

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 136 OF 2024

In the matter of retrospective recovery towards under billing

Pramod Kashinath PatilAppellant
[Narayana e-Techno School (User) (Con. No. 001684523411)]

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Virar Dn. (MSEDCL)... Respondent

Appearances:

Appellant : 1. Savio Fernandes,
2. Vinay Vaze, Representative

Respondent : 1. Prashant Dani, Executive Engineer, Virar Dn.
2. Alok Karande, Addl. Executive Engineer, Nalasopara S/dn.
3. Prashant Rode, Dy. Executive Engineer, Virar Dn.

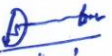
Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 13th November 2024

Date of Order : 28th November 2024

ORDER

This Representation was filed on 19th Sep. 2024 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the order dated 19th July 2024 in Case No. 81 of 2024 passed by the Consumer Grievance Redressal Forum, Vasai (the Forum). The Appellant paid the statutory deposit on 1st Oct. 2024 as per Regulation 19.22 (h) of CGRF & EO Regulations 2020. Hence the Representation was


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registered on 1st Oct. 2024. The Forum by its order partly allowed the grievance of the Appellant. The operative part of the order is as below:

“2) Applicant shall apply for change of tariff category and Respondent shall change the tariff category of Appellant as “LT VII (B): LT - Public Services – Others”.


3. Respondent shall grant six equal monthly installments for payment of remaining supplementary bill, which shall be paid by Appellant along with current monthly bill subject to condition that a single default on the part of Appellant will authorize Respondent to recover the dues in lump-sum with applicable future interest.”

2. The Appellant has filed this Representation against the order of the Forum. A physical / e-hearing (through Video Conference) was held on 14/11/2024. The parties were heard at length. The Respondent filed a reply on 07/11/2024. The Respondent’s submissions and arguments are as below. [The Electricity Ombudsman’s observations and comments are recorded under ‘Notes’ where needed.]

(i) The Appellant is a commercial consumer (No. 001684523411) from 27/07/2017. These are rented premises, and the owner / Appellant originally applied for a connection under ‘Commercial’ category as per A1 form. The Appellant then rented out this premises for school purpose. The details of the electric connection, sanctioned load, retrospective recovery towards Y & B phase voltages, etc. are tabulated as below:


Table 1:

Sr. No.	Name of Consumer	Consumer No.	Address on Bill	San. Load/ Contract Demand	Date of Supply	Purpose	Date of Inspection	Irregularities observed in MRI Report	Suppl. Bill & Period
1	Pramod Kashinath Patil	001684523411	S. No. 91, Hissa No. 2A, Behind Galaxy Hotel, Nalasopara (West), Tal.: Vasai	135 KW / 169 KVA	27/07/2017	Commercial as per A1 Form , but subsequently used for School purpose.	18/04/2024	Y & B Phase PT missings from 17/06/2023 to 18/04/2024	Suppl. Bill of Rs. 32,82,730/- for the period from 17/06/2023 to 18/04/2024 .


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- (ii) The Appellant and landlord, Pramod Kashinath Patil, applied for a new electric connection in the month of March 2017 on Web Self Service (WSS) Portal of MSEDCL for **commercial purpose**. Accordingly, the connection was sanctioned under Dedicated Distribution Facility (DDF) Scheme on 27/03/2017 for erection and commissioning of 22/0.433 KV, 200 KVA Distribution Transformer as per request of the Appellant. The Appellant paid Rs. 10,520/- towards 1.3 % supervision charges on 27/03/2017 and completed erection work and submitted work completion report. After statutory formalities, the supply was released on 27/07/2017 under Commercial Tariff Category. Subsequently, it is learnt that the Appellant rented out this property to “Narayana e-Techno School”. However, the Appellant did not inform MSEDCL about this change of use, nor submitted any rental documents to the Respondent. The Appellant did not apply for “Public Services – Others” tariff category which is applicable for private schools till date. The Respondent informed the Appellant many times, verbally as well as by its letter dated 24/07/2024, that he should apply for change of Tariff Category from Commercial to “Public Services – Others” on the online WSS Portal of MSEDCL as per statutory procedure; however, apparently he preferred to pay the bills under commercial tariff category.
- (iii) The existing meter of the Appellant is of Secure Make (No. MHD 07116) having Type-3ph 4W, 40-200 Amp Capacity. The Respondent had previously inspected the premises of the Appellant on 06.04.2023, when it was observed that “B Phase Voltage” was missing to the said meter. The Respondent had then issued a supplementary bill of Rs.3,08,623/- for 32,880 units for the period from 08.12.2022 to 06.04.2023 as per MRI Report towards missing B phase Voltage, which was paid by the Appellant on 27.06.2023. This was the first instance of voltage missing to the meter. The same meter is working till date. During the next inspection as reported below, 2 phases were again found missing.
- (iv) The Deputy Executive Engineer of Special Squad, Kalyan Circle-I of the Respondent visited the premises of the Appellant on 18.04.2024 to carry out a routine inspection,


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when it was observed that “Y & B Phase Voltages” were missing on meter display. The display of the meter was as below:

Table 2:

Description	R Phase		Y Phase		B Phase	
	Current (A)	Voltage (V)	Current (A)	Voltage (V)	Current (A)	Voltage (V)
Display on Meter	61.97	233	78.67	0	68.2	0

- (v) The voltages of Y & B Phase were not extended due to loosened screw of Potential Terminals (PT) from the tapping point of the cable. Accordingly, the data of the meter was retrieved. The meter was tested by Accucheck. The meter was found to be under-recording by 68.28 %. The tapping screws of the meter were tightened, and R, Y, & B Voltages were restored to the meter. All currents & Voltages parameters were now showing on the display of the meter. The meter was again tested, and the test result of the meter was found in order. It was also confirmed that the meter does not have Smart PT Feature.
- (vi) **The data of the meter was analysed in MDAS (Meter Data Acquisition System) in which PT Voltage missing events were recorded, and it showed that Y & B Phase PT was missing from 17/06/2023 to 18/04/2024.** Accordingly, the Respondent issued a supplementary bill of plain recovery of Rs. 32,82,730/- for 1,61,241 units vide letter dated 05/02/2024 towards the above under-recording of consumption. This is based on the data retrieved from MRI as tabulated in Table 2.
- (vii) The Respondent issued monthly disconnection notices to the Appellant. The Appellant by telephone as well as personal visits was advised to pay the same, but he neglected to pay the outstanding dues. The supply of the Appellant was finally disconnected on 07/06/2024. The Appellant vide his letter dated 10/06/2024 requested to provide all concerned documents, which were provided immediately on the same day. The Appellant then approached the SE Vasai for payment instalment facility, who allowed to pay the dues in 6 monthly instalments with an undertaking on Rs. 100/- bond paper.


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The Appellant paid the first Instalment of Rs. 5,47,121/- on 13.06.2024 by RTGS. However, he did not submit an undertaking on Rs.100/- bond paper. Hence the supply was not reconnected.

- (viii) The Appellant filed a grievance application with the Forum on 18/06/2024 and requested to issue an Interim Order for reconnection of supply. The Forum by its Interim Order dated 18/06/2024 directed the Appellant to pay 50 % amount of outstanding dues. The Appellant paid an amount of Rs.16,41,363/- from 13/06/2024 to 20/06/2024. (Rs. 5,47,121/- on 13/06/2024, Rs.5,47,121/-on 19/06/2024 and Rs. 5,47,121 on 20/06/2024), but reconnection charges were not paid till date. (While paying reconnection charges, a Security Deposit difference has to be paid as per online reconnection NC system). He has declined to pay the additional security deposit. However, supply of the said consumer was restored on 20/06/2024.
- (ix) The Forum by its order dated 19/07/2024 has principally rejected the grievance application, however extended payment facility with six equal monthly instalments for the remaining supplementary bill.
- (x) This meter is a special type of meter, and is a modified version of the CT operated meter. After tightening the voltage screws where it was tapped, normalcy was restored from 18/04/2024. The same meter is working satisfactorily at present.
- (xi) The Respondent cited the Judgment dated 18.12.2018 of Hon'ble Bombay High Court, Bench at Aurangabad in W.P. No. 8613 of 2017, and contended that the Judgment is squarely applicable in the instant case.
- (xii) In the circumstances, the Respondent prays that the representation be rejected.

3. The Appellant's submissions and arguments are stated as below:

- (i) The details of the electric connection are tabulated in Table 1. The supply of this connection is used for the purpose of running a school from the date of connection.

Background and facts of the matter:


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- (ii) The Appellant had approached Vasai-Virar City Municipal Corporation for construction of a school building at the said address in the year 2016, as there was an MOU (Memorandum of Undertaking) with Narayana e-Techno School (User). Accordingly, Vasai-Virar City Municipal Corporation by its letter dated 26/12/2016 approved development permission for a school building at Survey No. 91, Hissa No. 2A & 2B Village Achole.
- (iii) The Appellant applied for a new electric connection in March 2017 on the WSS Portal of MSEDCL for “commercial” purpose instead of “education” purpose, due to lack of knowledge of the correct tariff category. Accordingly, the connection was sanctioned, and the supply was released on 27/07/2017 under Commercial Tariff Category. The Appellant is regular in payment of bills, and was/is wrongly billed under commercial tariff category instead of “Public Services – Others”, being an educational institution right from the date of connection.

Main Grievance:

A. Technical Aspects

- (iv) The Flying Squad Kalyan of the Respondent inspected the premises of the Appellant on 24/04/2024. As a responsible consumer the Appellant cooperated with them to the best of their capacity during inspection. The meter of the Appellant was tested and found to be slow by 68.28%.
- (v) The Respondent issued a supplementary bill of Rs. 32,82,730/- for 1,61,241 units vide letter dated 05/02/2024 towards under-recording of consumption towards Y & B Phase PT missing. This supplementary bill is based on a wrong interpretation, and the CTs are an integral part of a meter as per the definition of a meter under Regulation 2.1(q) of Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 (Supply Code Regulations) which is reproduced below:

“Meter” means a set of integrating instruments used to measure and/or record and store the information regarding amount of electrical energy supplied or


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the quantity of electrical energy contained in the supply, in a given time, which includes whole current meter and metering equipment, such as current transformer, capacitor voltage transformer or potential or voltage transformer with necessary wiring and accessories including for communication and also includes pre-payment meters, Special Energy Meters, Net Meters, etc.”

The Genus Make (No. 5811201) having Type- 3ph 4w, 40-200 Amp Capacity is a special type of meter with CT & PT as an integral part of the meter. The above provisions make it clear that the necessary wiring and accessories like terminals, screws, studs, etc., are a part and parcel of a meter. **Therefore, missing of Y & B Phase Voltages to the meter should be treated as the meter being defective. The Appellant should be assessed only for three months from the date of inspection (18/04/2024) as per Regulation 16.4.1 of MERC Supply Code & SOP Regulations 2021.**

The supply of the Appellant was disconnected on 07/06/2024 illegally. The Appellant vide his letter dated 10/06/2024 requested to provide concerned documents which were provided. The Appellant approached the SE Vasai for payment facility who allowed to pay the dues in 6 monthly installments. The Appellant paid the first Installment of Rs.5,47,121/- on 13.06.2024 by RTGS. However, the supply was not reconnected. The Appellant filed a grievance application with the Forum on 18/06/2024 for interim relief for reconnection of supply. As per interim order of the Forum dated 18/06/2024, the Appellant paid an amount of Rs. 16,41,363/- from 13/06/2024 to 20/06/2024. The supply was reconnected on 20/06/2024. The Appellant protested against the wrong attitude of the Respondent. The Forum by its order dated 19/07/2024 rejected the main grievance of the Appellant. The Forum failed to understand that (i) the meter was defective, and (ii) the basic tariff of the Appellant should be “Public Services – Others” from the date of connection.

B. Tariff Aspects (Wrong Tariff):


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- (xiii) The supply was/is being used for the purpose of School from the date of supply. This is a school under CBSE with classes from Class 1 to Class 10. It is a multi-storied building, with no other use other than school. However, the Appellant was wrongly billed under “commercial” tariff category instead of “Public Services – Others”. The Appellant did not have knowledge of this fact. The Appellant argued that while proposing the recovery for missing phases, the Flying Squad Unit in its inspection report dated 18/04/2024 had also noticed one important factor i.e. the application of the wrong tariff category. They have highlighted the same in Remarks as


“Please check tariff for the same consumer at your end.”

It was only then that the Appellant first came to know that the Respondent had wrongly applied commercial tariff instead of “Public Services – Others” from the date of connection.

- (xiv) The Appellant referred to a Circular dated 16/02/2018 of the Corporate Office of the Respondent regarding guidelines for Changing Tariff Category of HT and LT Consumers. The second para of the said circular speaks as under,

“For uniform applicability of tariff, for particular activity, the activity code and corresponding tariff is co-related in MSEDCL’s IT system. Accordingly, tariff category of new consumer in NC module is determined as per its activity.”

These guidelines focus on the activity and its related tariff code which is to be determined by the local office and then to be fed to the system. The Respondent failed to feed the proper activity i.e. school purpose under Public Service- Others. The activity column on the monthly energy bill is still found blank. When an intending consumer applies for power, he is quite unaware about tariff applicability. The Respondent is duty bound to charge the bills as per the proper tariff considering the activity performed in the premises. In the present case, the activity was/is school from the date of connection. MSEDCL itself is at fault for applying the wrong tariff to the Appellant. This is nothing but violation of Section 62 of the Electricity Act, 2003 (the Act). Was it not the duty of MSEDCL to apply appropriate tariff as per purpose on site? Waiting for the consumer’s application for change in tariff is quite outrageous. It is shocking that the appropriate


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tariff is neither determined nor fed to the system. This is clearly failure on the part of MSEDCL. **Wrong application of tariff amounts to unfair trade practice under Consumer's Protection Act.**

- (xv) In view of the above, the Appellant prays that the Respondent be directed:
- to quash the supplementary bill of plain recovery of Rs. 32,82,730/- for the period from 17/06/2023 to 18/04/2024 and to bill the Appellant for three months considering the meter as defective.
 - to revise the bills retrospectively under "Public Services – Others" tariff category (which is applicable for private schools) from the date of connection. The excess amount collected be credited to the ensuing bill of the Appellant.
 - to waive off interest and delayed payment charges levied, if any.

4. During the course of the hearing, the parties were advised to explore the possibility of a settlement in view of Regulation 19.9 of CGRF & EO Regulations 2020. The Appellant came forward and agreed to pay the revised supplementary bill of under billing due to Y & B Phase PT missing for the period from 17/06/2023 to 18/04/2024, provided it be calculated under "Public Services – Others" tariff category. The Respondent regretfully refused to accept this proposal due to limited powers at their level; however, assured that the order of the E.O. would be followed in its true spirit.

Analysis and Ruling:

5. Heard the parties and perused the documents on record. The details of the electric connection, Y & B Phase PT missing from 17/06/2023 to 18/04/2024, retrospective recovery etc., are tabulated in Table 1. The supply of this connection was released on 27/07/2017 under "Commercial Tariff" Category, though it is being used for school purpose right from inception.


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6. The existing meter of the Appellant is of Secure Make (No. MHD 07116) having Type-3ph 4W, 40-200 Amp Capacity. The same meter is working till date, after tightening of its screws and restoring normalcy after inspection.

7. The Respondent inspected the installation of the Appellant on 18/04/2024, when it was observed that “Y & B Phase Voltages” were missing on the meter display, which were not extended to the meter terminal connection due to a loosened connection of the screws where it was tapped from the main cable. Hence, the meter was recording less energy consumption by 68.28 % at the time of inspection. The “Y & B Phase Voltage” was not extended to the said meter as per the MRI report dated 18/04/2024 for the period as below:


Table 3:

Sr. No.	Event Type	Occurance Date & Time	Restoration Date & Time	Duration (yy ddd hh mm)	Remarks
1	Missing Potential-Start on L2	17/06/2023 at 19.57 Hrs.	18/04/2024 at 14.35 Hrs.	00 305 18.37	R, Y & B phase refers to L1, L2 & L3
2	Missing Potential-Start on L3	17/06/2023 at 19.55 Hrs.	18/04/2024 at 14.35 Hrs.	00 305 18.40	

Accordingly, the Respondent issued a supplementary bill of plain recovery of Rs.32,82,730/- for the period from 17/06/2023 to 18/04/2024 i.e. for 10 months which is within the limitation of 24 months as stipulated under Section 56 (2) of the Act.

8. The Appellant contended that he should be billed only for three months, as missing of PT Voltages are an integral part of a meter. Thus, this case comes under Regulation 16.4.1 (Billing in the event of Defective/ stuck/stopped/burnt Meters) of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021. The said Regulation is reproduced below: -

“16.4.1. Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the Appellant’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.”


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9. The Judgment dated 18.12.2018 of Hon'ble Bombay High Court, Bench at Aurangabad in W.P. No. 8613 of 2017 is squarely applicable in the instant case. The relevant part of the Judgment is reproduced below:

“33 it is therefore, obvious in the present case that there was nothing intrinsically wrong with the meter. As under-recording of electricity consumed was associated with the act of the electrician in wrongly attaching the wires to the R, Y & B phases. I am, therefore, of the view that such a wrong attachment of wiring by the electrician would not amount to a defect in the meter. Consequentially, due to the under recording of the meter, the Appellant has consumed such energy as was normally required to be consumed and the Petitioner has lost the revenue for such under recording.

34. Clause 3.4.4 of the Regulations, 2005 enables the Petitioner to recover the charges for the electricity actually supplied, which would include a fixed charge as per the prescribed rates. The Appellant, therefore, has to pay full charges for the electricity actually consumed.


35. In the Municipal Corporation case (supra), this court has sustained the supplementary bill raised by the Electricity Company and this Court has upheld the recovery of the amount mentioned in the supplementary bill.”

This Judgment is applicable in the instant case. As such the meter was not defective which is evident from the fact that the same meter is still operating satisfactorily, after the screws were tightened on 18/04/2024. Hence the recovery on account of Y & B phases missing is found to be valid. However, the issue of wrong application of tariff category remains.

The Commission issued a Tariff Order in Case No. 121 of 2014 (**effective from 01.06.2015**) wherein, for the first time, it subdivided the category LT-X: LT- Public Services, into two subcategories which are as follows: -

- LT X (A): LT - Public Services - Government Educational Institutes and Hospitals, and
- LT X (B): LT - Public Services – Others.

The activities under the second sub- category i.e., LT X (B): LT - Public Services – Others are as follows: -



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*“Applicability : This Tariff shall be applicable to **Educational Institutions such as Schools and Colleges**, and Hospitals, Dispensaries, Primary Health Care Centres and Pathology Laboratories and Libraries and Public reading rooms other than those of State or Central Government, Municipal Bodies, Zilla Parishads, Panchayat Samities or Gram Panchayat; all offices of Government/Municipal Bodies, Local Authority, local self-Government, Zilla Parishad, and Gram Panchayat; Police Stations, Police Chowkies, Post Offices, Defence establishments (army, navy and air-force), Spiritual Organisations which are service oriented, Railway/Monorail/Metro except traction, State transport establishments,; and State Transport Workshops, Transport Workshops operated by Local Authority, Fire Service Stations, Jails, Prisons, Courts, Airports (only activity related to aeronautical operations), Ports, Sports Club / Health Club / Gymnasium / Swimming Pool attached to the Educational Institution / Hospital provided said Sports Club / Health Club / Gymnasium / Swimming Pool is situated in the same premises and is primarily meant for the students /faculty/ employees / patients of such Educational Institutions and Hospitals.” (Emphasis added)*

The Commission subsequently issued similar Tariff Orders in Case No. 48 of 2016 dated 03.11.2016, in Case No. 195 of 2017 dated 01.09.2018, and in Case No. 322 of 2019 dated 31.03.2020 and 226 of 2022 dated 31.03.2023 respectively.

10. The Appellant mistakenly applied for a new electric connection in the month of March 2017 on the WSS Portal of MSEDCL for **commercial purpose**. The connection was released on 27/07/2017 under commercial category. The Appellant, Pramod Kashinath Patil is the consumer in this case from 27/07/2017. The address on the bill mentions ‘S.No.91, Hissa No. 2A....’, but the word ‘school’ is nowhere mentioned in the address. The database of the Respondent also never indicated that this was a school. Subsequently, the premises were rented out to “Narayana e-Techno School”. (The Appellant also claimed that the premises was constructed for educational purpose as per approval dated 26/12/2016 of Vasai-Virar City


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Municipal Corporation and occupation certificate was received on 08.09.2018). However, he did not submit any documents to the Respondent showing the use for Narayana e-Techno School. The Appellant did not apply for change of tariff category from “Commercial” to “Public Services – Others” tariff category applicable for private school till date, admittedly due to ignorance on his part. Though the Commission had created the sub-category of ‘Public Services – Others’ in June 2015, the application for electric connection for ‘commercial’ purpose was made in 2017, much after the Commission’s Tariff Order. At that point of time, the ‘public services – others’ tariff category was in existence for a few years, yet the application was made for commercial purpose. During the hearing it was revealed that there are several branches of the said ‘Narayana e-Techno School’ in many cities, and it is possible that other branches are paying ‘Public Services – Others’ tariff. The management of the school neglected to check this aspect. The Appellant changed the purpose unilaterally to “School” without any intimation to the Respondent. Hence the question of applying the “public services – others” tariff category suo moto at that point of time does not arise. We do not find any weightage in the argument of the Appellant that it was the responsibility of the Respondent to reclassify the tariff category on its own as Public Services- Others right from 2017.

11. Regulation 4.13 of MERC (Standards of Performance of Distribution Licensees, Period for giving supply & Determination of Compensation) Regulations 2014 states as below:

“The Distribution Licensee shall intimate the charges to be borne by an applicant for change of name and change of tariff category within seven (7) days of receipt of an application in this regard and shall give effect to it within the following time limits :—

a) change of name shall be effected within the second billing cycle on receipt of an application and payment of necessary charges.

(b) change of category for use of supply in reference of Tariff schedule shall be effected within the second billing cycle on receipt of application and payment of necessary charges.”


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Thus, it is the responsibility of the consumer to apply to the distribution licensee about any change of category.

The Commission also issued “Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality Regulations, 2021” (Supply Code and SOP Regulations 2021) which is effective from 25/02/2021. Annexure – II of the said Regulations says that if a consumer applies for change of tariff category, the Respondent is responsible for change of tariff category within the second billing cycle. However, in this case, the Appellant did not apply for change of tariff category till date, even though the Forum advised him to apply for change of tariff category immediately. The Respondent by its letter dated 24/07/2024 has also advised him to apply for change of tariff category immediately.

At the same time, we find that the Respondent could have advised the Appellant and applied the correct ‘Public Service – Others’ tariff category at least from the date of its first inspection on 06.04.2023 when one phase was found missing, and at the same time, the activity of running a school was noted. To that extent there was also deliberate negligence on the part of the Respondent. Had the correct tariff category been applied from 06.04.2023, the Appellant could have saved on their energy bill at least from this date. It is notable that the Appellant school is a large single -use building with a visible usage of school, and this usage could not have been missed by the Respondent. The Respondent previously inspected the premises of the Appellant on 06.04.2023 where the activity of the Appellant was noted as “School”. This indicates that the Respondent was well aware about the applicability of the ‘Public Services – Others’ tariff category but chose to keep mum about it. Not only that, but the Respondent also did not take any action despite the specific remarks of the Flying Squad dated 18.04.2024 that “*Please check tariff at your end.*” When it was a matter of recovery the Respondent acted fast, but when it was a matter of giving benefit to the consumer, the Respondent deliberately delayed action. This was an unfair practice on the part of the Respondent.

12. During the hearing, the Appellant was advised to apply immediately for change of tariff category from commercial to “Public services – Others” on the WSS portal of the Respondent. Accordingly, the Appellant has applied for “Public Services – Others” tariff category on 13th


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November 2024. Though the Appellant technically applied on this date, we are inclined to give him the benefit of tariff category from 06.04.2023, considering the deliberate negligence of the Respondent. Considering the particular circumstances of this case and as a part of settlement, we hold that “Public Service – Others” category should be applied from 06.04.2023 onwards, since this was the date when the issue first came to the notice of the Respondent.


13. The Forum by its order has already considered under-recording as tabulated in Table 1 for the period of 10 months. This recovery is within the limit of 24 months which fulfils the statutory requirement of Section 56(2) of the Act in case of deficiency in service. The Section 56 (2) of the Act 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 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.

The Forum has given a reasoned order on the issue of missing phases. Hence, there is no need for interference in its order to that extent. However on the issue of tariff category, the Forum’s order is modified as below. The Respondent is directed: -

- i. To apply “Public Services – Others” tariff category instead of “Commercial” tariff from 06.04.2023 onwards, and to revise /adjust the supplementary bill accordingly.
- ii. to withdraw the interest and delayed payment charges if levied from May 2024 onwards till the date of this order.
- iii. The Appellant may be granted six equal monthly instalments without DPC and interest to pay the revised bill. If the Appellant fails to pay the monthly instalment


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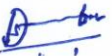
along with its current bill, the Respondent is permitted to recover the interest proportionally for the failure period, and to take action as per the law in force.

- iv. Compliance to be submitted within two months from the date of issue of this order.
- v. Other prayers of the Appellant are rejected.

14. The representation of the Appellant is disposed of accordingly.

15. 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)


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Secretary
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