



Maharashtra State Electricity Distribution Co. Ltd.

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REF. PR – 3 /COS/ **29789**

DATE: **25/07/2008**

COMMERCIAL CIRCULAR No. 86

Sub : Theft cases under erstwhile E.A., 1910 - vis-à-vis Compounding of offences under Section 152 of E.A., 2003

- Ref :
- (1) Commercial Circular No. 31 dtd. 9-3-2006
 - (2) Commercial Circular No. 36 dtd. 3-7-2006
 - (3) Commercial Circular No. 49 dtd. 21-12-2006
 - (4) Corrigendum to Commercial Circular No. 49 dtd 12-7-2007
 - (5) T.O.L No. PR-3/COS/35588 dtd 19-9-2007
 - (6) Commercial Circular No. 76 dtd 30-1-2008

Vide above circulars and other additional circulars / corrigendum, instructions have been issued in respect of compounding of offences under Section 152 of the E.A., 2003. Generally, the applicability of all the provisions of the circulars issued is for the cases detected under Section 135 of the E.A., 2003. Thus, the provisions available with regards to compounding of offences under the new Act did not have applicability for the cases detected prior to the notification of E.A., 2003. All the theft cases prior to 6th June 2003 were covered under Section 39 and Section 44 of the Indian Electricity Act 1910. The Indian Electricity Act 1910 did not have any provisions with regards to compounding offence.

Hence, all the theft cases prior to the enactment of E.A., 2003 were dealt as per the provisions of the repealed Indian Electricity Act 1910 and the theft cases after enactment of E.A., 2003 are dealt as per the provisions of the new Act.

On the issue of applicability of the provisions of compounding (Section 152 of E.A., 2003) for the theft cases detected prior to the enactment of E.A., 2003, a case was decided vide No.45443 of 2006 (date : 24-1-2007) – Binod Giri Versus the State of Bihar and others. The Hon. High Court has dealt with all the aspects of the provisions of the Indian Electricity Act 1910 and the E.A., 2003. The Hon. Court has ruled as under:

".....16. On perusal of the entire material, I am of the view that even though the first information report was instituted for commission of offence under Sections 39 and 44 of the Indian Electricity Act, 1910, but on account of fresh enactment of Electricity Act, 2003, will be applicable. The offence of theft of electric energy which has been made compoundable under the new Act will have application in the present case and on account of acceptance of total amount with penalty by the authorities the provisions of Section 152(3) of the Electricity Act, 2003, will be applicable in the present case. Acceptance

of the amount will have an effect of acquittal in the case of the petitioner and the continuation of proceeding, under this circumstance, is illegal and without jurisdiction. Accordingly, the order taking cognizance, dated 10.8.2005,.....”

Based on the above decision of the Hon. High Court and considering the aspect of its applicability in MSEDCL's licence area, the Competent Authority has decided that the provisions of compounding of offences, as are available under Section 152 of the E.A., 2003, shall also be made applicable for the cases registered under the erstwhile (repealed) Indian Electricity Act 1910. Thus, based on the above decision of the Hon. High Court, the field officers are directed that all the directions given vide all the above referred circulars for compounding of offences will now be applicable to the theft cases detected prior to the enactment of E.A., 2003 also.

This is for your necessary action. The above instructions are issued with the approval of the Competent Authority and shall come into force with immediate effect.

Chief Engineer (Commercial)

All as per mailing list

Copy s. w. r. to:

All Chief Engineer, MSEDCL

Copy to :-

The All Superintending Engineer, MSEDCL.

The All Executive Engineer, MSEDCL.

The All Dy. Executive Engineer, MSEDCL.

The All Asstt. Engineer, MSEDCL.