

**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: 20.12.06

In the matter of Mr. Kantilal Babulal Dhumal, - Complainant

V/S

Maharashtra state electricity distribution co.ltd. - Opponent

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

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 Maharashtra State Electricity Distribution Co. Ltd. (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 from 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 of 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 tested. After the mistake was noticed the difference of fixed charges were claimed from the Complainant for the period from 15/5/96 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 to recover the difference of fixed charge.

It is not in dispute that 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 that too at belated stage. Sect. 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 instant 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 recover the difference of fixed charges of the period beyond two years from the date May 2006. Sect. 56(2) provides that the charges are to be recovered within two years from the date when the sum becomes first 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. 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 paid. 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 in 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.

The above view 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

“ 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 date mentioned 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 w

hence 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 accordingly for claiming the difference of fixed charges within one month from the date of this order.

Chair Person, Mr. Bhalerao

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

Member

Mr. T.D.Pore

Date: 20/12/06