

.(A Govt. of Maharashtra Undertaking)
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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/108/592 Date: 10.08.2018

Hearing Date: 05/06/2018

CASE NO.108/2018

M/s. Jaimin Plastics
9,Govind Udhyog Bhavan
B.R.Road, Mulund

(CONSUMER NO.600000821737)
..... (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 – Shri.Pravin Thakkar – Consumer Representative
For Licensee:- Shri S.S Kuril Additional Executive Engineer,
Pacharasatta,Mulund

[Coram- Dr. Santoshkumar Jaiswal- Chairperson, Shri. R.S.Avhad -Member
Secretary and Sharmila Ranade - 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.

2. The Applicant consumer has filed application to this Forum for interim order on dtd. 26/03/2018 against threat of disconnection from Distribution Licensee under regulation no 6.5 and 8.3.
3. The consumer has filed this Representation raising following points. .
 - i. The applicant is Low tension consumer under Pachrasataa, Mulund Sub-Division bearing consumer number 600000821737
 - ii. The Respondent has issued applicant the supplementary bill for Rs 8,90,250/- On date 20/02/2018 for slow meter recovery for the period August 2014 to Feb 2014.
 - iii. The Respondent not provided Testing Division Report, Spot verification report, Spot Panchanama, Meter Testing Panchanama and Calculation sheet. The recovery period of 43 months based only assumptions and presumptions and there is no any substantial evidence for 43 months.
 - iv. As per MERC Regulation 15.4.1. in case of defective meter ,the recovery period is maximum 3 months As per regulation in case of defective /slow meter the recovery period is maximum 3 months.

- v. The consumer also informed to direct MSEDCL to send the CT and Meter To NABL accredited Lab with their Cost and expenditure to detect the exact date of burning of plug in CT and find out exact reason of defectiveness of Meter and CT.
- vi. The consumer has referred the order passed by Hon'ble Ombudsman in representation no 100 of 2010 and Judgement of Hon'ble Punjab-Hararyana High court in civil Writ petition no 14559 of 2001 Dtd 09/11/2009.
- vii. The consumer also submitted that retrospective recovery bill of Rs 8,90,250/- for meter slowness for the period of 43 months issued by the Respondent is highly illegal, wrong and baseless and has prayed for quash the same and also prayed to instruct the Respondent to pay interest on security Deposit from date of connection.

4. Notice was issued to the Nodal officer and executive Engineer IGRC of Thane circle. The Respondent has filed reply dated 04 April 2018 stating as under:-

- i. The connection is on the name M/S Jaimin Plastics bearing consumer no. 600000821737, Meter no. 6262856, Make: Genus, Capacity 100/5A, Sanctioned Load:- 63HP is 3 phase connection & date of power supply is 01.01.1987.
- ii. The respondent While going through MRI (Meter Reading Instrument) data report of Genus make CT operated meter (Sr 6262856) it has found that B phase current was missing on meter.
- iii. The Additional Executive Engineer Mulund Division & Pachrastra Sub division, Assistant Engineer (QC) and Assistant Engineer of The Respondent inspected the premises as mention above in the presence of consumer Shri.Narendra Damja Rachhon date 18.01.2018. It has found that B phase current displayed '0' on meter. But while testing by digital

clamp meter at B phase of meter outgoing cable current was 29A. Thereafter meter data retrieved through SANDS MRI and checked meter by ACCUCHECK meter (Standard calibrated Meter instrument) and found ACCUCHECK result as -27.3%.The meter recorded 27.30% less consumption so working slow by 27.3% .Immediately the meter has replaced by new meter on same day. Thereafter the spot inspection report and panchnama was done & signed by consumer

- iv. In MRI data it has found 'B' phase current missing from Aug 2014 so CMRI data files sent to Genus Company for Meter Data analysis report. Meter Data Analysis Report received from Genus company through email dated on 25.01.2018 Therefore the calculation of less recorded consumption on meter was calculated since Aug2014 by less recorded by 33.33% and assessment for units calculated 110439.5 amounting Rs890250/-.
- v. Meter has tested in MSEDCL Bhandup Testing Lab which is NABL (National Accreditation Board for Testing & calibration Laboratory) certified LAB. Meter found Ok in testing & meter data has retrieved using MRI by Testing Division. Consumer applied for testing of meter from NABL lab dtd on 23.03.2018. The Executive Engineer Mulund has mentioned in the reply to consumer) that MSEDCL Testing Lab is a NABL certified LAB The consumer might get meter tested from MSEDCL Ambikanagar Testing Lab after payment of meter testing fees.
- vi. Consumption of New Meter from Mar 18 is 7727 units and in the month of Apr18 are 8351 units as below. The plain recovery for non-recorded units in the meter due to B phase missing current since from Aug14 according to MRI data is proposed. The issue as already decided

by Hon'ble Ombudsman in case no 16 /2017 and confirmed by Hon'ble High Court Bombay that when 'B' Phase terminals missing recording unit but other terminal showing the actual consumption recorded then it is not the fact of defective meter and as such benefit under 15.4 cannot be given . The Respondent Prayed to consider all the facts seriously & give positive decision in favour of MSEDCL

5. During the hearing, the Consumer argued that he obtained Low Tension supply form the Respondent. The meter is the property of the licensee and is under their seal. As per regulation 14.4.1. Of MERC (Electric supply code) Regulation 2005 the distribution Licensee shall be responsible for the periodic testing and maintenance of all consumer meters. The consumer submit that the definition of meter as per Reg. No 2.1 of MERC (Electricity Supply code) Regulations 2005 "*Meter "Means a set of integration instruments used to measure and /or record and store the amount of electrical energy supplied or the quantity of electrical energy contained in the supply, in a given time which include whole current meter transformer or potential or voltage transformer with necessary wiring and accessories and also includes pre-payment meters.* So as per definition ,the meter includes the current Transformer in this case the 'Y' Phase CT burnt at incoming side burnt clearly shows the meter becomes defective and slow .The Respondent not provided Testing Division Report, Spot verification report, Spot Panchanama, Meter Testing Panchanama and Calculation sheet. The recovery period of 43 months based only assumptions and presumptions and there is no any substantial evidence for 43 months. The 'Y' phase CT was defective this clearly means that meter was defective. The faulty in the meter could be occurred 24 months before and may have risen only on the day of detection. 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. The appellant therefore prayed to quash the Supplementary bill and to issue bill only for a period of 3 months. 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. The consumer also argued that the respondent not paid interest on security Deposit from the date of connection and prayed for the same as MERC regulation.

6. The Respondent stated during that while going through MRI data report of secure make CT operated meter (Sr 6262856) it has found that 'B' phase CT voltage was missing on meter. He further contended that the site inspected by our team in presence of consumer Shri.Narendra Damja Rachhon on dated 18.01.2018 and found 'B' phase current Shown zero on display . The same CT operated meter replaced on same date. Thereafter meter data retrieved through SANDS MRI and checked meter by ACCUCHECK meter (Standard calibrated Meter instrument) and found ACCUCHECK result as -27.3%.The meter recorded 27.30% less consumption so working slow by 27.3% .Immediately the meter has replaced by new meter on same day. Thereafter the spot inspection report and panchnama was done & signed by consumer. The meter tested in testing lab on 8 Feb 2018 and found O.K. In MRI data it has found 'B' phase current missing from Aug 2014.So CMRI data files sent to Genus Company for Meter Data analysis report .Meter Data Analysis Report received from Genus company through email dated on 25.01.2018 Therefore the calculation of less recorded consumption on meter was calculated since Aug2014 by less recorded by 33.33% and assessment for units calculated 110439.5 amounting Rs890250/- Meter has tested in MSEDCL Bhandup Testing Lab which is NABL (National Accreditation Board for Testing & calibration Laboratory) certified LAB. Meter found Ok in testing & meter data has retrieved using MRI by Testing Division Meter. Consumer applied for testing of meter from NABL lab dated on 23.03.2018.

The Executive Engineer Mulund Meter has tested in MSEDCL Bhandup Testing Lab which is NABL (National Accreditation Board for Testing & calibration Laboratory) certified LAB. Meter found Ok in testing & meter data has retrieved using MRI by Testing Division. Meter Consumer applied for testing of meter from NABL lab dtd on 23.03.2018. The Executive Engineer ,Mulund has intimated in the reply to consumer that MSEDCL Testing Lab is a NABL certified LAB and also informed that the consumer might get meter tested from MSEDCL Ambikanagar Testing Lab after payment of meter testing fees but consumer did not pay any testing fees.

7. The Respondent stated that the meter is not at all faulty only 'B' phase was missing. Further submit that the MRI reading is there those it was display it cannot be stated the faulty meter. No extra charges settle the application.

Observation,

8. It is observed that the meter was recording a lesser energy consumption then the actual value due to defective CTs output to the meter. The meter itself cannot termed as faulty only the electric current input feed to the meter missing, causing a reduction in recording
9. Supply code deals with procedure regarding the preparation and issuance of a bill, when the meter reading not available due to its non recording or malfunctioning of the meter, Here the case was that meter records less due to the current output from one phase 'B' of the CT was missing. Paving the way for missing of the current input to the meter. Hence, the meter recording the energy of two phases out of three phases. Hence, Regulation 15.4.1 of the Electricity Supply Code Regulations not applicable but when one phase of CT input to the meter is missing, it will pave the way for reduction of 1/3 of the total energy actually consumed in the recordings of the meter. Since in three phase connection two phases shown the current values but

one phases not shown any values i.e. zero current, Hence one phase lost , nearly 1/3 rd of the total energy consumed will not be recorded and in such case the assessment of non recorded energy consumption i.e. 1/3 less is technically and mathematically correct. The testing report has conclusively prove that the ‘Electric current input of one phase of electric supply from one R Phase ‘CT’ was missing due to contact open i.e. in disconnected state . The appellant witness the pachanama prepared on date and the findings of The MRI Data result is not disputed by applicant. The retrieved data download from meter by respondent has proved that the Missing of CT output has occurred since August 2014. Hence it is clear that the Meter was recording less energy from that day onwards till it is replaced.

10. On verifying the consumption pattern of the consumer for previous and succeeding years of inspection , which is reproduced as below

Month – Consumption (Units) Month – Consumption Month – Consumption

Month – Consumption (Units) Month	Consumption	Month – Consumption
AUGEST2017-3007	Feb 2018-1832	
SEP2017-3145	March2018-7727	
OCT-2017-3211	April-2018-8351	
NOV2017-2707	May 2018-4784	
DEC2017-2492	June2018-3095	
Jan2018-2572	July 2018-4929	

The sample consumption pattern also shows recorded units per months on meter for disputed period is less as compared to succeeding months.

11. Licensee is entitled to recover energy charges, under charged from the consumer, if it is established. In present case it stands proved the consumer was under charged during the years August 2014 to Jan 2018. It is true that the recovery of arrears of electricity charges is not due to any fault or offence committed by consumer. There is no allegation of misuse or unauthorized use of electricity against the consumer by MSEDCL. The MSEDCL only demanded the charges of energy lost in the recording of the meter. Which has been actually used by Party. The consumer is bond to pay electricity charges for the energy he has consumed. The energy consumption recorded in meter, during the period of missing one phase of CT (Current output from phase of supply) to the meter i.e. for the period from August 2014 to Jan 2018 is reported as 110439.5units amounting Rs890250/-

12. In the case of the applicant the MRI Data produced by the Respondent Shows that 'B' phase CT missing from August 2014 to Jan 2017 and consumer was billed for 43 Months but as per provision of section 56(2) of the Electricity Act 2003, which reproduce as below

“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”

The period of recovery was restricted for 24 months considering the provision of section 56(2).

13. It is directed to the respondent MSEDCL to issue revise supplementary bill for the period of 24 months prior date of inspection. It is directed to the MSEDCL to prepare the Supplementary bill and issued to the applicant within 15 days from the date of the receipt of this order. The applicant is at liberty to pay the arrears to the

Respondent by 12 monthly equal instalments from the date of receipt of supplementary bill. Hence proceed to pass following order

ORDER

1. This application no 108/2018 partly allowed.
 2. The applicant entitled to pay the recovery bill for the period Feb 2016 to Jan 2018 i.e. 24 months without any interest and DPC. The Respondent directed to recover the arrears for a period of two years proceeding Jan2018.
 3. Applicant shall be pay outstanding amount of arrears to the respondent by way of 12 equal monthly instalments from the date of receipt of the correct bill along with current energy bill.
 4. The respondent shall verify that interest on security deposit given or not. If not given then credit in bill accordingly
- No order as to the cost.

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**

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