

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 137 OF 2024

In the matter of retrospective recovery towards under billing

Umesh Chandrakant Shinde Appellant
(Con. No. 170210131615)

V/s.

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

Appearances:

Appellant : Umesh Chandrakant Shinde

Respondent : 1. Somnath Munde, Executive Engineer, Pimpri Dn.
2. Diwakar Deshmukh, Add. Ex. Engineer, Chinchwad S/dn.
3. Anil Kurade, Dy. Executive Engineer, Flying Squad, Pimpri


Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 13th November 2024

Date of Order : 25th November 2024

ORDER

This Representation was filed on 10th September 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 10th July 2024 in Case No. 93 of 2023 passed by the Consumer Grievance Redressal Forum, Pune (the Forum). The Appellant paid the required deposit on 1st October 2024 as per Regulation 19.22(h) of CGRF & EO Regulations 2020. This Representation was registered on 1st October 2024. The Forum by its order rejected the grievance of the Appellant, however, allowed payment facility by installments. The operative part of the order is as below:


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“2) The Respondent is directed to waive off DPC and interest on disputed amount.

3) The Respondent is directed to give 10 equal instalments of the Complainant.”

2. The Appellant has filed this Representation against the order of the Forum. An e-hearing was held on 13/11/2024 through Video Conference. The parties were heard at length. The Respondent filed its reply on 05/11/2024. 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. 170210131615) from 26/05/2018. The details of the electric connection, sanctioned load, retrospective recovery towards R & B phase voltages missing, etc. are tabulated as below:

Table 1:


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
Umesh Chandrakant Shinde	170210131615	S.No.-79/4/1, Shriram Colony, Opp M M School, Jyotiba Nagar, Kalewadi Pune	40 KW / 50 KVA	26/05/2018	Commercial (Cloth Shop)	17/05/2023	R Phase PT missing and B Phase PT intermittently missing from 03/07/2021 to 17/05/2023	Suppl. Bill of Rs.10,15,174/- for 70,101 Units for the period from 03/07/2021 to 17/05/2023.

- (ii) The existing meter of the consumer is of Secure Make (No.X0460900) having Type- 3ph 4W, 40-200 Amp Capacity.
- (iii) The Dy. Executive Engineer of the Flying Squad of the Respondent visited the premises of the Appellant on 17/05/2023 to carry out a routine inspection when it was observed that “R & B Phase Voltages” were missing on the 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	32.56	0	46.38	215	42.25	0

The Appellant refused to sign the Inspection Report even though it was explained in detail. The voltages of R & B Phase were not extended due to a


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screw being loose of Potential Terminals (PT) from the tapping point of the cable. Accordingly, the data of the meter was retrieved. The tapping screws of the meter were subsequently tightened, and it was confirmed that R, Y, & B Voltages were restored to the meter. All current & Voltage parameters were now showing on the display of the meter.

- (iv) **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 R Phase PT was missing totally, and B Phase was missing intermittently from 03/07/2021 to 17/05/2023 as tabulated below:**

Table 3:

Sr. No.	Date	Snap Shot Event Time	Voltage L1	Voltage L2	Voltage L3	Line Current L1	Line Current L2	Line Current L3	Remarks
1	03.07.2021	07.47.39	0	219	236	3	7	3	
2	05.07.2021	17.59.43	3	226	3	0	1	3	Start on L3
3	05.07.2021	18.20.08	0	227	231	0	1	2	End on L3
4	14.08.2021	12.03.52	3	209	4	20	29	21	Start on L3
5	15.08.2021	10.30.19	0	213	248	60	51	48	End on L3
6	05.10.2021	07.09.09	3	233	3	0	0	2	Start on L3
7	18.11.2021	16.08.05	0	207	250	36	41	39	End on L3
8	19.11.2021	12.04.54	3	211	3	15	29	19	Start on L3
9	19.11.2021	15.18.51	0	217	245	35	38	38	End on L3
10	03.04.2022	17.59.33	3	217	3	40	47	43	Start on L3
11	03.04.2022	21.55.13	0	225	239	7	21	11	End on L3
12	06.04.2022	12.33.06	3	201	3	47	36	39	Start on L3
13	06.04.2022	13.01.16	0	203	218	79	78	87	End on L3
14	06.04.2022	13.17.42	3	207	3	71	74	77	Start on L3
15	06.04.2022	13.23.36	0	204	213	78	79	83	End on L3
16	07.04.2022	14.26.21	3	204	3	64	67	59	Start on L3
17	07.04.2022	17.13.56	0	209	223	78	74	67	End on L3
18	23.04.2024	12.08.58	3	210	3	48	42	52	Start on L3
19	23.04.2022	12.16.28	0	205	219	55	47	59	End on L3
20	27.04.2022	16.03.08	4	196	4	48	51	50	Start on L3


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Sr. No.	Date	Snap Shot Event Time	Voltage L1	Voltage L2	Voltage L3	Line Current L1	Line Current L2	Line Current L3	Remarks
21	01.05.2022	14.05.38	0	217	234	79	75	73	End on L3
22	05.05.2022	22.49.20	3	234	3	0	0	4	Start on L3
23	05.05.2022	22.55.05	0	235	233	0	0	4	End on L3
24	07.05.2022	15.01.01	3	199	3	65	68	73	Start on L3
25	07.05.2022	15.19.36	0	192	216	66	65	67	End on L3
26	07.05.2022	16.10.57	3	202	4	57	66	60	Start on L3
27	07.05.2022	17.39.42	0	197	227	58	59	59	End on L3
28	08.05.2022	08.45.48	3	237	3	0	0	3	Start on L3
29	08.05.2022	09.00.38	0	237	241	0	0	2	End on L3
30	10.05.2022	15.59.36	3	210	4	63	65	65	Start on L3
31	10.05.2022	16.05.31	0	209	224	57	59	58	End on L3
32	25.05.2022	19.53.05	3	221	3	37	44	41	Start on L3
33	07.07.2022	00.29.18	2	251	252	0	0	2	End on L3
34	11.02.2023	10.58.27	3	215	3	12	25	15	Start on L3
35	11.02.2023	11.49.37	0	216	228	10	24	15	End on L3
36	12.02.2023	10.11.21	3	222	3	7	13	7	Start on L3
37	14.04.2023	04.03.17	0	254	254	0	0	0	End on L3
38	14.04.2023	09.42.02	3	217	3	0	0	5	Start on L3
39	16.04.2023	00.11.32	0	249	248	0	0	0	End on L3
40	23.04.2023	10.09.06	2	245	3	5	6	8	Start on L3
41	07.05.2023	01.02.13	0	252	250	0	0	0	End on L3
42	15.05.2023	09.50.59	3	225	3	0	0	5	Start on L3
43	17.05.2023	17.18.46	219	214	233	24	36	32	End on L3

- (v) The Respondent issued a supplementary bill of plain recovery of Rs.10,15,174/- for 70,101 units vide letter dated 15/06/2023 towards the above under-recording of consumption. This is based on the data retrieved from MRI. The analysis of MDAS is charted below:




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Table 4:

Month	Billed Units	Assessed Units	Total Units	Amount for assessed units (Rs.)
1	2	3	4(2+3)	5
	58%	42%	100%	
Jul-21	4,399	3,179	7,578	42,722
Aug-21	5,598	4,046	9,644	53,962
Sep-21	4,757	3,438	8,195	45,340
Oct-21	3,826	2,765	6,591	36,769
Nov-21	3,883	2,806	6,689	37,539
Dec-21	4,110	2,971	7,081	41,118
Jan-22	3,718	2,687	6,405	37,655
Feb-22	3,839	2,775	6,614	37,992
Mar-22	5,996	4,334	10,330	57,071
Apr-22	7,091	5,125	12,216	68,433
May-22	7,326	5,295	12,621	70,633
Jun-22	2,842	2,054	4,896	32,270
Jul-22	3,299	2,384	5,683	39,318
Aug-22	3,839	2,775	6,614	45,855
Sep-22	3,716	2,686	6,402	43,807
Oct-22	4,954	3,581	8,535	57,498
Nov-22	3,593	2,597	6,190	42,976
Dec-22	3,378	2,441	5,819	39,711
Jan-23	3,402	2,459	5,861	40,119
Feb-23	2,252	1,628	3,880	26,394
Mar-23	2,084	1,506	3,590	24,754
Apr-23	3,412	2,466	5,878	37,868
May-23	5,677	4,103	9,780	55,369
	96,991	70,101	1,67,092	10,15,174

- (vi) The Appellant filed a grievance application with the Forum on 25/09/2023. The Forum by its order dated 10/07/2024 basically rejected the grievance application. The order of the Forum is implemented. The Respondent by its letter dated 04/09/2024 informed the Appellant regarding the withdrawal of


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interest (Rs.96,991/-) and delayed payment charges (Rs.1,67,092/-) from July 2023 to August 2024. The data is tabulated as below:

Table 5.

Month	Current Bill	Interest	Delayed Payment Charges	Paid Amount	
	(Rs.)	(Rs.)	(Rs.)	(Rs.)	Date
Jul-23	76,488	0	13,687	0	Nil
Aug-23	79,695	0	996	0	Nil
Sep-23	75,275	0	941	0	Nil
Oct-23	85,400	6,092	1,068	4,80,000	05-10-2023
Nov-23	1,00,017	8,909	1,250	85,230	30-11-2023
Dec-23	81,186	9,908	1,015	99,410	29-12-2023
Jan-24	84,275	7,521	1,053	81,190	29-01-2024
Feb-24	80,483	8,413	1,006	0	Nil
Mar-24	1,14,556	9,278	1,432	80,480	29-03-2024
Apr-24	1,57,342	10,548	1,967	1,13,440	02-08-2024
May-24	1,53,538	8,819	1,919	1,54,910	30-05-2024
Jun-24	2,70,765	7,756	3,385	0	Nil
Jul-24	76,973	7,165	962	4,21,070	29-07-2024
Aug-24	74,730	7,079	934	76,970	02-09-2024
Total	15,10,722	91,487	31,615	15,92,700	
Remarks:	The suppl. bill of Rs. 10,15,174/- was issued on 15/06/2023. As per Forum's Order, interest and DPC (Rs. 91,487 + 31,615) of Rs. 1,23,102/- was waived off. The Appellant has to pay Rs.8,92,072. These figures are indicative only.				

The credit of Rs. 1,23,102/- towards interest and DPC was effected in the bill of Sep. 2024. The Appellant's arguments that he had paid every current monthly bill is not correct. Rs. 4,80,000/- on 05/10/2023 was paid as per Forum's interim order.

- (vii) 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.



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(viii) 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 running a cloth shop. The Appellant is regular in payment of bills and was/is billed under commercial tariff category.
- (ii) The Respondent inspected the premises of the Appellant on 17/05/2023. This inspection was done unilaterally. The Respondent initially made a serious allegation that the meter was purposely tampered with on 15/05/2023. When it was countered that the seals of the meter were found intact, how could the meter be tampered with? The Appellant showed him all the CC TV Footage of that period showing that nobody entered into the meter room. This inspection was done unilaterally with a threat that the supply would be disconnected. There is no signature on the inspection report which was made just casually. The Respondent did not hand over a copy of this inspection report to the Appellant.
- (iii) The Respondent issued a supplementary bill of Rs.10,15,174/- for 70,101 units vide letter dated 15/06/2023 towards under-recording of consumption towards R & B Phase PT missing. This supplementary bill was added in the bill of July 2023 which is based on a wrong interpretation. The Appellant by his letter dated 26/06/2023 requested to explain the total technical aspects in this case, however no proper response was given. The Appellant made many visits to the Respondent's office and waited for many hours, however no proper response was given. The Appellant was threatened with disconnection vide letter dated 30/08/2023. The Appellant filed a grievance application with the Forum on 25/09/2023. The Forum by its interim order directed to deposit Rs. 4,80,000/- on 05/10/2023 which was deposited by the Appellant. However, this deposit was utilised by the Respondent.
- (iv) The energy meter belongs to the electricity distribution company and the responsibility of maintaining it lies solely with it. As per MERC Supply Code


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& SOP Regulations 2021, 'Periodic Testing of Meters' is the responsibility of the Respondent. The Respondent failed to test the meter periodically and hence the Appellant is not responsible for the same.


- (v) The Appellant argued that his business is dependent on the detailed summary of every income and expense incurred by his organization in a specific financial year prepared on an accrual basis. At present, it is very difficult to adjust (recover from customers) such a huge amount.
- (vi) The Appellant prays that the Respondent be directed:
- to quash the Suppl. Bill of Rs.10,15,174/- for 70,101 Units the period from 03/07/2021 to 17/05/2023.
 - to waive off interest and delayed payment charges levied, if any.
 - to pay Rs.50 lakhs compensation towards mental torture and suffering.

Analysis and Ruling

4. Heard the parties and perused the documents on record. The details of the electric connection, R Phase PT missing and B Phase PT intermittently missing from 03/07/2021 to 17/05/2023, retrospective recovery is tabulated in Table 1. The supply of this connection is used for running a cloth shop.

5. The existing meter of the consumer is of Secure Make (No.X0460900) having Type- 3ph 4W, 40-200 Amp Capacity. The same meter is working from May 2018 till date, after tightening of its screws and restoring normalcy after inspection.

6. The Respondent inspected the installation of the Appellant on 17/05/2023, when it was observed that "R & B Phase Voltages" were missing on the meter display which were not extended to the meter terminal connection due to a loose connection of the screws where it was tapped from the main cable. Hence, the meter was recording less energy consumption by 66 % at the time of inspection. The "R & B Phase Voltage" was not extended to the said meter as per the MRI report dated 17/05/2023 for the 2-year period tabulated in Table 3. Accordingly, the


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Respondent issued a supplementary bill of Rs.10,15,174/- for the period from 03/07/2021 to 17/05/2023.

7. The Appellant contended that the energy meter belongs to the electricity distribution company and the responsibility of maintaining it lies solely with it. The Respondent failed to test the meter periodically and hence the Appellant is not responsible for the same. His business is dependent on the detailed summary of every income and expense incurred by his organization in a specific financial year prepared on an accrual basis. At present, it is very difficult to adjust (recover from customers) such a huge amount.


8. 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, R & 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 17/05/2023.


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9. The Forum by its order has already considered the under-recording as tabulated in Table 1 for the period of 22 months. The recovery is within the limit of 24 month as stipulated in Section 56(2) of the Electricity Act, 2003. which fulfils the statutory requirement of Section 56(2) of the Act in case of deficiency in service. The Section 56 (2) of the Electricity Act, 2003 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.

10. The Forum has given a reasoned and speaking order. Hence, there is no need for interference in its order principally. The Forum’s order is modified as below. The Respondent is directed: -

- i. to withdraw the interest and delayed payment charges if levied from July 2023 onwards till the date of this order.
- ii. The Appellant may be granted 10 equal monthly instalments without DPC and interest to pay the revised bill. If the Appellant fails to pay the monthly installment 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.
- iii. Compliance to be submitted within two months from the date of issue of this order.
- iv. Other prayers of the Appellant are rejected.


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


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12. 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
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