

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Urban Zone, Nagpur**

Case No. CGRF(NUZ)/83/2012

Applicant : M/s. Mint House,
Prop. 1) Shri Prithpalsingh,
2) Shri Gurvinderpal,
8A/8B, A.D. Complex, Mount Road, Sadar,
NAGPUR.

Non-applicant : Nodal Officer,
The Superintending Engineer,
(Distribution Franchisee),
M.S.E.D.C.L. NAGPUR.

Quorum Present : 1) Shri. Shivajirao S. Patil
Chairman,

2) Adv. Smt. Gouri Chandrayan,
Member,

3) Smt. Kavita K. Gharat
Member Secretary.

ORDER PASSED ON 27.9.2012.

The applicant filed present grievance application before this Forum on 1.8.2012 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as Regulations).

1. The applicant's case in brief is that Dy. Executive Engineer, Flying Squad, M.S.E.D.C.L. Nagpur inspected the premises of the applicant on 3.2.2007 and observed that there was an unauthorized use of electricity u/s 126 of Indian Electricity Act 2003. Demand of assessment u/s 126 of Electricity Act 2003 was issued on 3.2.2007 for Rs. 86,900/- and Rs. 51,817/- for Consumer No. 419993287157 and Consumer No. 419993287149 respectively.

2. Flying Squad of M.S.E.D.C.L. Nagpur again inspected the premises of the applicant on 1.4.2009 and found more that one connection in same premises for same purpose and found that previous assessment of the year 2007 is outstanding. M.D. recorded on both the meters was $39.1 + 34.4 = 73.5$ kVA, which was for same purpose in the same premises and total load is above 50 kW. Flying Squad clubbed both the meters into single connection and recovered difference in tariff from 1.6.2008 in addition to previous outstanding assessment.

3. On 22.5.2009, M.S.E.D.C.L. issued a demand of assessment u/s 126 amounting to Rs. 86900/- and Rs. 51817 for both the meters respectively along with disconnection notice u/s 56 of Electricity Act 2003. Consumer raised the objection as per letter Dt. 22.5.2009.

4. Premises where electrical meters are installed are 2 different properties in same building owned by the applicant No. 1 & 2 separately through 2 different sale deeds. It is the duty of M.S.E.D.C.L. to install the meter. M.S.E.D.C.L. had issued bill Dt.

14.6.2011 amounting to Rs. 1063137.61 & Rs. 139992.68 as arrears. The applicant again filed an objection on 24.6.2011.

5. Assessing Officer has passed final order Dt. 15.6.2012 in respect of inspection Dt. 3.2.2007 and 1.4.2009 and revised provisional assessment directing the applicant to pay final assessment amount of Rs. 928043.47 within 7 days up to 22.6.2012.

6. The applicant claimed revised assessment towards the difference of tariff above 50 kW from June 2008 amounting to Rs. 789326.47 (241749 + 547576.99). The applicant applied before I.G.R.C. but I.G.R.C. ordered that the office has no jurisdiction to settle the Grievance, therefore the applicant approached before this Forum.

7. Non applicant denied the case of the applicant by filing reply Dt. 3.9.2012. It is submitted that it is the application under the provisions of Section 126 of Electricity Act 2003 and therefore as per regulation 6.8(a) of the said regulation, this Forum has no jurisdiction to decide the matter. Flying Squad unit inspected the premises of the applicant on 3.2.2007 and observed certain irregularities I) lead seals provided on the meter body found tampered II) Sticker seals found turn off III) No seal is observed on meter box and meter M.T.C. IV) M.D. recorded 32.5 kW exceeds by 0.5 kW than sanctioned load of 32 kW and hence unauthorized load of 0.5 kW used in respect of Consumer No. 419993287149 V) M.D. recorded 28.62 kW which exceeds by 8.62 kW than sanctioned load of 20 kW hence unauthorized load of 8.62 kW used in respect of Consumer No.

419993287157. As the available evidence is sufficient to prove theft of electricity hence assessed u/s 126 of Electricity Act 2003 for unauthorized use of electricity. Flying Squad assessed u/s 126 on 3.2.2007 for Rs. 51817/- & Rs. 86900/- for both the meters respectively.

8. Applicant applied for sanction of additional load hence additional load of 13 kW & 22 kW for both the meters was sanctioned as per letter Dt. 12.9.2008.

9. On 1.4.2009, Flying Squad inspected the premises of the applicant and observed serious discrepancies namely I) more than one connection in the same premises for same purpose II) previous assessment of the year 2007 is still outstanding III) As per M.D. recorded on both the meters was 73.5 kVA ($39.1 + 34.4 = 73.5$) for the same purpose in the same premises and total load is above 50 kW IV) Energy meter is installed at inconvenient location in the premises. Flying Squad proposed remedial action to club the meters into single connection and recovered difference in tariff from 1.6.2008 in addition to previous outstanding amount of both the meters for 93183 units. Civil Lines Division issued demand for assessment u/s 126 along with disconnection notice u/s 56 of the Electricity Act Dt. 22.5.2009. The applicant raised the objection as per letter Dt. 22.5.2009. Final Assessment order was passed on 15.6.2012. As per final order, difference of tariff is calculated along with previous assessment and assessment of Rs. 928043.47 is finalized (86900/- + Rs. 51817/- assessment u/s 126 + Rs. 241749.48, difference of tariff for the period June 2008 to March 2009 + Rs. 547576.99, difference of tariff for April

2009 to April 2011 = 928043.47) and difference of Rs. 164249.53 already debited amount Rs. 1092293 and actual assessment amount is calculated Rs. 928043.47 and informed to the applicant as per letter Dt. 15.6.2012. The application may be dismissed.

10. Forum heard arguments of both the sides and perused the record.

11. It is an admitted fact that for the first time Flying Squad took action u/s 126 of Electricity Act 2003 on Dt. 3.2.2007 and demand of assessment u/s. 126 of the Act was given to the applicant. It is also admitted fact that on 22.5.2009 demand for assessment u/s 126 of Electricity Act 2003 was issued. Both these amounts are within the ambit of section 126 of Electricity Act 2003. There is sufficient evidence on record to show that prima-facie there is a case u/s 126 of Electricity Act 2003 and therefore according to regulation 6.8 (a) of the said regulations, this Forum has no jurisdiction to entertain this case.

12. Secondly, first action u/s 126 of Electricity Act 2003 is Dt. 3.2.2007 and another action is Dt. 22.5.2009. Therefore cause of action arise to file present grievance application for first time on 3.2.2007 and at the second time on 22.5.2009. According to regulation 6.6 of the said regulations, Forum shall not admit any grievance application unless it is filed within 2 years from the date on which cause of action has arisen. However, present grievance application is filed on 1.8.2012 and therefore according to regulation 6.6 of the said regulation, grievance application is barred by limitation.

13. According to the applicant, he filed present grievance application in respect of revised assessment towards difference of tariff above 50 kVA from June 2008 amounting to Rs. 789326.47 (Rs.241749.48 + 547576.99). However, for this purpose also cause of action arose on 22.5.2009 when Civil Lines Division issued demand of assessment u/s 126 of Electricity Act 2003 and therefore this prayer is also not within the jurisdiction of this Forum and also not within the limitation and therefore hit by limitation as per section 6.6 and 6.8(a) of the said regulations and hence application is untenable at law and deserves to be dismissed.

14. For these reasons we find no force and no substance in the present grievance application and the application deserves to be dismissed. Resultantly, Forum proceeds to pass the following order :-

ORDER

- 1) Grievance application is dismissed.

Sd/- (Smt.K.K.Gharat) MEMBER SECRETARY	Sd/- (Adv.Smt.GauriChandrayan) MEMBER	Sd/- (ShriShivajirao S.Patil) CHAIRMAN
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