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Consumer Grievance Redressal Forum

“Vidyut Bhavan”, Gr. Floor,

L.B.S.Marg,Bhandup (W),

Mumbai – 400078.

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REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/ 172/ 0030      Date: 30.04.2019

**Hearing Date: 05.02.2019**

CASE NO.172/2018

In the matter of billing

M/s. Shamrock Hotels Pvt. Ltd.,

Plot No. P-16, Talaja MIDC,

Tal. Panvel Dist. Raigad-410208... . (Hereinafter referred as Consumer)

Vs

Maharashtra state Electricity Distribution Company Ltd

Through it's Nodal Officer,

Vashi Circle, Vashi

..... (Herein after referred as Respondent)

**Appearance:-**

For Consumer – – Shri. Pravin Thakkar Consumer Representative

For Licensee:- Mrs S.A.Parange UDC Panval Urban sub division.

[Coram- Dr. Santoshkumar Jaiswal- Chairperson, Shri. R.S.Avhad -Member Secretary

and Sharmila Ranade - Member (CPO)].

Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub- section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred

as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005] Hereinafter referred as 'Supply Code' for the sake of brevity.

Aggrieved by the order of the Internal Grievance Redressal Cell, the applicant consumer filed this Representation raising following points.

**Applicant's Say:-**

- 1) The Applicant M/S Shamrock Hotels Pvt Ltd. is LT Consumer no.030130051070 under Panvel (I) Sub-Division carrying its business at Plot no.P-16,Taloja MIDC, Tal.Panvel, Dist. Raigad -410208.
- 2) The Applicant submitted that, the MSEDCL has been issued them a bill for retrospective recovery of change in M.F on dtd.11/02/2016 for the period of May-2013 to Dec-2015 (20 months) amounting Rs.16,37,740/-. Against the said bill of retrospective recovery, the applicant has been approached to IGRC Vashi Circle in 2016. However, the IGRC not served any order to applicant by any mode of service as defined under Electricity Act-2003.
- 3) The Applicant submitted that, the Additional Executive Engineer of Panvel -I sub-Division has served them Lr. No. 1511 dtd. 09/05/18 enclosing IGRC Order. The said letter of sub division along with IGRC Order received on us on 09/05/2018.
- 4) The Applicant submitted that, the supplementary bill for retrospective recovery issued on dtd. 11/02/2016 and said amount added in bill of March-2018 (billed in April -2018) by way of debit bill adjustment. Till the bill for the month of March-2018, the recovery was not added in current bill and the amount was not shown as recoverable from Feb -2016 to March - 2018 in CPL and Bills, hence the amount becomes time barred and not recoverable as per the provisions of section 56(2) of Electricity Act-2003.

The Section 56 (2) of Electricity Act-2003 is as below:-

**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.*

- 5) The Applicant submitted following judgments of Hon'ble Bombay High Court, which is Jurisdictional High Court and the judgments of Hon'ble Bombay High Court are binding on the judicial / quasi judicial authorities in state. In above Judgments / orders, it is ordered that, the amount not shown as outstanding in bills / CPL shall not be recoverable as per the provisions of section 56(2) of Electricity Act-2003.

- Hon'ble Bombay High Court Order in W.P.no. 10764 of 2011 dtd. 12/01/2012
- Hon'ble Bombay High Court Order in W.P.no. 10764 of 2011 dtd. 24/01/2012
- Hon'ble Bombay High Court Order in W.P.no. 2894 of 2007 dtd. 07/09/2007
- Hon'ble Bombay High Court Order in W.P.no. 6783 of 2009 dtd. 05/03/2010
- Hon'ble Bombay High Court Order in case of Mr. Awadesh Pandey V/S Tata Power.
- Hon'ble Ombudsman order in case no 119 of 2011 dtd.12/10/2011.

The Applicant submitted that, as per the above mentioned orders, the amount not shown as outstanding or recoverable in CPL or bills is clearly time barred amount and not recoverable as per the provisions of section 56(2) of Electricity Act-2003 after the period of 24 months.

6) The Applicant prayed to quash and set aside the supplementary bill for retrospective recovery of change in M.F dtd.11/02/2016 for the period of May-2013 to Dec-2015 amounting Rs.16,37,740/-, which is included in the bill of Mar-2018. The recovery is time barred.

7) The Applicant also prayed to withdraw the interest and DPC charged on supplementary bill amount of Rs.16,37,740/-, which is included in the bill of Mar-2018.

**Respondent's Say:-**

1) M/S Shamrock Hotels Pvt Ltd. is LT Consumer no.030130051070 under Panvel (I) Sub-Division carrying its business at Plot no.P-16,Taloja MIDC, Tal.Panvel, Dist. Raigad -410208.

2) The respondent submitted that, the MSEDCL has issued a supplementary bill for change in Multiplying Factor on dtd.11/02/2016 for the period of May-2013 to Dec-2015 (20 months) amounting Rs.16,37,740/-. Against the said bill of MF recovery, the consumer has been approached to IGRC Vashi Circle in 2016 and due to pending dispute the supplementary bill amount was not added in CPL and regular bills.

3) The respondent submitted that, supplementary bill amount added in bill of March-2018 by way of debit bill adjustment.

4) The respondent submitted that the MF Recovery is proper and legal, hence, prayed to dismiss the grievance filed by consumer.

**Observations of Forum.**

Heard both the parties at length and gone through the documents, judgments and arguments of both parties, it is admitted position of fact on record which clearly show that the MF Recovery against the consumer billed on MF-1 instead of MF-2 for the period of May-2013 to Dec-2015 and for said recovery, the supplementary bill of Rs.16,37,740/- was raised/demanded in the month Jan

2016. The applicant had approached to the IGRC against the supplementary bill of MF recovery issued to applicant on dtd. dtd.11/02/2016 for the period of May 2013 to DEC 2015 (20 Months). The IGRC passed the order on 17 May 2016 stating

- The complaint is partly allowed.
- Utility Shall arrange to give 6 monthly instalments .Consumer shall pay monthly instalment regularly with current bill amount .Further after payment of all instalments regularly with current bill amount, utility shall waive all interest penalty & DPC.
- Utility shall take action on all concern officers responsible for said MF remains undetected for such long period.

It was the duty of respondent to add said recovery amount in ledger in the billing after the IGRC order as debit bill adjustment, however, the respondent has been failed to add said supplementary bill amount in bill. The recovery first time added in the bill March 2018. On the other hand it is also duty of consumer to file the case to CGRF if not satisfied with order of IGRC as per Regulation 6 of MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations; 2006 provided as under

Regulation 6

*6.2 " A consumer with a Grievance may intimate the IGR Cell of such Grievance in the form and manner and within the time frame as stipulated by the Distribution Licensee in its rules and procedures for redressal of Grievances".*

*6.4 "Unless a shorter period is provided in the Act, in the event that a consumer is not satisfied with the remedy provided by the IGR Cell to his Grievance within a period of two (2) months from the date of intimation or where no remedy has been provided within such period, the consumer may submit the Grievance to the Forum. The Distribution Licensee shall, within the said period of two (2) months, send a written reply to the consumer stating the action it has taken or proposes to take for redressing the Grievance.*

But, the applicant remains silent still supplementary bill for MF recovery (1 to 2) difference added in his bill in the Month March 2018. The applicant filed his grievance in schedule 'A' to the Forum 04.09.2018 for interim order against disconnection stating that he received IGRC order 09/05/2018. The applicant has approached the Forum after lapse of more than 2 years and not produced any valid reason for delay in submission. Moreover the respondent added supplementary bill in March 2018 and informed the applicant within 2 years from the order of IGRC.

I gone through the legal provision of 56(2) on which applicant relied which read as 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 become 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 view of above provision, the applicant failed in his grievance the respondent is entitling for recovery of difference bill of MF recovery without interest and DPC. There is no need to interfere in the order of IGRC. Hence I proceed to pass following order

### **ORDER**

The Applicant application in case 172 of 2018 is hereby dismissed.

No order as to the cost.

Both parties should be informed accordingly.

I Agree/Disagree

I Agree/Disagree

**MRS. SHARMILA RANADE,  
MEMBER  
CGRF, BHANDUP**

**Dr. SANTOSHKUMAR JAISWAL  
CHAIRPERSON  
CGRF, BHANDUP**

**RAVINDRA S. AVHAD  
MEMBER SECRETARY  
CGRF, BHANDUP**

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

Note:

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address. " Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606, Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051"
- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non- compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission ( consumer Redressed Forum and Ombudsman) Regulation 2003" at the following address:-  
  
"Maharashtra Electricity Regulatory Commission, 13<sup>th</sup> floor,world Trade Center, Cuffe Parade, Colaba, Mumbai 05"
- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.