

(A Govt. of Maharashtra Undertaking)

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Consumer Grievance Redressal Forum
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Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/ 312

Date: 06.02.2018

Hearing Date: 30.01.2018

CASE NO.56/2018

IN THE MATTER OF WRONG RECOVERY

**M/S. Hotel Larida,
C/o Tirupati Developers,
Service Road,Near Flower Valley,
Thane-(W) 400601.**

(CONSUMER NO. 00001905420,000036050209 and 000036050225)

. . . . (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution Company Limited
through its Nodal
Officer,
Thane Circle, Thane

. . . . (Hereinafter referred as Licensee)

**Appearance : For
Licensee**

Shri. V.L.Deshmukh, AEE, Vikas Sub Division.

For Consumer – Shri. Pravin Thakkar, Consumer Representative.

[Coram- Shri A.M. Garde- Chairperson, Shri. R.S.Avhad -Member Secretary
and Vacant - 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. Consumer herein is one M/s. Hotel Lerida C/o Tirupati Developers, services Road, Near Flower Valley Thane (w) having consumer no. Lt. No. 00001905420,000036050209 and 000036050225 for commercial purpose. Flying squad of the Distribution Licensee on inspection conducted on 1107.2017 detected that meter no. 04936221 of LT 000019054020 was slow @30.11%. A recovery of Rs. 31,07,601 was therefore shown for a period of 1270 days and a supplementary bill for the same was raised. On testing in Lab it was observed that “Y” phase in CT was burnt at in coming side.
3. It is the contention of the consumer that CT is a part of the meter and CT functioning properly from the date of release of supply i.e. 20-122008 and as per MSEDCL MRI report and testing Division report “Y”phase in CT burnt at to the date of inspection i.e. 04.07.2017. Hence 15.4.1 of MERC (Electricity Supply Code) Regulations 2005 will apply.
4. Consumer further contends that as per 14.4.2001 of above supply code distribution Licensee is responsible for periodic testing and maintenance of all consumer meters. Consumers premises was inspected after 9 years of the installation in 2008. Further as per 2.1(Q) of supply code, meter includes CT also. Consumer therefore contends that this is a case of

defective meter covered by 15.4.1 of supply code. Consumer is not liable for technical fault.

5. Consumer informs that DL has disconnected supply on that number without notice under section 56(2) of E.A. Act. 2003.
6. Distribution Licensee in reply contends that M/s. Larida Hotel is our their LT Commercial consumer under Vikas Sub Division having 3 no. Of LT connections bearing LT consumer no. 000019054020,000036050209 and 000036050225 from December-2008.

The Flying squad inspected the premises on dtd. 11.07.2017 and found that the meter no.04936221 of LT consumer No. 000019054020 is 30.11% slow. The FS sent the meter to Testing Lab for testing purpose and on the basis of MRI Report and Testing Division Report, it is noticed that “y” phase of the plug in CT burnt at incoming side. Hence, the flying squad has proposed the recovery for 1270 days for 184201 units. The supplementary bill issued amounting Rs. 31, 07,601/- on dtd. 30.08.2017 for 1270 days.

Hon’ble Ombudsman observed in case No.60 of 2017 and Review Petition no.07 of 2017, there is no any limitation for recovery in case of MRI recovery or recovery for current missing event form any phase. The both orders are attached herewith.

Hon’ble Bombay High Court vide its order (D B) in W.P. No. 7015 of 2008 dtd. 20.08.2009 ruled that, there is no any limitation for retrospective recovery for any error.

The consumer has not paid the supplementary bill amounting Rs. 31,07,601 dtd. 30.08.2017, hence after issuing disconnection notice the supply of Consumer No. 00001905420 is disconnected.

We have heard both sides. MRI report and the data produced shows that “Y” phase CT was found burnt and on lab testing meter was 30.11% slow. Meter was found OK. In support of the case consumer relies on three

CGRF judgments and one judgment of Hon'ble Ombudsman in Representation No.100 of 2010.

As against this D.L. relies on a latest judgment of the Hon'ble Ombudsman in Mumtaz case (Representation no 70 of 2017) which is identical to the case before us. It was held there in that when the meter is OK and merely recorded less consumption on account of "R" phase defect the bill raised for the same was not illegal DL therefore successfully relied on the said judgment on facts.

7. DL has produced a judgment on the point of limitation as well, viz of Rototex case (W.P. 7015 of 2008 in which Division Bench of the Bombay High Court interpreted the expression "Sum due" in section 56(2) of the I.E. Act. 2003. It was opined that sum becomes due when the bill is served on the consumer. With this interpretation even the question of limitation also does not arise.
8. In the above view of the entire matter Grievance fails. Hence order.

ORDER

Grievance is dismissed.

The compliance should be report within one week.

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.

I Agree/Disagree

**ANANT M. GARDE
CHAIRPERSON
CGRF, BHANDUP**

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