

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

**Case No. 4 of 2006
Date: 18/10/2006**

In the matter of Mr.Suntosh Goel, Complainant

V/S

M.S.E.D.C.L. Bundgarden Division, Wadia Sub Division- Opponent

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

The brief facts of the complainant's case are that he obtained electricity connection for domestic use in the year 1984. He received the bills of the electricity connection during the period 1984 to 1996 based on the tariff applicable for domestic use. However for the first time he noticed that the bill issued to him for the period 01/03/2005 to 01/05/05 dt. 05.07.05 was assessed on the tariff applicable to commercial use.

He therefore made application dt. 30/06/05 to Ex.Engr. Bundgarden Division) to look in to the matter. The Complainant made second application dt. 3.2.06 to A.E. (Wadia Sub Division) contending that all bills right from 1996 up to Feb-2005 which were assessed using commercial tariff be corrected using domestic tariff and excess amount recovered from him refunded. Assistant Engineer vide letter dt. 28/04/06 informed that Complainant that the relief of rectification of the bill could

be given to him only for period of six months immediately preceeding the date of application dt. 3.2.06. The relief of assessment of the bills on the basis of domestic tariff instead of commercial tariff was obviously given to the complainant from 3.2.06 onwards.

The complainant being dissatisfied made grievance to IGR Cell of Rastapeth urban Circle (RPUC). The IGRC did not interfere with the decision taken by the Assistant Engineer. The complainant therefore approached this forum and claimed that all the bills from Oct. 96 till May-2005 which were assessed using commercial tariff be revised using domestic tariff and difference be paid to him with interest.

The opponent filed it's say and contended that the complainant for the first time made application on dt. 30.06.06 contending that the bill for the period 1/3/05 to 1/05/05 was assessed using commercial tariff, though he was using the electricity for the domestic purpose. Complaint made by the complainant was verified from Consumer Personal Ledger (CPL) and it was found that right from Oct.96 to 30.06.05, the bills issued to him were assessed using commercial tariff. However, as complaint was made by the complainant his premises was inspected and it was found that the electricity supplied to his premises was used for domestic purpose only and therefore the bills for the period next to the inspection have been assessed using domestic tariff. The bills issued to him for the period of six months preceeding only, from the date of application were revised as provided under rules issued by MSEDCL. On the date of hearing the arguments advanced on behalf of the complainant and opponent were heard by Hon. Member Mr. Pore and Hon. Chair Person and Secretary Mrs. N.D.Joshi, and thereafter the regular Chair Person was appointed. The matter was discussed by two members with Chair Person and all of them have come to concurrent finding for the reasons given below.

On the basis of facts involved in the present case, following points arise for consideration.

- 1) Is the claim of the refund made by the complainant on revisal of bills from Oct-96 to May 05 within time ?
- 2) Does complainant prove that, even for the period for which claim is within time , the use of electricity was made by him for domestic purpose and not for commercial purpose entitling him to claim refund of the excess amount?

The finding on point No.1 is that a claim of refund on revisal of bills only for two years next immediately preceeding the date of application 12/7/06 is within time and on point No. 2 is in the negative for the reasons given below.

REASONS

POINT NO.1

The complainant has claimed, the relief of refund of excess amount revising the bills from Oct. 96 till May-2005.

The Consumer Grievance Redressal Forum, constituted under MERC (CGRF) Regulation 2006, shall not admit grievances unless, it is filed within two years from the date on which the cause of action has arisen. In the instant case, cause of action arisen as and when the bills were issued to complainant. The Forum can admit the grievance only in respect of that period which is within two years from the date of cause of action accrued to the complainant. The complaint is filed on 12/7/06 and therefore complainant's claim of refund on revisal of his bills from the period of July-04 up to July-2006 can be admitted . The complainant's claim beyond the period July-2004 is barred by limitation and therefore it can not be considered.

POINT NO. 2

It is contended by the complainant that he had never changed the use of electricity supplied to his premises from domestic to commercial, however the opponent wrongly issued to him the bills from Oct. 96 till may 2005 using commercial tariff. The complainant did not adduce any evidence to prove that during the above said period, he was using electricity for domestic purpose only. He was directed by Hon. Member to produce the receipt under which he had paid property tax to the corporation, however the complainant refused to produce them saying that all those receipts were produce by him in a proceeding pending before the high court. He did not given details of proceeding pending before the High Court and also did not produce any evidence to prove that any proceeding in which he is a party is pending before the high court. At the time of hearing before the Forum he showed some stray tax receipts in which the user of , the premises was shown as residential but that itself is not sufficient for the purpose to prove that the electricity supplied to the premises was used for domestic purpose and not for commercial, especially when the complainant admitted before Hon'ble members that part of the premises was used by him for his office. The entries in the CPL of the complainant show that right from the Oct.96 till Nov-2005, the bills issued to him were assessed under code No.4 suggesting that it was for commercial use. The complainant continuously made payment of those bills without making any grievance. The complainant has produced the Xerox copy of the bill for the period June-1995 to August-1995 using code N.1 suggestive of domestic tariff. The consumer CPL shows that the bill for Oct. 96 was assessed using code No.4 suggestive of commercial tariff. If the bill had been assessed using wrong tariff, the complainant would have immediately made grievance but as no complaint was made there is reason to believe that on verification, it was found that the user has been changed from domestic to commercial, the bills were rightly issued using commercial tariff. The complainant can not come late by 9

years and contend that all his previous bills should be revised changing tariff. The opponent has already given to him the relief of assessment of the bills applying domestic tariff when on actual verification it was found that the user was for domestic purpose invoking the provision contained in Sect.126 of Elect. Act.2003. The said provision relates to the presumption when there is un-authorized use. The opponent ought to have revised the bills using domestic tariff only from the date of actual verification instead of revising the bills six months preceding the date of application. The complainant has failed to prove that the bills issued to him for the period Oct.96 to May-2005 were assessed using wrong tariff . Hence the order.

ORDER

The representation made by the complainant is dismissed.

Chair Person ,

Mr. Bhalerao

Member/Secretary,

Mrs. N.D.Joshi,

Member

Mr. T.D.Pore

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

Case No. 7 of 2006

Date:

In the matter of Mr. Kantilal Babulal Dhumal, Complainant

V/S

M.S.E.D.C.L.

- Opponent

The brief facts of the case are :-

Mr. Kantilal Babulal Dhumal (Complainant for short) is a consumer to whom the supply of electricity of 10 H.P. load was given for running his flour mill by MSEB (Opponent for short) on 15/5/96. The Complainant approached the Internal Grievance Cell with many other complaints including the complaint of recovery of difference of fixed charge from 15/5/96 till May 2006.

The Internal Grievance Cell directed the Complainant to pay the charges of difference of fixed charge as claimed by the Opponent.

Being dissatisfied with the said Order the Complainant has approached this Forum contending that he was regularly making the payment of the bills raised on time to time. If because of the negligence on the part of the Opponent the fixed charges were not correctly claimed he cannot be directed to pay huge arrears of difference fixed charge and the Opponent be restrained from disconnecting the supply of electricity to his flour mill.

The Opponent by filing its say contended that the supply of electricity of 10 H.P. was given to the Opponent's flour mill on 15.5.96 though the supply of electricity of 10 H.P. was given the fixed charges were levied for 1 H.P. the mistake first occurred on 24.1.2006 at the time when meters were decided. After the mistake was occurred the difference of fixed charges were claimed from the Complainant for the period from 5/5/96 till May,2006. He further contended that the difference of fixed charges were claimed within 2 years from the date when the mistake was noticed and, therefore, it is entitled either to recover the difference of fixed charge.

It is not a dispute the supply of electricity was given to the Complainant's flour mill is of 10 H.P. and the fixed charges were recovered for the entire period upto May 2006 at the rate of 1 H.P. The Opponent claimed the difference of fixed charges from 12/5/96 till May 2006.

The question is whether the Opponent can recover the difference of fixed charges right from 15/5/96 till May 2006 at the belated stage. Sec. 56(2) of the Electricity Act 2003, read as follows :-

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 became 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.

In the instance case there is no question of showing the arrears of charges continuously as recoverable as the mistake was first occurred in the month of Jan.06. Question, therefore, is whether the Opponent can be recovered the difference of fixed charges of the period beyond two years from the date May 2006. S.56(2) provides that the charges are to be recovered within two years from the date when the sum becomes due. It will have to be found out when the sum become first due. The Opponent cannot claim the charges at its whim.

Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 prescribes the procedure for billing in Regulation 15.1.1 read as follows :-

15.1.1 Except where the consumer receives supply through a prepayment meter, the Distribution Licensee shall issue bills to the consumer at intervals of at least once in every two months in respect of consumers in town and cities and at least once in every three months in respect of all other consumers, unless otherwise specifically approved by the Commission for any consumer or class of consumers.

The other relevant regulations for claiming charges is 15.5.1 which read as follows :-

15.5.1 The due date for the payment of a bill shall be mentioned on the bill and such due date shall be not less than twenty one days from the bill date in the case of residential and agricultural consumers, and not less than fifteen days in the case of other consumers.

On reading the above two regulations it is clear that Opponent has to claim the charges by raising a bill at least once in every two months and the Opponent has to show in the bill as to on what date charges are to be payable. In instant case the fixed charges became first due at the end of every month or in a cycle of billing month.

Reading the provisions of S.56(2) of Electricity Act 2003 with the above referred Regulations (15.1.1 and 15.5.1) it is clear that the amount of fixed charges became first due at the end of each month and, therefore, the difference of fixed charges which were claimed by the Opponent in the month of May 2006 were recoverable only for two years preceding May 2006. The amount of difference of fixed charges beyond two years cannot be claimed by the Opponent it being barred by time.

Here it must be noted that only the year 2004 the bills were raised bimonthly and, therefore, the amount of fixed charges for the period Feb.04 and March 04 became first due in the month of May 04. The Opponent, therefore, is entitled to recover the difference of fixed charges of the period from March 04 to May 2006.

If the above issue is supported by decision in Representation No. 27 of 2006 M/s. Nand A/15 V/s . Tata Power Co.Ltd. decided by the learned Electricity Ombudsman on 18.7.06, in the said case making reference to S.56(2) of the Electricity Act and Regulations 15.1.1 and 15.5.1 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005.

It was observed that “ in the present case electricity bills are required to be raised and issued at fix intervals as per the billing cycle”. In this context, therefore, it can be reasonably infer that the amount of bill becomes first due on the due date prescribed in the bill in each billing cycle.

It was further observed –

It should also be understood that section 56(2) balances the interest of both the Distribution Licensee and the consumer. On one hand, it empowers the Distribution Licensee to disconnect supply of electricity in case of neglect to pay. On the other hand, the responsibility is cast upon the Distribution Licensee to claim and recover the arrears within two years from the date when such sum becomes first due. Two years is quite an adequate period available to the Distribution Licensee to raise the bill towards the arrears if remained unclaimed for any reason, which in this case, was due to manual error. In such a situation, it would be unreasonable to interpret the provision of Section 56(2) in a manner to give a blanket authorization to the Respondent without any time limit to claim the old arrears, if any.

This is a case in which a bill of huge amount was raised against the poor consumer without there being any fault on his part. Every consumer has no time to litigate against the Opponent who has a monopoly in the business of supply of electricity. In this case as the time limit has been provided for the recovery of the arrears upto two years the consumer could survive, otherwise he had no other option but to close his business which is the only source for him to earn his bread. Every employee of the Company, therefore, is expected to be diligent in performing his duty of issuing electricity bill so that neither Company should be put to any loss nor the consumer be put to any inconvenience or suffer an agony.

In view of the above discussions the following

ORDER

The MSEDCL (Opponent) is entitled to recover the difference of fixed charges at the tariff then prevailing from time to time only of the period from March 04 upto May 2006.

The MSEDCL (Opponent) is prevented from recovering the difference of fixed charges for the period beyond March 04 i.e. for the period from 15/5/96 to Feb. 2004 as the same is barred by time under the provisions of Section 56(2) of the Electricity Act 2003. The Opponent is directed to raise a bill afresh for claiming the difference of fixed charges.

Chair Person ,

Mr. Bhalerao

Member/Secretary,

Mrs. N.D.Joshi,

Member

Mr. T.D.Pore

