

**BEFORE THE CONSUMER 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-110-2011 dt. 19-01-2011**

M/s. Milan Bar and Restaurant .....Complainant

V/S

B.E.S.&T. Undertaking .....Respondent

**Present**

Quorum :  
1. Shri R U Ingule, Chairman  
2. Shri S P Goswami, Member  
3. Smt Varsha V Raut, Member

On behalf of the Complainant : 1. Shri. Sunil H. Pawar  
2. Shri. Deepak R. Sonawane

On behalf of the Respondent : 1. Shri. D.N. Pawar, DEEA  
2. Smt. Manasi M. Borade, Supdt. EA  
3. Smt. Vishakha J. Sawant, DYE  
4. Smt. P.S. Kekane, Asst. OS (EA)

Date of Hearing : 11-02-2011

Date of Order : 28-03-2011

**Judgment by Shri. R.U. Ingule, Chairman**

M/s. Milan Bar and Restaurant, Room No. 6&7, Grd floor, Latif House, Bldg No-242, Sant Tukaram Road, Masjid Bunder, Mumbai - 400 009 has come before Forum for his grievances regarding withdrawal of claim of A/c no. 100-023-923\*2.

**Complainant has submitted in brief as under :**

- 1.0 The complainant states that an amount of Rs.95,968.62 was debited in his electricity bill for the month of October, 2010.
- 2.0 The complainant further states that in enquiry it was told to him that it was an amount being the difference between two tariffs for the period from 1-12-2007 to 1-3-2010 (27 Months) i.e. difference between Commercial and residential tariff.
- 3.0 The complainant further states that he had applied for commercial meter i.e. for Hotel purpose and after due verification of his documents and physical inspection by the respondent officials meter was given to him. Complainant states that he was not aware about the tariff mentioned on the Electricity Bill. He said that he paid Electricity Bills regularly which were given to him by the respondent. He said that there was no any type of laps or irregularity on his part, on the contrary it was happened due to negligence of the work of the respondent officials.
- 4.0 Complainant states that as per Electricity Act, 2003 and MERC Regulations 2005, Licensee is not authorized to amend any type of bill for the period more than three months.
- 5.0 Complainant requested Hon'ble Forum to issue order to respondent to revise his bill for the period of 3 months. He said that Hon'ble Forum may also observe by notation of I.D. papers, such as Application Form, Investigation Sheet, Inspection Report, Test Report and order copy that the title is Milan Bar & Restaurant this itself proves that basically the purpose demanded / requested was "COMMERCIAL". Now the excuse for the respondent's officers negligence is said to be as escape billing which is highly objectionable. As per complainant this is respondent's office error for which he is not supposed to be penalized. He further said that as per Section 56(2) of the Electricity Act, 2003 also whatsoever Supplementary / Additional Bill can not be served after 2 years. Complainant requested the Forum to reject the demand / withdraw the claim and an interim order be issued respondent to accept his current bills and not to disconnect his supply, till final decision of this Hon'ble Forum.

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

- 6.0 As per respondent complainant M/s. Milan Bar & Restaurant applied for Electricity connection, the meter no. P001978 installed at the premises on 24.10.2003 for A/c no.100-023-923. The said account was billed as per commercial tariff till the date of disconnection of meter no.P060697 for non payment. Meter No. P060697 was removed on 1.10.2007 by respondent's

Energy Audit dept. for non-payment of Rs.1,90,952/-. New meter no. P061662 was installed on 27.10.2007 under valid reconnection.

- 7.0 As per respondent at the time of reconnection inadvertently tariff was punched as LT I (Resi.) instead of correct tariff applicable as per the purpose of usage i.e. LT II (a) (Commercial) by respondent's Customer Care Dept. Hence the account was billed on LT I tariff from 27.10.2007 onwards.
- 8.0 As per respondent it is to be noted that prior to disconnection of meter for non-payment, the account was billed as per commercial tariff. Also, while filling up the requisition for new meter complainant had applied for Commercial Tariff.
- 9.0 Respondent states that as per MERC's order, number of meters of consumers were physically inspected by respondent to confirm the tariff as Residential or Commercial. During the process it is observed that the M/s. Milan Bar & Restaurant was using meter for Commercial purpose and consumer was charged with Residential tariff.
- 10.0 Respondent states that tariff was changed, as per tariff schedule based on the guidelines of MERC. The difference between Residential to Commercial Tariff for the period 1.12.2007 to 1.3.2010 is calculated which resulted into debit of Rs.95,968.62, same was informed to the Complainant vide respondent's letter no.EA/Agr.6/2417/HD/2010 dtd. 28.9.10 and debited to the account no. 100-023-923 in the month of Oct 2010. Respondent further states that according to tariff approved by MERC usage of electricity for commercial purpose cannot be levied under LT I (Residential) tariff.
- 11.0 The complainant disputed the same and registered a complaint in Annexure - 'C' form dated 12.11.2010. As per respondent reply to Annexure 'C' was forwarded to complainant vide respondent's letter no. EA/Agr.6/7598/62269/2010 dtd.1.12.10. Complainant was not satisfied with the respondent's reply and approached Hon'ble CGRF vide his complaint in Annexure 'A' dtd.14.1.2011.
- 12.0 As per respondent it is pertinent to note that no penalty is charged and the bills are only revised as per the correct tariff. As this is a case of escaped billing the time limit of 3 months is not applicable as per rules in force. The complainant is liable for payment and claim is strictly in accordance with MERC. The contention of the complainant is therefore not sustainable.
- 13.0 **Prayer:**
  - 13.1 The bills issued by the respondent are to be treated as accurate since the claim is worked out as per the MERC Regulations.
  - 13.2 The complainant may not be allowed to produce any more evidences before the Hon'ble CGRF during the hearing of the case without giving us an opportunity to offer our comments.

- 13.3 The complainant should not be allowed to change the facts of the case presented in his application.

### REASONS

- 14.0 We have heard learned representatives Shri. Sunil H. Pawar & Shri. Deepak R. Sonawane for the complainant and learned representatives Shri. D.N. Pawar, Smt. Manasi M. Borade, Smt. Vishakha J. Sawant & Smt. P.S. Kekane for respondent BEST Undertaking. Perused documents.
- 15.0 At the outset we observe the present complaint preferred before this Forum, being devoid of any merit. The complainant admittedly was having a meter No. P001978 and the same was replaced by meter no. P060697 which was removed for non payment for outstanding of Rs.1,90,952/- on 1-10-2007. It is important to note that the original meter no. P001978 which was installed in the year 2003 had been billed on commercial tariff.
- 16.0 The consumer came forward for reconnection on 26-10-2007 after clearing the said outstanding amount of Rs.1,90,952/-. However while processing the connection order the respondent BEST Undertaking inadvertently punched LT-I (i.e. Residential tariff) instead of LT-II (a) (i.e. commercial tariff). This bonafide mistake on the part of the respondent continued till 1-3-2010, when the respondent officials notice the same during the physical inspection at site for confirming the tariff as per MERC order. Accordingly while correcting the tariff a difference between *residential tariff* to *commercial tariff*, was debited in the bill without levying any other penalty like delayed payment charges and interest taking into consideration the said bonafide error on its part.
- 17.0 It is pertinent to note that though the meter no. P060697 was removed on 1-10-2007 the reconnection was given only on 27-10-2007. The respondent BEST Undertaking is silent about this period which can be suspected for obtaining unauthorized supply by the complainant or a direct supply. Further going through the consumption pattern of the complainant it is observed that the same is fluctuating and this aspect should also have been considered by the Respondent BEST Undertaking, at the relevant time.
- 18.0 The complainant contention that the supplementary bill raised by the respondent is time barred u/s 56(2) of the Electricity Act, 2003 is not tenable, as there was no disconnection of supply on account of this claim carried out by BEST Undertaking. The Respondent BEST Undertaking has been simply correcting a bonafide errors committed by it. It does not cause any prejudice to the complainant. The complainant himself accepted that the purpose of the supply was requested for *commercial use*. From the beginning the premises has been used for *commercial purpose*. It is therefore not proper on the part of the complainant to deny or resist the payment of difference amount, as the same is purely units consumption charges for *commercial use* and Respondent BEST has not imposed any penalty by way of delayed payment charges and interest for the same.

19.0 Before we part with this order we observe that initially the complainant was paying electricity charges on *commercial tariff* basis. During the period of bonafide lapse on the part of Respondent BEST Undertaking the complainant was charged on *Residential tariff* basis. Which obviously was on lower level and the same must have been noticed by the complainant. However we find the complainant totally complacent in enjoying the bonafide error on the part of Respondent BEST Undertaking, instead of befitting a prudent and responsible consumer and citizen, he ought to have brought this 'lapse' to the notice of the Respondent BEST.

#### Dessenting observation of Smt. Varsha Raut

20.0 Although I am in agreement with Hon'ble Chairman & the Ld. Member asking the Complainant -consumer to pay the difference for the electricity used by him for commercial purpose, I do feel the concerned staff of the Respondent BEST Undertaking is also guilty of gross negligence and carelessness in punching the tariff as LT1 instead of LT 2. It is noteworthy that this act of negligence remained unnoticed, undetected and uncorrected not just for one or two months but for a period of 2 years and 3 months i.e. 27 long months. It is important to note that the name Milan Bar & Restaurant itself tells that this is a commercial consumer and which should have glared in the eyes of any one responsible for raising bills. It is thus difficult to understand how the staff of Respondent has allowed this mistake to continue for so long and deprived the Management of its legitimate revenue.

21.0 Although it may be true and correct that the Complaint cannot avoid its legal dues, it is equally true that the Respondent cannot get up from slumber after 27 months and send to the Complainant a hefty bill one fine morning claiming huge arrears for differential amount and destroy his peace of mind and then make him run from pillar to post. It needs to be remembered that the Respondent employees cannot abuse their monopolistic position and do whatever they want and get up any time and try to cover up their acts of negligence. What the Respondent would have done if they were operating in a competitive market and if during this period of 27 months, the customer had switched over to other power utility? From whom the Respondent would have recovered this differential amount in such circumstances. I am therefore of the firm view that this Forum cannot and must not take a lenient view of this negligent acts of the Respondent employees. If the Forum overlooks or condones such gross act of negligence, then it is the system which continues to remain rotten. The Forum must therefore take such instances as an opportunity to suitably and adequately penalize the erring and negligent employees so that such acts of gross negligence are not repeated by any other employee and which would thus result in customers getting better and careful service at the hands of the Respondent's employees.

22.0 I am therefore of the opinion and accordingly direct that the interest payable on the differential amount due from the Complainant for 27 months be recovered from the concerned employee/s who were responsible for this serious lapse and be credited to the Respondent's account. It is only

such action that will ensure better and more careful services from the Respondent employees in future.

23.0 For the reasons stated above we proceed to pass the following order by virtue of majorities view.

**ORDER :**

1. The complaint no. S-EA-110-2011 dt . 19-01-2011 stands dismissed.
2. Copies be given to both the parties.

(Smt Varsha V Raut)  
Member

(Shri S P Goswami)  
Member

(Shri R U Ingule)  
Chairman