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

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

Date 09/02/2015

Case No. 567

Hearing Dt.

**Shri. Harakchanda R. Banathia** - Applicant

Vs.

**M.S.E.D.C.L., Vashi Sdn.** - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.
- 2) Shri.S.B. Bhalshankar, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri. – Consumer Representative

C - On behalf of Respondent

- 1) Shri. P.V.samudra, Addl. Executive Engineer, Vashi sub division

**ORDER(24/02/15)**

Above named complainant filed this compliant against the respondent additional Executive Engineer, MSEDCL Tapal Naka Panvel alleging that he is consumer No. 28510283581/1 since 1998 and resent installed 3phase LT-Res. Connection to his residential premises his meter no. 97113. Accordingl to compliant consumer he used to receive electricity bill regular till September 2013 and complainant the paying the same in the month of September 2013. He received letter from respondent MSEDCL Panvel that on 07/10/2013 after meter testing report multiply factor was wrongly append to the consumer as '1' since March 1998 to September 2013. The actual bill for the said record should have been for 87504 units, amounting to Rs. 5,62,900/- consumer compliant had

communication on letter on 07/10/2013 and protested the said bill stating that as per section 56(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 become 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* of Electricity Act 2003. Respondent cannot claim arrears of bill more than 2 years from the date of checking of meter. Therefore the bill which was issued applying MF 1 (100/5) from the date of connection at CT Ratio provided 5075 and the record which is changed applying MF 2 since March 1998 to September is illegal and improper. Consumer complainant requested for correction of bill by applying proper units within the period of 2 years. The consumer also made application on 2/01/2014 for transferring of meter to Suresh Harakchand Banthia as his father Harakchanda Banathia expired in 1994. Consumer applicant enclosed documents undertaking at Annexure 'A', letter to respondent dated 21/10/2014 legal hardship certificate dated 17/06/2002 and copies of judgment and copies of electricity bill issued on dated April 2014 amounting to Rs. 5,62,900/-. On compliant on 22/12/2014 notice was issued to the respondent. Respondent appeared and filed this para wise reply dtd. 17/10/2015. Respondent filed this meter testing report dtd. 07/10/2013, letter issued by respondent to compliant copy of electricity bill **29/10/2013**, CPL undertaking given by consumer dtd. 24/04/2014 of depositing amount 75,000/- on 20/04/2014, notice of demand and disconnection issued to consumer under 56(1) Electricity Act 2003 dtd. 20/02/2014.

I have perused the document filed by consumer complainant I have also perused reply and document filed by respondent upon considering and hearing of consumer and his legal representative are Additional Executive Engineer Panvel Sub Division, following point arose for my consideration to which I have recorded my finding to the points for the reasons recorded as under:

It appears that father of consumer H.R.Banathia is original consumer having electricity connection for his residence Banthia Bungalow Panvel of the category LT-1 Res. On dtd. 14/10/2013. According to consumer he received demand bill issued by respondent for additional unit 787,504 by applying MF-2/17508 amounting to Rs. 5,62,892/-. The current bill was issued to the

consumer cannot on 04/03/2014 to 04/04/2014 dtd. 11/04/2014 where as category was r shown 0.1 LT 1 Res. 3 Phase Sanction Load 260KW connected load 026 from 911191 the use of Electricity unit bill 1458 the arrears which was claimed in the said bill was Rs. 5,62,782.43/-. Subsequent bill from the month of June 2014 consume was charged for unit 1773 and arrears claimed was Rs. 5,60,010160/-. It appeared that son of original consumer who is in occupation of Laxmi Ratan Bungalow he contended that installed and the bill is regularly paid applying MF2 factor on his residential connection was not within the knowledge of consumer and therefore correction be made in the bill. He requested for cancelation of demand bill. Dispute was placed before IGRC, Forum considered the said dispute and passed order. As per inspection report of September 2013 and meter testing report, the said consumer was required to charge as MF 2 tariff as CT Ratio was applied 50/58 and MF difference bill was rightly issued to consumer on 14/10/2013. In fact the meter was replace in the year 1994-98 which was faulty with MF 1 and after replacement of meter the CT connection was required to be charged as MF 2. It is submitted the that IGRC passed in order in view of Judgment and reported of Bombay High Court in a case of Rototex Polyster Vs Dadra Nagar Haveli. The consumer is required to pay arrears beyond the period 24 month. The IGRC granted reasonable installment along with payment of current bill after considering the report of change of old meter and spot inspection report old meter no 97173 of VL company capacity of meter 50.5 mp external CT Ratio 100/5 ovel all MF for unit MF-2. It means that the respondent came to know about application of MF 1 wrong first time when the inspection was made by authority respondent on 07/10/2013. The bill personally issued to consumer dated 14/10/2013 showing period March 1998 to September 2013. The said period is beyond 2 years. It is contention of respondent. They have claimed arrears of difference bill from the consumer and it is next one time demand made to the consumer therefore sanction 56 will not be attracted as the said provision of sanction load 56 applied continuously demanding and issuing bill to the consumer.

It is agreed by consumer representative as demand since 98 to September 2013 is it illegal and the disconnection which was in apparition required to illegal demand and notice it appeared that 20/02/2014 notice under 56(1) issued to consumer for demand of bill March 19998 to September 2013 the letter sign by consumer place before me which was address to respondent dtd. 24/04/2014 informing his ready to deposit part of bill under protected and 29/04/2014 be deposited amount of Rs. 75,000/- under protest. The contention of consumer that recovery more than 2 year is not permissible and therefore case given consume was aware of charge of faulty meter at earlier period purchase of meter the premises which is use in occupier the consumer is within knowledge of consume his din line can not be consider for want of knowledge as he occupier

the premises. It is pertaining to note that earlier he made application on 21/01/2014 for transfer of the name of consumer original Shri. Harkchand Banathia representative die in 1994 it means after death. He was occupying the said premises. Therefore ignores of consumption of unit not within the knowledge is not consider by representative.

The consumer representative place various situation for my pursuant judgment reported Rakesh Gela in writ petition 10764/20144 the issue by Hon'ble Judgment of Bombay High Court refer to larger Bench for clarification according to the said judgment the amount charges of electricity consume become due only other demand of bill MSEDCL can issue the demand bill or not beyond the period of 2 year this issue is under considers of larger bench in this circumstances contention of respondent application of view of the judgment Rototex Vs administrative opplirtion in this case good also not proper , supplementary bill issued by respondent is required to be recovered as consumer appears used the said unit to avoid financial losses to respondent to respondent MSEDCL occupying in this circumstances. I fill the demand of first bill issued to the consumer dated 14/10/2013 required to be calculated only from 2 years by cortication of units during pendency of hearing. I have given instruction to the respondent for calculation of unit of 2 years separately the remain charge of the unit beyond the period of 2 years amount should be immediately filed by obtaining bond of Immanently on security for consumer as the issue of clarification recovery beyond of the period 2 years to be inter predated of large bench till the decision. Therefore I am ancient to allow the bill partly. Hence I proceed to pass following order.

### **ORDER**

- 1) Compliant No. 567 is partly allowed.
- 2) The consumer shall pay the amount of calculation of unit at the rate MF as 2 and 2 years prior to first demand bill remaining payable unit actual consumed by the consumer shall recorded subject to final decision of Larger bench issue referred of Bombay High Court.
- 3) The consumer shall give the indemnity bond and security for payment of remaining amount beyond period of 2 years to chargeable MF-2.
- 4) The consumer shall not liable from DPC interest supplementary bill.

No order as to the cost.

Both the parties be informed accordingly.

Proceeding close.

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

Note:

1) If Consumer is not satisfied with the decision, it may proceed within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman

The Electricity Ombudsman,  
Maharashtra Electricity Regulatory Commission,  
606, Keshav Building,  
Bandra - Kurla Complex, Bandra (E),  
Mumbai - 400 051

2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

**DR. ARCHANA SABNIS**  
**MEMBER**  
**CGRF, BHANDUP**

**ANIL P. BHAVTHANKAR**  
**CHAIRPERSON**  
**CGRF, BHANDUP**

**S.B.BHALSHANKAR**  
**MEMBER SECRETARY**  
**CGRF, BHANDUP**