.10.2021 along with 22.10.2021 clearly adjudicates and decides the issue in terms of the pending bills for the period prior to July 2008 and post July 2016.


- e. The Respondent is unaware of and specifically denies that there has been any arrangement between the said Adishakti Developers or any other third party whosoever and the Respondent and /or that under the said arrangement, the Respondent did not issue electricity bills to the consumers claiming to be members of the Appellant. The Respondent denies that no reminders were issued to the consumers claiming to be members of the Appellant; with respect to the arrears of charges for electricity supplied. As setout hereinabove, it is only owing to the criminal intimidation and use of illegal force employed by the members of the Appellant, the meter reading could not be taken on certain occasion/ months. For such periods, bill was issued on the basis of the average consumption of the respective consumers. On Police assistance being duly provided thereafter, actual meter readings were taken by the representatives of the Respondent and the arrears of charges corrected accordingly. The Respondent denies that electricity bills were not issued and/or that there is any presumption that no amount are to be considered due and payable by the consumers claiming to be members of the Appellant towards arrears of electricity charges for electricity


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supplied. It is most pertinent to note that the consumers claiming to be members of the Appellant have, at no point of time denied supply and /or consumption of electricity and / or approached the Respondent for duplicate copy of bills. The details of bill generation and dispatch of the same has been mentioned in foregoing paragraphs of this reply. The Respondents repeats and reiterates as set out hereinabove the circumstance under which the said amount of Rs.10 crores came to be paid to the Respondent and denies anything contrary thereto. The said payment in no way discharges the liability of said members qua the Respondent. The Respondent denies that any amount prior to 01.08.2016 is required to be paid by Adishakti Developers or Ruparel Buildcon or any other third party whosoever. These issues are outside the ambit of the present proceedings.


- f. The Respondent specifically denies that no notice under Section 56 (1) of the Act has been issued to the consumers claiming to be the members of the Appellant. The Respondent craves leave to refer to and rely upon each such notice issued to each consumers claiming to be members of Appellant. The Respondent denies that there has been no demand made for arrears of charges for electricity supplied and /or the Respondent is not entitled to claim amounts due with respect to the same. The detailed provisions of the law, regulations and judgments have already been mentioned in the foregoing paragraphs of this reply and the Respondent craves leave to refer to and rely upon the same.
- g. The Respondent repeats and reiterates that from and about June 2005, the consumers claiming to be members of the Appellant have failed to pay the dues for electricity admittedly consumed by them. Therefore, for every subsequent month thereafter, the unpaid amounts from the previous months were continuously shown in the


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bill for the subsequent month as due and recoverable as arrears of charges for electricity supplied. The Respondent therefore denies that the claims of the Respondent are barred by limitation either under the Electricity Act 2003 or the Limitation Act 1963. The Respondent denies that electricity supply cannot be disconnected in respect of consumers claiming to be members of the Appellant. The Respondent humbly submits that the laws and judgment related to recovery of electricity dues have already been mentioned in the foregoing paragraphs and the Respondent craves leave to refer to and rely upon the same.

- h. The Respondent submits that the correspondence between the parties has been deliberately suppressed by the Appellant with singular intent to mislead this Hon'ble Authority. The Respondent repeats and reiterates fact and contents mentioned in the foregoing paragraphs and denies anything contrary thereto. The Respondent submits that an extension of only three months was allowed on the request / direction of the Hon'ble member of Parliament and no further.
- i. The contents of the said legal notice dated 20.07.2018 are denied in toto. The case set out by the Appellant therein, is *ex-facie* contrary to the correspondence between the parties as setout herein above. The contents of the Legal Notice cannot be presumed to be admitted in any manner whatsoever.
- 28) The Respondent humbly submits that in view of the order dated 12.10.2021 passed by the Hon'ble High Court, the Respondent has already issued fresh disconnection notices to the consumers claiming to be members of the Appellant by demanding the overdue amount in consonance with the aforesaid order. It is submitted that some of the consumers have come forward to make payment of their dues. Further the Respondents have also


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initiated the disconnection process and once again the same has been hindered by the members of the Appellant.

- 29) The prayer of the Appellant is denied in toto. The consumers claiming to be members of the Appellant are duty bound and under obligation to pay their respective overdue amount along with the interest on arrears and delay payment charges which are applicable in terms of the Regulations and Tariff framed by the Commission.
- 30) The Respondent humbly submits that, the Respondent craves leave of this Hon'ble Authority to submit further Affidavit / Pleadings if the circumstances so arise and rely upon the additional documents as and when required. Under the circumstances, the present Complaint / Representation is untenable in law and on facts and hence ought to be dismissed with exemplary costs. There cannot be any issue of any consumer being given a relief of being exempted from payment of charges for electricity consumed. The Appellants / consumers claiming to the Members of the Appellant Society / Consumer – Occupiers of the said premises are liable to pay the regular bills as well as to clear all outstanding dues of this Respondent.

6. This office, by its letter dated 03.02.2022 has issued notice to Shreeman Housing and Infrastructures Developers LLP as a necessary party and who is allowed to plead in this Representation being one of the petitioners before the Hon'ble High Court, Bombay in the said W.P. No. 3652 of 2019. The same letter is also forwarded for information and necessary action to the Slum Rehabilitation Authority and Adishakti Developers, who were the respondents before the Hon'ble High Court, Bombay in the said W.P. No. 3652 of 2019.

7. Initially, physical hearing was scheduled on 07.02.2022 which was postponed due to public holiday declared by the State Government to pay tribute to Bharat Ratna Lata Mangeshkar. Subsequently, next physical hearing was scheduled and held on 14.02.2022. The Appellant Society has appointed Shri Mahendra Wavale as its representative, who is also the Designated Partner of Shreeman Housing and Infrastructure Developers LLP, one of the



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Petitioners in the said Writ Petition. During the hearing, the representative of the Appellant stated that he is the official Developer of the said Society in CTS No. 471 (Part) duly appointed by SRA in the year 2018. Prior to it, Adishakti Developers was appointed as the Developer for Siddharth Colony slum area where the Appellant Society was also part and parcel of the colony. His main argument was that there are 313 slum dwellers on the said parcel of land of the Appellant Society, out of which, 125 slum dwellers are electricity consumers, and the bills outstanding is for the period July 2008 to July 2016. The Respondent never took meter readings of the electricity meters provided to the slumdwellers, nor did it issue any bills to the slumdwellers, leave apart issue of disconnection notices. Therefore, the Respondent is not entitled to any recovery as per Section 56 (2) of the Act. Moreover, Rs.10.50 Crores has been paid to the erstwhile R-Infra, which is taken over by the Respondent, AEML. This payment of Rs.10.50 Crores is out of settlement reached between the Siddharth Colony Vikas Seva Sangh (Proposed) and the predecessor of the Respondent for 2600 electricity consumers in Siddharth Colony SRA scheme. Total number of slumdwellers though are 3419 but the electricity consumers are only 2600. This has been brought on record through a letter dated 08.06.2018 addressed to Director, R-Infra on the letterhead of Siddharth Colony Vikas Seva Sangh (Proposed). The Appellant therefore prays that the Respondent be directed to cancel claim of outstanding electricity bills for the period from July 2008 to July 2016 for which electricity bills were never issued, nor any demand notice given, and further be directed not to disconnect electricity supply of the members of the Appellant Society.


8. The Respondent on the other hand, argued that

- (a) the Appellant Society has approached this Authority on 05.01.2022 which is after a lapse of six weeks granted by the Hon'ble High Court, Bombay in its order dated 25.11.2021. As a matter of fact, it should have first approached the Hon'ble High Court, Bombay and sought extension for submission before the Hon'ble Electricity Ombudsman.
- (b) Moreover, the Appellant Society being mere a Developer, has no locus standi in this case as it is not a consumer of electricity on the piece of land of the said Society. The Representative is on behalf of the said Proposed Society whereas the


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- authorisation to present should have come from each individual consumers in accordance with Regulation 19.17 of the CGRF & EO Regulations 2020. It further argued that individual electricity consumers should have approached the Grievance Redressal Mechanism available under the Act and the Regulations made thereunder.
- (c) Moreover, out of 313 slumdweller, there are only 125 electricity consumers though the list shows it as 128. Out of 128, names of two consumers are repeated, and one is not within Shuddhodhan Society (Proposed). Out of the 125 consumers, some electricity consumers are paying electricity bills, therefore, the argument of the Appellant Society that the Respondent does not take reading, issue bills are incorrect. It being slum area, many a times, it is difficult to take readings, distribute bills for various constraints posed by the slumdweller. In fact, on many occasions, it has approached the Police Authority for escort, for example, it has approached the Dy. Commissioner of Police, Zone VI office, Chembur on 04.07.2016, pursuant to which a meeting was scheduled by the Police Authority on 14.07.2016 to take stalk on probable law and order problem arising out of mass disconnection of electricity connections. If it is assumed that what the Appellant Society stated is correct, none of the consumers has approached the Grievance Redressal Mechanism filing complaint for not taking reading, not issuing bills, by the Respondent. Nothing has been put on record by the Appellant Society.
- (d) It has put on record sample disconnection notices issued by the Respondent to electricity consumers namely
- Dilipkumar Badriprasad Jaiswal (Consumer A/c. No. 150192335)
 - Rajshree Pravin Mokal (Consumer A/c. No. 150319319)
 - Kiran Ulhas Salve (Consumer A/c. No.150654555) and few others.
- (e) Moreover, as regards claim of payment of Rs.10.50 Crores by the then Developer confirmed by the Siddharth Colony Vikas Seva Sangh on its letterhead has been apportioned to the respective connections. However, out of 3419 slumdweller, how many are electricity consumers and out of it, how many are actually on the piece of land of the Appellant Society is not known unless the Appellant Society clearly


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physically demarcates the site and undertakes a joint exercise to identify the electricity consumers.

- (f) As of now, as per its knowledge, there are 125 electricity consumers in the said Society. The number may exceed on physical verification on a walkthrough exercise at the site. The Respondent is still supplying power to the said electricity consumers and total outstanding as on 31.01.2022 is Rs.3.35 Crores.
- (g) The Representation is barred by limitation as per the Regulation 7.8 of CGRF & EO Regulations 2020 as the dispute raised by the Appellant Society is for a period from July 2008 to July 2016.
- (h) The Respondent cited Judgment dated 05.10.2021 of the Hon'ble Supreme Court in Civil Appeal No. 7235 of 2009 of Prem Cottex V/s. Uttar Haryana Bijli Vitran Nigam Ltd. & Ors. Moreover, it is not at all a case of Section 56(2) as the regular electricity bills are being raised by the Respondent. If bills are unpaid, there are shown as arrears in the successive bills. Therefore, Representation needs to be rejected.

9. Post hearing, the Appellant has filed its memorandum of written say in furtherance of its oral arguments on 18.02.2022 which is stated in brief as under:


- (i) The Memorandum of Written Say in furtherance to oral argument submitted by the Appellants who are the Petitioners in Writ Petition No. 3652 of 2018 and which is dated 07.10.2021 each and every aspect be considered as part of the Application / Appeal filed by the Appellant to avoid repetition.
- (ii) The Appellant Society submit that the Respondent AEML has not submitted any documentary evidence to show that the electricity bills for the period July 2008 to July 2016 has been served upon the consumers who are members of the Appellant Society and furthermore the Claim of the Work Order issued to Amit Courier which is shown for the period 01.04.2013 to 13.06.2014 does not prove that the electricity bills have been served upon the 313 consumers (?) who are Members of the Society Petitioner. The period which is claimed to be the Work Order from


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01.04.2013 onwards once again accept the claim of the Appellants that the electricity bills were not served upon the 313 consumers (?) of the Original R-Infra, and therefore, the provision of Section 56(1) and 56(2) of the Act, are applicable. It is necessary to submit herein that since there is no Demand Notice issued to 125 slumdwellers out of 313 slumdwellers, the Respondent cannot claim any amount of electricity bills in respect of the claim of electricity consumption through the period July 2008 to July 2016 since no electricity bills were raised and issued to the 125 Consumers.


- (iii) Furthermore, the amount of Rs. 10.5 Crores which was paid by. Ruparel Buildcon Pvt. Ltd. was for the 313 Slum Dwellers and there is nothing on record to show that 125 slumdwellers have been left out.
- (iv) It is pertinent to submit herein that all the claims, allegations, and the legal notices in respect of disconnection which are annexed by the Respondent, the same is of period after 2016 and thereafter, there is no evidence on record to show electricity bills have been issued and served upon the 125 consumers who are also members of the Appellant Society. Without prejudice to the aforesaid facts, the legal notice dated 20.07.2018 given by the Petitioner and which is also served upon the original R-Infra., there is no reply given nor any claim made that notice has been served upon the 125 Slum Dwellers and therefore, legal notice submitted by the Appellant through Advocate, H.S. Anand, deemed to have accepted by the Respondent and the claim of the Appellant amounts to admission of fact within the meaning of Section 58 of the Indian Evidence Act and hence the entire claim of the Appellant stands accepted by Respondent accordingly.
- (v) Further, a letter is issued by Siddharth Colony Vikas Seva Sangh dated 08.06.2018, wherein it has been clearly specified that the amount of Rs.10.50 Crores as required to be adjusted to 313 slumdwellers and which include 125 slumdwellers who are members of the Appellant Society. The letter also places on record that Two Officers of R-Infra., namely Sanjeev Maan and M. Kathe were present in the presence of Hon'ble Member of Parliament Ramdas Athawale and also members of the Siddharth Colony Vikas Seva Sangh and wherein the two officers of R-


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Infra., having delegation of power accepted that the electricity bills would be recovered from the Developers, Ruparel Buildcon Pvt. Ltd., associate of Adishakti Developers and therefore the said letter is admission of fact within meaning of Section 58 of the Indian Evidence Act.

- (vi) Without prejudice to the aforesaid facts, the application filed by the Appellant Society is required to be considered and the provision of Section 56(1) and 56(2) of the Act is required to be confirmed, since any claim is beyond limitation and the same cannot be recovered.
- (vii) Shuddodhan SRA CHS (Prop.) and its Managing Committee is approved by Joint Registrar SRA and hence, it has a Legal Right, to act on behalf of 313 slumdwellers and it is valid Party in this case and has locus to file an Appeal before Hon'ble Court / Forum.
- (viii) In lieu of the aforesaid facts, claim of the Appellant Society be allowed and to be declared that R-Infra, and/ or the Respondent which has acquired the Electricity Company being no legal right to demand amount from 125 / 313 slumdwellers in respect of the electricity consumed as claimed and for the period July 2008 to July 2016 as per the provisions of the Act. The application filed by the Appellant Society be allowed and the relief as prayed for by the Appellant Society be granted accordingly.
- (ix) The Appellant Society submitted its memorandum No. 1 and 2 of its written say on 18.02.2022 by hand delivery. The contentions in both the memorandums are almost repetition of issues raised in the Representation and therefore not repeated here. However, some points not covered, are recorded below.
- The Developer was approved by the Slum Rehabilitation Authority by order dated 29.06.2017 passed by the Chief Executive Officer SRA for development of the property bearing CTS No. 471 (part) and for the area Adm. 5976.20 sq.mtrs and the said order was passed under Section 13(2) of the Slum Act.
 - In the affidavit in reply, the Respondent has only dealt with 125 persons out of 313 persons and termed them as consumers and it is alleged that the


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amount due and recoverable from the 125 persons was Rs. 2,75,39,156.55 up to 31.01.2020 as arrears of electricity and which includes the electricity bill from July 2008 to July 2016.

- The list of persons provided by Siddharth Colony Vikas Seva Sangh includes the name of 125 persons and therefore without prejudice, the claim of amount shown to be payable by 125 persons of Rs.2,75,39,156.55 is shown without adjustment of the amount paid and nowhere in the entire affidavit in reply, the details of the adjustment of Rs.10.50 crores have been shown to be adjusted against the outstanding bill of 125 slum dwellers and the list annexed in the affidavit in reply shows that no amount is shown to be adjusted by Respondent.
- Without prejudice, the average bill of the consumption of electricity as per the document submitted in affidavit shows that the current bill is only 381 for the period and if average bill is calculated at Rs.400/- per month than for the period of July 2008 of July 2016 which is 96 months, the electricity bill outstanding would be Rs.400 X 96 months = Rs. 38,400/-. This amount is the average amount for 125 persons, and which would total up to Rs.48,00,000/- and therefore the amount of Rs.48,00,000/- is not shown to be adjusted from the amount of Rs.10,50,0000/- received by Respondent No. 2 from Respondent No. 4. It is the case of the Appellant Society that the payment of Rs.48,00,000/- is not due and outstanding and adjusted from the amount of Rs.10,50,0000/- as regards 125 persons. Hence, the claim of the amount due and payable is Rs.2,75,39,156.55 as on 31.01.2020 is without any basis and illegal claim is being made by the Respondent.

10. The Respondent also filed its reply to the memorandum submitted by the Appellant by email dated 22.02.2022 which is taken in brief as under: -

- (i) On 14.02.2022 the captioned Representation was argued in detail by the Nodal officer of the Respondent before this Hon'ble Authority and upon hearing


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submissions of the parties of the Representation, at length, the Hon'ble Authority was pleased to reserve the matter for orders.

- (ii) It is submitted that the Respondent has submitted its detailed reply on 31.01.2022 to the Representation by mentioning entire facts, preliminary objections, legal submissions and paragraph wise response to the Representation. The Respondent repeats and reiterates contents of the said reply herein, however, the said contents are not being reproduced here for the sake of brevity and to avoid repetitions.
- (iii) It is submitted that the Respondent has clearly submitted in Reply dated 31.01.2022 that the Respondent has contemporaneously issued disconnection notices under Section 56 (1) of the Act. It is further submitted that not replying any legal notice or letter cannot be construed as admission on part of the party who is the addressee of the said notice. The Appellant with a malicious intent has misinterpreted Section 58 of the Indian Evidence Act, 1987 to mislead this Hon'ble Authority. Section 58 of the Evidence Act provides as under: -

"58 Facts admitted need not be proved. —No fact need to be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings: Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions." (**Emphasis added**).

It is humbly submitted that Section 58 of the Indian Evidence Act, 1872 inter alia speaks about facts which before the hearing, agreed to admit by the parties in any writing under their hands OR which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings. Hence, the Respondent not replying to the legal notice cannot be presumed as admission on part of the Respondent either under Section 58 of Indian Evidence, 1872 or at all. The Respondent, therefore, denies contents of the submission made by the Appellant in this regard.


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- (iv) The Respondent submits that the Appellant is entitled to demand and recover amount of electricity dues for the period from July 2008 to July 2016.
- (v) In view of above, as already submitted in its reply dated 31.01.2022 that the present Complaint / Representation is untenable in law and on facts and hence ought to be dismissed with exemplary costs.

Analysis and Ruling

11. Heard both the parties and perused the documents on record. The case basically pertains to a period from July 2008 to July 2016 which is being agitated by the Appellant Society on the directions of Hon'ble High Court, Bombay issued on 25.11.2021. The dispute needs to be adjudicated under Regulation 17.2 of the CGRF & EO Regulations 2006. Similar provision exists under the Regulation 19.1 of the CGRF & EO Regulations 2020. Similarly, relevant provisions in Supply Code & SOP Regulations 2021 exist in repealed Supply Code Regulations 2005, and SOP Regulations 2005 & 2014, barring slight change in the wordings without altering the meaning thereto.

12. In order to analyse and arrive at the conclusion, I have framed the following issues which are addressed as below in light of CGRF & EO Regulations 2020, and Supply Code & SOP Regulations 2021:


Issue A: Distribution Licensee and the Consumer in the eyes of the Electricity Act, 2003, and the Regulations made thereunder.

Issue B: In view of Issue (A) above, whether the Appellant Society is a Consumer.

➤ Definition of Consumer as per Section 2 (15) of the Act provides that

"Section 2. (Definitions):

(15) "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected


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for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;”

- Definition of Consumer as per the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 in Regulation 2.2 (1) provides as under:

“Consumer” refers to any person as defined in Section 2 (15) of the Act. Further, a Consumer may be classified as:

- i. ‘Low Tension Consumer (LT Consumer)’ if it is connected or taking supply from network of Licensee at Low Voltage;*
- ii. ‘High Tension Consumer (HT Consumer)’ if it is connected or taking supply from network of Licensee at High Voltage; or*
- iii. ‘Extra High Tension Consumer (EHT Consumer)’ if it is connected or taking supply from network of Licensee at Extra High Voltage;”*


- Definition of ‘Complainant’, ‘Complaint’ and ‘Grievance’ as per Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 in Regulation 2.1 (c), (d) and (e) respectively provides as under:

2.1 (c) “Complainant” means any Consumer as defined in Section 2 (15) of the Act and includes prospective Consumer, who files the Complaint or Grievance or Representation against the Distribution Licensee;

2.1(d) “Complaint” means a submission made by a consumer expressing dissatisfaction with the electricity supply service provided by the Distribution Licensee;”

2.1 (e) “Grievance” means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance, which has been undertaken to be performed by a Distribution Licensee in pursuance of a licence, contract, agreement or under the Electricity Supply Code or in relation to Standards of Performance of Distribution Licensees as specified by the Commission and includes inter alia Grievances in respect of non-compliance of any Order of the Commission or any action to be taken in pursuance thereof, which are within the jurisdiction of the Forum or Electricity Ombudsman, as the case may be;”

From bare perusal of above provisions, it is seen that the Consumer as defined in the Act and the Regulations made thereunder strictly establishes one to one relation with the Distribution Licensee which has supplied power


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to it by releasing suitable electric connection. Then such Consumer, if has any issue as regards the services to be provided by the Distribution Licensee then he becomes a Complainant who can proceed further with filing a Complaint / Grievance. Such Complaint / Grievance can be filed with the Grievance Redressal Mechanism as provided under the Act and Regulations made thereunder.


Now, let us examine, the position of the Appellant Society.

It is a proposed Society of persons / slumdweller in a particular area quoted above. These slumdweller are having electricity connections released by erstwhile Reliance Infrastructure Ltd., and now, by the Respondent, being its successor. The Appellant Society strictly speaking does not fall within the definitions quoted above. It is not a consumer who is receiving electricity from the Respondent. They are merely representatives in character who does not find its place within the provisions of the Act and the Regulations. However, the matter being directed by the Hon'ble High Court, Bombay in W.P. No. 3652 of 2019 through its Order dated 25.11.2021, the instant Representation came to be heard and proceeded with. The Respondent cited Judgment of Hon'ble High Court, Madras in Ratnaswami V/s. Prince of Arcot's Endowments – AIR 1938 Mad 755. The relevant part is quoted below:

“Though the point is not covered by Indian Authority, the law seems quite clear under the corresponding English rule, that the procedure pertaining to representative suits is inapplicable to actions of debt, to money claims on to the liabilities in contract or in tort.”

In view of the above discussion, the Appellant Society does not have any locus standi in the eyes of the Act and the Regulations made thereunder, except by virtue of directions of the Hon'ble High Court, Bombay issued on 25.11.2021.

Both the Issues A & B are therefore addressed accordingly.


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Issue C: Whether the Distribution Licensee has taken readings of the meter, issued electricity bills, disconnection notices, etc. in respect of consumers supplied electricity on the premises of the Appellant Society.

- The Appellant Society argued that the Respondent never took readings of the electricity meters provided to the individual slumdweller residing on the parcel of land, which is being developed under the SRA scheme, has not served any bills, and not issued any disconnection notices to the slumdweller for payment of outstanding dues. The Appellant Society further argued that they are total 313 slumdweller, out of which 125 are electricity consumers, the Respondent has not issued bills for the period July 2008 to July 2016.

- The Respondent argued that it has been continuously taking readings of all electricity consumers under its umbrella including that of the slumdweller in the instant case. Bills are regularly issued and some of the slumdweller are regularly paying it too. However, it has more often experienced strong resistance for disconnection of power supply in the event of non-payment of electricity bills. This has resulted into piling of arrears against many slumdweller. Whenever disconnection drive was undertaken, slumdweller, in mob, resisted it tooth and nail. Therefore, the Respondent had to take the help of local police. Even the Police Authorities on the written complaint of the Respondent have conducted joint meetings to avoid law and order issues. Therefore, the argument of the Appellant that it had not taken readings, issued bills and disconnection notices is totally incorrect.

I noted that non cognisable offence for not allowing disconnection has also been registered by the concerned police station on the complaint of the Respondent. Moreover, from the data submitted by the Respondent, it is seen that some consumers have paid electricity bills over a period of time. Such payments without issue of energy bills by the Respondent is next to impossible. Herein below is the relevant data with respect to payment made


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by the slumdweller / consumers, as submitted by the Respondent is tabulated below:

| Payments made by various consumers out of 125 total consumers of Shuddhodhan CHS (Prop) from 2008-2016 (Figures in Rs.) | | | | | | | | | |
|--|--------------|---------------|--------------|---------------|--------------|--------------|--------------|---------------|---------------|
| Month/Year | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
| Jan | 3990 | 300 | 4080 | 7610 | 8590 | 3300 | 4760 | 354240 | 4330 |
| Feb | 5000 | | 7540 | 21160 | 5140 | 2790 | 1250 | 990 | 5620 |
| Mar | 1060 | | 4470 | 21230 | 3560 | 8590 | 3690 | 3210 | 51200 |
| Apr | | 13790 | 2190 | 6250 | 9770 | 7360 | 850 | 9040 | 6290 |
| May | 6480 | 7775 | 4800 | 8380 | 3080 | 1110 | 26750 | 1440 | 8290 |
| Jun | | 13500 | 5620 | 6860 | 4720 | 950 | 1270 | 3380 | 21260 |
| Jul | | 5480 | 7770 | 14930 | 5200 | 5650 | 13350 | 21260 | 8150 |
| Aug | | 13470 | 14630 | 7820 | 2360 | 1310 | 2120 | 15050 | 5630 |
| Sep | | 12740 | 5590 | 16810 | 4210 | 4240 | 5510 | 3850 | 6950 |
| Oct | | 26210 | 9020 | 5350 | 13360 | 6460 | 7460 | 4710 | 6320 |
| Nov | 120 | 10410 | 9800 | 5530 | 3830 | 1280 | 9090 | 9260 | 7310 |
| Dec | 250 | 13780 | 6050 | 8060 | 6310 | 2950 | 8640 | 5370 | 4860 |
| Grand Total (Rs.) | 16900 | 117455 | 81560 | 129990 | 70130 | 45990 | 84740 | 431800 | 136210 |


The above table shows the details of each individual consumer who have paid the electricity bills shown in the respective years, and months. From this table, in the soft format, we can see the details of each and every consumer of the Appellant Society, however, such huge linkage of excel sheets is not possible to display here in this order due to obvious reasons. It is important to note here that the payment shown above, is much earlier to the payment agreed to be paid by the Developer, which came at a much later stage, in the year 2017 onwards.

From the above, it is seen that there is no substance in the argument of the Appellant Society that the Respondent did not take readings, issue bills and disconnection notices, etc. for each consumer.

The Issue C is, therefore addressed accordingly.

Issue D: Relevance of Section 56 (2) of the Electricity Act, 2003 as raised by the Appellant.

The Appellant stated that since the Respondent has not issued any bills for the period from July 2008 to July 2016, it is not entitled to recover the


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amount of electricity arrears for the said period as it is time barred in view of provision of Section 56 (2) of the Act.


This issue discussed and addressed at (C) above, makes the matter crystal clear that the Respondent did take readings, issue bills, etc. and some individual consumers out of 125, have paid the bills during the period July 2008 to July 2016. Moreover, the Respondent has submitted that the past bills were and still continuously being shown against the defaulting consumers in their successive bills. Therefore, there is no propriety of application of Section 56 (2) of the Act. The Respondent has cited Judgment dated 05.10.2021 of the Hon'ble Supreme Court passed in Civil Appeal No. 7235 of 2009 of M/s. Prem Cottex V/s. Uttar Haryana Bijli Vitran Nigam Ltd & Ors. The relevant para of the Judgment is quoted below:

“if the licensee has not raised any bill, there can be no negligence on the part of the Consumer to pay the bill and consequently the period of limitation prescribed under subsection (2) will not start running.”

I also noted that it is an admitted position that the Respondent was /is supplying electricity to 125 consumers / slumdweller on the premises now given under redevelopment. The Appellant failed to put on record and substantiate its allegations that the Respondent never read meters, issued bills, etc. as not a single consumer has filed complaint to that effect with the Respondent or for that matter approached the Grievance Redressal Mechanism established under the Act. The consumers were / are supplied electricity, they consume it and therefore, they are obligated to pay the charges towards the electricity supplied to them. It is a different matter that the Respondent did not succeed in disconnecting the electricity supply of these consumers due to probable law and order issue for which it has sought police protection and documented the same and ultimately resulted in piling of arrears.

Section 50 of the Act stipulates that

“Section 50. The Electricity Supply Code:


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The State Commission shall specify an electricity supply code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity; measures for preventing tampering, distress or damage to electrical plant, or electrical line or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter; entry for replacing, altering or maintaining electric lines or electrical plants or meter and such other matters.”

In accordance with Section 50 quoted above, the Commission through Supply Code & SOP Regulations 2021 has provided detailed procedures for billing consumers under Regulation 16.2. The relevant provision of Regulation 16.2.1 is quoted below:


*“The bill to the Consumer shall include all charges, deposits, taxes and duties due and **payable by the Consumer to the Distribution Licensee** for the period billed, in accordance with the provisions of the Act, these Regulations and the Schedule of Charges as approved by the Commission under Regulation 19.” (Emphasis added)*

From the plain reading of Section 50 of the Act, and Regulation 16.2.1 quoted above, it is clear that whosoever is supplied with energy, has to pay charges for the same. It is a different matter whether that specific consumer pays it or someone else on its behalf pays it, it ultimately goes into the account of that specific consumer.

The Respondent, therefore, is entitled to recover the charges towards the energy supplied to individual consumer / slumdweller including the arrears, in the present case, and therefore, application of Section 56 (2) of the Act as claimed by the Appellant does not arise.

The Issue D is, therefore, addressed accordingly.

Issue E: Does the Developer appointed by SRA has any role to play as far as issues with respect to billing, payment, recovery, disconnection of meters, etc, in respect of electricity consumers on the premises of the Appellant Society?


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As discussed in Issue (A) and (B) above, there is direct one to one relation between the Distribution Licensee and its consumer. The Developer, in the instant case is claimed to have been appointed by SRA for development of parcel of land where there are approx. 3419 slumdweller in the Siddharth Colony area. This includes slumdweller of the Appellant Society. Out of 3419 slumdweller, there are approx. 2600 slumdweller who have electricity connections released by the Respondent.

Out of these 2600 electricity consumers, 125 are on the impugned parcel of land which is under development and is a matter under this Representation. Being a Developer / the Appellant Society, it appears that it has taken the responsibility of payment of electricity bills of these consumers. In furtherance of this responsibility, amount of Rs.10.50 Crores came to be paid on behalf of such consumers by the Developer / Appellant Society in the year 2017-18, out of some discussions held by the Siddharth Colony Vikas Seva Sangh with the Respondent. Here, it is noted that realisation of Rs.10.50 Crores passed through various non-banking transactions between the Siddharth Colony Vikas Seva Sangh and the Respondent, such as taking back the cheques issued, its resubmissions, and some finally ended up with dishonouring by bank. The Respondent has also initiated legal action under Negotiable Instruments Act for dishonouring of the cheques issued by the Developer /Appellant Society/ Siddharth Colony Vikas Seva Sangh (Proposed).

The letters dated 23.08.2017 and 31.08.2017 from Raju Vishnu Waghmare, Chief Promoter, Siddharth Colony Vikas Seva Sangh (Proposed) addressed to R-Infra indicates that 12 post-dated cheques were issued amounting to total Rs.48.5 Crores. However, it appears that only Rs. 10.5 Crores is realised out of it as could be seen from the record.

The entire amount of Rs.10.50 Crores is not apportioned against 125 consumers of the Appellant Society but is also apportioned against rest of the



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electricity consumers out of 2600. However, as far as the instant Representation is concerned, some amount (Rs.27,29,263/-) out of Rs.10.50 Crores is apportioned against 64 electricity consumers of the Appellant Society as could be seen from the following table, data incorporated therein is submitted by the Respondent.

The following table shows total 64 consumers out of 125, against whom credit adjustment from the total kitty of Rs.10.50 Crores paid by the Developer on behalf of the Appellant Society is apportioned.

| Sr. No. | Cons.Acct. No. | Total credit from Rs. 10.5 cr (Rs.) | Name of Consumer | Sr. No. | Cons.Acct. No. | Total credit from Rs. 10.5 cr (Rs.) | Name of Consumer | Sr. No. | Cons.Acct. No. | Total credit from Rs. 10.5 cr (Rs.) | Name of Consumer |
|--------------------------|----------------|-------------------------------------|-----------------------------|---------|----------------|-------------------------------------|--------------------------------|---------|----------------|-------------------------------------|----------------------------|
| 1 | 100688606 | 22501 | NINRUTTI P KEDARE | 22 | 100728306 | 38472 | SAVLA T CHANDANSHIVE | 43 | 151274866 | 25056 | SITABAI HARI JAWALE |
| 2 | 100688656 | 59834 | BHIMSEN MAHUNTA | 23 | 100728335 | 60507 | K K MOKAL | 44 | 151451895 | 5162 | MARUTI KACHARU SHINDE |
| 3 | 100688682 | 31510 | DILIP GANPAT JADHAV | 24 | 100732178 | 7202 | KERU MAGAN PAWAR | 45 | 151467460 | 41470 | SUKUMAR SHIVARAM KAMBLE |
| 4 | 100688695 | 38565 | RAOSAHEB A SORTE | 25 | 100732268 | 48635 | S M KADHAM | 46 | 151473222 | 28259 | MARTHA ASHOK KAMBLE |
| 5 | 100688708 | 13019 | DIGAMBAR D NADEKAR | 26 | 100732918 | 36801 | SHANKAR GANPT KALE | 47 | 151479307 | 23976 | NTIN BABU KEDARE |
| 6 | 100688774 | 30759 | RAVINDRA NAMDEO DESHNEHRE | 27 | 100732960 | 31236 | EKNATH HARI TETURE | 48 | 151841229 | 22454 | KUSUMBAI ROOPA MORE |
| 7 | 100688829 | 47891 | FERICK D SOUZA | 28 | 100737560 | 54072 | HANUMANT C GAIKWAD | 49 | 100229102 | 46998 | RAMESH D SALVE |
| 8 | 100688846 | 18743 | JALINDAR ABAJI SHELAR | 29 | 100737575 | 54347 | JAIRAM HANUMANT GAIKWAD | 50 | 100229113 | 4082 | ULHAS D.SALVE |
| 9 | 100688976 | 58986 | BALU DHARMA KOHLE | 30 | 100737948 | 38618 | GANPAT TUKRAM KAMBLE | 51 | 100234015 | 53534 | CHAYABAI ADSOOL |
| 10 | 100693924 | 68139 | KASTURABAI HANUMANT JAMADAR | 31 | 100737961 | 26805 | SHANKAR ARJUN GAYTADKE | 52 | 100476571 | 238581.7001 | RAMBACHAN RAMLAL HALWAI |
| 11 | 100698220 | 48899 | MACHINDRA KRISHNA KAMBLE | 32 | 100737970 | 26415 | HANUMANTA MARUTI SONANE | 53 | 100688484 | 28744 | NARAYAN MAHADEO HARALKAR |
| 12 | 100698659 | 54956 | PANDURANG ASHABA VIRKAYADE | 33 | 100742053 | 40618 | BABON KUDAVE | 54 | 100698315 | 55203 | KUNDA VASANT JAGTAP |
| 13 | 100703175 | 38266 | LALASAHEB ABA BANSODE | 34 | 100742351 | 46981 | AKARAM A WAGHMARE | 55 | 100703187 | 27763 | SHANTARAM RAGHOJI GANGURDE |
| 14 | 100703293 | 52138 | EMANVEL RAMCGHANDRA SATNOOR | 35 | 100742383 | 65067 | BALU VITHAL BHALERAU | 56 | 100728293 | 9082 | SUNITA ANANDA PALUSKAR |
| 15 | 100703532 | 101155 | PRIMILA ASHOK KAMBLE | 36 | 102723385 | 33113 | PRADEEP KISAN KATARE | 57 | 100732458 | 35677 | ANAND ARJUN TAMBE |
| 16 | 100710879 | 124347 | UTTAM G KALKUND | 37 | 150177938 | 56982 | JAYSHREE SURESH DIVE | 58 | 100742167 | 3915 | ANANDBAI D PANWALKER |
| 17 | 100720032 | 26096 | MANKIDEVI R PRAJAPATI | 38 | 150192335 | 34500 | DILIPKUMAR BADRIPRASAD JAISWAL | 59 | 102710520 | 8945 | SHILLA PRAMOD KANWALU |
| 18 | 100720046 | 59254 | YASHWANT B SALAVE | 39 | 150199039 | 30955 | SURYAKANT BHIMRAO ALHAT | 60 | 150075262 | 66814 | RAMNATH P BHUTEKAR |
| 19 | 100720514 | 96324 | LAXMI S PARKAR | 40 | 150204163 | 8808 | SHIVAJI BHAURAO BAMBANE | 61 | 150146401 | 8348 | SHIVSHANKAR GUDDAR JAISWAR |
| 20 | 100720932 | 7171 | SAKHARAM LAXMAN LAMBE | 41 | 150299956 | 42054 | SHALAN JAYWANT KAMBLE | 62 | 150189189 | 39561 | BHASKAR SHIVAJI BAMBANE |
| 21 | 100725252 | 70519 | SAIBURO M KANUVALLU | 42 | 150442227 | 40601 | VIMAL YALAPPA KAMBLE | 63 | 150319319 | 50391 | RAJESHREE PRAVIN MOKAL |
| | | | | | | | | 64 | 150576092 | 13386 | CHANDRABHAG A DILIP JADHAV |
| Grand Total (Rs.) | | | | | | | | | | 2729263 | |


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Here it is beyond my understanding as to how amount against only 64 consumers out of 125 has been apportioned out of Rs.10.50 crores. The most probable reason for this anomaly could be the list of slumdweller who are having electricity connections, given by the Siddharth Colony Vikas Seva Sangh (Proposed). Otherwise, Respondent could not have any issue to adjust the part of the kitty of Rs.10.50 crores against 125 consumers. Therefore, it is the matter of detailed study and investigation as to the exact numbers of consumers against whom the entire amount of Rs.10.50 Crores is apportioned and how many consumers are there in the Appellant Society.

The Respondent in its submission during the hearing has stated that Rs.2,75,39,156.55 is outstanding as arrears of electricity as on 31.01.2020, and it includes the arrears of electricity bill from July 2008 to July 2016 for 125 consumers.

In the instant case, if the Appellant / Developer at its own sweet will, may be in terms of some agreement of development, takes upon himself the responsibility to pay the electricity bills of the slumdweller who have electricity connections on the impugned parcel of land which is being developed by the Developers, it is free to pay but with a caveat that it will be deemed to have been paid by the concerned individual consumer. Therefore, as far as the instant Representation is concerned, it is immaterial if the payment is made by the Developer. It will be an internal arrangement between the Developer and the individual consumer who are members of the proposed CHS. It does not make any difference as far as the Respondent is concerned. The individual consumer cannot absolve itself from the liability of payment of electricity bills raised by the Respondent and for that matter, the Respondent will be on the right side of the Law / Regulations in enforcing recovery of the same from the individual consumer by way of disconnection or by any other means as deemed fit.

The Issue E is addressed accordingly.


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Issue F: Issue of Limitation as raised by the Respondent.

The Respondent has taken a plea of limitation under Regulation 7.8 of CGRF & EO Regulations 2020 which is quoted below:


“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.”

This Regulation does not apply in the instant case as the Respondent has been continuously billing the individual electricity consumers who are members of the Appellant Society. This includes the impugned period of July 2008 to July 2016. On the contrary, the Appellant Society has raised the dispute that the Respondent has never issued any such bills for this period and hence cannot recover. However, from the above discussion, it will be seen that the Developer / Appellant Society did pay Rs.10.50 Crores out of which some amount has been apportioned against 64 consumers who are members of the Appellant Society. So, there is no question of applicability of Regulation 7.8.

The Issue F is addressed accordingly.

13. To conclude, I am of the opinion that it is a colourable exercise on the part of the Appellant Society to evade payment of electricity dues for the period July 2008 to July 2016 under some pretext or the other, particularly, when the Appellant Society, itself has claimed that it has paid some amount towards the electricity dues.

However, in the overall interest of all stakeholders, it is advised that the Appellant Society / Developer walk the Respondent to their premises for detailed inspection to know its boundaries, and the exact number of electricity connections with electricity dues against each individual one. This will help them freeze the important parameters such as total number of electricity consumers, and the status of past electricity dues, along with the current one on the piece of land of the proposed CHS for which the Developer has acquired rights to develop. It


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will also help to understand exact apportionment of payment against such consumers out of the total kitty of Rs.10.50 crores paid by the earlier Developer.

14. The disposal of this Representation is delayed in terms of the Order of the Hon'ble High Court, Bombay as the undersigned is holding charge of both the offices of the Electricity Ombudsman, Nagpur as well as Mumbai. In addition, there being voluminous data in the instant case which needed to be perused thoroughly. Moreover, some regular hearings in other cases were also scheduled.

15. The Representation is disposed of accordingly.

16. The secretariat of this office is directed to refund Rs.25000/- deposited by the Appellant Society.

Sd/-
(Deepak Lad)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

