



connection to the premises for different consumers, since beginning there are no arrears of payment of electricity bills. In the month of Feb.2019, the separate bill to the individual 8 consumers in the name of society was received & its total amounting to Rs.3330/-. The Society issued the single cheque of UCO Bank on 5.2.2019 towards payment of all 8 nos. of consumers of individual bill however inadvertently date of issue of cheque was erroneously 5.2.2018. Due to this the said cheque was not stated and in clearance. However the society immediately paid the said bill in cash in the month of March-2019 i.e. in the next bill. The Respondent Utility initiated the action and checked penalty of Rs.885/- per consumer for 8 consumers bring the total amount to Rs. 7080/- towards dishonour/cheque penalty in next month. The Respondent Utility answered in the matter that vide Commercial Circular No.312/15.01.2019 it has charged penalty to the society for dishonour of cheque of eight no. of consumers. There are eight different connections in the name of Society and the Society paid all eight bills by a single cheque since beginning. In the same pattern during Feb.-2019 also single cheque was issued to the Respondent Utility office which was not presented to the Bankers of the consumer for payment for incorrect date. The cheque being out of date, but even then charged penalty of Rs.7080/-.

Hence the consumer initially lodged the complaint in form No. X to the IGR Cell on dated 12.03.2019. After receiving the said complaint IGRC heard the matter. The Respondent Utility submitted that the consolidated cheque was received for eight no. of consumers as per online cash collection system. The cheque was returned by the collecting Bankers to the Respondent Utility without being presented it, to the collecting Banker for obvious reasons that the cheque was out of date. The Respondent Utility however prayed that action was taken as per procedure and consumer was charged the penalty is correct for each consumer because a separate receipt was given to each consumer against a single cheque deposited for 8 no. of consumer. Therefore grievance is not tenable and liable to be rejected with cost. The IGRC registered the case vide Letter No. 3236 and on 10.05.2019 & IGRC passed the order directing that 8 consumers to pay penalty and the process action was

taken as per conditions of supply 2.2.5 as per procedure is correct. Being dissatisfied with the order of IGRC present consumer made grievance in Form No. A and requested to set aside the order of IGRC as charging of penalty to eight consumers for one consolidated cheque is improper and also the reason of dishonour of cheque is in advertently mentioning date on the cheque. On 08/7/19 the complaint is filed before this Forum which is registered as Case No. 43 of 2019. The office has issued the notice to the Respondent Utility on 8.7.2019 directing the Respondent Utility to file its reply on or before 23.7.2019.

The Respondent Utility filed reply stating that on line cash collection system use to bifurcate the amount of consolidated cheque in eight separate accounts consumer for its different consumer no. but the date on the cheque was wrongly mentioned and it was out dated. "Yes" Bank has returned the cheque with reasons for "Instrument Out dated" & hence cheque is not transferred to the consumer A/C. Also the SMS was sent to the respective consumers for cheque was dishonoured alongwith charges but the same SMS was not filed as it was old record & not available in the IT system right now & hence the example of another consumer was given by the Respondent Utility of similar case. Therefore the cheque amount could not be appropriated against the bills. The action taken by the Utility as per Circular No.312 date 15.1.2019 is legal, valid and proper. The Respondent Utility also prayed for rejection of appeal with cost due to administration expenditure. The consumer has filed i.e. document copy IGRC order, copy of circular, 8 different electricity bills charging penalty separately in the month of bill MARCH-2019. The correspondence of copy of dishonour of cheque memo sent alongwith dishonour of cheque UCO Bank and collecting Yes Bank of MSEDCL and copy of depositing charges by same.

I have perused all the documents filed by the consumer and the Respondent Utility carefully. After examining rival contentions of the consumer and the Respondent Utility, following points arose for my consideration to which I have recorded my findings to the points for the reason given below :

1. Whether the Respondent Utility is entitled to charge to each eight consumer penalty and GST individually for a single cheque issued by the Appellant?
2. Whether recovery under the head of dishonour of cheque is legally valid and proper?
3. Whether consumer is entitled for any refund or adjustment of penalty amount paid ?
4. What relief and order?

### **Reasoning :-**

On dated 8.8.2019 I have given opportunity to the consumer and representative & also representative of the Utility. The issue against the grievance is made by consumer is minutely perused as per Circular No. 312 dated 15.01.2019 and the Utility taken action to charge penalty and GST against 8 different consumer of Society Kalpana Co-Op. Hsg. Scoy. Gunjan Talkies, Yerwada Pune. It is admitted fact that in the month of Feb.2019 the separate bill received to the consumer individually for 8 consumers & its total amount of Rs.3300/- & this consolidated amount of Rs 3300/- was given a single cheque to the counter for 8 no. of consumers for payment of bill on dated 05.02.2019. The consumer further admitted that in advertent in writing year 5.2.2019, the consumer wrote on the cheque 5.2.2018. The said cheque was tendered which was accepted by the Utility & a valid receipt is given to 8 nos. of individual consumers of various amounts against a single cheque for total amounting to Rs.3330/-. On each receipt it is clearly mentioned that, cheque subject to realization & cheque realization date will be credit date . The said copy of the receipt filed by the consumer is minutely perused on the said cheque on verification by this Forum it is found the date which is mentioned on the cheque year 2018 in inadvertent. The reason mentioned by Yes Bank who is the bank responsibility the history is name as collecting branch. The said cheque was not sent for clearance. The said cheque returns to the Respondent Utility with Memo and the reason mentioned on the said Memo by Yes Bank who is collecting Branch. The correct variations of date

and the endorsement apparently not fall under the head of insufficient of funds or related to category of dishonour of cheque it appear from the reason that the cheque is return without clearance mentioned referred to draw and it was never sent to UCO Bank for clearance. Therefore the process of banking as under the RBI the dishonour endorsement apparently not a point of determination in this case. Therefore entire process of taking action by the Utility under the head of cheque dishonour insufficiency of funds all the procedure followed by the Utility is seriously question before me.

I have verified the procedure and RBI directions apparently sending the said cheque the date is wrongly mentioned in the year 2018 instead of 2019 to my view when the cheque is tendered alongwith the bill deposited on it should have been verified properly by the concerned clerk. But he has failed to discharge his duties properly even as per the contentions of the consumer is valid receipt subject to realization of cheque past to the consumer. Therefore the consumer was under impression that cheque will be honor if it is received to UCO Bank who is drawee Bank of consumer but the said cheque was return by Yes Bank who is collecting Branch and never sent for clearance mentioning the reason referred to withdraw It is surprising for me to verified that the Utility not taken care to informed the consumer immediately as per the available source either by SMS or on any such method about referring to drawl the cheque is return therefore till next month and the next month bill received the consumer was not aware that his cheque is dishonour due to wrongly mentioned in the date.

According to the consumer this fact came to his knowledge when only penalty and GST amount charged in next month bill for not receiving the payment of electricity bill in the month of Feb. -2019 of 8 nos. of consumers and the action was taken for charging under the head of dishonour of cheque due to insufficiency of funds amount which is charged to the consumer also seriously disputed. The consumer was fair enough to say that 8 different consumer was charged the penalty of 750+135 GST total amount 7080/- was collected by Respondent Utility is seriously challenged to verify this fact.

To my view when single instrument of consolidated cheque which was tendered accepted and the valid receipt was passed then why all consumer are finalized and penalty of Rs.750/- individually alongwith GST is recovered. The reply given by MSEDCL representative that consolidated cheque is amount is bifurcated in 8 different consumers for which single cheque was deposited in their account of Feb.2019 & could not be deposited the arrears of bills charge in Feb.2019. The action of non-depositing amount in individual consumer was charged as per on line collection system. Both the arguments are minutely heard by me according to the Respondent Utility fail to discharge the duties properly on the date of presentation of cheque & the receipt was passed on 5.2.2019 till then no documents produced. The consumer was informed about return of the cheque by collecting branch by Respondent Utility This is apparently according to me is illegal and improper. The Respondent Utility passed valid receipt for receiving the cheque on 5.2.2019 and not informing to the consumer for return of the cheque due to wrong mentioning date considering the reason of returning the cheque & there is difference between dishonor of cheque and return of the cheque out dated as per provision of negotiable instrument act. The action taken by the Respondent Utility under the head of dishonour of cheque due to insufficiency of funds as per procedure and circular referred by the Utility 15.01.2019 to my view the action is bad in Law. The Respondent Utility committed deficiency of service not informing consumer about returning of the cheque by collecting branch reason of outdated cheque should have been informed to the consumer promptly. It is not proper and therefore entire action is improper and illegal. This aspect not considered by the IGRC properly, in view of provisions of negotiable instrument act the difference of return of out dated cheque and dishonour of cheque insufficiency of funds which totally difference for which punishment and penalty is provided. To my view the said action cannot be warranted and attracted which is taken by the Utility against the consumer. Therefore the consumer is entitled for refund of entire amount is claimed individual charge Rs. 750+135= Rs.7080/-

should be adjusted in 8 consumer account in next billing cycle. In addition the Respondent Utility shall pay penalty, compensation cost of Rs.1000/-.

**Member Secretary, (B.S. Savant)**

I have gone through the above reasoning and my opinion in this matter is differing as below:

The Respondent Utility has called the detail reasons from the Bank about bounce process vide his email dtd. 14.08.2019 and on this clarification the receipt of stale cheque is mentioned as below by the Yes Bank.

The Cheque No.07022019 for Rs.3330/- dated 5.2.2018 and it was collected for the clearing presentation on dated 07.02.2019 (after one year). The validity of the cheque is for the three months only and so the Cheque was stale. As per NPCI (National Payment Corporation of India) "Procedural Guidelines for cheque Truncation System" guidelines, bank cannot present the Stale Cheque in the clearing and hence bank had returned the said instrument with reason is "out of date".

Instrumental/Instrumental postdated/Instrumental outdated /undated /without proper date.

The Bank has clearly returned the instrument as mentioned with above reasons and it is not mentioned the head under "Funds Insufficient" & hence there is no question of insufficient funds.

As per C.E., Commercial Circular No.312 dtd. 15.01.2019, the revised cheque bouncing charges in the category of administrative charges & for cheque bouncing amounting to Rs. 750/- or Bank charges whichever is higher.

The consumer has accepted the cheque date is wrongly mentioned in the year of 2018 due to oversight. The 8 nos. of individual receipts was given to the respective consumers against a single cheque amounting to

Rs.3330/- for the electricity bills while giving the individual receipts & it is Administrative part & on each receipt it is clearly mentioned that “ Cheque subject to realization and cheque realization it will be credited” and hence there is no question of the Respondent Utility has accepted wrong cheque i.e. outdated cheque. The same mistake was done by the Utility due to oversight also.

In the bank, there is a online system and cheque truncation system (CTS), is also online and also automatically cheque bounces cases is generated by the IT System of MSEDCL & hence the SMS was sent to the respective consumers for “cheque was dishonour alongwith charges” to the respective consumer nos. of his mobile no. But the same SMS was not filed by the Utility as it was old record i.e. in the month of Feb.-2019 and it was not available in the IT system right now. Hence similar type of cases of another consumer alongwith example was given by the Respondent Utility for verification of the same issue.

Also it is noted that the Yes Bank has returned the cheque with reasons for instrument out dated and it was not transferred to the consumers. Hence I am recommending that, Rs.750/- shall be charged as administrative charges for cheque bounding to the each consumer & this matter shall be referred to the Higher Authority for guidelines if necessary to avoid the such type of cases in future & the cost of compensation amounting to Rs.1000/- is not necessary as consumer is not demanded & also the action taken by the Utility within a proper time.

Sd/-

**B.S.Savant**  
Member/Secretary  
CGRF:PZ: PUNE

Hence the order

### **ORDER**

1. The consumer complaint of 43/2019 is allowed.
2. The action taken of charging individually penalty of Rs. 750+135 GST is illegal and improper. Hence the consumer is entitled for refund of



Rs.7080/- which amount should be credited to individual consumer numbers in next bill.

3. The Respondent Utility shall pay toward cost of compensation to the consumer which also be lumsum cost to the Appellant or Rs.1000/- per consumer for eight consumers adjusted in next bill.
4. No other cost.
5. The Licensee is directed to report the compliance within one month from the date of this order.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune on 25<sup>th</sup> Oct. - 2019.

**Note:-**

- 1) If Consumer is not satisfied with the decision, he may file representative within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman  
The Electricity Ombudsman,  
Maharashtra Electricity Regulatory Commission,  
606, Keshav Building,  
Bandra - Kurla Complex, Bandra (E), Mumbai - 400 051.

- 2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

Sd/-

A.P.BHAVTHANKAR  
CHAIRPERSON  
CGRF: PZ:PUNE