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Consumer Grievance Redressal Forum
“Vidyut Bhavan”, Gr. Floor,
L.B.S.Marg,Bhandup (W),
Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/121/544

Date: 19.07.2018

Hearing Date: 05.06.2018

CASE NO.121/2018

In the case of Defective Meter

M/s. Nirmal Lifestyle Ltd
Hard Castle Resturants Pvt Ltd
C block Nirmal Lifestyle LBS Mulund
(CONSUMER NO.022919053830)
Sanction Load 145KW and Contract Demand 181KVA
. . . . (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution Company Limited
through its Nodal Officer,
Thane Circle,Thane
. . . . (Hereinafter referred as Respondent)

Appearance

For Consumer:- Mr. Manish Shah, Consumer Representative
For Respondent: - P.P.Gulane Additional Executive Engineer,
Sarvodaya Subdivision MSEDCL, Mulund
[Coram- Dr. Santoshkumar Jaiswal - Chairperson, Dr. R.S.Avhad -Member Secretary
and Sharmila Rande - Member (CPO)].

1. Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as ‘MERC’. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. “Maharashtra Electricity Regulatory

Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005] Hereinafter referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission’.

2. Aggrieved by the order of the Internal Grievance redressal cell, The Appellant filed this Representation stating following points amount the others.

- i. Our sanctioned load is 145KW with CD 181 KVA using Maximum Demand 94KVA.
- ii. On 11th Dec 2017 site was visited by MSEDCL & panchanama was prepared also the meter was checked abnormally.
- iii. On 19th Dec 2017 Meter was tested at MSEDCL testing faculty and found out of order.
- iv. On 20th Dec 2017 meter tested at MSEDCL Testing faculty (Lab) and found out of order& the events occurred from 14/11/2014.
- v. On th 28Dec 2017 meter was again retested it tampered or not . It was found meter was not tampered and the events occurred on 29th MAY 2016.
- vi. MSEDCL has made a wrong assessment against our consumer Number 022919053830 amounting To Rs 68,20,300/ (Rupees Sixty Eight Lacs Twenty Thousand Three Hundred only) for the period From 1st October 2014 to 31st December 2017. There is no

such ground for such an assessment. MSEDCL has issued a notice for recovery of outstanding dues after almost 3 (three years).

- vii. Appellant also submitted that the disputed meter was defective, Regulation 15.4.1 of the Electricity Supply Code Regulations which deals with billing issues in case of defective meters, stipulate

15.4. Billing in the event of defective Meters

15.4.1 *Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the consumer's bill should be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken, subject to furnishing the test report of the meter along with the assessed bill.*

Provided that, in case of broken or damaged meter seal, the meter shall be tested for defectiveness or tampering. In case of defective meter, the assessment shall be carried out as per clause 15.4.1 above and, in case of tampering as per Section 126 or Section 135 of the Act, depending on the circumstances of each case.

- viii. Pray for withdrawn 39 months bill assessment amount which is unlawful.

3. Notice was issued to the Nodal officer and executive Engineer IGRC of Thane circle. The Respondent representative has filed reply dated 26 June 2018 stating as under:-

- i. M/s Nirmal Life style Ltd is a LT consumer under sarvodaya sub-division having consumer No.022919053830 since 07.03.2008.
- ii. The Assistant Engineer LBS has carried out the inspection of meter of above said consumer with the Additional Executive Engineer sarvodaya sub-division on Dtd.11.12.2017,while inspection it is observed that the 'R' phase current is missing & the meter found - 37.15% slow, on accucheck machine. Accordingly, the Panchanama is made duly signed by consumer on site (Exhibit No.1). (pages 5)Also the above said meter data is retrieved through MRI(Exhibit No.2),(pages7) .Thereafter, the meter is sent to Testing Division for further detail analysis, & the testing division has given the report with Panchanama (Exhibit No.3) (pages 4)which states that the 'R' phase current is missing &the meter found -33.34%. slow.
- iii. The MRI data of the said meter also shows that the 'R' phase is missing from 14.11.14 still date of inspection, it's raw data file of the said meter is forwarded to the manufacturer i.e. genus power Ltd for detail analysis (Exhibit No.2),(pages 7) & it has submitted the report (Exhibit No.4) that the 'R' phase of the said meter is missing since oct-14 Hence the meter is opened to find out any tampering is present or not ? ,but it is observed that there is no tampering & hence No theft detected. Accordingly the Panchanama is made (Exhibit No.5) (pages 2). As the meter has not recorded the one third consumption due to one phase current missing, this office has proposed the recovery of 4,03,697 units & The is enclosed for your leady Reference (Exhibit No.6), (pages 14).The supplementary bill is issued amounting Rs.68,20,300/- Rs. sixty eight Lakhs

twenty thousand & three hundred only). All relevant documents are handed over to the consumer.

- iv. Hon'ble ombudsman observed in case no.60 of 2017 and Review petition no 07 of 2017,there is no any limitation for recovery or in case of MRI Recovery or recovery for current missing event from any phase. The both orders are attached herewith (Exhibit No.7), (pages 5).
- v. Hon'ble Bombay high courts vide its order (Double Bench) in W.P.NO.7015 Of 2008 dtd. 20/08/2009 .ruled there is no any limitation for retrospective recovery for any error. The order is attached herewith (Exhibit No.8) (pages 6).
- vi. The consumer has paid the Amt of Rs. 4,75,218/-against supplementary bill amounting Rs.68,20,300/- , hence this office has issued the disconnection Notice for the same. All relevant case papers, court orders, panchanama, Testing report and other supportive documents are attached herewith.
- vii. In view of the above and on the grounds stated hereinabove, the recovery amount is proper and legal. The matter filed by consumer may please be rejected.

4. During the hearing, Appellant say as per testing report of meter Sr. No 6588280 Make Genus submitted by respondent the test result found of OUT OF ORDER. "R" phase CT of meter found open .same temper i.e "R" phase 'CT open' Event is also logged on meter display and 1no of resin cast Ring Types CTs are tested for ratio and polarity test and found Ok. The same meter data sent to manufacturer Genus company to verify any temper to meter by Respondent. The report dated 28.12.2017 shows conclusion "meters R phase

CT found open As meter is ultrasonically welded and if anyone trying to open meter” Top cover open “will be recorded by the meter in tamper data this temper is not found in this meter)and Meter analysis report dated 20.12.2017 which received to Respondent confirm “ Meter is found to be faulty”. This clearly means that meter was defective Therefore question of provisional/supplementary bill does not arise as per Regulation 15.4.1 of supply code Regulations, in case if the meter is defective, the consumer is to be billed for maximum period of three months based on the average of previous twelve months. It is the appellant therefore prayed to quash the Supplementary bill and to issue bill only for a period of 3 months. The report dated 20.12.2017 shows that there is faulty in meter. Therefore he had submitted that the meter was apparently faulty and only bill shall be adjusted for minimum period of 3 months as per provision of 15.4.1 of the Supply Code Regulation and after stating that as set aside the order passed by IGRC.

5. The Respondent stated during that while inspection on 11.12.2017 it has found that ‘R’ phase CT current was missing on meter and meter found 37.15.% slow on accucheck machine .The same meter tested in MSEDCL testing Laboratory found -33.34% slow. The respondent he has submitted that meter not faulty but there was tampering as clearly tested in the report that enquiry by the respondent in this joint inspection report. He further submits that the meter was slow by 33.2% but there is no fault in the meter. The recovery amount is proper and level and application filed by consumer may please be rejected.
6. On hearing both parties, I am going through the record it appears that the report of respondent those the meter found error of 33.34% ‘R’ phase CT current shows 0 value. The meter analysis report received to respondent from Manufacturing company on their request shows R phase CT open tampered event occurred on 29.05.2016 and meter R phase CT found open as meter

ultrasonically is wedded and if anybody trying to open meter to top covered open will be recorded by the meter in temper data (In provide data this temper is not found in this meter . This report shows no tamper to the meter externally. There is no allegation of misuse or unauthorized use of electricity against the consumer by MSEDCL. It is also cleared form the report filed by the petitioner that from the meter analysis report dated. 21.12.2017 that meter is found to be faulty. Hence, I come to conclusion that meter is faulty one and petitioner has entitled to benefit all section 15.4.1 for recovery amount. Arrears of 3 month on bill. Hence, I proceed to pass following order

ORDER

1. The application is partly allowed.
2. The applicant is entitled to pay difference of 3 months arrears as per supply code section 15.4.1.
3. The amount if any deposited or paid by applicant be adjusted.

No order as to the cost.

Both the parties are informed accordingly.

Compliance should be reported within 30 days from the receipt of this order.

I Agree/Disagree

I Agree/Disagree

**MRS. SHARMILA RANADE,
MEMBER
CGRF, BHANDUP**

**Dr. SANTOSHKUMAR JAISWAL
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**

Member Secretary, (R.S Avhad),

I have gone through the above reasoning and my opinion in this matter is differing Point wise clarification is given as below

The respondent carried out the inspection of meter of above said consumer on 11.12.2017, while inspection it is observed that the 'R' phase current missing & the meter found -37.15% slow, on accucheck machine and also tested in Testing laboratory found 33.34% slow .

The MRI data of said meter retrieved and report shows 'R Phase current missing /abnormal from 14.11.2014. The meter itself cannot term as faulty only the electric current input feed to the meter missing, causing a reduction in recording.

Therefore Licensee made assessment of less recorded unit for the period Oct 2014 to Dec 2017.

The Hon'ble Bombay High court vide its order (Double Bench) in W.P.No 7015 of 2008 Dated 20/08/2009, ruled there is no any limitation for retrospective recovery for any error.

Hence, the supplementary bill issued to the above consumer is correct & it is to be recovered. The necessary installments for the payment of supplementary bill amount to the consumers shall be given as per MSEDCL Rules & Regulations without interest & DPC.”

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

Note:

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of

this order at the following address. " Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606, Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051"

- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non- compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission (consumer Redressed Forum and Ombudsman) Regulation 2003" at the following address:-

"Maharashtra Electricity Regulatory Commission, 13th floor,world Trade Center, Cuffe Parade, Colaba, Mumbai 05"

- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.