

**Before Maharashtra State Electricity Distribution Co. Limited
Consumer Grievances Redressal Forum, Pune Zone ,
925, Kasabapeth Building, IInd flr. Pune-11**

**Case No. 2 of 2006
Date: 4 /11/2006**

In the matter of

**M/s.Telecast Heavy Engineering
Proprietor, Mr.O.D.Sharma**

- Complainant

V/S

M.S.E.D.C.L. Pimpri Division, Ganeshkhind Urban Circle - Opponent

Corum	Chair Person	Mr. A.V. Bhalerao
	Member/Secretary,	Mrs. N.D. Joshi,
	Member	Mr. T.D. Pore

Shri. O.D.Sharma (Hereinafter referred to as Complainant) obtained low tension Industrial Electric supply from Maharashtra State Electricity Distribution Co. Ltd. (Hereinafter referred to as Opponent)

The complainant alleged that the opponent by issuing a bill in the year of 1997 made a demand of Rs. 96,822/- and it was settled by agreement that the amount of bill be paid in three instalments. He therefore made payment of Rs. 32,300 on dt 17.1.97, Rs. 35,300 on dt. 22.1.97 and Rs. 40,084 on dt. 28.2.97. He thus made total payment of

Rs. 1,04,684/- In spite of that he was shown in arrears and supply of electricity to his Industry was stopped in the month of June-1998. He made representation to the opponent on various occasions to resume the supply of electricity to his industry. However, the opponent did not resume the supply of electricity.

The opponent made enquiry and ultimately gave credit of missing entry of Rs. 32,300/- in the month of May-2004. As the supply of the electricity was stopped to the industry, there was no production due to which he lost the profit at the rate of Rs. 10 lakhs per annum from the year 1998-2006. As there was no production he could not repay the instalments of the loan to the bank and therefore the bank attached the machinery . He also lost the infrastructure, which he had erected for the industry. He claimed, the total compensation of Rs. 1 crore 50 lakhs from the opponent

The opponent filed its written statement and admitted that the Complainant made total payment of Rs. 1,04,684/- however it denied that unexpectedly a bill of huge amount was issued to the complainant. It contended that the complainant since 21/02/94, did not pay the charges for electricity consumed and therefore he fell in arrears of huge amount of Rs. 96,822/- In issuing a bill of Rs. 96,729.28 in the month of November-1996 it did not commit any mistake as the said bill was issued legally as per the provision contained in Elect. Act then in force . It further

mentioned that as and when the complainant paid arrears, it was accounted for immediately and only an instalment of Rs. 32,300/- was not accounted for and the same was accounted for in the month of May – 2004. It was contended that the supply of electricity was not cut off for the reason that the instalment of Rs. 32,300/- was not paid but it was cut off in the month of July-2001 by which time the complainant had fallen in arrears of Rs.1,14,730/-. As after having been paid the amount of Rs. 1,04,684 on dt 28.2.97 the complainant was irregular in making payment of the bills issued to him and did not pay anything after 11-05-98, the supply of electricity was temporarily stopped in the month of July-2001 not abruptly but in each bill he was given a notice/warning that the supply of electricity would be cut off without prior intimation. Though the complainant was given such warnings in each bill, he (Complainant) did not pay any hid to it. The opponent denied the liability to pay compensation as claimed by the complainant contending that the complainant's industry might have been closed due to various other reasons which is clear from the fact that the complainant could not pay regularly electric charges and continued to remain as defaulter. The opponent also denied that the complainant was deriving a profit of Rs. ten lakhs per annum. It contented that if any loss was caused to the complainant, it (Opponent) was not responsible for it. As the complainant made defaults in making repayment of the instalment of the loan to the bank. The Bank put the Complaint's Industry to sale through Debt Relief Tribunal.

On rival contention raised by the parties, following points arise for consideration :-

- 1 Is claim made by complainant within time?
- 2 Does complainant prove that he suffered a loss of Rs. 1 crore 50 lakhs (Rs. 80,00,000/- loss of profit + 50,00,000/- loss of Infrastructure + 20,00,000/- cost of Machinery) due to stoppage of supply of electricity, without he being a defaulter by the opponent?

Above points are answered in the negative for the reasons given below.

REASONS

Point No 1:

Regulation 6.6 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum) and Electricity Ombudsmen Reg. 2006 (hereinafter referred to as Regulation 2006 for short) provides that forum shall not admit any grievance unless it is filed within two (2) years from the date on which the cause of action has arisen. In present case when cause of action arose for the complainant to claim – compensation has to be determined from the pleading in his complainant. Cause of action to claim compensation accrued to the complainant on the date when supply of electricity was stopped to his industry . According to the pleading made by the complainant in his complaint, the supply of electricity to his industries was cut off in the month of June-1998 means cause of action to the complainant accrued in the month of June-1998.

The complainant has filed the complaint dt. 22.6.06, which is obviously not within 2 years from the date on which cause of action accrued to him. The complaint/Grievance made by the complainant is hopelessly barred by time , and therefore on that ground alone is liable to be dismissed.

Point No 2:

The complainant has alleged that supply of electricity to his industry was cut off without he being a defaulter. According to him he had cleared the arrears by making paying of Rs. 1,04,684 in three instalment the first instalment of Rs. 32,300/17.01.97, Second instalment of Rs.35,300/22.1.97, Third instalment of Rs. 40,084/28.02.97. The opponent gave credit of two instalments. However, did not give credit of instalment of Rs. 35,300/- (32,300/- Commercial Connection + 3,000/- Single phase connection) As the credit of Rs. 32,300/- was not given, the said amount was carried forward as arrears and including that amount next bills were issued. The complainant wants to allege that on account of being a defaulter of the amount of Rs. 32,300/- , the supply of electricity was cut off to his industry since June-1998. He further wanted to allege that as the supply of electricity was cut off , there was no production and therefore he suffered a loss of profit of Rs. ten lakhs per annum from 1998 to 2006. The complainant also contended that as the production was stopped he could not repay the loan to the bank due to which the bank put his industry to sale in a public auction and therefore he lost the amount of Rs. 50,00,000/- which he had spent for infrastructure of the industry and also Rs. 20,00,000/- for purchase of the machinery .

The opponent alleged that the credit for Rs. 32,300/- was not given immediately in the month of March -97, as it was kept in suspense account and therefore the bills for the next month were given adding the amount of Rs. 32,300/- However, merely because he was shown in arrears with that amount, the supply of electricity was not cut off. The supply of electricity continued though the complainant was in arrears, the complainant did not pay the charges for the electricity consumed from May-98 till May 2001 except payment of Rs. 25,729.63 on dt 28.2.97. As the complainant was in arrears of huge amount supply of electricity was stopped to his industry temporarily in the month of July-2001 .

The opponent has produced consumer personal ledger (CPL) showing the details of the bill right from Nov-96 till Dec. 2004 pertaining to the complainant's consumer No. 170143388819. CPL is an account maintained by the opponent regularly in the discharge of its business and therefore it has got a presumptive value. Entries in the CPL will be relied upon unless rebutted. The complainant has not adduced any evidence to rebut the presumptive value of the entries in the CPL. The entries in the CPL show that though without giving credit of the payment of Rs. 32,300/- the said amount was carried forward as arrears along with the charges of the electricity consumed during the next coming months the supply of electricity was not cut off. The entries in the CPL show that the supply was live till May-2001 and temporarily it was disconnected in the month of July-2001 by which time the amount of arrears payable was 1,14,730.36 means even if credit of Rs. 32,300/- had been given the

complainant was still then in arrears to the tune of Rs. 82,430.36/- When the complainant had fallen in arrears of such huge amount the opponent had every right to disconnect the supply of electricity to the industry of complainant. The entries in the CPL clearly show that the supply of electricity was not disconnected merely because the opponent did not pay Rs. 32,300/-. Even if credit had been given of that amount, complainant was in arrears of huge amount by the time supply of electricity was cut off in the month of July-2001. The complainant has unnecessarily made a capital to take disadvantage of the error committed by the opponent in not giving credit of the payment made by the complainant immediately though such error had not caused any loss to him. In spite of the fact that the complainant was in arrears right from March-1997 till July-2001, the supply of electricity was not disconnected is clear from the entries in the CPL which show current reading more than the previous months reading at least upto Jan-2001. From the entries in the CPL it is established that the supply of electricity was not stopped in the month of June-98 but it was temporarily stopped in the month of July-2001.

The complainant has produced a Xerox copy of the application dt. 27.7.99 in which he had made request to resume his supply of electricity. It has been argued that without supply being disconnected he would not have made an application dt. 27.7.99 to connect the supply of electricity. It was urged by the complainant that his act of making application on 27/7/99 shows that supply of electricity was cut off much earlier than July 2001

Normally under such circumstances, it was expected that the complainant should have applied to the opponent immediately after the supply of electricity was stopped in the month of June-98 itself, the application dt. 27.7.99, which was made after a period of 1 year from the date on which supply was cut off, is somewhat doubtful and therefore it cannot be relied upon.

The complainant has not produced any convincing evidence to prove that for a period preceding June-98 in which supply of electricity was stopped to his industry, he was earning a profit of Rs. ten lakhs per annum . He has also not produced any evidence to prove that after supply of electricity was stopped in the month of June-98, he could not make repayment of the loan to the bank . The complainant has not explained why he fell in arrears of electricity bill to the tune of Rs. 96,822/- in the month of Nov 1996 though he was earning a profit of Rs. 10.00 lakhs per annum. There is absolutely no evidence to prove that the complainant's Industry came to stand still, because supply of electricity was stopped to his industry. It is probable that complainant's industry might have failed due to many other reasons, such as mismanagement or for want of demand of his product.

Supply of electricity to the complainant industry was not stopped without prior warning. The opponent has averred in it written statement that in the bills issued to the complainant, warning was given that in case payment of arrears was not made on or before due date, the supply of electricity would be cut off without notice. In this case only

because of one or two default supply was not stopped. Supply of Electricity came to be stopped after numerous defaults and after numbers of bills with warning of disconnection were issued to the complainant.

ORDER

Complaint/Grievance is hereby dismissed.

Chair Person , Mr. A.V. Bhalerao

Member/Secretary, Mrs. N.D.Joshi,

Member Mr. T.D.Pore

The matter could not be disposed of within a period of two months as the post of Chairperson was vacant from 01/05/06 upto 25/09/06. Immediately after the Chairperson took the charge on 25/09/06 , the steps were taken to hear and dispose the matter .

Chair Person , Mr. A.V. Bhalerao

Member/Secretary, Mrs. N.D.Joshi,

Member Mr. T.D.Pore