

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

Case No. 12 of 2008

Date: 29/09/2008

In the matter of Shri.D.K.Choudhari

- Complainant

V/S

M.S.E.D.C.L. Padmavati Division

- Opponent

Corum

Chair Person

Mr. A.V.Bhalerao

Member/Secretary,

Mr. D.K.Mane,

Member,

Mr. T.D. Pore

- 1- Mr.D.K.Choudhari** (Complainant for short) obtained supply of electricity to his shop premises through 3 phase meter bearing NO.58622 in Jan-2002. The complainant was regularly making payment of the charges of electricity to Maharashtra State Electricity Distribution Co. Ltd. (Opponent for short). However, on 11/09/07 the flying squad Kolhapur checked the complainant's meter and gave report to the opponent stating that the complainant's meter was slow by 17.1% and also found that the fix charges were being recovered from the complainant at the rate fixed for single phase when it should have been recovered at the rate for three phase. The opponent in view of the direction given by flying squad Kolhapur calculated the difference of fix charges and the units consumed and directed the complainant to pay the amount of Rs. 52,879 towards the difference which was due to application of wrong rate of fix charges and incorrect recording of units consumed by complainant's meter which was slow. The complainant paid the amount of

difference on 24/12/07. It appears that on complainant's request one more meter was installed at complainant's premises for comparison. The complainant alleged that the meter which was installed for comparison recorded in all 6461 units from 17/11/07 to 14/05/08 and during the said period his meter NO.58622 through which he was getting supply of electricity recorded 6143 units. The complainant contended that the above reading confirmed that the meter was not at all slow and therefore the difference recovered by the opponent on the ground that his meter No. 58622 was slow by 17% was wrong. The complainant made grievance to IGRC on 19/05/08. The IGRC refused to accept any conclusion based upon reading recorded by meter which was subsequently fixed for comparison on the ground that the said meter was not standard one. It found that the test report given by flying squad Kolhapur directing the opponent to recover the difference on the basis that complainant's meter being slow by 17% and the fix charges to be recovered at the rate for three phase connection instead of at the rate for one phase connection can not be interfered with. The IGRC however, gave liberty to the complainant to get his meter NO.58622 tested in the testing unit in presence of Dy.E.E. flying squad Kolhapur.

- 2- The complainant made a grievance to this forum contending that the excess amount recovered by the opponent be refunded to him.
- 3- A notice was served upon the opponent to file its written statement. The opponent without justifying how the amount of Rs. 52,879/- recovered from the complainant as a difference in view of the directions given by flying squad Kolhapur was correct, submitted that as per order given by IGRC a

letter No. Dy.EE/T/1781 dt.06/08/08 was written to flying squad Kolhapur , but in the meantime a notice dt. 05/08/08 from the forum was received to file a written statement and therefore without waiting for Dy. E. E. Kolhapur, the complainant's meter was tested in Swargate meter testing laboratory in presence of the complainant & J.E. MTU Padmavati and it was found that complainant's meter was slow by 4.57% for test 2.5 Amp. , slow by 4.94% for test 5 Amp. And slow by 4.55% for test 25 Amp. The opponent alongwith the written statement produced the letter dt. 15/09/07 written by Dy. Flying squad Kolhapur, spot inspection report dt. 19/09/07 given by flying squad, the details of the calculation of the difference, the bill by which the amount of difference Rs. 52.879 was demanded from the complainant, the decision given by IGRC dt.16/06/08 ,notice given to the flying squad Kolhapur to remain present at the time of testing and the test report given by Dy.E.E.(O) MSEDCL Padmavati division and complainant's CPL. At the time of argument the complainant himself admitted that he had obtained 3 phase connection and if fix charges were recovered from him at the rate for single phase connection he was ready to pay the difference. The complainant and his representative contended that the opponent is not entitled to recover the difference of the units consumed on the basis that the complainant's meter was slow by 17%.

- 4- On behalf of the opponent Dy.E.E. Shri. Gorde, submitted that the recovery of the difference for the units consumed on the basis that the complainant's meter was slow by 17% was made from Oct-06 to Oct-07 and the difference of the fix charges Rs. 15092 was recovered as per direction given by flying

squad Kolhapur Shri.Gorde,Dy.E.E. was asked why the defective meter was not replaced he could not offer any explanation and admitted that it was a mistake on the part of the opponent . It appears that the complainant paid the amount of difference on 14/12/07 and as he might have had raised the dispute about the accuracy recorded by the flying squad Kolhapur another meter was placed for comparison. The opponent did not give any relief on the basis of the reading recorded by a meter that was fixed for comparison and therefore the complainant approached the IGRC also raising the dispute that the meter was not replaced immediately after it was noticed as defective by flying squad Kolhapur.

- 5- Even though the complainants meter was found defective by flying squad Kolhapur on 11/09/09 it was not replaced and the same defective meter was kept in recording the units consumed till 21/08/08 on which date the said meter was removed for testing it in the laboratory as per direction given by IGRC. Though the flying squad Kolhapur found that complainant's meter was slow by 17.1%. The DY.E.E. Marketyard S/Dn. on testing it found that it was slow by 4.94%. The flying squad Kolhapur was requested to attend the testing but it did not remain present for testing. Since subsequently meter was tested on 22/08/08 by Executive Engineer Padmavati its result will have to be relied upon for calculating the difference.How the billing is to be made in the event of defective meter is laid down in Reg. 15.4.1 the relevent part of which reads as follow-

15.4.1- Subject to the provisions of Part XII and Part XIV of the Act. In case of a defective meter, the amount of the consumer's bill shall be adjusted, for

a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report (of MERC ESC Reg.2005)

In view of the above regulation the opponent can adjust the complainant's bill for a maximum period of 3 months prior to the month in which the dispute arose. The flying squad Kolhapur raised a dispute that the complainant's meter was slow on 11/09/07. The flying squad Kolhapur found it slow by 17.1% however, ultimately on testing by Executive Engineer Padmavati, it has been found slow by 4.94%, the defective meter was replaced on 21/08/08 and therefore the opponent has right to adjust the complainant's bill from 3 months prior to the date on which dispute arose till the said defective meter was replaced. The total period for which the opponent can adjust the consumer's bill on the basis that meter was slow by 4.94 is from 11/06/07 till 21/08/08.

- 6- It is not in dispute that the connection obtained by the complainant is 3 phase. From the complainant's CPL, it is seen that for a long period the fix charges were recovered at the rate for single phase. The opponent is entitled to the recover the fix charges at the rate applicable for the 3 phase connection for entire period for which fix charges were recovered wrongly at the rate for single phase connection. The said period even though exceeds two years, it will not barred by time . The two years limits for recovery starts from when the sum becomes first due as provided under 56(2) of the Electricity Act-2003 and clearly explained by justice Hon. Dr. D.Y. Chandrachud in Brihanmumbai Municipal Corporation V Yatish Sharma &

Others in Writ Petition No. 264/2006 on 18th January 2007. In the instant case the amount of difference of fix charges became first due when it was demanded by a bill dt. 09/10/07 the said amount has to be recovered within 2 years from the date of bill 09/10/07 if not shown the said amount as continuously as recoverable as arrears of charges for electricity supplied. In view of the above observations the forum purposes following order.

ORDER

The opponent is entitled to recover the difference of fix charges at the rate for three phase connection according to the relevant tariff then in force for the period for which fix charge have been recovered wrongly at the rate for single phase.

The opponent is entitled to adjust the bill for the period 11/06/07 to 21/08/08 in accordance with the result of the test report dt. 22/08/08 taken by Executive Engineer Padmavati division by which complaint's meter was found slow by 4.94%.

If the amount already recovered Rs. 52,879 exceeds the total of the above two referred sums, the excess be refunded to the complainant with interest at the rate 9% per annum from 14/12/07 till the date of this order 29/09/08. If the amount recovered from the complainant Rs. 52,879 falls short of the total of above referred sums the difference may be recovered from the complainant.

The opponent is directed to comply the above order within 30 days from the date of the order and the compliance be reported to this forum forthwith.

Sign:

Mr.D.K.Mane,
Member/Secretary

Mr. T.D.Pore,
Member

Mr. A.V. Bhalerao
Chair Person

Date: 29/09/2008

