

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. N-HVC- 228-2014 dtd. 11/06/2014.

M/ s Ravechi GarmentsComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri R U Ingule, Chairman

Member

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

On behalf of the Complainant :
1. Shri Bhavesh Kapadia
3. Shri Nirav K. Dedhia

On behalf of the Respondent :
1. Shri S. V. Fulpagare DEHVC
2. Smt Manasi Borade, Supdt. HVC
3. Shri S.V. Bhatkar, AAM HVC

Date of Hearing : 21/07/2014

Date of Order : 08/08/2014

Judgment by Shri. R.U. Ingule, Chairman

M/ s Ravechi Garments, Gala 7/A, 1st floor, T.K. Industrial Estate, Sitaram Palturam Murari Marg, Near Sewree Bus Terminal, Sewree, Mumbai - 400 015 has come before the Forum for dispute regarding recovery of amount equivalent to difference of tariff between LT-II(a) & LT-II(b) tariff pertaining to A/c no.202-028-163.

Complainant has submitted in brief as under :

1.0 The complainant has approached to IGR Cell on 21/03/2014 for dispute regarding recovery of amount equivalent to difference of tariff between LT-II(a) & LT-II(b) tariff for the period 20/08/2009 to 01/08/2010 pertaining to A/c no.202-028-163. The complainant has approached to CGRF in schedule 'A' dtd. NIL (received by CGRF on 09/06/2014) as the consumer is not satisfied with the remedy provided by the IGR Cell Distribution Licensee regarding his grievance.

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

- 2.0 The complainant, M/s Ravechi Garments came before the Forum for dispute regarding recovery of amount Rs. 40,113.40 equivalent to tariff difference between LT-II(a) and LT-II tariff for the period 20/08/2009 to 20/04/2010 (installation of TOD compatible meter).
- 3.0 During the vigilance raid on 07/11/2009, it was observed that maximum demand recorded by the meter no. M062261 of the firm was 38.96 kw against the sanction load of 18.60 kw vide letter having reference no. Vig/Adm-21/1836/2009 dtd. 18/11/2009. Provisional claim for the period 11/08/2008 to 20/08/2009 in respect of unauthorized use of electricity amounting to Rs. 2,39,936.00 was served to the complainant. Further this claim is revised to Rs. 1,02,120.00 and paid by the complainant.
- 4.0 Complainant's old meter M062261 (non TOD compatible) is replaced by meter no. P082650 (TOD compatible meter) on 24/04/2010 for implementation of new tariff schedule. Accordingly, old a/c no. 519-235-077 has been changed to a/c no. 200-028-163 and billing cycle from 12 to 24 was changed and the same is updated from billing month September 2010.
- 5.0 Vigilance Dept. had already recovered the charges towards tariff difference for the period 11/08/2008 to 20/08/2009. Hence, amendment amounting to Rs. 40,113.40 was preferred for the period 20/08/2009 to 20/04/2010 towards tariff difference between LT-II(a) and LT-II tariff and debited in the billing month March 2014. The amendment bill was paid by the complainant under protest.
- 6.0 Hence requested the Forum to retain the difference of tariff paid by the complainant.

REASONS

- 7.0 We have heard Shri Bhavesh Kapadia for the complainant consumer and for the Respondent BEST Undertaking Shri S.V. Fulpagare, DE(HVC) along with Shri Suhas V. Bhatkar. Perused papers.

- 8.0 This Forum observes that admittedly the Respondent BEST Undertaking had claimed Rs. 2,39,936.00 for using excess load viz. 38.96 kw by the complainant, by taking a recourse to section 126 i.e. “assessing for unauthorized use” of electricity supply, in the year 2009-2010. It is further admitted that the said claim was settled for Rs. 1,02,,120.00 and the same has been paid by the complainant. Now the complainant has raised a grievance in the instant complaint, in regard to claiming Rs. 40,113.40 from him for a period from 20/08/2009 to 01/08/2010 towards the recovery of tariff difference. The complainant further contends that the Respondent BEST Undertaking has installed TOD compatible meter on 20/04/2010 to implement the changes. However, it has raised the difference in tariff of Rs. 40,113.40 for a period from 20/08/2009 to 01/08/2010. Therefore, the bill prepared for the earlier period of installation of TOD compatible meter, has been wrong. Therefore, prayed to declare such bill of Rs. 40,113.40 being illegal and also hit by limitation provided under section 56(2) of the Electricity Act, 2003.
- 9.0 This Forum on perusing the written statement supported with document placed before us, finds that the claim of Rs. 40,113.40 made by the Respondent BEST Undertaking towards the tariff difference has been for a period from 20/08/2009 to 20/04/2010 and not for 20/08/2009 to 01/08/2010 as alleged by the complainant. Admittedly the tariff of the complainant consumer has been changed from LT-II (a) to LT-II(b) w.e.f. 01/06/2009 as per the tariff order issued by the MERC. Accordingly we find intimation letter dtd. 20/04/2010 being addressed to the complainant consumer by the Respondent BEST Undertaking placed before us at Exhibit ‘F’. Accordingly for implementation of such revised tariff and to charge the same, the old non-TOD compatible meter has been replaced with new TOD compatible meter on 20/04/2010. The documents placed before us at Exhibit ‘L’ by the Respondent BEST Undertaking gives the details of such difference in tariff for a period between 20/08/2009 to 20/04/2010 amounting to Rs. 40,113.40. Accordingly we find the same has been charged and intimated for the first time to the complainant consumer vide the electricity bill for the month of March 2014. The copy of the said electricity bill has been placed before the Forum at Exhibit ‘H’. We therefore find a cogent evidence being placed before us by the Respondent BEST Undertaking giving the details of working of the tariff difference as observed above. We therefore find no merit into the contention raised by the complainant that the charging of the said amount of Rs. 40,113.40 has been wrong and illegal. The said contention raised by the complaint has been baseless and unsupported one.
- 10.0 Now we are addressing to the last but not the least contention raised by the complainant consumer, in regard to the claim of tariff difference of Rs. 40,113.40 made by the Respondent BEST Undertaking being hit by the “period of limitation” provided under section 56(2) of the Electricity Act, 2003. In this connection, this Forum observes that in the first instance section 56 has been devoted to deal with the contingency of “disconnection of supply in default of payment”. On perusing the contention raised by both the litigating parties, we do not find even a whisper made therein in regard to alleged disconnection of electricity of supply in default of payment. Besides it significant to observe that as alleged by the complainant the

amount of Rs. 40,113.40 towards the difference in tariff has not become “*first due*” on January 2014 as stated by the complainant, but in view of this Forum it becomes “*first due*” when the same has been informed to the complainant vide electricity bill for the month of March 2014 served on the complainant consumer. In this context this Forum placed a reliance on a judgment handed down by the Hon’ble Division Bench of Bombay High Court in a case of *M/s Rototex Polyester v/s Administration, Administrator Dadra Nagar Haveli, Electricity Department, Silvasa (W.P. no. 7015/2008 dtd. 20/08/2009)*. Therein their Lordships have *inter-alia* held that there will not be any bar of limitation in the case wherein the electricity consumer has been under billed on account of clerical mistake or human error or such alike mistakes. Their Lordships further elaborated that the electricity charges to be claimed from the consumer, becomes first due when *valid bill* has been served on the consumer. We may observe at this juncture that the said judgment of Hon’ble Division Bench of Bombay High Court still holds the field as the same has not been overruled by any other superior court till this date. This Forum therefore finds that the Respondent BEST Undertaking by serving the electricity bill for the month of March 2014 has informed the complainant consumer about the payment of Rs. 40,113.40 as a difference amount in tariff. Therefore in the contingency if at all there is any period of limitation, in that event the claim made by the Respondent BEST Undertaking has been well within a limitation. We therefore find the said contention raised by the complainant consumer being devoid of any merit.

- 11.0 In the aforesaid observation and discussion we find the instant complaint liable to be dismissed. Accordingly we do so.

ORDER

1. The complaint No. N-HVC)-228 stands dismissed.
2. Copies of this order be given to both the parties.

(Shri M P Thakkar)
Member

(Shri S M Mohite)
Member

(Shri R U Ingule)
Chairman