



COMMLJDP/353

JODHPUR VIDYUT VITARAN NIGAM LIMITED

No.JdVVNL/C&MD/CE(CPM)/SE(RA&C)/JU/2006-07/D. 1784 Dt. 9/11/06

ORDER

Sub : Limitation prescribed by Law in raising Debits as a consequence to meter found defective on testing-Debiting the assessment within 2 years.

With regard to limitation of law applicable in the matter of amount due from any consumer relating to Electricity Charges etc. Section 56(2) of the Electricity Act-03 is applicable. The same is reproduced hereunder :-

Sec.56(2):

"Notwithstanding anything contained in any other law for the time being in force, no sum, due from any consumer under this section, shall be recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable, as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity".

On the basis of the provisions of the Electricity Act, similar provision exists in the Electricity Supply Code notified by the R.E.R.C. and also in the "Terms and Conditions for Supply of Electricity-04". The clause 39 of the Electricity Supply Code and the clause-49 of the TCS-04 is relevant on the subject matter. Clause 49 of TCS-04 is also reproduced hereunder :-

Clause-49 of TCS-04 :

"No sum due from any consumers on account of charges for electricity or any sum other than a charge for electricity shall be

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recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as arrears and the Nigam shall not cut off supply of electricity ”.

On perusal of the aforesaid provisions, it is clear that no sum due from any consumer is recoverable after a period of two years from the date when such sum become first due unless such sum has been shown continuously as arrear of charges for Electricity Supply and the licensee shall not cut off the supply of the electricity. It is, therefore, necessary to know that if a period of two years has passed from the date any amount of electricity charges becomes first due from any consumer and in case the demand has not been raised within the prescribed two years period, the same cannot be recovered.

If this provision is applied in cases where the metering equipment of the consumer is checked by the meter wing officers and in case the meter is found to be stopped or meter is declared as defective on the basis of test report, in such cases, the assessment under clause-27 of the TCS-04 or under clause 28 of the TCS-04 is required to be made. If the assessing officer fails to assess the amount and debit the same in the bill of the consumer and if a period of two years has passed from the date of checking then the amount cannot be recovered in terms of Section-56(2) of the Electricity Act-2003 as the same becomes time barred and there is no provision in the Act for condoning the delay occurred in raising the demand.

The State Regulatory Commission had also decided cases involving delay in debiting assessment amount to Ajmer Discom in the

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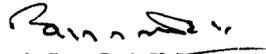
petition No.RERC/90/06 and 91/06 in the matter of M/S Sisodia Marble and Granites Pvt. Ltd. & M/S Sem Polymer Pvt. Ltd., Udaipur. Based on the directions/orders of RERC as laid down while deciding aforesaid petitions the sum becomes due from the date when the meter is found defective or metering errors are detected as per test report whichever is later, and the same is required to be debited within limitation period of two years failing which the assessment would become time barred in terms of Sec.56(2) of Electricity Act and hence not recoverable from consumer.

This matter was submitted for consideration of the Coordination Committee in its 97th meeting held on 28th Sept., 06. The Coordination Committee noted the position brought out in the agenda note and also noted that circular be issued by Discoms to sensitise the field officers to take care of limitation bar in raising debits of assessment.

From the position submitted above, it is clear that if the demand for electricity charges is raised after expiry of two years from the date of testing, the same is not recoverable because of limitation prescribed under the Electricity Act-2003 and therefore utmost care is necessarily required in keeping watch over such demands to avoid these becoming barred by limitation of law as prescribed by Electricity Act, and causing further implications.

It is, therefore, enjoined upon all field officers to strictly follow the instruction enumerated herein above.

By Order,


(A.M. LODHA)

CHIEF ENGINEER(CPM)
JODHPUR DISCOM:JODHPUR