HIMACHAL PRADESH ELECTRICITY OMBUDSMAN

SHARMA SADAN, BEHIND KEONTHAL COMPLEX, KHALINI, SHIMLA-171002

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Case No.02 of 2019

In the matter of:
M/s B.R.Foods & Health,Rampur Road,Paonta Sahib(H.P)

Applicant/Representationist

Versus

1. **The** Executive Director (Personnel) H.P.State Electricity Board Ltd.,Vidyut Bhawan, Shimla-4
2. The Asstt. Engineer, Electrical Sub Division HPSEBL,Paonta Sahib(H.P.).
3. The Sr. Executive Engineer, Electrical Division, HPSEBL,Paonta Sahib (HP).

.....Respondents

And
In the Matter of
Representation under Regulation **28** of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulation 2013 against the Order dated 28.08.2019 passed by the Consumers Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No.1521/1/19/006, titled as M/s B.R.Foods & Health,Rampur Road,Paonta Sahib(H.P)V/s HPSEBL through their Counsel

Present for:

Applicant: **Sh.Rakesh Bansal**

Respondent Sh.Anil Kumar God & Er.Darshan Kumar Xen.(E) Divn. HPSEBL, Ponta Sahib

(ORDER)

(Last Heard on 20.11.2019)

Heard. Taking into consideration, the arguments exchanged by representatives of both the parties during the course of hearing and the Application/ Petition and Additional submission in support of Review petition/ application filed by the Applicant/ Respondent Board in context of the Order dated 28.08.2019 passed by the Consumers Grievances Redressal Forum of HPSEBL, Shimla-9(H.P) in Complaint No.1521/1/19/006, titled as M/s B.R.Foods & Health,Rampur Road,Paonta Sahib(H.P)V/s HPSEBL through their Counsel.

Complainant's Contention.

The complainant has a sanctioned connected load 97.9KW at 11 KV and is engaged in manufacture of food products. The complainant is issued bills on monthly basis as per provisions of the tariff orders, supply Code, 2009 and sales Manual issued by the respondents. The complainant has been regularly paying the electricity dues on regular basis within the due dates. On 26.02.2016 the complainant received a letter from respondent number 2,asking him to deposit a sum of Rs.17,14,562/- on account of short recovery because of wrong multiplying factor as per RAO audit for the period 4/2012 to 3/2013 Para No.2(B) from 6/2010 to 5/2013. The letter further threatened that the amount will be recovered through the current energy bill. In the detail attached with the letter there was a calculation showing that the multiplying factor was to be charged @ 666 in place 0.666 that was charged and an amount was calculated for energy consumption for the period 6/2010 to 5/2013 on different energy rates applicable for different years.

The complainant checked his energy bills and found that the energy bills were issued at 0.666 only which was the correct multiplying factor being applied even in 2016-2017.

The complainant afraid of getting his supply from being disconnected was left with no choice but to make the payment in parts as he was allowed to pay in instalments. The complainant made the following payments in lieu of the demand of Rs.17,14,562/-.

Op Balance	due date	payment	Closing Balance
1714562	26-06-2016	0	1714562
1714562	18-07-2016	285760	1428802
1428802	29-08-2016	285760	1143042
1143042	24-11-2016	285760	857282
857282	03-05-2017	300000	557282
557282	15-05-2017	257282	300000
300000	15-05-2017	350000	-50000
-50000	17-05-2017	220530	-270530
-270530		0	-270530
Total		1985092	

Besides recovering the amount in demand notice the respondent number 2 recovered excess amount of Rs.2,70,530/- than the amount of demand notice. The complainant company after payment of entire amount demanded by the respondents approached the consumer Grievances Redressal forum vide complaint No.1521/1/19/006 which was admitted on 27.03.2019. The complaint after admission was replied by the respondents and thereafter a rejoinder was filed by the complainant company after which the complaint was listed for

arguments on 28.08.2019. An order was passed on the same date and the complaint was not allowed by the Forum.

The complainant is feeling aggrieved against the order dated 28.08.2019 of the consumer Grievances Redressal forum passed in complaint Number 1521/1/19/006 and the complainant company is filling this representation on the following grounds:-

a) That the orders dated 28.08.2019 passed in complaint no. 1521/1/19/006 passed by the consumer Grievances Redressal Forum of HPSEBL and the demand notice dated 26.06.2016 (hereinafter referred to as impugned orders) are bad in law, suffer material irregularities and illegalities and is liable to be quashed and set aside as the CGRF has dismissed the complaint on the basis of it being as the same was admitted on 27.03.2019 beyond a period of three years from the cause of action. The Forum has on its own brought in the limitation period of three year, which is nowhere mentioned in the Electricity Act,2003 or any of the Regulations notified this Act. The limitation period of three year is not applicable in the present case. In the Electricity Act,2003 a limitation period of two year is prescribed u/s 56(2) for recovery of dues/ arrears which is only meant for the recovery of suppliers dues for consumer protection, whereas this is not applicable vice versa.

b) That the orders dated 28.08.2019 passed in complaint no. 1521/1/19/006 passed by the consumer Grievances Redressal Forum of HPSBL and the demand notice dated 26.02.2016 are bad in law, suffers material irregularities and is liable to be quashed and set aside as the respondent had served the notice dated 26.02.2016 for recovery of arrears for the period June 2010 to May 2013, which was hopelessly time barred. The due demanded by the respondent were barred under section 56(2) of the Electricity Act,2003 as the demand was raised for the first time after a lapse of almost three to five year after the date of issuance of bills and the dues were not continuously shown as arrears. None of the dues that were demanded were relevant to the period of two years immediately preceding the dated of notice i.e.26.02.2016.

The matters of debate of limitation period u/s 56(2) has now been put to rest by a recent judgement pronounced by the High Court of Judicature at Bombay Civil Appellate Jurisdiction adjudged by a three judge bench in the writ petition No.10764 of 2011 in the case of Maharashtra state Electricity Distribution Company Ltd. Versus the Electricity Ombudsman, Mumbai. The key paras of judgements are as follows:

"Issues addressed in the judgement:

12 Hence, I deem it necessary to request the Hon'ble the Chief justice to refer the following issues to the larger Bench consisting of at least 3 judges.

The issues to be referred is as under:

i) Whether irrespective of the provisions of Section 56(2) of the Electricity Act,2003,Distribution Licensee can demand charges for consumption of electricity for a period of more than two years preceding the date of the first demand of such charges;

ii) Whether the charges for electricity consumed become due only after a demand bill issued by the Distribution Licensee and whether the Distribution Licensee can issue a demand bill even for the period proceeding more than two years from the date of issuance of demand bill notwithstanding the provision of Sub section 2 of Section 56 of the Electricity Act,2003;

iii) Which of the judgment of the Division Bench namely Awadesh S.pandey v/s.Tata power Co. Ltd., reported in AIR 2007 Bombay 52 or the judgment of the Division Bench in the case of Rototex Polyester & Another, reported in 2010(4) have correctly the provisions of Section 56(2) of the Electricity Act."

The conclusion in the judgment is given below:

"77. There, the Division Bench held and agreed with the learned single judge of this Court that the sum became due and payable after a valid bill has been sent to the consumer. It does not become due otherwise. Once again and with great respect, the understanding of the Division Bench and the Learned Single judge with whose judgment the division Bench concurred in Rototex Polyester (supra) is that the electricity supply is continued. The recording of the supply is on an apparatus or a machine known in other words as an electricity meter. After that recording is noted that the electricity supply company /distribution company raises a bill. That bill seeks to recover the charges for the month to month supply based on the meter reading. For example for the month of December,2018,on the basis of the meter reading, a bill would be raised in the month of January,2019. That bill would be served on the consumer giving him some time to pay the sum claimed as charges for electricity supplies for the month of December,2018.

Thus, when the bill is raised and it is served, it is from the date of the service that the period for payment stipulated in the bill would commence. Thus, within the outer limit the amount under the bill has to be paid else this amount can be carried forward in the bill for the subsequent month as arrears and included in the sum due or recoverable under the bill for the subsequent month. Naturally, the bill would also include the amount for that particular month and payable towards the charges for the electricity supplied or continued to be supplied in that month. It is when the bill is received that the amount becomes first

due. We do not see how, therefore, there was any conflict for Awadesh Pandey's case (supra) was a simple case of threat of disconnection of electricity supply for default in payment of the electricity charges. That was a notice of disconnection under which the payment of arrears was raised. It is was notice of disconnections setting out the demand which was under challenge in Awadesh pandey's case. That demand was raised on the basis of the order of the Electricity Ombudsman. Once the division Bench found that the challenge to the Electricity Ombudsman's order is not raised, by taking into account the subsequent relief granted by it to Awadesh pandey,there was no other course left before the division Bench but to dismiss Awadesh pandey's writ petition. The reason for that was obvious because the demand was reworked on the basis of the order of the Electricity Ombudsman. That partially allowed the appeal of Awadesh Pandey's case were clear and there the demand was within the period of two years,that the writ petition came to be dismissed. In fact, when such amount became first due, was never the controversy. In Awadesh Pandey's case, on facts,it was found that after reworking of the demand and curtailing it to the period of two years preceding the supplementary bill raised in 2006, that the bar carved out by subsection (2) of Section 56 was held to be inapplicable. Hence there, with greatest respect, there is no conflict found between the two Division Bench judgments.

78. Assuming that it was and as noted by the learned Single judge in the referring order still, as we have clarified above, eventually this is an issue which has to be determined on the facts and circumstances of each case. The legal provision is clear and its applicability would depend upon the facts and circumstances of a given case. With respect, therefore, therefore, there was no need for a reference. The para 7 of the Division Bench's order in Awadesh pandey's case and para 14 and 17 of the latter judgment in Rototex polyester's case should not be read in isolation. Both the judgments are not be read like statutes. The judgments only interpret statutes are already in place. Judges do not make law but interpret the law as it stands and enacted by the parliament. Hence, if the Judgments of the two division Benches are read in their entirety as a whole and in the backdrop of the factual position, then there is no difficulty in the sense that the legal provision would be applied and the action justified or struck sown only with reference to the facts unfolded before the court of law. In the circumstances, what we have clarified in the foregoing paragraphs would apply and assuming that from the judgments in Rototex Polyester's case an inference is possible that a supplementary bill can be raised after any number of years, without specifying the period of arrears and the details of the amount claimed and no bar or period of limitation can be read, though provided by subsection (2) of section 56, our view as unfolded in the foregoing paragraphs would be the applicable interpretation of

the legal provision in question. Unless and until the preconditions set out in subsection (2) of section 56 are satisfied, there is no question of the electricity supply being cutoff. Further, the recovery proceeding may be initiated seeking to recover amount beyond a period of two years, but the section itself imposing a condition that the amount sought to be recovered as arrears must,in fact,be reflection and shown in the bill continuously as recoverable as arrears, the claim cannot succeed.

Even if supplementary bill are raised to correct the amount by applying accurate multiplying factor, still no recovery beyond two years is permissible unless that sum has been shown continuously as recoverable as arrears of charged for the electricity supplied from the date when sum became first due and payable.

79. as a result of the above discussion, the issues referred for our opinion are answered as under:

A) The issue No.(i) is answered in the negative. The Distribution Licensee cannot demand charges for consumption of electricity for a period of more that two years preceding the date of the first demand of such charges.

(B) As regards issue No.(ii), in the light of the answer to issue No.(i) above, this issue will also have to be answered accordingly. In other words, the Distribution Licensee will have to raise a demand by issuing a bill and the bill may include the Amount for the period preceding more than two years provided the condition set out in subsection (2) of section 56 is satisfied. In the sense, the amount is carried and shown as arrears in terms of that provision.

(C) The issue No.(iii) is answered in terms of our discussion in paras 77 & 78 of this judgment.

c) That the order dated 28.08.2019 passed in complaint no. 1521/1/19/006 passed by the Consumer Grievances Redressal Forum of HPSBL and the demand notice dated 26.02.2016 are bad in law, suffers material irregularities and illegalities and is liable to be quashed and set aside as the Forum has believed that the amount was not deposited under protest by the complainant. Here, the legality of recovery of due is in question and not whether they were deposited under protest or willingly. Illegal demands raised by anybody, even if they are deposited, cannot be allowed to sustain and made legal, merely because a protest was not lodged. If such illegal demands are allowed to be termed as legal, the law will simply lose its standing and enforcement. First of all it is important that illegal demands are not raised. The persons raising illegal demands must be stopped by all means from such actions. In the present case, the respondent enjoys a monopolistic

position as the complainant does not have any choice of supplier. The complainant at all the time is in a state of fear of disconnection of power supply in case the dues,whether legitimate or illegitimate are not paid by the complainant. The consumer cannot be barred from protesting against over recovery at any stage. The fact that the complainant approached the CGRF clearly shows that he was aggrieved by the demand notice of respondents, although the definite protest was lodged in the shape of complaint well within the two years from the date of last payment. The complainant in this case first cleared the payment fearing disconnection and then approached the Forum for redressal of his grievance. The right of the complainant cannot be denied.

d) that the orders dated 28.08.2019 passed in complaint no. 1521/1/19/006 passed by the Consumer Grievances Redressal Forum of HPSBL and the demand notice dated 26.06.2016(hereinafter referred to as impugned orders) are bad in law, suffers material irregularities and illegalities and is liable to be quashed and set aside as the respondents have recovered higher amount than that was demanded vide the notice. In all fairness, any surcharge for late payment etc. should not have been recovered from the complainant as the mistake that lead to accumulation of arrears were on the part of the respondent. The respondents have recovered through bills a sum of Rs.2,70,530/-over and above the original amount of Rs.17,14,562/- that was calculated and intimated to the complainant.

Respondents Contention:

That the contents of ground of representation pertaining to record are admitted and contrary to record are denied specifically. It is further submitted with due respect that the appellant/ complainant is stopped to file the present representation by his own act and conduct, because the replying respondent issued demand notice to the respondent on 26-6-2016 and the complaint has been filed in the month of March, 2019 after the expiry of period of two years as is prescribed in Regulation No. 19 of the HPREC Consumer Grievance Redressal (CGRF and Ombudsman) Regulation 2013. Furthermore, the appellant/ complainant deposited the entire amount including the surcharge amount instalments without any protest. It is further submitted that the replying respondent has raised the demand notice as per rules and regulations and on the basis of the audit done by the RAO party for the years 6/10 to 3/10, 4/10,to 3/12, 4/12 to 3/13 and 4/13 to 5/13. It is further submitted that an audit was conducted on 04.02.2014 to 12.02.2014 and it is pointed out by the RAO party that the energy meter installed in the premises of the appellant/ complainant was in fact MWH/MVAH meter but in the SCO the same was mentioned as KWH meter resultantly the multiplying factor of 1000 of meter was not applied to arrive at the consumption of the consumer till 6/13 and multiplying factor of

0.666(due to installation of CT/PT of 10/05 and meter of 15/5) was applied instead of applying 666 and which has resulted in short recovery of energy charges amounting to Rs.17,14,562/-. On the basis of audit the demand notice was raised on 26.02.2016, which is accordance with the tariff order, rules and regulations. It is pertinent to mentioned here that the appellant/ complainant has not paid any access amount to the replying respondents as a matter of fact the appellant/ complainant has paid this amount in instalment and surcharge was levied on the unpaid amount. However, it is submitted

That the replying respondent has not committed any illegality and the demand is as per actual consumption and rules tariff order. The appellant/ complainant has not approached this Hon'ble Forum with the clean hands and concealed material fact. It is submitted that the account of appellant/ complainant has not been overhauled for any kind of defect in clerical mistake at Sub-Division Office because energy meter installed at the appellant/ complainant premises was MWH meter and the multiplying factor was calculated on the basis on KWH reading. So the overall MF was to be multiplied by 1000 account of MWH. Due to clerical mistake applicable MF was wrongly applied so as KWH as 0.666 instead of 666. Since the appellant/ complainant was making huge production and the low consumption which were being earlier raised were not justified as per the production. Therefore, the appellant/ complainant has been charged for actual consumption used by him and surcharges applicable thereon. No other charges as such have been recovered from the appellant/ complainant. The amount of Rs.17,14,562/- charged by the replying respondents is legally justified and in accordance is not maintainable and same representation of the appellant/ complainant is not maintainable and same is liable to be dismissed. It is submitted the replying respondent issued demand notice to the appellant/ complainant on 26-2-2016 and thereafter the appellant/ complainant deposited the entire amount including the surcharge amount in instalments and the appellant/ complainant has not chose to agitate the demand notice dated 26-2-2019 at that time. Therefore, the Ld Forum has rightly passed the order dated 25-8-2019,which is well reasoned order and the same has been passed on the basis of the record placed before the Forum. It is further submitted that case law cited by the appellant/ complainant is not applicable in the facts and neither circumstances of the present case nor the provisions of section 56(2) of the Electricity Act 2003,because the demand notice has been raised by the replying respondent for the first time on 26/02/2016 on the basis of recovery pointed out by the RAO party and which is continuously reflected in the bill and same stood deposited by the appellant/ complainant without any protest as such the representation of the complainant is not sustainable in the eyes of law and same is liable to be dismissed. It is further submitted here that the demand as is raised by the replying respondents is not hit by the

provision of Section 56(2) of the Electricity Act 2003 and by the provisions of the Limitation Act 1963. The case law and provisions of the law cited by the complainant are not applicable in the facts of the present case as the demand has for the first time raised by the replying respondent by way of demand notice dated 26/02/2016 for the first time and the period of limitation of two years will start to run from 26/02/2016 and not from earlier date as such the demand of the replying respondents is well within time. The word "due" under Electricity Act,2003 section 56(2) means due and payable after a validP bill has been sent to the consumer and prior thereto. The Delhi high Court in H.D. Shourie Vs. Municipal Corporation of Delhi, has hold that, "The amount of charges would become due and payable only with the submission of the bill and not earlier. It is the bill which stipulates the period within which the charges are to be paid. The period which is provided is not less than 15 days after the receipt of the bill. If the word "due" in section 56(2) of the Electricity Act 2003, is to mean consumption of electricity, it would mean that electricity charges would become due and payable the moment electricity is consumed and if charges in respect thereof are not paid then even without a bill being issued a notice of disconnection would be liable to be issued under in section 56(2) of the Electricity Act 2003,. This certainly could not have been the intention of the legislature. In section 56(2) of the Electricity Act 2003, gives a right to the licensee to issue not less than 7 days' notice if charge due to it is not paid. The word "due"in this context must mean due and payable after a valid bill has been sent of the consumer. It cannot mean 7 days notice after consumption of the electricity and without submission of the bill". The Hon'ble Appellate Tribunal for Electricity (Appellate Jurisdiction) in their judgment dated 14.11.2006 delivered in appeal No. 202 & 203 of 2006 in the matter of Ajmer Vidyut Vitran Nigam Chittorgarh, Rajasthan V/S M/s Sisodia Marble & Granites Pvt. & Ors, F-101,102 RIICO Industrial Area, Chittorgarh-312 001 & Ajmer Vidyut Nigam Chittorgarh,Rajasthan V/s Safe Polymers Pvt. Ltd. & Anr.,64-65, Udyog Vihar Sukher, Udaipur, Rajasthan held as under:-"

Thus, in our opinion, the liability to pay electricity charges is created on the date electricity is consumed or the date the meter reading is recorded or the date meter is found defective or the date theft of electricity is detected but the charges would become first due for payment only after a bill or demand notice for payment is sent by the licensee to the consumer. The date of the first bill/demand notice for payment, therefore, shall be the date when the amount shall become due and it is from that date period of limitation of two years as provided of limitation of two year as provided in Section 56(2) of the Electricity Act,2003 shall start running".

It is further submitted here that judgement cited by complainant passed by the Bombay High Court in the case CWP No. 10764 of 2011 Maharashtra State Electricity Distribution

company Limited Versus Electricity Ombudsman and others is not applicable to the case of the complainant. In this case the learned Single judge was of the opinion that there was conflict in between the judgments in Awdesh S. pandey Versus Tata Power Co. Ltd. and others and M/s Rototex Ployster & Another Versus Administrator of Dadar & Nagar Haveli (UT) Electricity, Silvassa & others and the CWP No. 10764 was referred to the large bench which was decided on 12/03/2019 and upheld the judgments passed in the case of Awdesh S.Pandey and M/s Rototex Ployster & Another and has held that the judgments are to be read as whole covering the facts and circumstances of the each case. As such it has been held as under:-

"Assuming that it was and as noted by the Learned Single Judge in the referring order, still, as we have clarified above, eventually this is an issue which has to be determined on the facts and circumstances of each case. The legal provision is clear and its applicability would depend upon the facts and circumstances of a given case. With respect, therefore, there was no need for a reference. The para 7 of the Division Bench's order in Awadesh Pander's case and paras 14 and 17 of the latter judgment in Rototex Polyesters case should not be read in isolation. Both the judgments would have to be read as a whole. Ultimately, judgments are not be read like statutes. The judgments only interpret statutes, for statutes are already in place. Judges do not make law but interpret the law as it stands and enacted by the Parliament. Hence, if the judgments of the two Division Benches are read in their entirety as a whole and in the backdrop of the factual position, then, there is no difficulty in the sense that the legal provision would be applied and the action justified or struck down only with reference to the facts unfolded before the Court of law. In the circumstances, what we have clarified in the foregoing paragraphs would apply and assuming that from the judgment in the Rototex Polyester's case an inference is possible that a supplementary bill can be raised after any number of years without specifying the period of arrears and the details of the amount claimed and no bar or the period of limitation can be read, though provided by the sub section 2 of section 56, our view as unfolded in the forgoing paragraph would be applicable interpretation of the legal provision in question. Until and unless conditions set out in the sub- section 2 of section 56 are satisfied there is no question of the electricity supply being cut off. Further the recovery proceeding may be initiated seeking to recover the amounts beyond a period of two years. But the section itself imposing a condition that the amount sought to be recovered as arrears must, in fact, be reflected and shown in the bill continuously as recoverable as arrears, the claim cannot succeed. Even if supplementary bills are raised to correct the amounts by applying accurate multiplying factor, still no recovery beyond two years is permissible unless that sum has been shown continuously as recoverable as arrears of

charges for the electricity supplied from the date when such sum became first due and payable."

It is further submitted that the APTEL in the matter of Ajmer Vidyut Vitran Nigam Limited vs. M/s Sisodia Marble & Granites Private Limited and others,has held that the charges would become first due for payment only after a bill or demand notice for payment is sent by the licensee to the consumer and, thus, the date of the first bill/demand notice for payment shall be the date when the amount shall become due and the period of two years has to be counted from the said date in terms of section 56(2) of the Act. The decision in M/s Sisodia Marble & Granities Private Limited's case (supra) was upheld by the Supreme Court in Civil Appeal No. D 13164 of 2007. Similar is the view of the High Court of Punjab and Haryana CWP No.8228 of 2015 titled as Bank of India versus The Punjab State Power Corporation Limited and others decided on 21/08/2017. In the present case also the period of limitation will start to run from the date when the demand notice was served upon the complainant and not prior to that date as such the demand of the replying respondents is legally justified and complainant is liable to make the payment of the same.

In view of forgoing submission it is, therefore, humbly prayed that the representation filed by the complainant may kindly be dismissed with cost, in the interest of justice.

Order of CGRF:

1. This complaint has been preferred mainly against the Demand raised by the Respondent Board vide their letter dated 26.02.2016 asking him to deposit a sum of Rs.17,14,562/- on account of short recovery because of wrong multiplying factor as per RAO Audit for the period 04/2012 to 03/2013 para No.2(b) from 6/2010 to 5/2013. That, besides recovering the amount of Demand Notice the Respondent No.2 recovered excess amount of Rs.2,70,530/-.

2. The Respondent, in their reply stated that on the basis of audit the Demand Notice was raised on 20.02.2016 which is in accordance with the Tariff Rules and Regulations. That, the Complainant has deposited the amount in instalments over a period of one year and surcharge has been levied on the remaining outstanding payments in accordance with Rules and Regulations.

3. We have gone through the case file carefully and also considered the arguments advanced by the Learned Counsels of the parties. The Demand Notice was raised by the Respondent Board on 26.02.2016 and the Complainant deposited the entire amount including the surcharges amount in eight instalments started w.e.f. 25.02.2016 to

17.05.2017. However, the Complainant chose to agitate the Demand Notice of 26.02.2016 by filing the Complaint on 26.06.2016, well beyond a period of three years rendering it to be hopelessly time barred.

4. Even while considering the issue on merits, we find that the entire amount was deposited by the complaints within a period of 18 month and without any protest. If the complainant left aggrieved from the Demand Notice of 26.02.2016 he should have either moved a Complaint against it within the prescribed time limit or at least deposited the amount under protest. But, he did not resort to either of the two. The present Complaint moved by him after three year appears to be an after thought.

5. The Forum, therefore, holds that the present Complaint is bereft of any merits and is accordingly dismissed.

6. The case is decided in favour of the Respondent Board and against the Complainant/Consumer.

7. The file be consigned to record room after due completion. The copy of the order be kept in safe custody of folder of orders. A certified copy of these order be supplied to both the parties.

Electricity Ombudsman findings and order:

After going through the applicant's contentions, reply of respondent, rejoinder other relevant documents and listening to arguments of counsels, it is quite clear that the applicant has not paid any undue electricity charges to the respondent. The amount of arrear, in question deposited by applicant (for the period 6/2010 to 5/2013), through instalments, is actually the unpaid energy charges which otherwise would have been deposited by the applicant, had it been correctly charged by respondent in the monthly bills. The respondents raised this demand only when Audit Parity pointed it out during their audit inspection. No doubt, the respondent raised the demand some what late but it cannot be denied that the applicant actually did consume the electricity (as recorded by electricity meter) and remained 'under billed' due to application of wrong multiplying facto (M.F). The meter reading was to be multiplied by 666 instead of 0.666. This wrong calculation of M.F is a mistake on the part of respondent, due to which this amount accumulated to a big "arrear amount'.As such the demand raised by respondent is correct and the applicant has been charged for the actual consumption of electricity. Meanwhile, also the applicant deposited the entire amount including surcharge without any fuss and without agitating the matter. As for as issue of surcharge is concerned this could not have

cropped up, had the respondents issued the correct monthly bills, but due to wrong calculation this accumulated to big arrear amount' The mistake was on the part of respondent, which could not issue the correct energy bills hence applicant should not suffer for this delay.

So, in view of above it is concluded that the respondent has raised the correct demand (for the actual amount of electricity consumed) and the same cannot be left unrecovered but at the same time the applicant cannot be burdened with levying surcharge for no fault on his part. Hence respondent Board may accord waiver for the surcharge levied.

The compliance of the order be reported within a month from the issue of this order.

Dated 30.11.2019

Electricity Ombudsman