

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 191 OF 2022

In the matter of Retrospective recovery towards under billing of the meter

Trimurti Stone Metal Co... Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Respondent
Rasta Peth Circle, Pune (MSEDCL)

Appearances:

Appellant : Narendra Mahajan

Respondent : 1. P. S. Raut, Superintendent Engineer, Rasta Peth Circle, Pune
2. B. B. Thite, Executive Engineer
3. G. V, Satpute, Jr. Law Officer,

Coram: Vandana Krishna [IAS (Retd.)]


Date of hearing : 24th January 2023

Date of Order : 31st January 2023

ORDER

This Representation was filed on 15th December 2022 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 19th October 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL, Pune (the Forum).


2. The Forum, by its order dated 19.10.2022 rejected the Grievance Application No.48 of 2021.


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Secretary
Electricity Ombudsman Mumbai



3. The Appellant filed this representation against the order of the Forum. The e-hearing was held on 24.01.2023 through Video Conference. Both the parties were heard at length. The Appellant's written submission and arguments in brief are stated as below: -


- (i) The Appellant is a HT Consumer (No. 170019030150) from 03.08.2016 having Sanctioned Load (SL) of 300 KW and Contract Demand (CD) 312 KVA at S.No. 11/6, Mangadewadi, Haveli, Dist. Pune. The activity of the Appellant is a process industry of Stone Crushing. The Appellant is billed under "Industrial" tariff category.
- (ii) The Respondent telephonically intimated for the first time in June 2020 that the CT of B phase was not working properly; hence it was necessary to test the same, and directed the Appellant to pay testing charges of Rs.3540/-. The Appellant paid Rs. 3540/- towards testing charges on 03.07.2020.
- (iii) The Appellant received a supplementary bill of Rs.4,50,490/- for 49280 units from the Respondent by its letter dated 04.12.2020 towards less recording of B phase faulty CT for the period of June 2019 to December 2019. The Appellant was shocked, as the Respondent had never done any special checking in front of the Appellant.
- (iv) The Appellant took up this issue with the Respondent, and requested to cancel the said supplementary bill, however there was no positive response.
- (v) The Appellant filed a grievance in Internal Grievance Redressal Cell (IGRC) on 21.06.2021. The IGRC rejected the grievance. The Appellant approached the Forum on 27.09.2021. The Forum, by its order dated 19.10.2022 also rejected the grievance. The Forum failed to understand the basic issue that the Respondent never did joint inspection with the Appellant, and the bill was issued after more than one year of the alleged cause of action.
- (vi) The Appellant prays that the Respondent be directed to set aside the supplementary bill of Rs. 4,50,490/- towards alleged faulty B Phase CT for the period of June 2019 to December 2019, along with interest and delayed payment charges levied.


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4. The Respondent, by its letter dated 12.01.2023 submitted its written reply. The written submission along with its arguments are stated in brief as below: -

- (i) The Appellant is a HT Consumer (No. 170019030150) from 03.08.2016 having SL of 300 KW and CD of 312 KVA at S.No. 11/6, Mangadewadi, Haveli, Dist. Pune. The Appellant is carrying out Stone Crushing activity under “Industrial” tariff category.
- (ii) H.T. Metering Kiosk consists of three CTs, three PTs, and a meter which records electrical energy consumed by the Appellant. CTs and PTs function in each separate phase of a three-phase system, and each phase computes 33.33% energy in an ideal case for balanced load.
- (iii) While approving the reading of the Appellant in MDAS (Meter Data Acquisition System) Portal for the month of Dec. 2019, it was observed that B phase current was the least reading compared to R and Y phase current of metering data. This abnormality was referred to the Testing Division of the Respondent for further detailed testing and analyzing. The Testing Team visited the premises of the Appellant on 07.01.2020, inspected and checked the electrical installation. As per the Testing Report, the LT current of B phase was not commensurate with the HT current during the load test. Hence, a shutdown was arranged. The B Phase CT having Ratio 10/5 A was tested for ratio error by primary injection method. It was found that at 5 Amp. Primary current, the current in secondary was 0.5 Amp instead of 2.5 Amp. i.e., B phase CT was recording only 20 % instead of 100 %. The less recording of 80 % was to be assessed. The R (33.33%) and Y phase (33.33%) CTs were recording correctly. When the actual recorded values of current as seen in a snapshot of MRI readings were super imposed mathematically for aggregating recording, it was found that the meter was actually recording only 73.6 % and was under recording by 26.4 %. The meter itself was found in order.
- (iv) The MRI Data of the meter was retrieved. It was established that B-phase CT was not properly working from 27.06.2019 onwards.
- (v) The CT/PT metering Kiosk was not immediately available for replacement. The Appellant was billed proportionately, adding assessment for the month of Jan& Feb.2020. After that



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the Government of Maharashtra declared a complete lockdown on 23.03.2020. The Appellant was further billed along with assessment up to 07.08.2020. The CT/PT metering Kiosk was replaced on 07.08.2020. The B phase event for under recording was restored on 07.08.2020 at 15.34 Hrs. The Appellant was billed with assessment for the period from Jan 2020 to 07.08.2020 in the monthly bill. The Appellant paid the same along with its monthly bill.

- (vi) Afterwards, after part relaxation of the Covid-19 epidemic lockdown, and after availability of departmental manpower, the Respondent issued a supplementary bill of Rs. 4,50,490/- for 49280 units by its letter dated 04.12.2020 towards less recording of B phase CT for the period from 27.06.2019 to 31.12.2019.
- (vii) As per Regulation No. 4.4.1 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021, the distribution Licensee is authorized to recover charges for electricity supplied.
- (viii) Regular meter testing of all HT consumers with 1000 KVA Contract demand is carried out on year-to-year basis in general.
- (ix) The present case is a case of short billing. Hence the Respondent should be allowed retrospective recovery from date of cause of action i.e., 27.06.2019 to 31.12.2019.
- (x) In view of the above, the Respondent requested to reject the Representation of the Appellant and allow MSEDCL to recover the supplementary bill of Rs. 4,50,490/-.

5. During the hearing, considering the depth of the grievance, the Appellant and Respondent were advised to meet for an amicable settlement. Both the parties agreed. However, the Respondent informed telephonically on 30.01.2023 that there is no chance of a settlement, as the assessment is based on realistic data.


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Analysis and Ruling


6. Heard the parties and perused the documents on record. The Appellant is a HT Consumer from 03.08.2016 having SL of 300 KW and CD of 312 KVA. The Appellant is carrying out Stone Crushing activity under industrial tariff category.

7. In Dec. 2019 while validating the monthly reading on MDAS portal, the Respondent observed that B phase current was showing less reading compared to R and Y phase current of metering data. Accordingly, the Testing Team of the Respondent inspected and checked the electrical installation on 07.01.2020. As per the Testing Report, the B phase CT was recording less by 80% as per primary injection method. When the actual values recorded in MRI readings were super imposed mathematically for aggregating recording, it was found that the meter was actually recording only 73.6 %, i.e., it was under recording by 26.4 %. The meter itself was found in order. The MRI Data of the meter was retrieved. The CT/PT metering Kiosk was replaced on 07.08.2020. The meter was thus found to be under recording by 26.4 % for the period from 27.06.2019 to 07.08.2020 as per MRI report.

8. The Government of Maharashtra thereafter declared a complete lockdown on 23.03.2020. The Appellant was billed along with assessment for the period from 01.01.2020 to 07.08.2020. The Appellant paid the same along with its monthly bill.

9. After part relaxation of Covid-19 lockdown, the Respondent issued a supplementary bill of Rs. 4,50,490/- for 49280 units on 04.12.2020 towards under recording for the 6 months period from 27.06.2019 to 31.12.2019.

10. The Appellant contended that the Respondent never carried out any special joint checking in the presence of the Appellant, hence the assessment did not stand on merit. Considering the chronology of various events like testing of CTs by primary injection on 07.01.2020, MRI data


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logging of current events etc., the said arguments have no merit, as the evidence of the MRI data is reliable.

11. The Judgment dated 18.12.2018 of Hon'ble Bombay High Court, Bench at Aurangabad in W.P. No. 8613 of 2017 is squarely applicable in the instant case. The relevant part of the Judgment is quoted below:


“33 it is, therefore, obvious in the present case that there was nothing intrinsically wrong with the meter. As under-recording of electricity consumed was associated with the act of the electrician in wrongly attaching the wires to the R,Y & B phases. I am, therefore, of the view that such a wrong attachment of wiring by the electrician would not amount to a defect in the meter. Consequentially, due to the under-recording of the meter, the Appellant has consumed such energy as was normally required to be consumed and the Petitioner has lost the revenue for such under-recording.

34. Clause 3.4.4 of the Regulations, 2005 enables the Petitioner to recover the charges for the electricity actually supplied, which would include a fixed charge as per the prescribed rates. The Appellant, therefore, has to pay full charges for the electricity actually consumed. 35. In the Municipal Corporation case (supra), this court has sustained the supplementary bill raised by the Electricity Company and this Court has upheld the recovery of the amount mentioned in the supplementary bill.”

In the present case, the assessment period towards under recording of consumption is 14 months from 27.06.2019 to 07.08.2020. This assessment period fulfils the statutory requirement of the Section 56(2) of the Act of maximum 24 months. The Section 56 (2) of the Electricity Act, 2003 is reproduced below:

“(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”

12. Retrospective recovery on this count cannot be allowed for more than two years. This Section 56 (2) of the Act has been interpreted by the Larger Bench Judgment dated 12.03.2019 of Hon'ble Bombay High Court in W.P. No. 10764 of 2011 with Other Writ Petitions. In accordance with this Judgment, the Distribution Licensee cannot demand charges for consumption of


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electricity for a period of more than two years preceding the date of the first demand of such charges.

13. In this case, the supplementary bill for June to December 2019 was issued in December 2020, which is within the allowed period of 24 months. Hence, the supplementary bill of Rs.4,50,490/- raised by the Respondent is found to be in order, considering under recording of the meter by 26.4 % for the period from 27.06.2019 to 31.12.2019, and considering the Covid-19 epidemic lockdown from March to June and the continuing partial lockdown thereafter.


14. In view of the above, the Respondent is directed as under: -

- a. The supplementary bill of Rs. 4,50,490/- is upheld, however, the interest and delayed payment charges levied, if any, is to be withdrawn.
- b. to allow the Appellant to pay the supplementary bill of Rs. 4,50,490/- in 7 equal monthly instalments. If the Appellant fails to pay any instalment, proportionate interest will accrue, and the Respondent has the liberty to take action as per law.
- c. Compliance to be submitted within two months from the date of issue of this order.
- d. Other prayers of the Appellant are rejected.

15. The Representation is disposed of accordingly.

16. The secretariat of this office is directed to refund Rs.25000/- taken as deposit to the Respondent for adjusting in the Appellant's ensuing bill.

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


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

