

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission
under Section 42(6) of the Electricity Act, 2003)

REPRESENTATION NO. 11 of 2025

In the matter of under billing

Mr. Nikhil Shankar Dulhani..... Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Kalyan Circle II..... Respondent
(MSEDCL)

Appearances:

Appellant : 1. Nikhil Shankar Dulhani
2. Vinod Chhabria, Representative

Respondent: 1. Satish Kulkarni, Executive Engineer, Ulhasnagar Div. I
2. Rajesh Nemade, S.D.O.

Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 11th April 2025

Date of Order : 22nd April 2025

ORDER

This Representation was filed on 4th March 2025 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Original Order dated 11/12/2024 in Case No. 037 of 2024 and Review Order dated 25/02/2025


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in Case No. 006 of 2025 passed by the Consumer Grievance Redressal Forum, MSEDCL, Kalyan Zone (the Forum). The operative part of the original order is as below:

1. *The grievance application no. K/E/037 of 2024 is partly allowed.*
2. *Licensee can raise supplementary assessment bill for under recorded units adopting correct methodology but limited to 05 years preceding the date of Inspection/detection.*
3. *If the consumer wants to avail instalments, the Respondent to allow him to pay the assessed amount in equated monthly installments, not less than 06 instalments.*

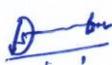
Not satisfied with the Forum's decision, the Appellant submitted a review application on 06/01/2025 (Case No. 006 of 2025). However, the Forum rejected it by Order dated 25/02/2025.

The Appellant filed this representation on 04/03/2025, and in accordance with the deposit notice dated 10/03/2025 under Regulation 19.22 (h) of the CGRF & EO Regulations 2020, an amount of Rs. 25,000/- was paid on 17/03/2025. The representation then came to be registered on the same day i.e. 17/03/2025.

2. The Appellant has filed this representation challenging the Forum's order. An online hearing through video conferencing was held on 11/04/2025 when both the parties were heard at length. The Respondent's submissions and arguments are stated first for the sake of easy understanding as below. *[The Electricity Ombudsman's observations and comments are recorded under 'Notes' where needed.]*

- (i) The Appellant is a commercial consumer (No.021511017545) from 02/04/2005 for operating a saree shop namely 'Saraswati Sadi Depot Pvt. Ltd.' [initially 'Hari Om Sari Depo'] at the address mentioned in Table 1. The connection details, inspection date, period, amount of assessment etc. is summarised as below:

Table 1:


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Appellant	Consumer No.	Sanct. Load (KW)	Address	Date of Supply	Date of Inspection	Assessment & date	Period of Assessment	Reason for Assessment
Nikhil Shankar Dulhani	0215111017545	10	Block A-53, Room No. 318, Opp. Satyam Palace, Ulhasnagar-1	02/04/2005	17.01.2024	Rs. 18,20,878.53 (1,47,824 Units) issued on 16.04.2024.	Oct. 2015 to Feb. 2024 (about 8 1/2 years)	B phase Voltage of the meter was found missing from 15.10.2015 to 18.01.2024

- (ii) The Respondent conducts periodic theft detection drives under Section 135 of the Electricity Act, 2003 to tackle electricity theft. During one such drive, the Assistant Engineer of the Ulhasnagar-1 Sub-Division inspected the shop premises of the Appellant on 17/01/2024. The inspection revealed that the display of the B-phase voltage on Meter No. 5393392 (Shenzan Kaifa Make, 10–40 Amp Capacity) was missing, although the incomer voltage of the B-phase measured 226 Volts and the current on the B-phase was recorded at 23.4 Amps. The R-phase and Y-phase voltage displays were found to be functioning correctly.
- (iii) The connected load on R&Y phase together and B Phase was jointly surveyed in the presence of the Appellant's representative Shri Nitin Jaswani which is tabulated as below:

Table 2:

Electricity Gadgets (Main)	Capacity (W)	Load Connected on R & Y Phase		Load Connected on B phase		Total Load Connected on R+ Y+B Phase		% of R&Y phase load wrt total load	% of B Phase load wrt total load
		Quantity (No.)	Total Load (KW)	Quantity (No.)	Total Load (KW)	Quantity (No.)	Total Load (KW)		
Air Conditioning	2800	1	2.8	2	5.6	3	8.4		
FAN	60	10	0.6	13	0.78	23	1.38		
LED (Ground)	10	20	0.2	34	0.34	54	0.54		
LED(First Floor)	20	30	0.6	136	2.72	166	3.32		
Tube	40	5	0.2	5	0.2	10	0.4		
Total		66	4.4	190	9.64	256	14.04	31%	69%


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- (iv) A Panchnama was conducted on 18.01.2024, during which the meter was taken into the custody of the Respondent for further analysis to determine the possibility of internal tampering, and it was immediately replaced by a new meter (No. E 036255) of Genus make. Joint sealing of the meter was carried out with due care. **On the same day, the Respondent tested the meter at the Meter Testing Laboratory, confirming that the meter was under-recording consumption by (-) 36.5%.** The meter was subsequently opened to inspect for any internal tampering. However, no apparent abnormalities were observed. **The 'Shenzan Kaifa' manufacturing company has ceased operations entirely, making it impossible to send the meter to the manufacturer.**
- (v) The data of the meter was downloaded using a Meter Reading Instrument (MRI). Upon analysing the voltage events, it was observed that the B Phase Voltage had been missing from 15.10.2015 to 18.01.2024. The MRI Data is kept on record.
- (vi) Consequently, the Respondent issued a supplementary recovery bill of Rs.18,20,878.53 for 1,47,824 units based on MRI data retrieved from the meter over a span of approximately 101 months (15.10.2015 to 18.01.2024) as well as the consumption pattern of both the old and new meters. The assessment calculation sheet is as follows:

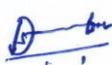
Table 3:

Meter Details	Period	Consumption (Units)	Average units/month	% with resp. to new meter consumption
Old Meter No. 5393392 (Shenzan Kaifa Make, 10–40 Amp Capacity)	Oct. 2015 to Feb. 2024	59233 Units recorded in 101 months	586	26%
New Meter No. E 036255 (Genus Make, 10–40 Amp Capacity)	March 2024 to Oct. 2024	17786 Units in 8 months	2223	100%
Assessment/Supplementary Bill	Oct. 2015 to Feb. 2024	147824 units in 101 months	1464	66%


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- (vii) The R and Y phases of the meter recorded accurately but carried only 31% of the load, while the B phase accounted for 69% of the total load. Due to the absence of B phase voltage on the meter, approximately 69% of the load was under-recorded in the meter. The Appellant was assessed at 66% under-recording of the total load for the period from October 2015 to February 2024 as charted in Table 3. **The meter was not faulty**, and the Appellant was billed with “Normal” Status from 2013 onwards till the date of meter replacement (18.01.2024). Only one bill of Feb. 2024 was on “Faulty” Status while entering meter replacement report in the system, however it was immediately corrected to “Normal” Status billing. The Appellant was never billed under a 'Faulty' status throughout the assessed period.
- (viii) In any installation supplied with a three-phase power supply, appliances such as air conditioners, lamps, fans, or other equipment within the installation must be grouped to ensure that under normal operating conditions, the current remains balanced across all three phase wires. A symmetrical load in a three-phase meter refers to a balanced load, with an acceptable tolerance limit of 3%. This balance ensures that the current and voltage in each phase are consistent in magnitude and phase angle, promoting stable and efficient system operation. Maintaining symmetrical load is essential for minimizing power losses and ensuring optimal performance of three-phase equipment. At the time of load release, the Appellant had maintained this standard. However subsequently the Appellant altered his load position, and kept the highest load on B phase (69 %) to get undue benefit of non-recording of consumption. The Appellant failed to adhere to the balance load of three phase standard, and did not come before this authority with clean hands.
- (ix) The assessment done towards under recording of the meter is nothing but escaped billing as the Appellant has consumed this supply. **Electricity is essential yet costly, making it impossible to ignore at this crucial moment.** The Appellant’s load was sanctioned under 0 to 20 KW Commercial load with comparatively concessional tariff slab. Due to the large number of such consumers in the tariff slab of 0 to 20 kw, the monthly billing was being done without taking MRI data of the meter. Hence, it was


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difficult to analyse on a month-to-month basis such type of suspected irregularities, as no monthly MRI readings of the meter were taken. The High Court as well as Supreme Court has taken a stand that the Licensee is empowered to recover escaped billing which was consumed by the consumer. With the current technology, it is precisely possible to calculate & analyse the same.

- (x) The Appellant filed a grievance in the Forum on 24.05.2024. The Forum by its order dated 11/12/2024 has partly allowed the grievance application and allowed 5 years recovery. The Forum's order is technically sound; however, it restricted the recovery period to 60 months instead of the originally assessed 101 months. Accordingly, the bill was revised as tabulated below from Rs.18.20 lakhs to Rs 7.93 lakhs.

Table 4

Description	Amount (Rs.)	Period of Assessment
Original Recovery Amount	18,20,878.53	Oct-15 to Feb-24
Credit B80 Amount	7,93,062.93	Oct-15 to Feb-19
Revised Amount (to be Paid)	10,27,815.60	Mar-19 to Feb-24

- (xi) Subsequently, the Appellant submitted a review application on 06/01/2025, which was rejected by the Forum on 25/02/2025.
- (xii) In view of the above, the Respondent prays that the Representation of the Appellant be rejected, not being maintainable and filed without any merit.
3. The Appellant's submissions and arguments are as below.

Connection Details & Change of name information:

- (i) The Appellant is a commercial consumer (No.021511017545) from 02/04/2005 for running a saree shop namely 'Saraswati Sadi Depot Pvt. Ltd.' [initially 'Hari Om Sari Depo'] at the address mentioned in Table 1. Initially, the said 3-phase commercial connection having meter of 10-40 Amp, Shenzan Kaifa make was registered under the name of Ishwar H. Mulchandani. From July 2014 to February 2021, Mr. Nitin Ishwar Mulchandani, (the son of the previous consumer), the


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Appellant, Nikhil Dulhani along with four other individuals, operated the business as partners. In March 2021, the partnership was dissolved, and the entire property is currently under the sole possession of the Appellant. Consequently, an application for a name change from Ishwar H. Mulchandani to Nikhil Shankar Dulhani was made on 19/04/2023.

Licensee's Inspection report details in brief:

- (ii) The Respondent carried out an inspection of the shop on 17/01/2024. The inspection report states that

“Meter is replaced against suspected tampering with meter. B-Phase voltage found “0” Volts on the meter display even if physically “226” Volts was observed of multimeter between B-Phase terminal of the meter and neutral terminal. Hence all load connected on B-Phase of the meter is bypassed from meter.”

- (iii) On 18/01/2024, the Respondent called the Appellant/ his representative for meter testing at meter testing laboratory. After the completion of testing & opening the meter, a panchnama was made and the remarks on the report state that:-

“After the testing of above meter, the result found -36.05% of slow meter detected. Voltage of Phase ‘B’ found missing. After opening of meter nothing visually abnormality found. Hence, meter to be sent to manufacturer for further analysis.”

In the panchnama it is mentioned that on opening the meter, no artificial tampering was seen / observed. It is also mentioned that if the period of missing B-Phase is concluded for a particular time or period, then the penalty will be computed for that entire period; else penalty / plain recovery will be issued to the consumer **only for the period of 24 months.**

Issuing plain recovery bill:

- (iv) A provisional bill for recovery, calculated for 101 months from October 2015 to February 2024, assuming a monthly consumption of 1,666 units (totalling 1,68,226 units), amounting to ₹20,72,326.13/- was issued to the Appellant vide letter dated


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16/04/2024. The letter also instructed the consumer to pay the bill within 15 days of receiving the notice and directed that the debit bill be added to the current bill.

- (v) A subsequent recovery bill for the same period, spanning October 2015 to February 2024, was calculated assuming a monthly consumption of 2,050 units (totalling 1,47,824 units) and amounted to ₹18,20,878.53/-. This bill was issued to the consumer based on the B-80 report dated 21/06/2024. (A copy of the B-80 report is recorded for reference.)
- (vi) The Appellant filed a grievance in the Forum on 24/05/2024. The Respondent relied on Regulation 10.1 to justify the total plain recovery as per the MRI report. However, Regulation 10.1 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Standards of Performance of Distribution Licensees including Power Quality) Regulations 2021 (Supply Code & SOP Regulations 2021) specifies the following:

“The computation of fine to be paid by the Consumer on conviction shall be as specified in Section 135 of the Act. This shall be computed for the entire period for which the dishonest abstraction, consumption or use of electricity under that Section can be clearly established by the officer authorized by the State Government in this regard:

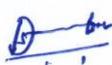
Provided that the Distribution Licensee shall specify and upload the methodology for computation of the fine on its website which shall not be inconsistent with the provisions of the Act/Regulations.”

It is evident that Regulation 10.1 does not apply in this case.

Appellant’s previous submissions in the Forum:

- (vii) The Appellant submitted in Schedule A before the Forum that the Section 56(2) of the Act is applicable in this case which states 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


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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.”

- (viii) After reviewing the documents provided by the Respondent, the Appellant gained a deeper understanding of the Electricity Act, the rules and regulations framed by MERC. As previously mentioned, Section 56(2) of the Act is not applicable in this case. Similarly, Regulation 10.1.1 of the Supply Code & SOP Regulations 2021 does not apply, as the matter pertains to a defective meter. The Forum failed to understand that the meter was defective.

Additional findings:

- (ix) According to the meter testing report dated 18.01.2025, the testing engineer observed the following:

“Post testing of the aforementioned meter, results indicated a -36.05% slow meter detection. Voltage of Phase ‘B’ was found to be missing. Upon opening the meter, no visible abnormalities were observed. Consequently, the meter is to be forwarded to the manufacturer for further analysis.”

This clearly demonstrates that no artificial tampering was involved, and the meter's fault can be attributed to internal component failure, potentially due to its ageing. The meter, manufactured in March 2011, had a guarantee period of 5 years, ending in February 2016. Furthermore, it is the moral duty of the licensee to inspect the premises every five years to evaluate the meter's working condition, seal integrity, accuracy, and other aspects. However, the Respondent failed in this duty, revealing a clear deficiency in service.

Despite this, the Forum has unjustly supported the licensee by stating, in paragraph on page no. 5 of the original order for this case:

“The raising of additional demand for under-recorded units related to the missing ‘B’ potential for a past period cannot tantamount to deficiency in service.”


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(x) The Appellant referred to various regulations in support of his submissions which are quoted as below:

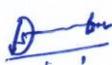
a. Regulation 15.5.1 of Supply Code & SOP Regulations 2021 which mandates Periodic Testing of Meters as below:

“The Distribution Licensee shall be responsible for the periodic testing and maintenance of all Consumer meters. It shall be the Distribution Licensee’s responsibility to satisfy itself regarding the accuracy of the meter before it is installed and the Distribution Licensee may test meters for this purpose. The Distribution Licensee shall be responsible for the periodic testing and maintenance of all Consumer meters in accordance with the Central Electricity Authority (Installation & Operation of Meters) Regulations, 2006 as amended from time to time.”

b. Section 18 (2) of Central Electricity Authority Regulations 2006 states as under:

Calibration and periodical testing of meters.

“Consumer meters: The testing of consumer meters shall be done at site at least once in five years. The licensee may instead of testing the meter at site can remove the meter and replace the same by a tested meter duly tested in an accredited test laboratory. In addition, meters installed in the circuit shall be tested if study of consumption pattern changes drastically from the similar months or season of the previous years or if there is consumer’s complaint pertaining to a meter. The standard reference meter of better accuracy class than the meter under test shall be used for site testing of consumer meters up to 650 volts. The testing for consumers meters above 650 volts should cover the entire metering system including CTs, VTs. Testing may be carried out through NABL accredited mobile laboratory using secondary injection kit, measuring


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unit and phantom loading or at any accredited test laboratory and recalibrated if required at manufacturer's works."

c. Regulation 16.4.1 of Supply Code & SOP Regulations 2021 states as below:.

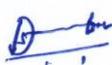
"In case of a defective meter, the amount of the Consumer's bill shall be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report of the meter along with the assessed bill."

- (xi) The Respondent, lacking adequate knowledge of the meter's internal electronic components, proceeded to open the meter. The Panchnama dated 18.01.2024 confirms that the meter had not been tampered with prior to its opening. Additionally, the meter testing report of the same date states that the meter was found slow by (-) 36.05%. The aforementioned Panchnama and lab testing clearly indicate that the meter was defective due to internal component failure. However, the Respondent has refrained from declaring the meter as faulty, likely due to revenue-related concerns. Additionally, the licensee has failed to provide any specific explanation for the missing "B" phase voltage.
- (xii) **The Appellant requests the Hon'ble Forum to consider sending the meter to the Institute for Design of Electrical Measuring Instruments (IDEMI), a Government Lab, instead of the manufacturer. The Appellant is willing to bear all necessary costs associated with the testing of the meter.**
- (xiii) If the load was a balanced load, the accuracy outcome would be -33.33% (approx...) whereas in the report it is clearly mentioned as -36.05% which is not at all possible on a balanced load in a 3-phase meter. Also, the company manufacturing report is still pending as mentioned in the said meter testing report.
- (xiv) The Appellant referred to the following orders in support of his arguments.
- (a) Order of the Electricity Ombudsman in Rep. No. 126 of 2019 dated 17.07.2019


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- (b) Order of the Electricity Ombudsman in Rep. No.87 of 2020 dated 03.12.2020.
- (c) Order of the Electricity Ombudsman in Rep. No. 124 of 2024 dated 26.08.2024.
- (d) Order of the Electricity Ombudsman in Rep. No. 140 of 2024 dated 26.08.2024 (Review of 124 of 2024).
- (xv) The Appellant contended that perhaps the software in the meter was working properly when the data was captured for “tamper events occurred & restored”. But due to PCB board component failure, it led to “0” Volts in B Phase. After the tamper events data analysis, the B-Ph missing event occurred & restored multiple times, but the voltage of B-Ph still shows “0” even after restoration. The table showing date & time of “B-Ph missing : occurred & restored”, received through tamper events data, is kept on record.
- (xvi) The Respondent has not submitted the meter replacement report dated 08/02/2024 before the Forum, in which the reason of replacement of meter was mentioned that the meter was **faulty**.
- (xvii) In view of the above, the Appellant prays that the Respondent be directed
- not to disconnect the supply until the case is pending, & the regular monthly bills will be paid (except disputed amount) on time as per the consumption recorded in the meter every month.
 - to set aside the plain recovery of 5 years amounting to Rs. 10,27,815.60 along with DPC & interest if any.
 - to revise the bill as per Regulation 16.4.1 of Supply Code and SOP Regulations 2021.
 - The consumer should not be billed for more than 3 months from the date of defective meter; the amount paid during the defective period (i.e. from October 2015 to February 2024) should be waived off, and the paid amount to be credited in the consumer’s account with interest. Also, the 3 months’ period which needs to be considered i.e. July 2015 to September 2015.


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e) to waive of interest and delayed payment charges levied if any.

Analysis and Ruling

4. Heard the parties and perused the documents on record. The Appellant runs a saree shop namely "Saraswati Saree Depot Ltd.". The details of the connection, date of inspection, retrospective recovery & period of recovery are tabulated in Table 1.

5. The Respondent contended that as a part of its theft detection drives, when the installation of the Appellant was inspected on 17.01.2024, it was observed that "B Phase Voltage" was missing on the meter display, and hence the meter was working only on R & Y Phase. Despite maintaining a balanced three-phase load at the time of installation, the Appellant connected **69% of the total load on B phase** and 31% load on R & Y Phase as tabulated in Table 2. This led to a major portion of **non-recording of consumption**. A Panchnama was conducted on **18.01.2024**. A new meter (**No. E 036255**) was installed on the same day. The old meter was tested in Testing Laboratory on 18.01.2024, When the meter was found (-) **36.5% slow**, but internal tampering was not detected. As the manufacturer **Shenzan Kaifa** has ceased operations, sending the meter there for further analysis was not possible. This indicates systematic planning to show reduced consumption, and hence the Appellant did not come before this authority with clean hands. The "B Phase Voltage" of the meter was found missing for a period of 8 years and 5 months as per MRI data retrieved. Accordingly, the Respondent issued a supplementary bill of plain recovery for Rs. 18,20,878.53 (1,47,824 Units) towards under recording of consumption for the above period.

6. The Appellant contended that the inspection carried out on 17.01.2024 was unilateral and without taking the Appellant into confidence. The meter was found to be under recording by (-) 36.50 %. The meter was manufactured in 2011, had a warranty period of 5 years, which expired in 2016. The meter became faulty due to ageing and deterioration of its internal components. The Appellant should be billed for a maximum of **three months** from the date the


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meter was found defective, as per Regulation 16.4.1 of Supply Code and SOP Regulations 2021.

7. We have examined the important abstracts of the Consumer Personal Ledger of the Consumer as charted below (as prepared by the Ombudsman office).

Table 5:

Year	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
Month	Cons. (Units)	Cons. (Units)	Cons. (Units)	Cons. (Units)	Cons. (Units)	Cons. (Units)	Cons. (Units)	Cons. (Units)	Cons. (Units)	Cons. (Units)	Cons. (Units)	Cons. (Units)	Cons. (Units)
Apr	1486	883	1349	801	506	671	595	343	622	610	759	2110	2333
May	957	2508	705	861	560	567	611	54	611	654	625	2466	
Jun	1219	425	933	404	620	610	564	54	849	527	521	2180	
Jul	591	700	885	755	520	350	441	54	539	529	390	1984	
Aug	1048	888	859	449	423	580	478	882	550	567	469	1771	
Sep	1145	1329	748	804	596	575	631	497	712	559	625	2327	
Oct	1297	954	996	592	531	489	519	639	643	523	438	2410	
Nov	834	1362	948	567	530	469	509	732	642	508	402	3120	
Dec	1022	650	1111	542	528	449	500	825	640	494	365	1898	
Jan	1562	880	574	517	526	429	490	918	639	479	329	1578	
Feb	759	916	822	493	524	409	480	1011	638	464	293	2045	
Mar	847	855	696	554	518	490	575	554	473	524	2538	2009	
Total	12767	12350	10626	7339	6383	6086	6393	6565	7558	6438	7754	25898	2333
Avg/mth	1064	1029	886	612	532	507	533	547	630	536	646	2158	2333
Note:	(i)The Appellant was billed with "Normal " Status. (ii) The old meter (Meter No. 5393392 of the Appellant was replaced by a new meter on 18.01.2024.												

8. An analysis of the above data reveals the changes in the recorded electricity consumption pattern over the years. In 2013-14 and 2014-15, the average monthly consumption was recorded at 1064 and 1029 units respectively. However, the next year it dropped to 886 units and again next year to 612 units. Between 2016-17 and 2022-23, average consumption dropped significantly in the range between 507 and 630 units per month. Following the installation of a new meter on 18/01/2024, consumption spiked dramatically, ranging between 1578 and 3120 units per month. This pattern clearly indicates that the consumption was being under recorded before the new meter was installed. The inspection report specifies that 69 % load was connected on B phase which was not measured in the old meter. The data of consumption strongly **indicates that consumption had been consistently lower by**


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approximately 60 to 70% over the eight-year period from 2016-17 to 2023-24, even though there is no direct evidence to confirm meter tampering.

9. We have examined whether the meter in question can be deemed defective. In any installation operating on a three-phase power supply, a symmetrical load in a three-phase meter is defined as a balanced load, with an acceptable tolerance of up to 3%. This balance maintains consistency in current and voltage magnitudes ensuring stable and efficient system operation. Proper load distribution is crucial for minimizing power losses and optimizing the performance of three-phase equipment. At the time of load release, the Appellant adhered to these balance requirements. However, over time, the Appellant altered the load distribution, disproportionately increasing the load on the B phase to 69%, thereby benefiting from non-recording of actual consumption on B phase. This deviation from the prescribed balanced-load standard constitutes non-compliance, and the Appellant failed to engage with the authority transparently.

10. Furthermore, it is noted that **the Appellant initially sought relief from the Forum, requesting that the under-recorded consumption be considered for a period of 24 months as per Section 56(2) of the Act. However, in the appeal court, the Appellant modified the request, primarily arguing that the consumer should not be billed for more than three months following the detection of the defective meter.** This change in prayer cannot be allowed. The Appellant requested that the payments made during the defective period (October 2015 to February 2024) be waived and credited to the consumer's account with interest.

11. In this specific case, considering all the factors i.e. load of 69% on B phase of the old meter, this B phase was not working, imbalance load, prayer in the Forum, etc., we find that the Appellant did not come with clean hands before this authority, and hence we hold that he is not entitled to get the benefit of Regulation 16.4.1 of Supply Code & SOP Regulations 2021.


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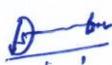


12. We note that it is very difficult for the Respondent to prove tampering, leading to missing of one phase voltage, especially of a whole current meter. The Appellant was enjoying three phase power supply for years together; however, the recording was only for two phases. The MRI data gives complete information of events, which is universally used for assessment. The Appellant would have continued to enjoy low electricity bills for further years altogether, and tried to hide behind the shelter of “defective meter” or Regulation 16.4.1 of Supply Code & SOP Regulations 2021. The philosophy behind making Regulation 16.4.1 by the Commission is that a faulty meter should be replaced within a period of three months and the affected consumer should be billed on average basis for three months, and thereafter with actual billing with “Normal” Status.

13. At the same time, the Respondent also failed in its duty to regularly download the MRI data and analyze the same to avoid such unpleasant revenue loss of unrecorded consumption. Had it analyzed the MRI data earlier, it would have detected the missing phase voltage much earlier. In addition the meter was not tested onsite by Accucheck, though it was a serious type of abnormal unbalance load. However, the meter was tested in meter testing laboratory where the testing result found that the meter was under recording with (-) 36.5 %. Hence the recovery could be considered taking into account only 36.5 % under recording of consumption.

14. It is expected that important 3 phase consumers should be inspected at least once every 2 years; their MRI data should be checked more frequently. In this case, by the Respondent’s own admission, the missing R Phase voltage was allowed to go undetected for at least 101 months. This is a deficiency in service. Hence, the recovery period is restricted to 24 months, considering the Respondent’s deficiency in service as per Section 56(2) of the Act. The Section 56 (2) is reproduced below:

“(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


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”

This Section 56 (2) of the Act has been interpreted by the Larger Bench Judgment dated 12.03.2019 of the Bombay High Court in W.P. No. 10764 of 2011 with Other Writ Petitions. The Court has allowed 24 months’ recovery retrospectively in cases of mistake or oversight.

15. In order to avoid such deficiency in future, the Respondent is advised to develop a mechanism for regular checking of important commercial consumers within some specific period.

16. Considering the various angles in the case, the Forum’s order is set aside. The Respondent is directed:

- a) to issue a revised supplementary bill for 24 months retrospectively for the period from Mar. 2022 to Feb. 2024, considering under recording by 36.5 %, and to waive off the interest and DPC from Apr. 2024 onwards if any, till the date of this order.
- b) to allow the Appellant to pay the revised bill in 3 equal monthly instalments without any interest and DPC. If the Appellant fails to pay any instalment, proportionate interest will accrue on the defaulter portion, and the Respondent has the liberty to take action as per law.
- c) Compliance to be submitted within two months from the date of issue of this order.
- d) The other prayers of the Appellant are rejected.

17. The Representation is disposed of accordingly.

18. The secretariat of this office is directed to refund the amount of Rs.25,000/- taken as deposit to the Respondent to adjust in the Appellant’s ensuing bill.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

