

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REVIEW APPLICATION NO.1 OF 2021

IN

REPRESENTATION NO.90 OF 2020

In the matter of Power Factor Penalty and billing

Ajay V. Narsale..... Review Applicant  
(Shree Datta Hotel)

V/s

Maharashtra State Electricity Distribution Co. Ltd. Panvel Urban (MSEDCL)..... Respondent

Appearances: -

For Review Applicant : Suraj Chakraborty, Representative

For Respondent : 1. Manik Rathod, Executive Engineer, Panvel (U)  
2. Jaydeep R. Nanote, Addl. Ex. Engineer, Panvel City S/Dn.

**Coram: Deepak Lad**

Date of hearing: 26<sup>th</sup> February 2021

Date of Order : 9<sup>th</sup> March 2021

## ORDER

This Review Application is registered on 18<sup>th</sup> January 2021 under Regulation 19 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations 2006) for review of the Order dated 17<sup>th</sup> December 2020 passed in Representation No.90 of 2020.



(Dilip Dumbre)  
Secretary

Electricity Ombudsman Mumbai



2. The Electricity Ombudsman, Mumbai, by its order dated 17<sup>th</sup> December 2020 has rejected Representation No.90 of 2020 as being time barred.

3. Aggrieved by this order dated 17.12.2020, the Applicant has filed this Review Application stating that there are errors on the face of record in the said order which are as below: -

(i) The Hon`ble Electricity Ombudsman (Mumbai) has incorrectly interpreted the Judgment of the Hon`ble Supreme Court dated 18.09.2020 in Civil Appeal Nos. 3007-3008 of 2020 in Case of Sagufa Ahmed and Others Versus Upper Assam Plywood Products Private Limited and Others. The facts and circumstances in the case of Sagufa Ahmed is altogether and widely different from the Appellant`s Case and hence the same is not applicable in the case.

(ii) The Applicant referred the Para 10 of the said order, which is quoted below:-


*“The Appellant has requested for condonation of delay in filing the representation by his letter dated 21.10.2020 which was annexed along with the representation. The reasons cited for condonation being Covid-19 epidemic followed by lockdown. It is also mentioned by the Appellant in the same letter that it received the order of the Forum on 27.03.2020.”*

The Applicant states that he has not mentioned any date for receipt of the Forum`s order. In fact, he came to know in the month of October 2020 that the order of the Forum dated 18.03.2020 is displayed on the Website of the Respondent`s CGRF Portal. The copy of the said order was not received by him nor it was informed to him by the Forum / Respondent during the lockdown.

(iii) The order of the Forum attached with the representation was the downloaded copy from the Website.

(iv) The Applicant prays that the review be considered in the interest of natural justice in his case.

4. The Respondent filed its reply dated 24.02.2020 by email stating in brief as under:-

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai




- (i) The Hon`ble Electricity Ombudsman (Mumbai) has issued the order dated 17.12.2020 in Representation No.90 of 2020, and rightly rejected the Representation as being time barred.

The Appellant is a commercial consumer (No.028512541137) for hotel activity from 05.12.2013 at Plot No. 307, Shree Datta Hotel, Near S.T. Stand, Panvel. The basic grievance of the Appellant was about Power Factor (PF) penalty and requested to withdraw this penalty.

- (ii) The Respondent replaced the meter twice to satisfy the Applicant, however, the meters recorded less power factor even after such replacements and hence PF penalty was levied through computerized system as per the Tariff Order of the Maharashtra Electricity Regulatory Commission (the Commission). There may be some other issues of connectivity of capacitor/functioning of capacitor at the premises of the Appellant. Therefore, there is no wrong in levying penalty by the Respondent. The bills given to the Appellant are correct, and as per data downloaded through MRI.
- (iii) The average PF for less than 0.9 (Lag or Lead) penal charges was levied in monthly electricity bill as per the Tariff Order of the Commission.
- (iv) The Forum, by its order dated 18.03.2020 has rightly dismissed the grievance application on merit.
- (v) The Hon`ble Electricity Ombudsman (Mumbai) has already passed the reasoned order dated 17.12.2020.
- (vi) In view of the above, it is prayed that the Review Application be rejected.

5. The hearing was held on 26.02.2021 on e-platform through video conferencing due to Covid-19 epidemic. The Applicant argued in line with his written submission. The Applicant argued that the Hon`ble Electricity Ombudsman (Mumbai) has wrongly interpreted the Judgment of the Hon`ble Supreme Court dated 18.09.2020 in C.A. Nos. 3007-3008 of 2020 in Case of Sagufa Ahmed and Others Versus Upper Assam Plywood Products Private Limited and Others. The facts and circumstances in the case of Sagufa Ahmed is altogether and widely different from the instant case and hence is not applicable here. When the Applicant was confronted by reading the letter dated 21.10.2020 signed by his representative regarding the order of the Forum

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



received on 27.03.2020. which is on record, the Applicant did not comment further. The Applicant prays that the Review Application be considered.

6. The Respondent reiterated in line with its written reply dated 24.02.2021. The points raised for review by the Applicant were already on record for perusal while deciding the original Representation. This is not the fit case for Review as the Applicant has not pointed out any new discovery in the matter. The Applicant has failed to show any error on the face of record. As such the present review is not maintainable considering the provision of Regulation 19 of the CGRF Regulations 2006.

### **Analysis and Ruling**

7. Heard the parties and perused the documents on record. This Review Application is filed under Regulation 19 of the CGRF Regulations 2006 which is reproduced below:

*“19.1 Any person aggrieved by an order of the Electricity Ombudsman, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or on account of some mistake or error apparent from the face of the record, may apply for a review of such order, within thirty (30) days of the date of the order, as the case may be, to the Electricity Ombudsman.*


*19.2 An application for such review shall clearly state the matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or the mistake or error apparent from the face of the record. The application shall be accompanied by such documents, supporting data and statements as the Electricity Ombudsman may determine.*

*19.3 When it appears to the Electricity Ombudsman that there is no sufficient ground for review, the Electricity Ombudsman shall reject such review application.*

*Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.*

*19.4 When the Electricity Ombudsman is of the opinion that the review application should be granted, it shall grant the same provided that no such application will be granted without previous notice to the opposite side or party to enable him to appear and to be heard in support of the order, the review of which is applied for.”*

8. The Review Application of the Applicant is primarily based on two issues.

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



- (i) Wrong interpretation of the Judgement dated 18.09.2020 of the Hon'ble Supreme Court in C.A. Nos. 3007-3008 of 2020 in Case of Sagufa Ahmed and Others Versus Upper Assam Plywood Products Private Limited and Others.
- (ii) It has not received the order of the Forum on 27.03.2020 as said in the order.

As regards 8(i) above, I am of the opinion that the Review Applicant has not properly understood and appreciated the quoted part of the Hon'ble Supreme Court Judgement. It simply says that limitation period is extended and not the condonation in filing the Application, Writ Petition, etc. In short, it means that due to Covid-19 epidemic, it has simply extended limitation period as mentioned in its Judgement/s and in substance it implies that the individual adjudicating Authority / Court etc. need to evaluate the filings before it and decide on limitation. So, the Review Applicant's submission in this context is not correct.


Secondly as regards 8(ii) above, the representative of the Review Applicant himself during the hearing said that he does not remember having submitted a letter which states that the order of the Forum is received by the Appellant on 27.03.2020, when I personally read him out the said letter completely which is available on record. The handwritten letter dated 21.10.2020 of the Applicant's representative addressed to Electricity Ombudsman, Mumbai is on record for the condonation of delay in original representation. The relevant content is reproduced below: -

*"As pandemic situation from since March 2020, and we had received the order on March 27<sup>th</sup>, 2020. But as per lockdown situation from GoM, we cannot process the same with the Ombudsman procedure. But now in lockdown 4, we got chance to register our case with the Hon'ble Ombudsman. Hope you will consider our grievance and register our case."*

9. In view of the above, I do not find any substance, in the Review Application. The Review Applicant failed to bring out any error on the face of the record in the original order and therefore, it is not maintainable.

10. The Review Application is therefore dismissed and disposed of accordingly.

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

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

