

BEFORE THE ELECTRICITY OMBUDSMAN
(For the State of Goa and Union Territories)
Under Section 42 (6) of the Electricity Act, 2003
3rd Floor, Plot No. 55-56, Udyog Vihar - Phase IV, Sector 18
Gurugram (Haryana) 122015,
, Email ID: ombudsman.jercuts@gov.in
Phone No.:0124-4684708

Case No 222 of 2024

In the matter of Rajaram Bandekar (Sirigao) Mines Private Limited Vs Electricity Department, Government of Goa.

Appeal No-222 of 2024

Date of Original Order: 25.10.2024

Date of Revised Order: 07.11.2024

Rajaram Bandekar (Sirigao) Mines Private Limited
Through Authorized Representative
Smt. Neeta G Nayak
Registered Office: 601, 6th Floor, Dr. Ozler Forum,
Near St. Andrew's Church, Vasco Da Gama,
Goa-403802.

.... Appellant

Versus

1. The Chief Electrical Engineer,
Electricity Department,
Government of Goa,
Vidyut Bhavan, Panaji — Goa.
2. The Executive Engineer,
Electricity Department,
Div —XI, Vasco - Goa.
3. The Assistant Engineer,
Electricity Department,
Div —XI, Sub Div- I, Vasco — Goa

.... Respondents



CORRIGENDUM

Corrigendum to the Order Issued in Case No. 222 – Typographical Errors

It has come to the attention of this office that certain typographical errors were made in the order issued in Case No. 222. The Authorized Representative (AR) of the company, through email dated 5.11.2024, has brought the following errors to our notice:

1. The company name was incorrectly mentioned as "RAJARAM BANDEKAR & SONS Pvt. Ltd." in the original order. The correct name of the company is "RAJARAM BANDEKAR (Sirigao) Mines Pvt. Ltd."
2. The name of the Authorized Signatory was mistakenly written as "Smt. Meeta G Nayak." The correct name is "Smt. Neeta G Nayak."

These errors are typographical in nature and are now being corrected. The name of the company should be read as "is "RAJARAM BANDEKAR (Sirigao) Mines Pvt. Ltd." in place of "RAJARAM BANDEKAR & SONS Pvt. Ltd." and the name of Authorized signatory as "Smt. Neeta G Nayak" in place of Smt. Meeta G Nayak at all places in the original order in case No 222.

Based on the typographical errors identified above, this corrigendum is issued to rectify these mistakes and ensure the record reflects the correct information.

All other aspects of the original order remain unchanged.

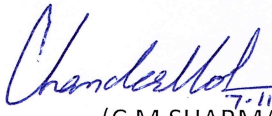
In accordance with Regulation 40(2) – Power to Review, of the JERC CGRF and Ombudsman Regulations, 2024, which empowers this authority to review and correct any orders in the case of such discrepancies, the following provision applies:



Regulation 40(2):

*An application for such review shall clearly state the matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed, **or the mistake or error apparent from the face of the record.** The application shall be accompanied by such documents, supporting data, and statements as the Ombudsman may determine.*

A copy of the order with above corrections is being enclosed herewith for all future reference and communications


(C M SHARMA)
7.11.24

Electricity Ombudsman

For Goa & UTs (except Delhi)

Dated: 7.11.2024

BEFORE THE ELECTRICITY OMBUDSMAN
(For the State of Goa and Union Territories)
Under Section 42 (6) of the Electricity Act, 2003
3rd Floor, Plot No. 55-56, Udyog Vihar - Phase IV, Sector 18
Gurugram (Haryana) 122015,
, Email ID: ombudsman.jercuts@gov.in
Phone No.:0124-4684708

Case No 222 of 2024

In the matter of Shri RAJARAM BANDEKAR (Sirigao) Mines Pvt. Ltd., Vs Electricity Department, Government of Goa.

Appeal No-222 of 2024

**Date of Video Conferencing: 07.10.2024, 9.10.2024,
18.10.2024**

Date of Original Order: 25.10.2024

Date of Revised Order: 07.11.2024

RAJARAM BANDEKAR (Sirigao) Mines Pvt. Ltd.,
Through Authorized Representative
Smt Neeta G Nayak
Registered Office: 601, 6th Floor, Dr. Ozler Forum,
Near St. Andrew's Church, Vasco Da Gama,
Goa-403802.

.... Appellant

Versus

1. The Chief Electrical Engineer,
Electricity Department,
Government of Goa,
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2. The Executive Engineer,
Electricity Department,
Div —XI, Vasco - Goa.
3. The Assistant Engineer,
Electricity Department,
Div —XI, Sub Div- I, Vasco — Goa

.... Respondents



Parties present:

Appellant(s)	Ms Ashweta Desai AR for Appellant
Respondent(s)	Mr Edwin Miranda Executive Engineer, Division XI, Electricity Department Goa

Order

The Appellant has preferred an Appeal No- 222 against CGRF- Goa order in Complaint no- 14/2024/72 dated- 25.06.2024 filed by Shri RAJARAM BANDEKAR (Sirigao) Mines Pvt. Ltd., The Appeal was admitted on 09.09.2024 as Appeal No.222. Copy of the same as received was forwarded to the Respondents with a direction to submit their counter reply on each of the points. The reply/Comments were submitted by the respondent through Email dated 09.09.2024.

Submissions by the Appellant in brief are as under: -

1. Subject Matter of Representation:

The Applicant challenges the erroneous application of the wrong Multiplying Factor by the Distribution Licensee, leading to a retrospective claim of dues amounting to ₹25,97,348.00. The claim is contrary to Clause 7.40 of the Electricity Supply Code, being time-barred as it relates to a period beyond two years from the date the amount was first due.

2. Details of Representation:

- I. The Applicant, RAJARAM BANDEKAR (Sirigao) Mines Pvt. Ltd., holds a Low-Tension Connection (C.A. No. 60001623085) for its registered office in Vasco Da Gama, Goa, obtained in 2010. The Applicant has regularly paid all electricity bills without any dues outstanding.
- II. On 05/01/2024, the Assistant Engineer of the Electricity Department issued a Notice alleging a clerical error in billing due to the incorrect application of a Multiplying Factor of "1" instead of "20," resulting in a demand of ₹ 25,97,348/-



- III. The Applicant refuted this claim in its response dated 19/01/2024, pointing out that the referenced Clauses 13(1)(a) and (b) were not part of the Applicant's L.T. Agreement, and the interpretation of Clause 7.40 was incorrect. The Applicant argued that the demand is time-barred as per the two-year limitation period under Clause 7.40 of the Electricity Supply Code.
- IV. Despite the Applicant's objections, the Distribution Licensee reiterated the demand through subsequent letters dated 31/01/2024, 09/02/2024, and 20/02/2024.
- V. The Applicant has consistently maintained that the Multiplying Factor of "1" was correctly applied and that the demand is time-barred.
- VI. The Hon. Consumer Grievances Redressal Commission, by its Order dated 25/06/2024, partially allowed the Applicant's complaint, directing the recovery of the amount in 60 equal installments without delayed payment charges. However, the Applicant is aggrieved by the upholding of the demand itself and the manner in which the complaint was adjudicated by a single member of the Commission, contrary to Regulation 11 of the Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019.
- VII. The Applicant submits that the Hon. Commission's Order is without jurisdiction, arbitrary, and contrary to law, particularly as it fails to independently assess the facts and incorrectly interprets the Multiplying Factor applicable to the connection. The decision is thus null, void, and unsustainable.
- VIII. The Applicant further submits that the Hon. Commission erred in assuming that the amounts became "first due" only upon the issuance of the supplementary bill, contrary to Clause 7.40 of the Electricity Supply Code and the established interpretation that the amounts were first due when the electricity was consumed.
- IX. The Applicant prays for the impugned Order dated 25/06/2024 to be set aside, and for the demands raised by the Distribution Licensee to be declared time-barred and unenforceable under Clause 7.40 of the Electricity Supply Code.

In light of the above, the Applicant prays that this Honorable Forum:



1. Quash the Order dated 25/06/2024 passed by the Hon. Consumer Grievances Redressal Commission in Representation No. 14/2024/72, to the extent that it upholds the demand of ₹25,97,348.00 by the Distribution Licensee.
2. Declare the demand raised by the Distribution Licensee as time-barred under Clause 7.40 of the Electricity Supply Code and direct the withdrawal of the impugned Notice.

Submissions by the Respondent :

In response, the Electricity Department contested the complaint and submitted its written version vide their Email dated 20.09.2024.

The Assistant Engineer (Comm) Sub Division I (U) Vasco that Power supply to the appellant was released on 31/07/2010 and not in 2012 as stated by the Appellant. Since the record of meter reading between 2010-2012 (11.05.2012) were not available with the department they have revised the bill from 11.05.2012 to 28.08.2023. The Department further affirms that the total outstanding as on date i.e. 27.08.2024 are 26,23,981.00/- including arrears of Rs25,97348/-

In essence, their position is that under the LT agreement, the consumer is obligated to pay any undercharged amount resulting from clerical errors.

The supplementary bills were issued after adjusting the multiplying factor (MF) from 1 to 20, a correction that was first communicated to the complainant on 23.10.2023.

A detailed billing statement reflecting this adjustment was provided. The argument that the demand is time-barred was rejected, citing the judgment of the Hon'ble Supreme Court in Civil Appeal No. 7235/2009 M/s PREM COTTEX Vs UTTAR HARYANA BIJLI VITRAN NIGAM Ltd & ORS, as well as a related decision by this Forum in Complaint/Representation No. 23/2023. Accordingly, they requested the dismissal of the complaint.

The Assistant Engineer (Com), Sub-Division I (U), Vasco has submitted that, the meter bearing Sr. No. 08837100, which was installed for the installation bearing CA No.60001623085, from the date of energization is a CT operated meter with Multiplying Factor 20 and without considering the Multiplying Factor of CT's connected the

consumption, which were billed previously was erroneous. The details of the CT's installed on each phase are as under:

1. CT Sr. No.: M-1039, CT Ratio: 100/5, Manufacturer Sr. No. I.S.S: 2705-1981
B.S.S: 3938- 1973, Date of Manufacturing: Not available
2. CT Sr No.:M-1044, CT Ratio: 100/5, Manufacturer Sr. No. I.S.S: 2705-1981 B.S.S:
3938-1973, Date of manufacturing: Not Available.
3. CT Sr No.: M-1045, CT Ratio: 100/5, Manufacturer Sr. No. I.S.S: 2705-1981 B.S.S:
3938-1973, Date of manufacturing: Not Available.

The Distribution Licensee reserves the right and it is in the prerogative of the Department to demand additional amount from the consumer who has been under billed as per the LT agreement clause 13 (a) and (b) of Model LT Agreement

The Assistant Engineer (Com), Sub. Div. I (U), Vasco has reported that, as per the directions of the Honorable Consumer Grievances Redressal Forum a part payment plan in equal installments over 60 billing cycles dtd.18/07/2024 vide letter No AE/VSG-O&M/S/D-I(U)/Accts-51(CGRF)/1192/24-25 dtd.11/07/2024 was forwarded to the appellant.

(A) Deliberation during e-hearing on 18.10.2024:-

1. Appellant's Submission:

Ms Ashweta Desai AR for Appellant submitted on behalf of the Appellant, has submitted the written arguments in reference to the hearing dated 18.10.2024. It has been submitted

- A. That Applicant/Consumer is an incorporated company with a Low-Tension Connection (LTC) at its office in Vasco Da Gama, Goa. Connection details include
C.A. No. 60001623085,
Installation No. 5000143650, and
Meter No. 8837100-S, with a sanctioned load of 60.02 kW.
- B. The company has consistently paid its electricity bills since the connection was established in 2012 without any dues or defaults.

- C. On January 5, 2024, the Electricity Department of Goa issued a notice claiming a clerical error in billing due to an incorrect Multiplying Factor. They demanded ₹25,97,348.00/- for what they alleged was undercharged from the date of energization.
- D. The Applicant responded on January 19, 2024, arguing that the demand was based on incorrect clauses and that the claim was barred by the two-year limitation period as per Clause 7.40 of the Electricity Supply Code.

Further Correspondence:

The Applicant continued to dispute the claim through several communications, pointing out that the limitation period for such a demand had expired. The Distribution Licensee persisted in demanding the payment through additional letters dated January 31, February 9, and February 20, 2024.

- E. The Applicant filed a complaint with the Consumer Grievances Redressal Forum (Forum) on June 26, 2024. The Forum ruled that the arrears could not be demanded in a lump sum and directed that the amount be recovered in 60 equal installments without delayed payment charges.

The Applicant is dissatisfied with the Forum's decision, particularly with the upholding of the demand for arrears. They are seeking further redress under Section 42(6) of the Electricity Act.

- F. Section 56 of the Act: Limits recovery of dues to two years from when the sum first became due. After this period, the amount is irrecoverable unless continuously shown as arrears.

Clause 7.40 of the Electricity Supply Code Mirrors Section 56(2), stating that no dues can be recovered after two years unless shown as recoverable. The law restricts the recovery of old dues to two years from when the amount first became due. After this period, amounts become irrecoverable unless shown as arrears in subsequent bills. This limitation protects consumers from indefinite claims and encourages distribution licensees to maintain accurate and timely billing practices.



- G. "Became First Due": Refers to the date when the payment was originally required. This date does not change due to later discoveries of errors. The Applicant argues that both the Distribution Licensee and the Forum misinterpreted "first due." The demand for arrears cannot be based on supplementary bills raised years later as this contradicts the limitation period. Bombay High Court Judgment: Emphasized that limitation does not reset with the discovery of errors. In a similar case, the court ruled that arrears beyond two years from when they first became due could not be recovered. The amounts now claimed are beyond the two-year limit from when they first became due, based on original billing dates. As such, the demand is barred by limitation.
- H. The claim for arrears from the period of May 11, 2012, to August 28, 2023, is barred by the two-year limitation period. The demand made by the Distribution Licensee is thus invalid under Section 56(2) and Clause 7.40 of the Electricity Supply Code.
- I. The connection was energized on May 11, 2012. An agreement was signed between the Applicant and the Distribution Licensee before this date. The agreement does not include Clauses 13, 13(a), or 13(b) found in the 'Model LT Agreement' outlined in a notification dated July 12, 2012. Model LT Agreement Clauses 13(a) and 13(b) of the Model LT Agreement deal with clerical errors and billing disputes, stating that claims must be within the limitation period set by law. Even if these clauses applied, they do not override the limitation period for recovering dues. It has also been submitted by the AR Ms Ashweta Desai that the original LT Agreement which has been signed by the Appellant in 2010 is having only 10 Clauses and the LT Agreement of July 2012 does not bear the signatures of Appellant.
- J. The AR representing Appellant also confirmed that they have not objected to the recorded consumption.
- K. Lack of Quorum: Rule 11 of the Joint Electricity Regulatory Commission Regulations requires at least two members for the quorum of the Forum to



decide on a complaint. A single member cannot lawfully hear or decide on complaints. The decision made by a single member of the Forum is deemed to be without jurisdiction and illegal. The impugned order is considered void and cannot be sustained.

L. Errors by the Consumer Grievance Redressal Forum:

The Forum did not adequately address the implications of Section 56(2) of the Act or Clause 7.40 of the Electricity Supply Code in relation to the case. The Forum's decision did not properly apply the law as it pertains to the limitations on recovering old dues. This constitutes a serious error in the exercise of its jurisdiction.

2. Respondent's Submission:

- A. Executive Engineer Electricity Department, Goa has submitted that the actual date of Release/energization on this connection (C A No 60001623085) is 30.07.2010 based on the endorsement on the wiring certificate bearing signatures of Appellant and Respondents authorized representatives.
- B. Further they have submitted that they have found that the CT's installed with the meter bearing Serial No 08837100-S, is having a CT Ratio of 100/5Amp on all the three phases.
- C. It is during their internal audit they discovered that the bills against this connection is being generated with the MF-1 instead of MF-20 from the date of energization.
- D. Accordingly, they have issued a notice vide letter No AE/VSG/SD-I(U)/Accts-I/2076/23-24 dtd.23.10.2023 intimating therein that they have found that MF-1 is being applied instead of MF-20 for the purpose of generating the bill. Thereafter, vide another letter No AE/VSG-O&M/S/D-I(U)/Accts-8/3418/23-24 dated 05.01.2024 raised a supplementary bill for an amount of ₹ 25,97,348/-/- which has been worked out on the basis of MF-20.
- E. It has also been submitted by the Respondent Electricity department that the meter No 0883700-S has been replaced with another meter bearing serial No A1012685 on 27.10.2023

- F. It has also been confirmed by the Respondent that they have complied the directions of Ld. CGRF order in case No 14 & 15 of 2024 and allowed the Appellant to pay the dues in 60 equal monthly installments.
- G. Furthermore, the Appellant has also submitted the judgements in the case Maharashtra State Electricity Distribution Company Ltd.; Versus Head Master, Anudanit Prathamik Ashram Shala, Devlapar and Another in W.P. No. 40 of 2017 decided on July 19, 2022 by Hon'ble High Court of Bombay (Nagpur) and Royal Sundaram Alliance Insurance Co. Ltd. Vs. Smt. Hanamava Yamanappa Jedi & Ors. First Appeal No.13 of 2014 decided on 7th May, 2014 by THE HON'BLE HIGH COURT OF JUDICATURE AT BOMBAY (PANAJI BENCH) which is taken on record.

(B) Findings & Analysis: -

The Ombudsman has gone through the documents placed on record by both the parties.

The documents submitted by the parties have been believed to be true

The issues which have reason for considerations in the present Complaint are as under:

1. Whether, as per Rule 11 of the Joint Electricity Regulatory Commission CGRF and Ombudsman Regulations 2019 requires at least two members for the quorum of the Forum to decide on a complaint. The decision made by a single member of the Forum is deemed to be without jurisdiction and illegal. The impugned order is considered void and cannot be sustained.
2. For quashing of the demand of ₹25,97,348/- dated 5.01.2024 issued by the respondent, whereby and where under a supplementary demand to the extent of ₹25,97,348/- for the period May 11, 2012, to August 28, 2023, has been raised on the ground that the earlier bills were raised erroneously with a wrong MF-1 instead of MF-20.
3. Whether the charges for electricity consumed become due only after a demand bill is issued by the Distribution Licensee and whether the Distribution Licensee can issue a demand bill even for the period preceding more than two years from the date of issuance of the demand bill on the basis



of MF correction, notwithstanding the provision of sub-section (2) of section 56 of the Electricity Act, 2003;

4. For a declaration that in view of the specific provision under Section 56(2) of the Electricity Act, 2003, regarding limitation for raising any demand and consequential disconnection, the respondent authorities cannot disconnect the electric supply till adjudication of the dispute;
5. LT Agreement signed by the Appellant in the year 2010 has only 10 Clauses and the LT agreement has been changed subsequently vide Gazette notification in July 2012. Does it has the applicability retrospectively.

As far as lack of quorum as per Rule 11 of JERC CGRF & Ombudsman Regulation is concerned Rule 12(2) of JERC CGRF & Ombudsman Regulation has a provision which states as under:

"(2) No act or proceedings of the Forum shall be deemed to be invalid by reason of any defect in the constitution of the Forum or by reason of the existence of a vacancy amongst its Members."

The electricity connection vide C.A. No. 60001623085, Installation No. 5000143650, and Meter No. 0883700-S (up to 27.10.2023) and Meter No. A1012685-E after 27.10.2023 with a sanctioned load of 60.02kW was installed on 30.07.2010. At the time of installation three CT's which as detailed hereunder have been installed on each phase (R Y B).

1. CT Sr. No.: M-1039, CT Ratio: 100/5, Manufacturer Sr. No. I.S.S: 2705-1981 B.S.S: 3938- 1973, Date of Manufacturing: Not available
2. CT Sr No.:M-1044, CT Ratio: 100/5, Manufacturer Sr. No. I.S.S: 2705-1981 B.S.S: 3938-1973, Date of manufacturing: Not Available.
3. CT Sr No.: M-1045, CT Ratio: 100/5, Manufacturer Sr. No. I.S.S: 2705-1981 B.S.S: 3938-1973, Date of manufacturing: Not Available.

The meter No 0883700-S & A1012685 are CT meter. As per the details provided by the Electricity Department the CT Ratio is 100/5 for all the three CT's as such the MF for the meter is 20. As submitted by the Respondent Electricity Department it is only because of clerical error that MF-1 has been fed in their billing system in place of MF-20. As far as the recorded consumption is concerned, it has never been disputed by the Appellant

from the date of energization of connection. Moreover, the meter, CT's were same till 27.10.2023 when the original meter No 0883700-S was replaced with another meter bearing Serial No A1012685. However, the CT's are still the same.

The Appellant was connected with electric supply for the first time 30.07.2010. The 'metering unit' was installed at the last point of supply in the premises of the Appellant i.e. 602, 6th Floor, Dr OZLER FORUM, VASCO, Goa where as a 'meter' was installed at the receiving end inside the premises for recording the consumed 'units'.

The 'metering unit's' 'current transformer ratio' (CT Ratio) 100/5A and the 'meter' were the same till 27.10.2023 when the meter is replaced with a new meter. As such the 'Multiplying Factor' (MF) 20 was applicable however, MF-1 has been applied erroneously. The complete details of the 'metering unit' as well as the 'meter' for the purpose of counting the units consumed with MF (one) was applied instead of MF-20, for billing purpose; accordingly, all the relevant data were inserted in the software/computer in respect of 'Metering Unit' for the purpose of preparing the monthly bills for the energy consumed. Accordingly, the regular bills were being generated with MF-1 till 23.10.2023 when the discrepancy was noticed by the Electricity Department and a supplementary demand to the extent of ₹25,97,348/- for the period May 11, 2012, to August 28, 2023, has been raised on the ground that the earlier bills were raised erroneously with MF-1. Since the electricity bills were being generated regularly and paid by the Appellant without raising any doubt. The respondents' mere error or omission in making the correct calculation does not constitute a genuine dispute, as the meter readings themselves have not been altered. Notably, the Appellant has not challenged the recorded readings.

Therefore, if the requirement is that any reading in a metering unit with a multiplying factor of 20 must be multiplied by 20 when issuing a demand, any correction of an error in this process is merely clerical. The respondents cannot be barred from issuing a supplementary demand, which is otherwise in accordance with the law.

Furthermore, this does not prevent the respondents from raising a supplementary demand to recover arrears, nor does it create any indefeasible right for the petitioner to avoid such payment.



In the matter of M/s Gokul Steels Private Limited Vs The South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna, in the High Court of Judicature at Patna in Civil Writ Jurisdiction Case No.9742 Of 2020, the Hon'ble High Court held that:

"13. From the aforesaid, it is clear that the petitioner never raised any dispute when the new metering unit, with multiplying factor of 02 was installed on 24.08.2015, which was clearly spelt out in the report of such installation, and the same continued till the supplementary demand was raised. Once the new metering unit was accepted by the petitioner without dispute, coupled with the fact that the installation report of the metering unit of 24.08.2015 clearly indicated such multiplying factor of 02, which was also signed by the petitioner's representative, if, for any reason, the multiplying factor had not been correctly given effect to by the respondents while raising the demand, the same would not per se enable the petitioner not to pay such charges. The simple reason of a mere error/omission on the part of the respondents in making the correct calculation would not amount to any real dispute, as the unit(s) reflected in the meter is/are not being changed and, quite importantly, even the petitioner has not raised any dispute with regard to the recording(s)/reading(s) of the new metering unit having a multiplying factor of 02. Thus, if the requirement is that for any reading in a metering unit classified as M.F. 02, the units recorded have to be multiplied with 02 while raising a demand, rectification of an error, if any, in such exercise is merely clerical. The respondents cannot be shut off from raising a supplementary demand, which even otherwise, is in accordance with law, and at the same time would not preclude or prevent them from raising supplementary demand and recovering the huge arrears and would also not create any indefeasible right in the petitioner to absolve himself from payment of the same.

14. Thus, in the considered opinion of the Court, the dispute being raised before the Court has absolutely no merits as far as the main issue is concerned which, at the cost of repetition, can be simply said to be an error



in applying the formula to be used while raising the actual demand based on reading rendered by a metering unit classified as M.F. 02, such classification of the new multiplying factor of 02 having been in the petitioner's knowledge since 24.08.2015. The petitioner has not been able to demonstrate before the Court any provision where even for M.F. 02 metering unit, there cannot be a multiplying factor of 02 and the same has to necessarily be 01. Merely because for five years there has been an oversight on the part of the respondents, that too, as learned counsel for the respondents has himself submitted, may indicate some collusion at the level of employees of the respondents also, for which steps are being taken to fix responsibility, cannot be stretched to the extent that it shall prevent the respondents from realizing an amount which was, otherwise, in law, due to them and which the petitioner was liable to pay."

The charges for electricity consumed become due only after a demand bill is issued by the Distribution Licensee and the Distribution Licensee has issued a demand bill. The period of limitation of two years would commence from the date on which the electricity charges became "first due" under sub-section (2) of Section 56. This provision restricts the right of the licensee company to disconnect electricity supply due to non-payment of dues by the consumer, unless such sum has been shown continuously to be recoverable as arrears of electricity supplied, in the bills raised for the past period.

Section 56(2) however, does not preclude the licensee company from raising a supplementary demand in case of mistake or bonafide error, after the expiry of the limitation period of two years. It only restricts the right of the licensee to disconnect electricity supply due to non-payment of dues after the period of limitation of two years has expired, nor does it restrict other modes of recovery which may be initiated by the licensee company for recovery of a supplementary demand.

Applying the above principle to the facts of the present case, the licensee company raised an additional demand of ₹25,97,348/- on January 5, 2024, for the period from May 11, 2012, to August 28, 2023. According to Section 17(1)(c) of the Limitation Act,



1963, when a mistake is involved, the limitation period begins from the date on which the mistake is first discovered. In this case, the mistake was discovered on October 23, 2023.

In Mahabir Kishore and Ors. v. State of Madhya Pradesh, the Hon'ble Court held that: –

“Section 17(1)(c) of the Limitation Act, 1963, provides that in the case of a suit for relief on the ground of mistake, the period of limitation does not begin to run until the plaintiff had discovered the mistake or could with reasonable diligence, have discovered it. In a case where payment has been made under a mistake of law as contrasted with a mistake of fact, generally the mistake become known to the party only when a court makes a declaration as to the invalidity of the law. Though a party could, with reasonable diligence, discover a mistake of fact even before a court makes a pronouncement, it is seldom that a person can, even with reasonable diligence, discover a mistake of law before a judgment adjudging the validity of the law.”

IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION CIVIL APPEAL NO.1672 OF 2020 (Arising out of SLP (Civil) No. 5190 of 2019) Assistant Engineer (D1), Ajmer Vidyut Vitran Nigam Limited & Anr. versus Rahamatullah Khan alias Rahamjulla WITH C.A.NO.1673/2020 @ SLP@NO.4721/2020 @ D.NO.33892/2018

“Section 56(2) however, does not preclude the licensee company from raising a supplementary demand after the expiry of the limitation period of two years. It only restricts the right of the licensee to disconnect electricity supply due to non-payment of dues after the period of limitation of two years has expired, nor does it restrict other modes of recovery which may be initiated by the licensee company for recovery of a supplementary demand.

Applying the aforesaid ratio to the facts of the present case, the licensee company raised an additional demand on 18.03.2014 for the period July, 2009 to September, 2011. The licensee company discovered the mistake of



billing under the wrong Tariff Code on 18.03.2014. The limitation period of two years under Section 56(2) had by then already expired. Section 56(2) did not preclude the licensee company from raising an additional or supplementary demand after the expiry of the limitation period under Section 56(2) in the case of a mistake or bona fide error. It did not however, empower the licensee company to take recourse to the coercive measure of disconnection of electricity supply, for recovery of the additional demand."

The LT agreement as signed by both the parties at the time of applying/releasing the connection do have 10 Clauses in it and 13(1)(a) and (b) were not part of the Applicant's L.T. Agreement at that time. Subsequently as per the Gazette Notification "Department of Power Office of the Chief Electrical Engineer _ Notification 150/01/CEE/Tech Condition of Supply of Electrical Energy" clause 12,13 & 14 states as under:

12. APPLICABILITY OF ACTS AND REGULATIONS.

(a) This agreement shall be read and construed as subject in all respects to the provision of the applicable Act and Regulations as noted in Distribution Code and Supply Code and of any modification or re-enactment thereof for the time being in force and the regulations for the time being in force thereunder so far as the same respectively may be applicable and subject to the conditions of supply approved from time to time by the Commission.

(b) Nothing contained in this Agreement or any amendment thereof shall restrict any rights, obligations and discretion which the Supplier may desire under any legislation relating to the supply of electricity enacted during the period of this Agreement.

13. SAVINGS AS TO CLERICAL ERROR. *(a) In the event of any clerical errors or mistakes in the amount levied, demanded or charged by the Supplier then in the case of undercharging, the Supplier shall have a right to demand an additional amount and in the case of overcharging the consumer shall*



have the right to get refund of the excess amount provided at that time such claims were not barred by limitation under the Act.

(b) The parties hereby further agree that the amount claimed in the bill shall be payable within the time allowed, irrespective of any decision to be taken regarding any disputes about its correctness or otherwise of the amount levied demanded charged by the Supplier. The Supplier shall have a right to proceed in accordance with the Act, on the basis of the amount claimed in the bills, till it is proved or established that the amount claimed was in excess of what was actually due. The consumer shall not on the plea of incorrectness of the bills withhold any portion of the bills.

14. GENERAL.— (a) The other conditions of supply in this agreement are also subject to any revision that may be decided by the Supplier as per the directions of the Commission from time to time.

As such the Electricity Department is correct in revising the bill by applying the correct MF-20 in place of MF-1.

Besides above the Appellant has quoted reference of two other cases

1. Royal Sundaram Alliance Insurance Co. Ltd. Vs. Hanamava Yamanappa Jedi and
2. Maharashtra State Electricity Distribution Company Ltd. Versus Head Master, Anudanit Prathamik Ashram Shala, Devlapar and Another

In the first case the matter relates to an accident under MV Act and has no relevance to the present case.

In the second case Maharashtra State Electricity Distribution Company Ltd. Versus Head Master, Anudanit Prathamik Ashram Shala, Devlapar and Another the crux of the matter is that the bill has not been generated by the Distribution Licensee for almost 7 years i.e. from 30-7-2007 to 20-11-2014. In this case the Hon'ble Court has restricted the recovery to Two years because it is a matter of recovery against original demand raised by the Distribution licensee whereas in the present case the issue is related to Additional demand raised on account of MF correction.

In the case of Rahamatullah Khan (supra), the Distribution Licensee issued a show-cause notice on 18-3-2014 by way of additional demand for electricity consumption for a period from July 2009 to September, 2011. The District Consumer Forum held that the

additional demand was time barred. In the context of those facts, the Hon'ble Apex Court observed that the liability to pay arises from electricity consumption. However, the obligation to pay would arise only when the Licensee Company issues the bill. Therefore, the electricity charges would become "first due" only after the bill is issued to the consumer. It must be noted that the Hon'ble Apex Court, in the case of Rahamatullah Khan (supra), was dealing with a case of additional demands and not original demands as in the facts of the present case. The Hon'ble Apex Court, therefore, framed the issue for consideration, which reads as under:

"7. The next issue is as to whether the period of limitation of two years provided by section 56(2) of the Act, would be applicable to an additional or supplementary demand." 18. In the context of the issue of additional demand, it was held in paragraph Nos. 8 as under:

"8. Section 56(2), however, does not preclude the licensee company from raising a supplementary demand after the expiry of the limitation period of two years. It only restricts the right of the licensee to disconnect electricity supply due to non-payment of dues after the period of limitation of two years has expired, nor does it restrict other modes of recovery which may be initiated by the licensee company for recovery of a supplementary demand.

The current demand is paid by the consumer. However, the department identified an error in billing related to the correction of the Multiplying Factor (MF) of the CT meter. As a result, the bill has been corrected retrospectively, leading to an additional demand, which the Appellant has contested.

In the current matter, the Electricity Department raised an additional demand due to a correction in the Multiplying Factor (MF). The original demand, raised prior to the Multiplying Factor (MF) correction, has not been contested by either party. In fact, the Appellant regularly paid the regular demand as and when raised by the department. The issue arose only upon the raising of the additional demand due to the MF correction.



Similarly, Clause 7.40 of the JERC Electricity Supply Code 2018 is not applicable in this case. Regular bills were generated by the Electricity Department, and a revised bill reflecting an amount of Rs26,57,341/- due to correction in the Multiplying Factor (MF) was issued on 05.01.2024. This revision occurred after the Electricity Department identified that an incorrect MF of 1 had been applied since energization of this connection instead of the correct MF of 20 from the date the connection was energized. The meter and Current Transformers (CTs) installed at the time of energization remained unchanged until 27.10.2023, when only the meter was replaced; the CTs were not altered. This confirms that MF-20 is the correct Multiplying Factor for billing purposes. Therefore, there is no doubt that MF-20 is the accurate factor to use.

3. DECISION

1. In view of the discussions made hereinabove, the complaint, being devoid of merit, stands dismissed.
2. The Order in Complaint No- CC -14/2024/71, passed by Learned CGRF-Goa is upheld.
3. The Electricity department may take recourse to any remedy available in law for recovery of the additional demand. The additional demand shall be recovered in 60 equal instalments, as directed by the Ld. CGRF, Goa, in its order dated 25.06.2024 along with the current dues.
4. A certified copy of this order be supplied to the Ld. CGRF, Vasco Goa.
5. A certified copy of this order be supplied to the Executive Engineer, Division XI, Electricity Department, Vasco Goa.
6. The appeal is disposed of accordingly.


(C M SHARMA)

Electricity Ombudsman
For Goa & UTs (except Delhi)

Dated: 07.11.2024