

BEFORE THE COMPLAINANT GRIEVANCE REDRESSAL FORUM
B.E.S. & T. UNDERTAKING

(Constituted under section 42(5) of Electricity Act 2003)

Ground Floor, Multistoried Annex Building,
BEST's Colaba Depot
Colaba, Mumbai - 400 001

Telephone No. 22853561

Representation No. S-(EA)-171-2012 dtd. 30/10/2012

Mr. Jignesh N. MehtaComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Quorum : Chairman
Shri R U Ingule, Chairman

Member
1. Shri M P Thakkar, Member
2. Shri S M Mohite, Member

On behalf of the Complainant : 1. Shri Jignesh Mehta
2. Shri Ram Prasad

On behalf of the Respondent : 1. Shri R. S. Kale, Div. Engr. (EA Dept.)
2. Shri A. Y. Khan, Asst. Engr. (EA Dept.)
3. Shri U. D. Junnare, Adm. Officer (I. A. Dept.)

Date of Hearing : 06/12/2012

Date of Order : 27/12/2012

Judgment by Shri. R.U. Ingule, Chairman

Mr. Jignesh N. Mehta, Rahul Niwas, 2nd floor, Flat no. 4, 34, Walkeshwar Road, Mumbai - 400 006 has come before the forum for dispute regarding incorrect and unjustified billing pertaining to A/c no. 460-481-013*3.

Complainant has submitted in brief as under :

- 1.0 The complainant has approached to IGR Cell on 14/08/2012 for dispute regarding debit of Rs. 1,22,257.17 raised for the period from 27/10/1998 to 09/05/2000 pertaining to A/c no. 460-481-013*3. On receipt of the complaint the Licensee has revised the amendment claim for the period from 09/11/1999 to 09/05/2000 i.e. Rs. 90,305.57. The complainant has approached to CGRF in schedule 'A' dtd. 01/11/2012 as he is not ready to pay the additional amount of Rs. 90,305.57, since it is not his liability and it belongs to M/s K.N. Oil, the earlier occupant. The complainant has requested fair justice from the Forum.

**Respondent, BEST Undertaking in its written statement
in brief submitted as under :**

- 2.0 Meter no. 0921884 installed on 25.11.1994 at above premises i.e.R.No.4, Floor no.2, Rahul Niwas,Bldg.no.34, Walkeshwar, Mumbai-400 006, found counter defective on 14.3.2000.
- 3.0 The said defective meter no. 0921884 was replaced on 9.5.2000 by meter no.L980644 under intimation to complainant's representative. The bill was amended for the period from 27.10.1998 to 09.05.2000 on the basis of average monthly consumption of 1261 units recorded by meter no. 0921884 during period from 29.10.1997 to 27.10.1998. The amendment claim amount was ₹ .38,747.34. Further, as per the record of Licensee, it was found that amount of ₹ .83,509.83 was wrongly credited in the month of Feb.2001. Hence, the total amount of ₹ .1,22,257.17 was required to be recovered from complainant and same was informed to complainant vide their letter dtd. 21.2.2005 and 26.6.2008. Even after persistent follow up, complainant did not pay amount of ₹ .1,22,257.17, therefore a reminder was sent on 22.9.2009.
- 4.0 The Licensee had taken out an Administrative Order no. 349A on 6.1.2011 for revision of old defective meter cases. According to which the claim was revised for the period from 9.11.1999 to 9.5.2000 by considering average monthly consumption recorded during the base period from 29.10.1997 to 27.10.1998 and revised the claim to ₹ .6,795.74.
- 5.0 The net debit amount of ₹ 90,305.57 including wrongly credited amount of ₹ .83,509.83 was informed to the complainant vide letter dtd. 6.2.2012. Subsequently, the amendment claim amount Rs.90305.57 was debited in complainant's A/c in the month of July 2012.
- 6.0 The Licensee further stated that M/s. K.N.Oil was using the said premises earlier and Shri Jignesh N.Mehta is new consumer. Therefore, new consumer is liable for the payment of amendment claim. In this regard, they have quoted the MERC regulations 2005 Clause 10.5 which states that, "Any charge for electricity or any sum other than a charge for electricity due to the Distribution licensee, which remain unpaid by a deceased consumer or the erstwhile owner / occupier of any premises, as case may be shall be a charge on the premises transmitted to the legal representatives / successors-in-law or transferred to the new owner /occupier of the premises, as the case may be and the same shall be recoverable by the Distribution licensee as due from such legal or new owner / occupier of the premises, as the case may be.
Provided that except in the case of transfer of connection to a legal heir the liabilities transferred under this regulation 10.5 shall be restricted to maximum period of six months of the unpaid charges for electricity supplied to such premises".
- 7.0 Previous consumer K.N.Oil had not settled the outstanding dues with Respondent BEST. The arrears amount was continuously shown till the month of March-2009. Later on,

inadvertently, it did not appear in the bill from 2009 onwards. However, the revised claim was debited in the complainant's bill from the bill of July 2012.

- 8.0 In view of the above, amendment bill issued by the Respondent BEST is to be treated as accurate as per MERC regulations and therefore complainant be directed to make the payment of revised amendment claim.
- 9.0 The complainant may not be allowed to produce any more evidences before the Hon'ble CGRF during the hearing of the case without giving an opportunity to offer the comments of Respondent BEST. The complainant shall not be allowed to change the facts of the case presented in his application.

REASONS :

- 10.0 We have heard complainant Shri Jignesh Mehta in person and for Respondent BEST Undertaking Shri R. S. Kale (DEEA). Perused papers on record.
- 11.0 Contraversy raised in this complaint for its redressal moves in a very narrow compass. Admittedly premises under consideration was previously owned by M/s. K. N. Oil Industries. Subsequently, the same has been bought by the present complainant.
- 12.0 When the premises was in possession of M/s. K. N. Oil Industries, the meter No. 0921884 installed in the said premises was inspected on 14.3.2000 to find the same was a "stopped meter". Accordingly this Forum finds the inspection report provided to M/s. K. N. Oil Industries duly counter signed by its representative at the foot of it. The same has been placed before us at Ex-A.
- 13.0 We observe that for such "stopped meter", the respondent BEST Undertaking proceeded to amend the bill for a period from 27.10.1998 to 09.05.2000 for Rs. 38,747.34. Alongwith this amount Respondent proceeded to recover Rs. 83509.83, as the same was wrongly credited to M/s. K. N. Oil Industries in the month of February 2001. Thus Respondent proceeded to recover total amount of Rs. 1,22,257.17 and informed the same to this consumer on 21.2.2005 and several reminders sent to it thereafter.
- 14.0 Respondent thereafter, in view of issuance of Adm. Order 349 A on 6.1.2011, revised the said claim for 6 months i.e. from 9.11.1999 to 09.05.2000, of Rs. 6795.74. Thus ultimately debited the consumers account for Rs. 90,305.57 in the month of July 2012.
- 15.0 As observed above the said premises has been subsequently purchased by the present complainant, who submitted application for "change of name". The respondent therefore in view of Regulation 10.5 provided under MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, now claims this amount of Rs. 90,305.57 from the present complainant, which has been under challenge before this Forum, being bad in law. Complainant inter-alia contends that the said additional amount of Rs. 90,305.57 is not his liability. It is the liability of M/s. K. N. Oil Industries. The Respondent therefore not justified to claim it after so many years from the complainant.
- 16.0 This forum observes that admittedly complainant has submitted application to "change of name" to the Respondent. We uphold the contention raised by Shri R. S. Kale (DEEA) for Respondent that under the MERC Regulations, 2005, a special provision has been provided under Regulation 10.5, a statutory liability has been created on the new owner or occupier to pay maximum 6 months unpaid charges for electricity supplied to the premises, which remains unpaid by the erstwhile owner / occupier. On going through this Regulation 10.5,

we find that the said liability has been in the nature of "charge on the premises". Needless to observe that such statutory charge goes along with the premises to the new owner / occupier. This forum therefore does not ascribe any merit to the argument advanced by the complainant that while clearing application for "change of name" the Respondent has failed to collect such liability, therefore now it can not demand the same. As observe above such liability has been a "statutory charge" over the premises, therefore it would be in existence till it is discharged.

- 17.0 Now a vital question has been confronted with by this forum, as to what should be the amount of such liability. In this connexion, this forum observes that the amount of Rs. 83509.83, wrongly credited to erstwhile owner cannot be termed as "unpaid charges for electricity" supplied to such premises, that too for maximum 6 months. This wrongly credited amount has been enjoyed by M/s. K. N. Oil Industries, due to abysmal lethargy and lapses on the part of the Respondent. Obviously therefore the entire blame for presently losing this amount lies at the doorstep of the Respondent BEST Undertaking. The Respondent therefore cannot make the complainant as a scapegoat, for shirking its responsibility for losing such large amount for nothing.
- 18.0 This forum further observes that the charges for electricity sought to be recovered from the complainant has been for a period wherein the meter was a "Stopped meter". Admittedly Respondent has been claiming the arrears of electricity from the complainant under the provisions of MERC Regulations, 2005. In this context this Forum observes that to workout legitimate electricity charges to be recovered from the consumer, in the case of "stopped meter", the said MERC Regulations, 2005, also provides a special Regulation 14.5.1. Thereunder second proviso covers the case of "stopped meter". In considered view of this forum, "unpaid charges for electricity provided to such premises" contemplated under Regulation 10.5, would be as worked out under regulation 14.5.1 second proviso, in respect of "stopped meter".
- 19.0 In the net result, we hold that the complainant has been liable to pay charges of electricity in arrears, as per Regulation 14.5.1 in respect of "Stopped meter", as discussed above. Accordingly, we find this complaint liable to be partly allowed.

ORDER

1. The complaint no. S-(EA)-171-2012 stands partly allowed.
2. Respondent BEST Undertaking hereby directed to serve a fresh electricity bill to recover electricity charges in arrears, to be worked out as per the second proviso provided under Regulation 15.4.1, within a period of one month from the date of passing this order. The complainant to pay the said bill within a period of fortnight therefrom.
3. The compliance of this order be informed to this forum within a period of one month therefrom.
4. Copies be given to both the parties.

(Shri S M Mohite)
Member

(Shri M P Thakkar)
Member

(Shri R U Ingule)
Chairman