

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 77 OF 2024

In the matter of excess billing due to wrong tariff category

Shri Ganesh CardsAppellant
(Consumer No. 170500105561 PD)

V/s.

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

Appearances:

Appellant : 1. Sanjay Ishwarlal Dhoot
2. Sudhir Gaikwad, Representative

Respondent : 1. Ravindra Avhad, Executive Engineer, Padmavati Dn.
2. Shivling Bore, Asst. Engineer


Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 19th June 2024

Date of Order : 4th July 2024

ORDER

This Representation was filed on 24th April 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 4th March 2024 passed by the Consumer Grievance Redressal Forum, Pune Zone (the


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Forum). The Forum, by its Order partly allowed the grievance application in Case No. 141/2023. The order was issued in Marathi which is translated as below:


2. *The Respondent is directed to refund the tariff difference retrospectively from Commercial to industrial tariff category from 04/05/2019 onwards to the Complainant. The refund amount be adjusted in outstanding dues of the consumer.*
3. *The supply of the Complainant was permanently disconnected in Sep. 2021. The Respondent is directed to reconnect the supply of the Consumer as per rules and Regulations in force.*
4. *The other prayers of the Complainant are rejected, being fictitious & impracticable in nature.*

2. Aggrieved by the order of the Forum, the Appellant has filed this Representation. A physical /e-hearing was held on 19th June 2024. The Appellant was physically present while the Respondent attended the hearing through video conference. Parties were heard at length. The Respondent MSEDCL filed its reply on 12th June 2024. Its submissions and arguments are stated first for easy understanding as follows: - *[The Electricity Ombudsman's observations and comments are recorded under 'Notes' in brackets where needed.]*

- (i) The Appellant was a Commercial Consumer (No. 028619025980) from 04/05/2019. The Appellant was in the business of various types of printings. The details of the electric connection are as below:

Table 1:

Name of Consumer	Consumer No.	Address	Sanc.Load & Contract Demand	Date of Supply	Purpose	Month of Temp. Discon.	Month of Perm. Discon.	Date of filing grievance in Forum
Shri Ganesh Cards	170500105561	S.No. 15, H.No. 2, Rathi Plotting, Mangadewadi, Gujarwadi Road, Katraj, Pune	80 KW S.L. & 100 KVA C.D.	04/05/2019	Printing Press	TD in Feb 2021	PD in Sep. 2021 for outstanding dues of Rs. 7,45,356/-.	18/12/2023


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai




Preliminary Submissions:

- (ii) The Appellant filed his grievance before the Forum on 18/12/2023. His main prayer before the Forum was for applying industrial instead of commercial tariff from the date of supply. This part has been complied with. Now his main prayer before the Electricity Ombudsman is to further reduce the bill, based on SL of 80 KW and CD of 80 kVA from the date of supply. The Forum's order was silent on this aspect.
- (iii) The cause of action arose in May 2019 when the first bill was issued under commercial tariff category with SL of 80 KW and CD of 100 KVA. The supply was temporarily disconnected in Feb. 2021 and permanently disconnected in Sept. 2021 for non-payment of dues. The claim of the Appellant is time barred and beyond the limitation period of two years, as per Regulation 7.9 of CGRF & EO Regulations 2020.

Main Submissions:


- (iv) The Appellant applied online for a new electric connection on the Web Self Service (WSS) Portal (Application ID No. 18825670) of MSEDCL on 15/11/2018 for Connected Load of 80 KW & Contract Demand (CD) of 100 KVA for "Commercial" purpose. *[Note: The Appellant is denying that he made this online application.]* Accordingly, a Firm Quotation was generated on 26/02/2019 for Sanctioned Load (SL) **of 80 KW and CD of 100 KVA for commercial purpose.** *[Note: The Record shows that the estimate was sanctioned vide letter dated 18/12/2018 for SL of 80 HP & CD of 80 KVA under industrial tariff category. However, the Firm Quotation **was generated for SL of 80 KW & CD of 100 KVA under commercial tariff category, which was paid on 28/02/2019.]***
- (v) The power supply was released on 04/05/2019 after work completion as per sanctioned estimate and statutory permission of Electrical Inspector. Accordingly, the electricity bill was generated for SL of 80 KW and CD of 100 KVA under commercial tariff from June 2019 onwards (i.e. as per the Application form filled by the Appellant). The bills of the Appellant were issued from June 2019 onwards, but he neither applied for any


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



CD change, nor did he approach MSEDCL Office or registered a single complaint/grievance for correction in his existing bill.

- (vi) The Appellant was reminded to pay the bill by sending disconnection notices under Section 56(1) of the Electricity Act, 2003 (the Act). The outstanding dues were Rs.92123/- in July 2019. However, he neglected to pay the bills at the initial stage. The Appellant first paid Rs. 1 lakh on 14/08/2019 (against dues of Rs. 1.47 lakhs in August 2019) when the Respondent threatened disconnection. For the second time he paid Rs.2 lakhs only on 17/03/2020 (just before Covid-19 pandemic) for the entire period from May 2019 to Sept. 2021. The Appellant's claim of bills not received is totally an afterthought. He made only part payment of the bills.
- (vii) The Appellant applied for change of tariff category from Commercial to Industrial vide Application ID- 25599574 on 24/02/2020. However, the Covid-19 pandemic started from 22/03/2020. The tariff change application was processed, and **industrial tariff was effected from Sept. 2020**. The Appellant was sanctioned installment facility for payment of bill to avoid disconnection of the supply; however he did not pay the same.
- (viii) The outstanding dues increased to Rs. 5,84,723/- in Jan. 2021. The supply of the Appellant was temporarily disconnected in Feb 2021. At that time the dues were Rs.6,03,998/-. The local office followed up for payment, but he did not comply. Hence the supply was permanently disconnected in Sept 2021 for outstanding dues of Rs.7,45,322/- (Rs.6,27,848/- Principal Amount + 1,17,474/- Interest). The security deposit of Rs.1,00,301/- was adjusted in the outstanding dues, and the net outstanding dues was Rs.6,56,559/- (Rs. 5,39,229 /- Principal amount + 1,17,330/- Interest.)
- (ix) After the PD in Sept. 2021, the Appellant filed a grievance application in the Forum on 18/12/2023. The Forum, by its Order dated 04/03/2024 partly allowed the grievance application. The operative part is already quoted in the first para. The bill of the Appellant was revised from commercial to industrial tariff as per the directions of the Forum, and credit adjustment amount of Rs. 4,79,687/- was given in the month of March 2024. Even after this adjustment, the Appellant now has to pay net outstanding dues of Rs. 1,93,420/- at industrial tariff rates. The supply was PD from Sept. 2021, so


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



the Appellant has to apply for a new connection on the WSS portal of the Respondent after clearing the dues of Rs. 1,93,420/-. The supply will be sanctioned as per statutory rules & regulations in force.


- (x) In view of the above-mentioned facts, it is requested that the representation of the Appellant be rejected, being not maintainable and filed without any merit.

3. The Appellant's submissions and arguments advanced in the hearing are as below :

- (i) The Appellant was in the business of printing a full range of wedding cards. He was an Industrial Consumer (No. 028619025980) right from 04/05/2019, however was wrongly billed under commercial tariff category. Details of the electric connection are tabulated in Table 1. *[Note: The Appellant is silent on whether he had originally applied under commercial or industrial category. In fact he denies making an online application itself.]*

Preamble:

- (ii) The Respondent sanctioned an estimate vide letter dated 18/12/2018 for SL of 80 HP & CD of 80 KVA under industrial tariff category. Then Jr. Engineer, Dhankawdi Sub-Dn. generated a Firm Quotation **for SL of 80 KW & CD of 100 KVA** under **commercial** tariff category on 26/02/2019 which was paid on 28/02/2019. At that time, the Appellant did not realise that the Firm Quotation was wrongly generated. The load release letter dated 01.03.2019 also specified that the load was to be released for SL of 80 HP & CD of 80 KVA under industrial tariff category.
- (iii) The Appellant was surprised and aggrieved when the first bill was generated under commercial tariff. The copy of June 2019 bill is kept on record. The Appellant met the Respondent's Asst. Accountant on 10/08/2019 and he advised to pay Rs. 1,00,000/- on account. Accordingly, the Appellant paid Rs. 1,00,000/- on 14/08/2019.
- (iv) The Appellant gathered information by way of RTI, and it was noted that the first bill was generated in May 2019 with commercial tariff category. However, no bills were delivered to the Appellant.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




- (v) The tariff of the Appellant was changed from commercial to industrial in Sep. 2020 as per his application. However, no retrospective effect of tariff change was given from the date of connection, i.e. 04.05.2019.
- (vi) The supply of the Appellant was temporarily disconnected in Feb. 2021 & permanently disconnected in Sept. 2021. The alleged outstanding dues were about Rs. 6.27 lakhs.
- (vii) The Appellant filed a grievance application in the Forum on 18/12/2023. The Forum, by its Order dated 04/03/2024 basically allowed the grievance application. The Appellant is grateful to the Forum for taking cognizance and catching the nerve of the grievance and giving some relief. **However, the Respondent has defied and not complied with this order.**
- (viii) The Respondent is focussing on the issue of **“ONLINE A-1 APPLICATION”**. The Appellant stated that no **A-1 application No. 18625670 was made by him online at any point of time (for alleged Commercial purpose)**. Even though Regulation No. 5.6 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 (the Supply Code & SOP Regulations 2021) holds that the applicant/whosoever submits the application on his behalf is solely responsible for filling the data, if the **A-1 application** is minutely observed, it bears a note as follows:-

“NOTE: Intending consumers are required to see that this form is fully, clearly and legibly filled and **“signed with date”** before sending to the company.”

However, there was no **“signature with date”** or any **“inward number”** of the Respondent’s office on the alleged A-1 application form. Therefore Regulation 5.6 does not hold, and the claim made by the **“Concerned Authority”**, **stands null and void.** [Note: Inward stamp is not expected on an online application form.]

- (ix) The Appellant has never intentionally violated or defaulted on any arrears as claimed by the Respondent. The bills were sent with the wrong (commercial) tariff code. That is why the Appellant was unable to pay the same.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




- (x) **The Respondent finally revised the bill with tariff difference from commercial to industrial, but for energy charges only, and did not revise the Demand Charges of commercial to industrial. This anomaly is to be removed. [Note: The Respondent agreed during the hearing that the bills were revised only with respect to energy charges, considering industrial tariff, with effect from the date of supply. However, it denies this in writing post hearing]**
- (xi) The Respondent considered SL of 80 KW and CD of 100 KVA for billing purposes. However, it is necessary to revise as SL of 80 HP and CD of 80 KVA.
- (xii) In addition, the Appellant claims compensation as below, due to the connection being made TD / PD, leading to loss of business:-

Sr No.	Particulars	Amount (Rs.)
1	Factory Maintenane	3,00,000
2	Machinery Maintenance	12,50,000
3	Factory Electric Works	15,00,000
4	Loss of paper and ink & uncompleted jobs	24,00,000
5	Unused ink	8,50,000
6	Property Tax	6,00,000
7	Loss of profit	1,05,00,000
8	Total	1,74,00,000

(Rs.1.74 crore)

- (xiii) In view of the above, the Appellant prays that the Respondent be directed
- to revise the Demand Charges from commercial to industrial from the date of supply
 - to revise the Demand Charges from SL of 80 KW and CD of 100 KVA to SL of 80 HP and CD of 80 KVA from the date of supply.
 - to compensate Rs. **1,74,00,000/-** as above.

4. During the course of the hearing the Respondent was directed to confirm whether the demand charges calculations were revised from commercial to industrial tariff. Accordingly, the Respondent by its letter dated 01.07.2024 informed that the bill was revised from commercial to industrial tariff from the date of connection 04/05/2019. The demand charges


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai



were also revised by the system accordingly. We have also verified this fact. Hence, there is no further revision to be done on this account.


5. However, the Appellant has raised an additional demand before the Electricity Ombudsman, i.e. to further reduce the bill (from the date of supply), based on SL of 80 HP and CD of 80 kVA. As already mentioned, the Forum's order was silent on this aspect. Despite being time barred by limitation (as explained in para 12), the Forum has already granted relief to the Appellant, which has been complied with by the Respondent (as explained in para 2 (ix)) by crediting Rs.4.79 lakhs to his account. At this stage, we will not go into the issue of further reduction of the bill based on SL of 80 HP and CD of 80 kVA, as not only is this prayer time barred, but also because it was not specifically raised before the Forum in its main grievance, nor did he file a review on this issue.

Analysis and Ruling

6. Heard the parties and perused the documents on record. The Appellant was billed under commercial tariff category from the date of connection i.e., 04/05/2019. The Appellant was in the business of printing various types of wedding cards. The details of the electric connection (Cons. No. 028619025980) are charted in Table 1.

7. The Appellant contended that the activity of the Appellant was industrial in nature. He contended that he never applied online for SL of 80 KW and CD of 100 kVA. The load sanction estimate dated 18/12/2018 and release letter dated 01.03.2019 specify that the load was to be released for SL of 80 HP & CD of 80 KVA under industrial tariff category.

8. We have examined the A-1 form on record, as per the snapshot made available by the Respondent. It clearly shows that the Appellant applied for connected load of 80 KW and CD of 100 kVA. The mobile number of the Appellant on the A-1 form has also been verified; it is the actual mobile number of the Appellant. Sanction messages are sent on this number. Hence the evidence on record clearly indicates that the Appellant applied for the above-mentioned


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




load and CD. The contention of the Appellant that he never made this online application holds no water. If there was no application how was the sanction order issued? Sanction order cannot be issued without an online application; and the consumer number also cannot be generated manually. If the A-1 form mentions CD of 100 kVA, the firm quotation would also be generated for 100 kVA, and that is what seems to have happened in this case. In view of the long-time lapse, it is difficult to determine exactly what might have been the facts of the matter at that point of time. In fact the limitation clause has been placed precisely for this reason, that it becomes difficult, if not impossible, to determine the facts after a long time lapse.

9. The Appellant claims that he was wrongly billed under commercial tariff category from 04/05/2019 onwards till Aug. 2020. The tariff category was changed from commercial to industrial only from Sept. 2020 onwards. The Forum by its Order partly allowed the grievance of tariff difference from commercial to industrial from 04.05.2019 onwards. **However, the Respondent revised the bill only for energy charges. Demand Charges from commercial to industrial are yet to be revised from the date of supply.** The Appellant has demanded heavy compensation of Rs. **1.74 crores** due to loss occurred by permanently disconnecting the supply from Sep. 2021.

10. The Respondent contended that the Appellant applied online on the web portal of the Respondent for 80 KW and CD of 100 KVA for commercial purpose. Accordingly, a Firm Quotation was generated by the System on 26/02/2019. However, there was a manual mistake while sanctioning the load and issuing the release order, and the sanction and release orders were mistakenly made for SL of 80 HP and CD of 80 kVA under industrial tariff category. The A-1 application, being the statutory document, prevails over the sanctioned estimate & release order.

11. The bill of the Appellant was revised (presumably based on SL of 80 KW and CD of 100 kVA) from commercial to industrial tariff as per directions of the Forum, and credit adjustment amount of Rs.4,79,687/- was given in the month of March 2024. The Appellant now has to pay



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



net outstanding dues of Rs. 1,93,420/-. Without clearing these dues as per the required procedure, a new connection cannot be given.

12. The cause of action arose in May 2019 when the first bill was issued under commercial tariff category with SL of 80 KW and CD of 100 KVA. At that time, the Appellant did not raise any grievance. The supply was temporarily disconnected in Feb. 2021 and permanently disconnected in Sep. 2021. The Appellant filed the grievance before the Forum on 18/12/2023. We hold that the claim of the Appellant before the Forum was time barred and beyond the limitation period of two years as per Regulation of 7.9 of CGRF & EO Regulations 2020. However, since the Forum has already issued its order giving relief to the complainant, at this point of time we will not withdraw or withhold the relief given by the Forum.

13. The Forum by its Order allowed the grievance application, and the Respondent was directed to refund the tariff difference retrospectively from Commercial to industrial tariff category from 04/05/2019 onwards. The refund amount was to be adjusted in the outstanding dues of the consumer. The meaning and intention of this order is to revise the bill for industrial tariff category from the date of release of electric connection i.e. from 04/05/2019 which includes **both the demand charges as well as energy charges**. *[Note: The Forum's order was silent on whether the charges should be based on SL of 80 KW and CD of 100 kVA, or on SL of 80 HP and CD of 100 kVA. However, there was no such specific prayer before the Forum]* These directions have been complied with, and this has been verified by the Electricity Ombudsman office. The demand charges were reduced from Rs. 15640/- (Commercial) to Rs. 11760/- (Industrial) & energy charges reduced from 56,605/- to 31,885/- respectively for the period of May 2019 to Aug. 2020. Hence, we hold that this issue is settled. We are not inclined to go into the issue of further reduction in the bill based on SL of 80 HP and CD of 80 kVA, for the reasons already mentioned in para 5.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



14. So far as the prayer for compensation is concerned, the Regulation 20.4 of CGRF & EO Regulations 2020 speaks about indirect, consequential, incidental, punitive, or exemplary damages etc. as below:

“20.4 The order passed by the Electricity Ombudsman shall set out –

(a) to (d)

(e) directions to pay such amount as may be awarded by it as compensation to the Complainant for any loss or damage suffered by the consumer:

Provided, however; that in no case shall any Complainant be entitled to indirect, consequential, incidental, punitive, or exemplary damages, loss of profits or opportunity.


(f) directions to pay such amount as compensation as specified by the Commission in the Standards of Performance of Distribution Licensees.”

..... (Emphasis Added).

15. The provision of indirect, consequential, incidental, punitive, or exemplary damages etc.in the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 are as below:

“18.4. The Distribution Licensee shall not be liable for any claims against it attributable to direct, indirect, consequential, incidental, punitive, or exemplary damages, loss of profits or opportunity, whether arising in contract, tort, warranty, strict liability or any legal principle which may become available, as a result of any curtailment of supply under the circumstances or conditions mentioned in this Regulation 18.”

The Appellant prays for indirect compensation for losses. However, such compensation is not allowed as per the CGRF & EO Regulations 2020.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



16. Considering the various angles of the case, the Forum's order is modified to the extent below:


- a) The revised bill of Rs. 1,93,420/- is found to be correct.
- b) The Respondent is directed to reconnect the supply of the Appellant, if the Appellant pays 30 % amount of the revised bill of Rs. 1,93,420/- as down payment, and statutory charges of service connection as per Regulations in force.
- c) To allow the Appellant to pay the remaining amount in five monthly instalments without any interest.
- d) This proposal has a time limit of two months. If the Appellant fails to pay the down payment and service connection charges within a period of two months, the proposal offered in direction b) & c) to the Appellant can be cancelled by the Respondent.
- e) Compliance to be submitted within two months from the date of issue of this order.
- f) Other prayers of the Appellant are rejected.

17. The Appellant is advised to apply afresh for the Contract Demand as per his actual need to avoid higher billing.

18. The secretariat of this office is directed to refund Rs.25000/- taken as deposit to the Respondent TPL for adjusting in the Appellant's ensuing bill.

19. The Representation is disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

