

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

Case No.15 of 2008

Date: 21/11/2008

In the matter of Techno Auto Craft

- Complainant

V/S

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

- Opponent

Corum

Chair Person

Mr. A.V.Bhalerao

Member/Secretary,

Mr. D.K.Mane,

Member,

Mr. T.D. Pore

1- Techno Auto Craft (Complainant for short) made a grievance contending that though the Chief Engineer had passed on order that if excess payment was made as regards assessment for theft it be refunded to him but it was not executed and refund was not paid to him. From the averment made by the complainant in his grievance the facts are not made clear. From the documents produced by both the parties the facts in brief giving rise to the grievance are that the complainant obtained connection for the supply of electricity in its name under consumer No. 170148036538 and other connection in the name Auto Tech under Con. No.170148036511 . It appears that Techno Auto Craft and Auto Tech are both owned by Mr. Vinod Mutha. On 04/06/03 when inspection was taken it was found that meters of both concerns were tampered and theft of electricity was being committed. The assessment therefore was made in respect of both connections. The amount of assessment of Rs. 1,42,770.31 was debited to the account of Techno Auto Craft in the month of July-03. The amount of assessment of Rs. 1,03,934.43 as regards Auto Tech was debited in its account for the month of July-03.

The complainant disputed the assessment and therefore it was reassessed by Superintending Engineer by its order dt. 30/10/04, however, the S.E. in his order mentioned that no refund should be given for the payment done so far against theft cases. The complainant preferred an appeal against the revised assessment made by Superintending Engineer. The Chief Engineer maintained the order of assessment made by S.E. with an alteration "if the payment made against theft is an excess then excess amount be adjusted in the future bills." The complainant has alleged that the assessment for the theft was made for the total units 106920, however units recorded by the meter for a period of 3 years and charges paid by him were for 36519 units. He contended that he was charged in excess for units 70401. He claimed refund of the charges paid by him for the excess units 70401.

- 2- The notice was served upon Maharashtra State Electricity Distribution Co. Ltd. (Opponent for short). to file its written statement. The opponent filed its written statement dt. 07/11/08 and additional written statement dt. 12/11/08. The summary of the defense taken up by the opponent is that when meters of Techno Auto Craft and Auto Tech were inspected, it was found that theft of electricity was being committed. The criminal case for the theft committed through the meters of Techno Auto Craft and Auto Tech was filed against complainant on the basis of the FIR dt. 05/07/03 logged by J.E. The said criminal case under CC NO. 2874 /2003 is pending in the court of Judicial Magistrate First Class Pimpri and final decision as regards assessment would be taken depending upon the final decision in the said criminal case. It was averred by the opponent in its additional written statement that in view of the assessment made by the S.E. credit of the amount of Rs. 69,880/- was given to Techno Auto Craft and the said amount was adjusted in the month of July-05 and August-05. As regards Auto Tech credit of Rs. 50,551.39 as regards assessment was given to Auto Tech and it was adjusted in the month of Sept-05. It was also averred that the interest on the amount adjusted was also paid by giving credit. The opponent alleged that as the adjustment has already been made and because of the fact that

the theft case is pending against the complainant, the complainant can not claim any refund.

- 3- On rival contentions, raised by parties to the grievance, following point arises for consideration.

1-Is complainant entitled to any refund as regards assessment made in connection with the theft of electricity allegedly committed by him?

The above point is answered in the negative in the reasons given below.

REASON

- 4- The complainant in his grievance pleaded in the prescribed form suppressed the fact that the criminal case for theft is pending against it in the court. It's proprietor even ventured to make a declaration that subject matter of the grievance is not pending before any court ,however at the time of hearing when opponent produced the copy of FIR dt. 05/06/03 as regards theft committed by the proprietor Mr. Vinod Mutha through two meters bearing No.46470 and 46710 with Con. Nos. 10148036538 and 17014803511 (The digits 511 inadvertently omitted) respectively, the complainant admitted that such case is pending against him being the proprietor of Techno Auto Craft and Auto Tech. The opponent has also produced the copies of inspection reports as regards the meters of Techno Auto Craft and Auto Teche. The assessment made is on the allegation that complainant committed theft of the electricity. There is a prima-facie evidence in the form of FIR and the inspection report and further an admitted fact by the complainant that the theft case is pending against it in the court of JMC Pimpri. The opponent has also given a criminal case No. as 2876/03 . The assessment made which is in dispute in the present grievance is as regards an unauthorized use or theft which is expressly excluded from the jurisdiction of this forum under Reg.6.8(A)&(B) of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity

Ombudsman) Regulations,2005 (MERC CGRF Reg.2006) and therefore forum can not entertain the grievance made by the complainant in which assessment for theft is under consideration.

- 5- This forum also can not entertain the grievance made by the complainant as provided under Reg. 6.7 (d) of MERC CGRF Reg.2006 as a case of theft which is the crux of the assessment under consideration is admittedly pending in the court of JMC Pimpri under CC No. 2874 /2003.
- 6- On third count the grievance made by the complainant will have to be rejected being barred by time as final order of assessment was made by Chief Engineer for the month of Sept –2005. The complainant therefore had a cause of action in the month of Sept-2005 and the present grievance made by him to the forum on 12/09/08 is not within two years from Sept-05 in which month he had cause of action. The Reg.6.6 of MERC CGRF Reg.2006) lays down that the 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.
- 7- If the complainant has a grievance that in view of reassessment made by the S.E. or C.E. he was not given any relief the same is not substantiated from the facts proved in this case. From the contents of the Consumer Personal Ledger (CPL) of Techno Auto Craft it is seen that the amount of Rs. 1,42,770.31 as regards assessment of the theft was debited in its account in the month of July-03. Subsequently in view of the revised assessment credit of Rs. 630.80.31 with interest Rs. 26,441.97 was given by adjusting it in the month of July-05. Further adjustment was made so far as assessment is concerned by giving additional credit Rs. 6800/- by adjusting it in the month of August-05. From the contents of CPL of Auto Tech it is clear that initially the amount of Rs. 1,03,934.43 by way assessment was debited in the account of Auto Tech in the month of July-03 and refund was given of the amount of Rs. 50,551.39 with interest Rs. 36,407 by adjusting it in the month of Sept-05. From these facts it is clear that whatever refund to which complainant was entitled to in view of the order passed by S.E. & C.E. had already been given to him by adjusting it in the next bill. Whether the final

assessment made by the opponent for theft allegedly committed by Auto Tech and Techno Auto Craft is correct or not is not within the ambit of this forum hence the order.

ORDER

The grievance/complaint made by the complainant stands dismissed.

Sign:

Mr.D.K.Mane,
Member/Secretary

Mr. T.D.Pore,
Member

Mr. A.V. Bhalerao
Chair Person

Date: