

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-319-2017 dtd. 25/04/2017

Shriram Cotton P. Factory P. Ltd.Complainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri S.V. Fulpagare, Member
2. Shri S.M. Mohite, Member, CPO

On behalf of the Complainant : 1. Shri Sachin Vyas

On behalf of the Respondent : 1. Shri S.M. Sakpal, DEHVC
2. Shri P.S. Vyavahare, AOHVC

Date of Hearing : 30/06/2017

Date of Order : 13/07/2017

Judgment by Shri. Vinayak G. Indrale, Chairman

Shriram Cotton P. Factory P. Ltd., Sriram Cotton Pressing, Bldg. no. 338, Baristar Nath Pai Road, Kalachowki, Mumbai - 400 033 has come before the Forum for dispute regarding debit of Rs. 2,13,952.35 in electric bill of August, 2016 towards wrong credit of electricity bill pertaining to a/c no. 202-010-333.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 21/11/2016 for dispute regarding debit of Rs. 2,13,952.35 in electric bill of August, 2016 towards wrong credit pertaining to a/c no. 202-010-333 in the electricity bill for the month of June 2014. The complainant has approached to CGRF in schedule 'A' dtd. 11/04/2017 (received by CGRF on 13/04/2017) as the complainant was not satisfied by the remedy provided by the IGR Cell of Distribution.

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

- 2.0 The complainant, Shriram Cotton Press Factory (P) Ltd. came before the Forum regarding its dispute about debiting Rs. 2,13,952.35 in billing month August 2016 pertaining to A/c no. 202-010-333.
- 3.0 The complainant had applied for extension of load from 1 Kw to 100 Kw vide its application dtd. 22/10/2012. The complainant's meter no. T110332 was replaced by meter no. T110891 on 26/09/2013 and tariff was changed to LT-II (C). New meter T110891 was updated in the billing system from November 2013. The consumer was billed for 14670 units recorded by old meter T110332 and 25560 units recorded by new meter T110891 amounting to Rs. 5,84,061.03 in billing month November 2013.
- 4.0 In June 2014, while processing another dr/cr proposal for extension of sanction load from 1 Kw to 100 Kw for the period June 2013 to November 2013 vide ID no. 1691979, full month electricity bill for November 2013 amounting to Rs. 5,84,061.03 was inadvertently considered as credit part instead of actual credit of Rs. 3,70,108.68 (i.e. Rs. 5,84,061.03 - Rs. 2,13,952.35) to consumer's account, which was clerical mistake. This was due to non-availability of final consumption of 14670 units recorded by the old meter T110332, also which was not separately shown in electricity bill of November 2013.
- 5.0 Necessary debit note of Rs. 2,13,952.35 was preferred towards 14670 units (actual consumption) recorded by meter no. T110332 (old meter) for the period 01/09/2013 to 26/09/2013. This was informed to the complainant vide letter dtd. 03/08/2016 and same is reflected in billing month August 2016. The consumer vide its letter dtd. 21/11/2016 disputed the same.
- 6.0 Our action of debiting Rs. 2,13,952.35 is correct as per ratio laid down in the case "Bombay Municipal Corporation v/s Yatish Sharma & Othrs. (W.P. 264 of 2006) and "M/s Rototex Polyester & Anrs v/s Administrator, Administration of Dadra & Nagar Haveli" (W.P. 7015 of 2008).

REASONS

- 7.0 We have heard Shri Sachin Vyas representative of the complainant and for the Respondent BEST Undertaking Shri S.M. Sakpal and Shri P.S. Vyavahare. Perused the documents placed on file more particularly documents pertaining to preparing dr/cr note on pg. no. 11/C to 23/C in view of charging LT-II(c) tariff.

- 8.0 The representative of the complainant has vehemently submitted that debit note of Rs. 2,13,952.35 passed by the Respondent BEST Undertaking including the said amount in the electricity bill for the month of September 2016 for the period from 01/09/2013 to 26/09/2013 is barred by limitation as per section 56(2) of Electricity Act, 2003 and therefore the Respondent BEST Undertaking has no right to claim the said amount from the complainant. Against this the Respondent BEST Undertaking's officer Shri S.M. Sakpal has submitted that it is the case of wrong credit given to the complainant in the electricity bill for the month of June 2014 due to non-mentioning the units of 14670 consumed by old meter bearing no. T110332 in electricity bill for the month of November 2013. He has further submitted that it being a mistake or human error it is rectified by issuing debit note on 03/08/2016.
- 9.0 We wish to observe that the complainant while arguing did not utter a single word regarding wrong credit of bill for units 14670 consumed by old meter T110332. His main contention is that the debit note has been passed on 03/08/2016 for the period from 01/06/2013 to 26/09/2013 and therefore same is barred by limitation as per section 56(2) of E.A., 2003.
- 10.0 Considering the rival contention of the parties it is for the Forum to see whether it is a case of wrong credit or not. On this point we have cautiously gone through the documents a pg. 11/C to 23/C pertaining to dr/cr note. We have gone through the contention of the Respondent BEST Undertaking and they have submitted that in June 2014 while processing another dr/cr proposal for extension of sanctioned load from 01.00 kw to 100.00 kw for the period from June 2013 to November 2013, full month electricity bill for November 2013 of Rs. 5,84,061.03 was inadvertently considered as credit part instead of actual credit of Rs. 3,70,108.68 to the consumer's account and same was a clerical mistake. It is their contention that this was due to non-availability of final 14670 kwh units of old meter T110332 which was also not separately shown in electricity bill for November 2013. In order to ascertain this fact, we have cautiously gone through the electricity bill for the month of November 2013 on pg. 17/C in which units consumed is shown as 25560 and total bill amount is shown as Rs. 5,84,061.03. We have taken efforts to see whether the amount claimed under bill of November 2013 is for only 25560 or it includes bill for 14670 units from old meter T110332. After calculating the tariff prevailing at the time of November 2013 it reveals that the amount of Rs. 5,84,061.03 includes bill for 14670 units from old meter and units 25560 for new meter T110891. It appears that while preparing the dr/cr note on pg. 17/C as well as on 28/C the total amount of bill for 25560 units is shown as Rs. 5,84,061.03 although it includes bill for 14670 units from old meter, it appears that the concerned officer of the Respondent BEST Undertaking without verifying the record, has noted down the figures in bill for the November 2013 and therefore wrong credit of 14670 units i.e. Rs. 2,13,952.35 has been given to the complainant.
- 11.0 Having regard to the above said reasons and after going through the documents pertaining to the dr/cr note passed for extension of sanctioned load from 01.00 kw to 100.00 kw, we have satisfied that it is a case of wrong credit and same has been rectified on passing the debit note dt. 03/08/2016.

- 12.0 The complainant has submitted that in view of section 56(2) of E.A., 2003, the amount under debit note i.e. electricity charges for the period of 01/09/2013 to 26/09/2013 and same has been claimed in the month of August 2016 and therefore it is barred by limitation. On this point the Respondent BEST Undertaking has submitted that it is a mistake or human error while passing the dr/cr note in the month of June 2014 and therefore it is squarely covered under the ratio laid down in ***W.P. No. 7015 of 2008 of Hon'ble Bombay High Court, M/s Rototex Polyester & Anr. v/s Administrator, Administration of Dadra & Nagar Haveli (U.T.) Electricity Department, Silvassa.*** We have gone through the ratio laid down in the said case law in which it has been held that in case of wrong billing due to clerical mistake, limitation period of 2 years does not apply and limitation shall start from the date of issue of demand notice i.e. the date on which sum become first due.
- 13.0 The complainant has referred the judgment delivered by this Forum in case nos. S-HVC-311-2016, N-FN-292-2016, S-D-303-2016 and S-D-304-2016. In these judgments the Forum observed that the amount claimed under amendment bill is barred by limitation. We have considered the facts of these cases referred above in which amendment bill was issued after lapse of 2-3 years for defective meter though they were having knowledge about the burnt meter, so considering the knowledge of burnt meter to the Respondent BEST Undertaking we observe that claim is barred by limitation. The complainant has also referred judgment of Bombay High Court in ***W.P. 2421 of 2006, BES&T Undertaking v/s Rahat Silk Mills.*** We have gone through the facts of this case law which are distinct from the facts before us and Hon'ble High Court has held that provision of section 56(2) of E.A., 2003 is having prospective effect and therefore said provisions were not applicable for demand notice issued prior to 02/06/2003. Thus ratio in this case law is not at all applicable.
- 14.0 We have gone through the facts of the above referred judgment of M/s Rototex Polyester and the facts of the case before us and same are identical and therefore we apply ratio in M/s Rototex Polyester case. In such cases where there was human error or mistake, provision of section 56 (2) of E.A., 2003 would get attracted when the licensee had knowledge about the dues with the consumers, but in the present case, licensee came to know about the dues when it noticed mistake in giving excess credit. No knowledge of dues beyond the period of 2 years can be attributed to licensee herewith. The ratio therefore in M/s Rototex Polyester is squarely applicable to the instant case.
- 15.0 For the above said reasons we arrive at the conclusion that it is the case of wrong credit of 14670 units consumed from old meter no. T110332 due to non-mentioning of units in electricity bill for the month of November 2013 so it being mistake / human error, this case is squarely covered by ratio laid down in case M/s Rototex Polyester. In view of this we do not find any substance in the complaint. In result we pass the following order.

16.0 Before passing the order we wish to observe that the complainant himself has filed application for adjournment due to non-availability of his representative and therefore case was rescheduled and there is a delay in passing the order.

ORDER

1. The complaint no. N-HVC-319-2017 dtd. 25/04/2017 stands dismissed.
2. Copies of this order be given to both the parties.

Sd/-
(Shri S.V. Fulpagare)
Member

Sd/-
(Shri S.M. Mohite)
Member

Sd/-
(Shri V.G. Indrale)
Chairman