


Maharashtra State Electricity Distribution Co. Ltd.

Office : 02382-250634 Fax :- 02382-251866 E-mail:- celatur@mahadiscom.in		Office of the Exe. Engr. CGRF Latur Zone, Vidyut Bhavan, Ground floor, Old power house, Sale galli, Latur - 413512
EE/CGRF/LTR/58		Date :- 24.05.2019

Case No. 01/2019

Date of Complaint: 18.01.2019

Decided date: 24.05.2019

To,

- 1) M/S Sejal Agro Industries
Prop. Shri. Shiwaji Hanmantrao Hude,
Plot. No. 05 G.P No. 889, Beside
Udaygiri Ind. Est, Post. Loni-udgir,
Tq. Udgir, Dist. Latur.

(Applicant)

- 2) Addl. Executive Engineer, MSEDCL,
Urban Sub-Division, Udgir.

(Non-applicant)

Sub: - Decision/Order copy in respect of Case No.01/2019.

With reference to the above referred case, the forum has given judgment on **dt.24.05.2019**. Please find enclosed herewith the copy of the Judgment given by the Forum.

Encl: - As above.


**Executive Engineer,
CGRF, MSEDCL, Latur.**

Copy s.w.rs.to:-

- 1) The Chief Engineer, MSEDCL, Zone office, Latur.

Copy to:-

- 1) The Executive Engineer, MSEDCL, Circle office, IGRC, Latur.
2) The Executive Engineer, MSEDCL, Division office, Udgir.

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY
LIMITED

Before Consumer Grievances Redressal Forum Latur.

Case No. 01/2019

Complaint date on: 18.01.2019

Decided date on: 24.05.2019

M/S Sejal Agro Industries
Prop. Shri. Shiwaji Hanmantrao Hude,
Plot. No. 05 G.P No. 889, Beside
Udaygiri Ind. Est, Post. Loni-udgir,
Tq. Udgir, Dist. Latur.

Applicant

V/s

Addl. Executive Engineer, MSEDCL,
Urban Sub-Division, Udgir.

Non applicant

QUORAM Shri. Panditrao B. More, The Chairman.
 Shri. S. B. Deshmukh, The Member.
 Shri. M. S. Misal, Executive Engineer, The Member Secretary.

JUDGEMENT

Dt. 24.05.2019

The applicant/consumer M/S Sejal Agro Industries has raised grievance dated 18.01.2019 that Multiplying Factor (MF) of energy meter of his electricity connection is one (01) & MF is wrongly considered MF as two (02) by flying squad and demanded bill which is entirely wrong. Therefore applicant consumer pleaded to the forum to cancel the entire demand raised by respondent distribution utility. The applicant/consumer has industrial connection under the name and style "M/S Sejal Agro Industries" (Consumer No. 623840001854 of 100 HP at plot No. 05 GP No. 889 post. Loni-Udgir), since March-2011 under Udgir Sub/Dn of MSEDCL.

2) The opponent SDO, Udgir (U) MSEDCL issued supplementary bill of Rs. 5,89,669/- on Dt. 28.02.2015 to the applicant on finding that MF of the meter is

02 instead of MF 01 by the flying squad on inspection of the consumer's premises on Dt. 05.02.2015. The applicant further contended that supplementary bill against the correction of meter MF from May-14 up to the date of inspection of flying squad.

3) The applicant consumer has submitted his written statement and contend that MF of his electric meter is 01 & MF is wrongly considered as MF 2 by flying squad and demand bill which is entirely wrong and further stated that if MF 02 is established by proven test & reports, then in case of such dispute vide sec 56 (2) of EA 2003, consumer's liability to pay the amount is maximum for 24 months from the date of demand / bill. Hence amount for 24 months back from the date of issue of supplementary bill. In present case applicability is from March 2014 back to 28 March 2013 is required to be paid by him subject to proven MF, which comes Rs. 05,60,537.72/- as per statement presented before forum by applicant in the Exhibit-7. The applicant/consumer further pleaded to forum that said amount will have to be paid by consumer in 13 installments and without interest & delayed payment charges (DPC) vide MSEDCL H. O. guidelines no. PR-3/Tariff/241565 dt. 18 July 2009, as applicant consumer is not at fault.

4) The forum heard both the parties. Mr. Sharad Kulkarni is representative of the applicant. He further submitted the order of long awaited case of larger bench in writ No.WP/10764 of 2011 decided on 12.03.2019 by hon'ble High Court Mumbai which ruled on page No.99 & 100 as "Even if the supplementary bills are raised to correct the amounts by applying accurate multiplying factor, still no recovery beyond two years is permissible..." and further ruled on page no.99 that "The distribution licensee cannot demand charges for consumption of electricity for a period of more than two years preceding the date of the first demand of such charges". The applicant representative pleaded further to forum to decide the case at earliest considering above judgment.

5) The Opponent, SDO, Udgir submitted written statement, Dated 11.02.2019 that M.F of consumer is checked, proved and corrected as '2' by flying squad and accordingly correct bill is raised MSEDCL, Flying Squad inspected consumer installation on Dt. 05.02.2015 and tested installation by conducting load test at site and found that M.F. of metering unit as '2', and in support of this contention submitted the exhibit -7. He contended that the detail inspection sheet is prepared by F.S. in presence of consumer representative which proves that actual M.F was 2 and billed M.F. was 1. Hence, Previous bills issued with M.F. 1, as per attached consumer personal ledger (CPL) as Exhibit No. 2 needed to be corrected. Accordingly assessment energy bill of Rs. 05,89,669/-

Dtd. 28.02.2015 was issued to the consumer as per letter No. AEE/Udgir (U) sdn / Acct/251 Dt. 13.03.2015 which is attached as Exhibit no. 03. Opponent utility further contended that, the same metering equipment was inspected and tested by Executive Engineer (Testing), Testing Division, Latur on dt. 28.08.2015 at site and found that M.F. was '2' and in support submitted the testing report vide letter no. EE (T)/LTR/ TS/00601 dt. 31.08.2015 i.e. Exhibit no. 4. Hence, M.F. '2' was proved and confirmed and hence corrected meter MF and so raised assessment bill is correct.

6) According to non applicant, the grievance filed by the consumer is beyond two years from the date of cause of action & hence is not within limitation. Regulation 6.6 of CGRF & E.O Regulations 2006, creates express bar for admitting the grievance filed beyond two years from the date of cause action, as such grievance of the consumer is not maintainable. It is specifically pointed out that, consumer has raised dispute in respect of bill raised on Dt. 25.02.2015 and since thereafter grievance to the Hon'ble CGRF is presented on dt. 18.01.2019 i.e. beyond more than two years. Further, the respondent submitted that, the amount calculated as per assessment sheet as per Exhibit no. 6 of Rs. 5,89,669/- is correct and it should be paid by the consumer with interest and DPC as per current attached bill (Exhibit No. 7).

7) It specifically stated by non applicant that the, bill raised by MSEDCL is well within the purview of Electricity Act and the rules framed there under. The applicant has misconstrued the section 56 E.A. 2003 and under mistaken belief stating that sum beyond 2 years can't be raised as alleged. However, Sec 56 (2) states that, "Notwithstanding anything contained.... Shall not cut off the supply of electricity" The same stipulates that "when the sum becomes first due" that means the amount becomes first due when the bill is raised. In his support he submitted several citation viz. namely Bank of India v/s Punjab State Power corporation (CWP No. 8228/2015 dt. 21.08.2017). Therefore, in this case the recovery raised is within purview of Electricity Act, 2003 and actually consumed/ utilized by the consumer therefore payable by him. It is public money. Hence pleaded to forum to order the applicant to pay the entire amount along with DPC and interest.

8) Mr. Deshmukh, SDO udgir urban Sub/Dn and Mr. Dinkar Tidake, Asst. law officer, Latur Zone, appeared before forum for the hearings on behalf of non applicant.

Discussion of the forum

9) Heard both the sides. Perused the reported cases the applicant has industrial connection since 24.03.2011 supplied and maintained by opponent / MSEDCL Udgir urban sub/Dn. MSEDCL Flying Squad visited on 05.02.2015 and found that meter Multiplying factor was 02 but applied meter M.F on bill was 01. So from the date of connection till the date of visit, meter M.F found half than the actual used consumption of electricity. Accordingly the report was furnished to O&M S/Dn. Udgir. In this way, the dispute arose between consumer and company after issuing bill which was for an amount of Rs. 05,89,669.00 Accordingly, the consumer initially filed civil suit in Civil court Udgir (special suit no. 10/2015) dt. 05.10.2018. The court pleased to return the plaint for presenting the same before proper forum. So the consumer preferred to file "X" form before IGRC Latur and subsequently as it could not be disposed off within two months he preferred appeal before this forum on date 18.01.2019.

10) The forum heard both the parties. On studying thoroughly Spot inspection reports of Flying Squad, Load Test Report and Testing report of metering equipment by Testing Division, Latur. It confirms and proves that MF was 02 but energy bills were issued with MF-01, Hence, 50% consumption of electricity was unrecorded which was used. As previous bills issued to applicant consumer with M.F. 1, needed to be corrected by applying MF-02 is just and proper.

11) In order to decide the assessment period, in WP No./10764 of 2011 decided on 12.03.2019 by hon'ble High Court, Mumbai it is clearly observed on page No.99 & 100 as "Even if the supplementary bills are raised to correct the amounts by applying accurate multiplying factor, still no recovery beyond two years is permissible..." and further ruled on page no.99 that "The distribution licensee cannot demand charges for consumption of electricity for a period of more than two years preceding the date of the first demand of such charges". The above decision of larger bench has ratio similar to above case hence forum is of the opinion that recovery for corrected MF should be for 24 months only.

12) The non applicant pleaded forum to grant some time to get the information from Licensee's Head Office whether or not appeal to Supreme Court is being filed by non applicant against decision of writ petition NO. W.P./10764 of 2011 decided on 12.03.2019 by HC, Mumbai. Forum granted the same hence forum could not decide the case within the period of sixty days.

ORDER

- 1) The consumer's application is partly allowed.
- 2) The supplementary bill of Rs.05,89,669/- is hereby cancelled.
- 3) The meter multiplying factor (MF) is proved to be 02 (Two) instead of MF-01(one).
- 4) The opponent MSEDCL should calculate the bill considering the meter MF-02 for the period March-2013 to Feb-2015 (i.e. 24 months) and issue fresh supplementary bill to the applicant consumer within 15 days without any DPC. Further, the amount paid by applicant consumer Rs.04,00,000/- (Rs. Four Lacks only) be adjusted against the supplementary bill.
- 5) The amount of revised bill shall carry the interest as per MERC with effect from Dt. 28.02.2015 till the satisfaction.
- 6) The consumer will be at liberty to pay the revised bill in equal six installments commencing from 15th July 2019, subject to condition that a single default on the part of consumer will authorize the MSEDCL to recover the dues in lump-sum.
- 7) Compliance to the forum to be reported before 01st July 2019.
- 8) No order as to the costs.

Address:-

The Ombudsmen,
Maharashtra Electricity Regulatory Commission,
Plot No.12, Shrikrishna Vijay Nagar Chavani,
Nagpur 440013.
Ph.No.0712-2022198

Date: - 24.05.2019

Place: - Latur.


24.5.19

CHAIRMAN
CGRF, LATUR


24-5-19

MEMBER
CGRF, LATUR


24.05.19

MEMBER SECRETARY
CGRF, LATUR