



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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Date of Grievance : 1/1/2013
Date of Order : 28/3 /2013
Period taken : 78 Days

IN THE MATTER OF GRIEVANCE NO. K/E/679/800 OF 2012-2013 OF
M/S. PREM TEXTILES INDUSTRIES, ULHASNAGAR, REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN
ABOUT EXCESSIVE BILLING.

M/s. Prem Textiles Industries
Plot No. 12, Portion - 4
Industrial area ,
Ulhasnagar - 4

(Here-in-after
as Consumer}

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer
Subdivision – 4, Ulhasnagar,
Dist. Thane.

(Here-in-after
referred
as licensee)

(Per Shri Sadashiv S. Deshmukh, Chairperson)

A) This Consumer Grievance Redressal Forum has been established under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers. The regulation has been made by the Maharashtra Electricity Regulatory Commission vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of 2003).

B) The consumer is a L.T.- V consumer of the licensee with 65 HP load. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 1.1.2013 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. PREM TEXTILES INDUSTRIES

Address : - As given in the title

Consumer No . : - 021514248386 – 65 HP

Three Phase

Reason of dispute : Excessive Energy Bills.

C) We the Members of the Forum heard this matter with Grievance No. 800 from time to time and lastly on 5/3/2013 at 15.30 hrs. in the meeting hall of the Forum’s office. On behalf of consumer Shri Ravi Anand (Consumer Representatives) & Shri Giradkar, Nodal Officer & Shri Pachpohe, Dy. Executive Engineer for MSEDCL,were present.

- D) Consumer has placed on record written submission point-wise on 19/2/2013 which we have gone through. Officers of Licensee also stated that they have read it.
- E) Dispute as stated in point, as well as in the complaint pertains to demand raised for more than 2 years., that too without any fault of consumer. Secondly dispute is stated towards clubbing , resorted which is not proper.
- F) In addition to the point-wise written submissions liberty was given to C.R. for making submission, if any. Accordingly submissions were made by the consumer's representative and Mr. Pachpoh.Dy. Executive Engineer
- On the basis of above submissions and record following factual aspects are disclosed .

1. Consumer herein is having the connection of licensee from 27.05.1987. It was for 10 H.P. Consumer is a partnership firm. In March-2008 there was a clubbing and thereby load was 70 H.P. For the months of March- 2008 to June-2008 consumer was billed as per the M.F.-1. In fact it was to be charged as M.F.-2. Consumer brought this fact to the notice of licensee thereby ,for the months of July- September 2008 bills were issued as per M.F.-2. However, thereafter billing continued as M.F.- 1 till July- 2012.

2. In the July-2012 officer of licensee conducted inspection of consumers meter and noted bill of consumer was issued as per M.F.-1 for the period March-2008 to July-2008 and from October- 2008 to July- 2012 instead of M.F.-2, hence on the basis of inspection supplementary bill was issued for Rs. 9,91,740/- of the same date i.e. 23.07.2012.

3. Bill dated 23.07.2012 received by consumer on 07.08.2012 and objection was raised with the officers of licensee by writing letter dated 09.08.2012. In the objection inability was expressed to pay said dues at a time and sought a relief of monthly installments without any interest and D.P.C etc. Secondly, it was also clarified that the consumer is not aware how such huge dues worked out and he is required to have a discussion with the officer. It is also mentioned that dues are of 4 years he was required to inquire with party who in between was running the business. Accordingly, it is claimed that showing this supplementary bill in regular current bill is not correct. It was requested that current bill be accepted and for supplementary/ provisional bill installments be awarded. It was prayed disconnection be avoided. Said letter was replied on behalf of the licensee on 13.08.2012 and it was clarified that 3 installments are being provided and those are to be paid along with regular current bills. In the said letter some details are explained about the mistaken application of M.F.-1 instead of M.F.-2.

Said letter was again replied by the consumer on 23.08.2012 and clarified that he is not agreeable with 3 installments awarded but reiterated the stand that more installments without interest and D.P.C be provided. It is further claimed that regular bill and supplementary bill not to be connected to each other, he is ready to pay the current bill which be considered and if it is not done he will be required to approach the concerned authority or Forum.

4. Consumer's aforesaid letter dated 23.08.2012 was replied on the very next date by officer of licensee i.e on 24.08.2012. In the said letter it is clarified that as per the consumers prayer in letter dated 09.08.2012, three installments were provided and those were to be paid with current bill regularly and if it is not complied action will be taken for disconnection resorting to Section 56 of E.A. Act.

5. It is seen that thereafter on 27.08.2012 officer of licensee issued notice directing the consumer to pay the outstanding dues of Rs. 10,73,150/- within 15 days from the date of receipt of notice otherwise supply will be disconnected. In

this regards it is seen that there was no any further development till 11/9/2012. Then the consumer had approach I.G.R.C on 12.09.2012 matter was pending with I.G.R.C. However, insistence of disconnection was there and on 13.09.2012 consumer approached officer of licensee and officer of licensee issued letter dated 13.09.2012 giving reference to consumer objection dated 09.08.2012 granting 10 installments. On that date consumer deposited Rs.1,00,000/- towards one of the installments and Rs.58,200/- towards current bill and Rs. 350/- for reconnection. However, immediately consumer gave a letter on that day i.e. 13.09.2012 disputing all these aspects. It is specifically contended that, as per the circular of licensee dated 18.07.2009 installments were to be given without interest and D.P.C., however, as against 48 installments only 10 installments are the given and again co-operation of licensee was sought.

6. Accordingly, when the matter was pending with I.G.R.C action of disconnection was there but paying amount to some extent reconnection was done. Ten installments though granted, dispute was raised and before I.G.R.C matter was dealt.

7. I.G.R.C considering the contentions of both sides decided the matter on 22.11.2012. Before I.G.R.C mainly dispute was raised whether the arrears for more than 2 years can be recovered. I.G.R.C endorsed the action of licensee upheld the claim that it being arrears due to human error. can be recovered, grievance of consumer to that extent is not upheld. Further, direction was given for action against errant staff members.

8. Against the said order on I.G.R.C consumer approached this forum on 1.1.2013 notice was given to licensee officer appeared in the matter. Deputy Executive Engineer submitted his reply to the Nodle Officer and it's copy is placed on the record of the Forum on 19.01.2013. In this matter consumer has sought interim relief which was granted on 24.01.2013.

G). When matter was taken up for hearing before this Forum, consumer representative had his own mode of submission contending that each and every contentions of his be noted down. He was made aware of the procedure of hearing the matter and he was given liberty to place on record in writing the points which he wish to raise with the intent to ensure that his points are not ignored or not taken into account during oral submission due to improper communication or appreciation. Accordingly, he has placed on record written points of arguments on 19.02.2013. In this process on behalf of the licensee oral submission are made relying on letter dated 19.01.2013. No independent reply is placed on record by licensee. In addition to written point of arguments placed on record on behalf of consumer opportunity was given to the consumer representative for making oral submission. He made oral submission. Officers of licensee Mr. Pachpohé Dy. E.E and Nodle Officer also made submissions .

H). In this matter it is necessary to mention that before I.G.R.C. and before this forum main point was agitated which was pertaining to, recovery barred for the period more than 2 years Under Section 56 of Electricity Act.

In this matter at the initial stage C.R. was made aware of legal position pertaining to the Elect. Act Section 56(2), more particularly about error in applying multiplying factor (M.F.) one view that in case of such error has occurred in applying M.F. then recovery of previous period without any bar of 2 years' limitation, permitted is laid down in AIR 1978 Bombay 369 ; M/s. Bharat Barrels & Drum Mfg. Co. v/s The Municipal Corporation of Greater Bombay dt. 13/2/1978 (D.B.) which is followed in AIR 2000 Bombay 264 U A Thadane v/s BEST Undertaking dated 17/1/2000 (Single Bench). Further the aforesaid Bharat Barrels case referred and followed in AIR 2009 Bombay 148 Roto Tax Polystar v/s Administrator, administration of Dadara & Nagar Hawali (D.B.0 DATED 20/8/2009. Even reference is made in Roto Tax to the judgement of the judgement of Bombay High Court i.e. AIR 2007 Bombay 73. Bruhan Mumbai Municipal Corporation of Grater Bombay v/s Yatish Sharma dt. 18/1/2007 (Single Bench) . On the basis of these authority as recent view of Roto Tax (D.B.) holding the field being the recent judgement was clarified.

Secondly contrary view to the above express in AIR 2007 Bombay 52 Avdesh Pandye v/s TATA Power Co. Limited, dt. 5/10/2006 (D.B.) was pointed out wherein aforesaid Bharat Barrel case i.e. AIR 1978 Bombay 3.69 is not reflected. Said Division Bench judgement of Avdesh Pandye is followed in the judgement of Bombay High Court in W.P. 2894 of 2007 dated 7.9.2007 (Single Bench) and W.P.No. 6783 of 2009 dt. 5/3/2010 (Single Bench) and even in these Single Bench judgement there is no reference to Bharat Barrels case.

Thirdly it was pointed out that about above views of Divn. Bench , considered in W.P. No. 10764 of 2011 vide order dt. 24/4/2012 matter is sought to be referred to Larger Bench for resolving the conflict and yet there is no any judgement of the Larger Bench He is also made aware of the fact that towards above judgement in W.P. No. 6783 of 2009 dt. 5/3/2010 review was sought vide Review Section No. 146/2010 for referring the matter to Larger Bench but said review is rejected on 24/3/2010 observing that there is no conflict in the judgement of Avdesh Pandye and Roto Tax. He was made aware of these views of the Single Bench even for reference to Larger Bench but already in one matter reference is sought.

Lastly C.R. was made aware of the Full Bench judgement of our High Court 1995 (2) B.C.R. 64 Kamleshkumar Patel v/s Union of India, more particularly para No. 14 & 15 wherein it is laid down that when two views are expressed by Division Bench and are conflicting the judgement latest in time and better on merit is to be accepted. In this light C.R. was made aware that aforesaid Roto Tax judgement needs to be considered. Further he was made aware that Hon. Supreme Court had occasion to consider bar of limitation under Section 56 (2) and their Lordships' in AIR 2008 Supreme Court 2796 Kusuman Hotel v/s Keral State Elec. Board dealt that aspect in para No. 12 and 30 upholding that recovery by issuing the bill for more than 2 years is permitted. Considering it C.R. not placed before us any contrary view .

In this regards during the course of arguments, consumer's representative was pointedly asked about his submission which he had not touched till conclusion of his oral submission. He made it clear to the forum in the light of the above legal position brought to his notice supported with judgments of, Bombay High Court , Supreme Court. he is not pursuing the said aspect. Accordingly he had not disputed the legal position that there can be recovery of due amount

though it is for more than 2 years and it is pertaining to the arrears due to error in applying wrong multiplier. Hence we are not required to comment more on it.

1) Second main aspect which consumer representative and consumer tries to highlight pertains to the arrears quantum worked out including interest D.P.C due to error in M.F. If it is the error on the part of licensee or its officer then, consumer is to be considered by giving installments to pay amount without interest and D.P.C. with equal monthly installments of said period covered In this regards there is no any specific mention before I.G.R.C. It is seen that the consumer was issued with supplementary bill for Rs. 9,91,740/- which covered the period from March-2008 to July- 2008, October- 2008 to July- 2012 and total recovery was sought, to which consumer objected, installments sought ,& readiness to pay the installments shown. No doubt the guidelines issued by licensee to its officer in such circumstances though cited but was not placed before the officer or before I.G.R.C . No doubt we are able to find reference to said circular in reply of consumer dated 13.09.2012. Grievance of consumer is that if consumer would have been asked by officer of licensee or members of I.G.R.C it could clarified or pointed out guidelines but noting was asked about it. No doubt copy said guidelines is placed, before this forum and said copy dated 18.07.2009 is sent by Directors Operation of licensee is clear itself. Peculiar problems were brought to the Head Office about wrong application of and thereby recovery was sought by issuing supplementary bill for the previous period and such sum could not be deposited by the consumer at time and whether any installments can be granted. The contents of this letter are of vital importance are as under ...

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The Chief Engineer,
MSEDCL,
All O&M Zones

Sub – Grant of installments for payment of supplementary bills raised due to corrective action by MSEDCL where consumer is not at fault .

It is observed in number of cases referred to Head Office where due to application of wrong tariff a supplementary bill covering the past period was required to be issued to the consumers. As the consumer could not pay the amount in lump sum. The matter was submitted before the Competent Authority for grant of installments. The Competent Authority has allowed the consumers to pay the supplementary bill amount in installments without DPC and interest charges incidental to the installments considering the fact that these supplementary bills were issued by MSEDCL due to its own re-categorization (Corrective action) and the consumer is not at fault .

Following guidelines are issued regarding grant of installments ..

- 1) The number of installment to be granted shall be equal to the number of months for which the supplementary bills are issued (e.g. if the differential amount is billed for 10 months, then the consumer will be given 10 installments so as to recover the full amount in 10 months' period).
- 2) These installments should be granted will not levy of interest or DPC.
- 3) However, if any installment is not paid in time alongwith the regular bill apart from the provision of disconnection as per E.A. 2003, it will also attract DPC and interest as per rules .
- 4) An undertaking should be taken from the consumer for agreeing above conditions.
- 5) Post dated cheques should be taken from the consumer for the installments .

The Competent Authority has further approved that in all such cases where the supplementary bills are raised due to corrective action and where consumer is not at fault, above guidelines shall be followed for grant of installments. In such cases as DPC and interest is not to be levied this will amount to relaxation in Condition of Supply where finance implication is involved. The Competent Authority has accorded approval to this condition only in above cases and field officers i.e. C.Es and S.Es. depending upon HT & LT connection, respectively, can decide with intimation to Chief Engineers (Commercial) giving following details

- 1) The type of mistake made by the meter-reader/ billing clerk / others
- 2) The persons on whom the responsibility is fixed
- 3) The financial implications involved in individual case

All field officers are directed to note the above and take proper action in such cases to avoid consumers grievances.

Sd/
Director Operation ”

Accordingly, this circular speaks about the authority to grant installments without interest and D.P.C. In this matter neither officer of licensee replied to consumer's objection dated 13.09.2012 or not at all referred to any of the circular or quoted the power of granting installments in his letter granting installments. The objection raised by the consumer, reply given by officer of licensee is the sequence of proposal, acceptance conditionally but there is no, any order as such, in tune with the aforesaid guidelines dated 18.07.2009. Powers to the officer of licensee to grant installments other than these aforesaid guidelines are not shown and there is no any other material placed before us showing the power is available to limit the installments which is done in this matter to the extent of 3 or 10. However the aforesaid guideline speaks about such power and there is no any material placed showing said guidelines are cancelled or modified.

J) No doubt consumer representative was highly agitated about the letter 18.07.2009 not considered by the officers of the licensee. But it is a fact that said letter was not placed before officers or I.G.R.C. Further, it is a fact that many a

times any officer or officer discharging quasi judicial function is to consider the legal position, factual aspects guidelines, but matter is dealt without considering the legal position, legal provisions etc. which was not brought to its notice or it was not within knowledge . Accordingly, it is perceived in this matter, if guidelines dated 18.07.2009 would have been placed before the concerned officer or I.G.R.C, result would have been different. But for the reason best known to consumer and C.R. they have not placed this letter on the record of officer or before I.G.R.C. Under such circumstances we are to appreciate the plight I.G.R.C. or the officer. However it can not be ignored that whenever any relief if being granted of installments then source of authority is to be clarified by officer which is failure in this matter on the part of the officer of licensee. If there is any discretion available to the officer then it is also to be made clear. However, no any such material is placed on record. All the while consumer is seeking installments that too without interest and without D.P.C. Installments are sought linking it to the period of arrears. Officer of licensee was made aware in letter dated 13.09.2012 of consumer about the letter dt. 18.07.2009 wherein guidelines are given . Accordingly, the said mater could have been dealt with due care and attention . It can not be ignored that when there is reference to the guidelines dated 18.07.2009 is made , curtsey should have been shown by the officer to verify, trace out from record such guidelines or to seek copy from consumer which is not done. Accordingly, consumer also failed to places said guidelines on record before the officers and officers also failed to seek it. This shows the both the parties have their town mode. Accordingly, it is clear in this matter regularly per month bill were issued for recovery from March-2008 till July- 2012 and those were paid. At the initial stage, after, clubbing bill was issued for the period from March-2008 to July- 2008 showing M.F-1 about it consumer brought to the notice of officer that it ought to have been as per M.F.-2 but it was rectified from the month of August- September-2008 as it was pointed out by the

consumer. Again however the factor M.F.-1 continued from October- 2008 onwards. An unsuccessfully attempt is done by officer of licensee, pointing out towards the consumer contending that intentionally consumer has not raised objection when bill are issued as per M.F.-1. from October- 2008 though bills were to be issued as per M.F.-2. This particular contention is nothing but shirking responsibility, when it was the officer of licensee to take care of correct calculations correct application of M.F and if once it was pointed out by the consumer, expecting such things every now and then from consumer and holding consumer responsible and treating officer free to continue said mistake will be totally improper. This is not in tune with established principle.

K). Now considering the aforesaid discussion it is a fact that consumer was not charged properly it was to be charged applying M.F. -2 but an amount it charged and recovered applying M.F.-1. Arrears worked out by officer of licensee is found correct by I.G.R.C and I.G.R.C directed action against erring officer. If once this is concluded on record, then the liability to be fastened on consumer is to be considered in the light of the guidelines issued by licensee referred above. As per those guidelines ,spirit high lighted, is, considered by the Director Operation and as per those issued guidelines. if arrears of 48 months are claimed then concession is to be given to the consumer to pay the arrears in 48 monthly installments without any interest or D.P.C . we find if this could have been followed by the officer of licensee at the initial stage, further, development could have been avoided. Secondly if said copy of guidelines would have been placed before officer by the consumer it could have avoided this . Hence, both are responsible, The spirit shown by consumer to pay the total amount needs to be appreciated. As per guidelines of licensee consumer is entitled to repayment within 48 months which the consumer has mentioned in his letter dated 13.09.2012. The arrears are of 48 months, installments ought to have been allowed to be paid in equal 48 monthly installments which is not done.

Installments are given by officer without clarifying authority or provision. Initially 3 installments and then 10 installments granted without citing any legal provision or directions or guidelines hence those aspects are not in tune with legal provision. In result we find consumer is to be given 48 monthly installments for paying arrears. This discretion is to be used as consumer was vigilant initially pointed out the flaw which was not rectified for previous months, but even MF-1 continued from Oct. 2008. Though in supplementary bill an amount of Rs. 9,91,700/- is shown it is to be without charging any interest or D.P.C. 48 installments should be of equal amount towards the said arrears to be paid with current monthly bills. The consumer is required to pay such installments along with rectified bill and if it is not paid then as usual provision of disconnection as per guide lines will apply and even D.P.C & interest will also apply. In this matter already consumer has deposited an amount as under .

Date of payment	Total amount paid	Current bill	Installment
13/9/2012	Rs. 155200	55200	Rs. 1,00,000/-
14/12/2012	Rs. 160000	60000	Rs. 1,00,000/-
7/11/2012	Rs. 160000	60000	Rs. 1,00,000/-
29/12/2012	Rs. 170000	60000	Rs. 1,00,000/-

Said amount is to be adjusted towards the 48 monthly installments . We find licensee is to issue supplementary bill calculating the dues to be paid in 48 monthly installments without interest and D.P.C. Such installments are to start from the month of July- August -2012 and amount already paid @ Rs. 1,00,000/- as noted above be adjusted towards installments of arrears first, and if current bill are paid in time necessary available prompt payment incentive etc are to be given.

L). In this matter consumer/CR has taken opportunities to address on many points requesting to take action against officers who tried to avoid the legal position more particularly behavior as canvassed above about not dealing with guideline dt.18.07.2009, threat of disconnection etc and action is sought. Consumer's representative is having his own impression about the manner in which things should happen but he has taken opportunity to give vent to his feelings treating as if C.G.R.F is competent to deal any aspects involving the officers. Though, consumer representative is carrying such impression, we are aware of our own position as C.G.R.F. Basically this forum is to provide relief in respect of grievance brought before the forum pertaining to licensee and the consumer, our powers are totally limited. We can not act as Administrative Head against of officer, no any dismissal action can be taken. It is not the duty of forum to hold somebody responsible for misconduct and to punish. Said aspects if at all to be resorted to then the principles of natural justice of giving opportunities of hearing to such concerned officer is to be given he is to be made aware of charges against him, then reply is to be sought, opportunity is to be given to contest but such power are not available to C.G.R.F and C.G.R.F is not for that purpose. Administrative act are under the control concerned Administrative Head of the office concerned. Hence nothing more can be said about consumer's presentatives submission but we can say that his contentions can not be now dealt by this forum. He has independent course available to take it before appropriate authority. C.G.R.F cannot give directions sought by consumer representative. Probably consumer representative thought it fit to make submission as if all powers are available to that C.G.R.F as those are available to the Administrative Head or Apex bodies we find it is just sufficient to mention that aspects beyond our scope not required to be considered.

M). Patience is a virtue of the quasi Judicial body i.e C.G.R.F which we tried to maintain with utmost restraint though C.R tried to assail agitate about the mode

of hearing before C.G.R.F. It is necessary to mention that before C.G.R.F hearing of the matter is conducted openly by all its members who discharge duties as one unit during hearing. Though it consists of multi members addressing to the particulars member needs to be avoided. We are aware the scope of consumers rights, liberty of consumer but at the same time we find legitimate duty and fairness of approach of consumer are basis towards it. Every now and then it is experienced that rights are claimed without the aforesaid basis and distorted scene is created before the Forum which needs to be avoided. It is necessary to mention that the Forum is formed with a foresight ensuring three members from three fields are taken who in turn take care of grievances and hence we refrain from making more comments considering that aspects of justice should not be swayed away by unhealthy unwarranted and misplaced comments due to wrong impression carried by stakeholders. We treat consumer or its representative with due honour and sensitivity which is a must. But at times same is not reflected from that side. Comments with preconceived wrong presumption and contentions are leading to cloudy atmosphere. No doubt considering the peculiar position, advocates are not permitted to appear before Forum and liberty given to consumer to have representative, we are sensitive to tolerate these stakeholders. However patience is not a sign of meekness but it is a virtue to bear and tolerate.

N). In the points of argument consumer has taken opportunity to mention and C.R assailed during arguments aspects of clubbing and this we find was not challenged before any authority at any time and hence said aspects can not be brought before this forum abruptly as period of limitation to bring such aspects before the forum is up to 2 years only. Hence on this aspects no finding can be given. Rather aspect of clubbing is already completed, the bills issued on that basis are paid and hence consumer can not raise this aspect at this stage for the first time before this forum.

O) In the light of aforesaid discussion we find the grievance of consumer is to be allowed supplementary bill issued for the due amount for the period for which it is calculated at the rate of M.F.-2 is upheld but it is to be claimed without any interest or D.P.C said amount is to be recovered within 48 months of equal installments from Aug., 2012 along with current bills. Further installments are to be paid regularly if those are not paid in time then it will lead to disconnection as well as application of interest and D.P.C

Amount paid by consumer over and above the current bills on 13.09.2012 and further is to be adjusted in the installments due from August- 2012 onwards.

P) This matter could not be decided in time as the Forum was to cope up with existing hands for transcribing this order as regular Stenographer has retired.

Hence the order

ORDER

- 1) Grievance of consumer is to be allowed.
- 2) Supplementary bill issued for the due amount for the period for which it is calculated at the rate of M.F.-2 is upheld but it is to be recovered without any interest or D.P.C, said amount is to be recovered within 48 months of equal installments from Aug., 2012 along with current bills. Further such installments are to be paid regularly if those are not paid in time then it will lead to disconnection as well as application of interest and D.P.C
Amount paid by consumer over and above the current bills on 13.09.2012 and further is to be adjusted in the installments due from August- 2012 onwards.

From 13/9/2012 if current bills are paid on or before due dates admissible prompt payment incentive be given to the consumer. Licensee to issue revised bill in the light of above within 15 day of receiving this order

- 3) Licensee to report compliance within 45 days .
- 4) The Consumer if not satisfied, can file representation against this decision with the Hon. Electricity Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.

- 5) Consumer, as per section 142 of the Electricity Act, 003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

Date : / /2013

Mrs.S. A. Jamdar)
Member
C.G.R.F. Kalyan

(R. V. Shivdas)
Member Secretary
C.G.R.F. Kalyan

(Sadashiv S. Deshmukh)
Chairperson,
C.G.R.F. Kalyan

In the matter at the initial stage C.R. was made aware of legal position pertaining to the Elect. Act Section 56(2), more particularly about error in applying multiplying factor (M.F.) one view that in case of such error has occurred in applying M.F. then recovery of previous period without any bar of 2 years' limitation, permitted is laid down in AIR 1978 Bombay 369 ; M/s. Bharat Barrels & Drum Mfg. Co. v/s The Municipal Corporation of Greater Bombay dt. 13/2/1978 (D.B.) which is followed in AIR 2000 Bombay 264 U A Thadane v/s BEST Undertaking dated 17/1/2000 (Single Bench). Further the aforesaid Bharat Barrels case referred and followed in AIR 2009 Bombay 148 Roto Tax Polystar v/s Administrator, administration of Dadara & Nagar Hawali (D.B.0 DATED 20/8/2009. Even reference is made in Roto Tax to the judgement of the judgement of Bombay High Court i.e. AIR 2007 Bombay 73. Bruhan Mumbai Muncipal Corporation of Grater Bombay v/s Yatish Sharma dt. 18/1/2007 (Single Bench) . On the basis of these authority as recent view of Roto Tax (D.B.) holding the field being the recent judgement was clarified.

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Lastly C.R. was made aware of the Full Bench judgement of our High Court 1995 (2) B.C.R. 64 Kamleshkumar Patel v/s Union of India, more particularly para No. 14 & 15 wherein it is laid down that when two views are expressed by Division Bench and are conflicting the judgement latest in time and better on merit is to be accepted. In this light

C.R. was made aware that aforesaid Roto Tax judgement needs to be considered. Further he was made aware that Hon. Supreme Court had occasion to consider bar of limitation under Section 56 (2) and their Lordships' in AIR 2008 Supreme Court 2796 Kusuman Hotel v/s Keral State Elec. Board dealt that aspect in para No. 12 and 30 upholding that recovery by issuing the bill for more than 2 years is permitted. Considering it C.R. not placed before us any contrary view .