

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. CGRF/155/2008 dt . 31/12/2008
Pre-Admission hearing

Reliance Jewellery Watches Pvt Ltd,Complainant

V/S

B.E.S. & T. UndertakingRespondent

Present

Quorum
1. Shri. M.P. Bhave, Chairman
2. Shri. S. P. Goswami, Member
3. Smt. Vanmala Manjure, Member

On behalf of the Complainant
1. Shri. Rajesh L. Shah
2. Shri. Riyaz Ismail Dimtimkar

On behalf of the Respondent
1. Shri. S.S. Ghosh, DE.Vig (ES)
2. Shri. S.Y. Gaikwad, Ag.DECC (F/N)
3. Shri. A. D. Salunkhe, Dy. E,C.C. (F/N)

Date of Hearing: 09/01/2009, 22/01/2009

Judgment by Shri. M.P. Bhave, Chairman

M/s. Reliance Jewellery Watches Pvt Ltd, Matunga, Mumbai – 400 019 has come before this Forum for his grievance regarding reconnection of electricity to consumer No. 604-363-049*2 immediately & to pay the compensation in lieu of losses suffered by him due to disconnection of electric supply.

Brief history of the case

- 1.0 M/s. Reliance Jewellery Watches Pvt Ltd, Matunga, Mumbai – 400 019 is a consumer of BEST having electricity connection which is being used for commercial purpose.
- 2.0 BEST Vigilance dept carried out surprise raid at complainant's premises on 29/4/2008 & detected direct supply taken through hole in bushing and change over switches. Hence, vigilance claim was informed to the complainant vide letter VGN/022/D08. The vigilance claim was Rs.7817841 & compounding charges of Rs.706910. The police case under LAC No.281 was registered with Matunga Police Station.
- 3.0 As per complainant he has deposited Rs.15,00,000/- on 29/4/2008 & Rs.5,00,000/- on 21/5/2008 with BEST.
- 4.0 The complainant has applied for reconnection of electric supply vide requisition 90903036 dtd. 13/10/2008.
- 5.0 Complainant has complained in Annexure 'C' format on 19/11/2008 format to BEST as his requisition for reconnection was not sanctioned by BEST as vigilance clearance was not received for reconnection.
- 6.0 Vide letter dtd. 3/12/2008 complainant informed BEST that vigilance matter is subjudice & interim order has been passed by the Appellate Authority directing him to pay regular current monthly bills. For complying this order electric connection is required. Also, in the interest of natural justice BEST cannot deprive him for getting electric supply.
- 7.0 In response to complainant's complaint in Annexure 'C' format BEST IGR Cell vide letter dtd. 3/12/2008 informed the complainant to pay he vigilance claim so as to enable BEST to sanction his requisition for reconnection of electric supply.
- 8.0 Unsatisfied by the reply received from IGR Cell complainant approached BEST in schedule 'A' format on 31/12/2008.
- 9.0 As the case falls under Section 135 of IE Act, 2003 (theft of electricity), pre-admission hearing of the case is schedule on 9/1/2009.
- 10.0 As requested, BEST was granted 4 days time to file their written reply the adjourned hearing was resumed on 22/1/2009.

Consumer in his application and during Hearing stated the following

- 1.0 The complainant being aggrieved by respondent's reply dtd. 31/12/2008 refusing reconnection of valid electric connection on the

basis of alleged Vigilance claim, appeal against which is pending u/s 127 of the Electricity Act, 2003, Appellant has preferred this Appeal.

- 2.0 The Complainant states that he was being aggrieved by exorbitant & illegal claim of Respondent, he has filed an appeal No. 02/08-09 under section 127 of Electricity Act, 2003. The said appeal is pending before Appellate Authority for determination of the assessed sum under the provisions of Electricity Act, 2003. Appellant craves leave to refer to and rely upon the paper and proceedings of the said appeal as and when required.
- 3.0 Complainant has already deposited a sum of Rs.20,00,000/- with respondent. Complainant states that Respondent has used arm twisting method and had originally framed claim of Rs.78,17,841/-. Complainant thereafter filed application to the respondent to revise the alleged claim. Complainant states that they were never given calculation or basis of Rs.78,17,841/-. Complainant was threatened to face dire consequences including prosecution if immediate payment was not made. Under pressure and threat, complainant deposited Rs.15,00,000/- on 29/04/2008.
- 4.0 In the meantime, while granting bail in Criminal Application No. 1548 of 2008, the Hon'ble High Court Bombay directed this Appellant to deposit Rs. 5,00,000/- (Rupees Five Lakh only) with respondent No. 1 upto 22/5/2008. Accordingly, this Appellant deposited the said sum of Rs. 5,00,000 (Rupees Five Lakh only) with Respondent No.1 vide its letter dated 21/5/2008.
- 5.0 Meanwhile, the said Appellate Authority before whom Appeal u/s 127 of Electricity Act, 2003 was pending passed following interim Orders vide its order dated 11/7/2008:
 - 5.1 Disputed amount should be shown separately and penalty charges should not be levied against disputed amount.
 - 5.2 Consumer should pay regular current monthly bills for which no relaxation will be given.
- 6.0 On receipt of the interim order, complainant informed the passing of the said order to respondent vide its letter dated 26/09/2008. Complainant said in his letter that he has clearly informed respondent that due to disconnection of electricity business is at stand still. Complainant also gave an undertaking to respondent to pay regular current bills which it may receive on restoration of electricity. However, respondent did not restore the electric connection.
- 7.0 As per the order dated 11/7/2008 passed by the Appellate Authority, respondent is ordered to resume electricity so that the consumer can pay current bills regularly. Respondent is setting wrong precedent by not following the Order of the Appellate authority and thus been guilty of contempt of Court. Appellant reserves right to intimate appropriate action against the Officers of Respondent who is using this arm twisting techniques to extort money from complainant. Complainant submits that extorting money from law abiding Consumers and withholding supply on the pretext of extorting money is crime and also against basic principles of humanity. Complainant states that Hon'ble Forum should take stern view against the illicit behaviour of respondent and take strict action against the Officers of respondent.

- 8.0 He said that due to refusal of valid reconnection of electricity, he is suffering loss of Rs.2,69,000/- per month as loss due to fixed overheads and interest. Complainant has already borrowed significant amount on loans from banks and relatives and is in debt burden. Apart from the interest liability complainant is also liable to pay fixed overheads such as:
- 8.1 Staff and Workers Salary.
- 8.2 Wear and tear to machines due to stoppage of functioning.
- 8.3 Service charges on various equipments.
- 8.4 Interest liability for the bank Loan procured for business.
- 9.0 Complainant states that Diwali and Christmas are peak season. Further complainant who started its business was in a position to attract attention of various customers who were inclined to issue orders worth Rs. 3.5 crores. Respondent is aware of all this fact and so refused to restore electric connection. Complainant states that it has already lost business worth of Rs.2.5 crores during Diwali season and thereby incurred loss of profit of Rs.16,25,000/- complainant has to forego orders worth Rs.1 crore and thus suffer loss of profit of Rs.6,50,000/-. Complainant craves leave to refer to and rely upon Orders and communications with parties.
- 10.0 Complainant once again applied for valid reconnection vide requisition No.90903036 dated 13/10/2008. Complainant states that respondent is required to inspect the premises of complainant within seven days from date of receipt of application as per provision made in Appendix 'A' Clause-1 of Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, period for giving Supply and Determination of Compensation) Regulation 2005. Complainant states that respondent has not inspected the premises within specified period given in MERC Regulations. Complainant states that it did not receive any reply to the said requisition and so complainant preferred complaint dated 19/11/2008 in Annexure C Form. on 2/12/2008, complainant received reply dated 25/11/2008 to its Requisition dated 13/10/2008. On receipt of the said reply this complainant submitted a letter dated 3/12/2008 explaining clearly that the matter of Vigilance Claim is pending before Appellate Authority u/s 127 of the Electricity Act, 2003 and further explained that it is suffering heavy loss on account of stoppage of business and loss on account of interest as it is under heavy debt burden from banks. Complainant also forwarded copy of the award passed by the Appellate Authority. Complainant states that respondent in reply reiterated to pay and clear off the Vigilance Claim before sanctioning Requisition No. 90903036 dated 13/10/2008. Hence this Appeal.
- 11.0 Complainant state that as per provisions of section 135(1A) of the electricity Act, 2003, Respondent upon detection of such theft of electricity can immediately disconnect the supply line of electricity. Complainant further states that on 29/4/2008 when the Officers of respondent had detected the alleged theft of electricity which is already challenged by this complainant, they disconnected the supply

of electricity. Complainant states that Officers of respondent Company instead of making claim as per provisions of the electricity act and rules regulation threatened wife of director of complainant's Company. Complainant states that further the said Officers also threatened the said lady member to face dire consequences including prosecution. Under pressure and coercion of the Officer, the said lady member deposited Rs.15,00,000/- with respondent on 30/4/2008. Complainant states that the said officers also got certain papers executed from the said female member without explaining her the contents thereof. Complainant states that thereafter respondent reconnected the supply of electricity on 30/4/2008. Thus, respondent on accepting Rs.15,00,000/- which they knew was very exorbitant amount and which they could extort from female members only by threatening them to face dire consequences including false prosecution the electric connection was restored. Complainant states that the said supply of electricity continued till 17/6/2008. Thereafter, on 17/6/2008, 8 officers and one legal advisor of respondent came to the site to disconnect the supply of electricity u/s 135(1A) of the Electricity Act, 2003. Complainant states that the disconnection of the electric supply on the second occasion for the same alleged offence u/s 135 (1A) of the Electricity Act, 2003 is illegal, unauthorized and not as per the provisions of Section 135(1A) of the Electricity Act, 2003. Complainant states that the respondent has disconnected supply of electricity on two occasions first on 29/4/2008 and second on 17/6/2008. Complainant further states that disconnection on 17/6/2008 is totally illegal, unauthorized and not as per provisions of Section 135 (1A) of the Electricity Act. Complainant states that respondent has purposely and with malafide intention to extort money has raised exorbitant claim of Rs.78,17,841/- devoid of any provisions of law. Complainant states that the fact first claim of Rs.78,17,841/- was bogus can be supported from the fact that respondent itself subsequently reviewed the claim to Rs.32,36,539/- without any opportunity of hearing to this complainant. Complainant states that, when he deposited Rs.20,00,000/- respondents are liable to resume the electricity within 48 hours of the intimation and deposit of 50% of the assessed amount. Complainant has already deposited Rs.20,00,000/- which is 62% of the disputed assessed sum. Complainant states that since respondent has disconnected on 29/4/2008 and further on receipt of Rs.15,00,000/- from this complainant has reconnected the said supply, the recovery of the balance amount of the alleged claim of Rs.32,36,539/- can be only by issue of 15 days notice u/s 56 of the Electricity Act, 2003. Complainant states that respondent has issued no such notice before disconnecting the supply on 17/6/2008 and are thus guilty of following illegal acts and not following procedure as laid down in the Electricity Act, 2003. Complainant states that disconnection on 17/6/2008 was with intention to extort money from this complainant who had meanwhile filed appeal u/s 127 of the Electricity Act, 2003 and had refused to bend before illegal demands of the respondent. Complainant states that respondent is purposely with malafide intention to extort money framing huge claim on consumers so that even if the matter is settled at 50% still they can recover huge sum based upon which the officers are entitled to commission. The Hon'ble Forum should stop this practices of extort money. In fact the NATIONAL CONSUME DISPUTES REDRESSAL COMMISSION

NEW DELHI on 11/9/2008, in the matter of Dakshin Haryana Bijli Vitran Nigam Ltd., and Ors., held as under:

1. *“The only question which requires consideration in these revision Petitions is – Whether under the Electricity Act, 2003, the officers of the electricity company are empowered to arbitrarily direct the consumers to deposit the amount according to their whims with a threat that failure to deposit the said amount would result in disconnection of electricity power or they would be prosecuted?”*
2. *In our view, the Electricity Act, 2003 (hereinafter referred to as the Act for brief) nowhere empowers the officers concerned to adopt such an arbitrary procedure. Under the Act, in the case of alleged unauthorized use of electricity, procedure prescribed under Section 126 of the Act is required to be followed. If that procedure is not followed, it is to be highlighted that the Act nowhere empowers the officers of the electricity company to act according to their whims and harass the consumers at large.”*

12.0 Complainant states that he is confident that if assessment is worked out u/s 127 of the Electricity Act, 2003 its liability shall not be more than the amount already paid in regular course and is confident to receive full amount of Rs.20,00,000/- back from respondent. Complainant submits that although respondent was liable to resume electricity within 48 hours of such deposit or payment of assessed amount, which assessment was done by the Officers of the respondent u/s 126 and the same is carried forward in Appeal u/s 127 and is pending in Appeal u/s 127 of the Electricity Act, 2003. The respondent has thus failed in its duties to resume electricity. Complainant states that since appellant is in the business of designer jewellery watches, the demand for the same is peak during Diwali and Christmas. Respondent is purposely adopting arm twisting technique just to presurise appellant to pay their illegal demands. Due to refusal to reconnect complainant is suffering loss of Rs.2,89,000/- per month as loss due to fixed overheads and interest. Apart from stoppage of business and inspite of the fact that appellant has already deposited Rs.20,00,000/- against the alleged illegal claim refusal to reconnection is causing loss of reputation and goodwill in the society. Complainant reserves its right to file appropriate litigation against respondent and its officers for the loss of goodwill and reputation in civil court as and when advised. Complainant also reserves its right to file appropriate litigation against the respondent to recover loss on account of fixed overheads and interest for the period commencing from the date of disconnection till date of requisition as and when advised. Complainant also reserves its right to file appropriate litigation against the Respondent to recover loss on account of loss of profit due to cancellation of orders and/or non receipt of fresh orders as and when advised. Further appellant has also suffered loss on account of non-receipt of fresh Orders thereby leading to loss of Rs.22,75,000/- in profit. Complainants were in talks with reputed Companies including Titan and they were in a position to get business worth Rs.1 crore from them due to refusal to reconnect electricity.

Complainant shall suffer loss of profit to the tune of Rs.1,36,50,000/- spread over to a period of 5 years.

- 13.0 Without prejudice to the contention that disconnection on 17/6/2008 is bad in law and illegal. Complainant states that respondent is required to give reconnection within 24 hours as per provision in Appendix A Clause 5 of Maharashtra Electricity Regulatory Commission (Standard of Performance of Distribution Licensees, period for Giving Supply and Determination of Compensation) Regulation 2005. Complainant states that it has made payment of Rs.20,00,00/- under protest. However, respondent has not restored connection.
- 14.0 Hon'ble Forum is requested to fix the responsibilities about lapses mentioned herein.
- 15.0 The Supdt. Customer Care F/North Ward informed this complainant vide their letter No. (F/N)/AOFN/ANNEX. 'C'-27/30073/2008 dated 3/12/2008 that the clearance was not given by Vigilance Dept for non-payment of Vigilance claim. Hence requisition was not sanctioned. They further advised this complainant to appeal to CGRF. Complainant is not satisfied with their reply because appellant has already paid Rs.20,00,000/- out of alleged disputed assessed amount of Rs.32,63,539/-. Complainant states that its case is pending with Appellate Authority for assessment of assessed amount u/s 127 of the Electricity Act, 2003. Appellant is approaching this Hon'ble Forum to get valid reconnection of Electric Supply.
- 16.0 The Original claim of Rs.78,17,841/- was prepared on imaginary connected load basis with a view to extort money from this complainant. Further, respondent has unilaterally reviewed and revised the said claim to Rs.32,36,539/- without giving any opportunity of hearing. Complainant states that respondent has also suppressed and refused to give details of working of alleged assessed amount. Complainant states that only when they submitted application under Right to Information Act, 2005 they could lay hand on the working and realize dirty game played by respondent to extort money from this Complainant. Complainant states that respondent has been able to extort sum of Rs.20,00,000/- from this Complainant only on basis of falsehood and without following laws and regulation under the present Electricity Act, 2003. Complainant states that respondent has no right to demand Rs.78,17,841/- or Rs.32,36,539/- from this Complainant. Complainant states that he is confident to recover disputed amount of Rs.20,00,000/- deposited with respondent under protest. Complainant states that it has filed appeal u/s 127 of the Electricity Act and the same is pending. Complainant states that Appellate Authority has already directed respondent to restore connection so that it can pay monthly current bills regularly. Complainant states that even as per Regulation 8.6 of

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
 Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005

An assessment under section 135 of the Act shall be made for the entire period for which the dishonest abstraction, consumption or

use of electricity under that Section can be clearly established by the officer authorized by the State Government in this regard:

Provided that the maximum period of assessment under this Regulation 8.6 shall be two years prior to the date of detection of such dishonest abstraction, consumption or use of electricity:

Provided further that the assessment shall be made at a rate equal to one-and-half times the tariff applicable to the category of services so assessed:

Provided also that where the period of dishonest abstraction, consumption or use of electricity under Section 136 of the Act cannot be clearly established, it shall be presumed to be six months prior to the date of detection.”

Complainant states that he started business from the said premises only on October 2007 after receipt of imported machinery. Thus by any stretch of imagination claim cannot be as exorbitant as calculated by respondent. Further Complainant has already deposited Rs.20,00,000/- and so even as a matter of right also it is entitled to get reconnection notice with respondent on 19/11/2008. However, respondent in order to extort more money is not willing to restore connection and refusing to connect the same. Complainant states that in the similar circumstances and on the same day when identical cases of theft were raided by the same Officers, the electric connection was restored on those premises on deposit of certain amounts and no FIR has been registered against those persons except the Complainant. Complainant crave leave to refer to and rely upon the said details and particulars as and when required. Complainant states that the aforesaid facts establishes beyond doubt that the Officers of the respondent are targeting this Complainant with ulterior motives and want to extort money from him. The Complainant also states that the fact that the respondent revised its own assessment from Rs.78,17,841/- to Rs.32,36,539/- without affording any opportunity of hearing to the Complainant itself establishes that the assessment is incorrect and not as per MERC Regulations and Electricity Act, 2003. The Complainant also states that infact after restoring the electric connection on 30/4/2008 and then disconnecting the said connection without any notice or further evidence of theft by the said officers of respondent itself concludes that the said action is malafide and not as provision of law. The Complainant states that such illegal action on the part of the respondent has caused tremendous loss to the Complainant and the Complainant states that the balance of convenience is in favour of the Complainant and therefore the reliefs prayed for should be granted by this Forum. Complainant states that refusal on the part of respondent to reconnect is wrongful and illegal and prays this Hon'ble Forum to take strict action against respondent and its officers.

- 17.0 Complainant further states that initially when respondent has disconnected electric supply on 29/4/2008 and thereafter reconnected it on 30/4/2008 which continued upto 17/6/2008, the consumption of units is 1633 units for the period 16/4/2008 to 20/5/2008 and further 1204 units for the period 20/5/2008 to 18/6/2008 which establishes the contention of the Complainant that the average daily alleged consumption shall not exceed 100 units per day and hence it is submitted that the assessment of the Vigilance Department is bad in law and hypothetical.

- 18.0 Complainant states that he is approaching Hon'ble Forum in Annexure 'A' to give Justice and issue instruction/order respondent to reconnect electric supply immediately as Complainant is suffering loss of business and goodwill.
- 18.0 Complainant requested the Hon'ble forum to direct the Respondent to do a valid reconnection of electricity to consumer No. 604-363-049*2 immediately.
- 19.0 Complainant requested the Hon'ble Forum to order and direct the respondent to pay to the Appellant a sum of Rs.2,69,000/- per month towards loss due to fixed overheads and interest on loans from the date of requisition of valid reconnection till actual reconnection together with further interest @ 16.5 p.a from the date of 13/10/2008 till payment and or/realization.
- 20.0 That the Hon'ble Forum be pleased to order and direct the respondent to pay to the Appellant a sum of Rs.22,75,000/- being the loss incurred by the Appellant on account of loss of profit due to cancellation of orders and/or non receipt of confirmed and fresh orders alongwith interest thereon @ 16.5 % p.a for the period commencing from the date of wrongful refusal till the date of actual reconnection together with further interest @ 16.5 % p.a. till payment and/or realization.
- 21.0 That pending the hearing and final disposal of this application respondents be directed by an order and direction of this Hon'ble Forum to reconnect the supply of electricity immediately.
- 22.0 Complainant states that this is not the case of reconnection of electric supply originated from theft of Electricity, which falls u/s. 135 of IE Act, 2003 as falsely alleged by the respondent and puts the respondent strict proof thereof.
- 23.0 He is not aware as to whether D.E.Vig has issued any note No. VIG/Adm.21/2404/2009 as alleged by the respondent. The complainant is not ware as to whether 5 cases of direct supply were registered in building known as Matruchhaya and /or whether on 29/4/2008 direct supply cases were detected by staff of vigilance (E.S) Department. The complainant calls upon respondent to furnish the names of 5 persons with their consumer No. against whom the alleged case were registered u/s 135 of the IE Act, 2003 in support of their statement. The complainant also calls upon the respondent to furnish before this forum the status of the said alleged 5 cases against whom the case u/s 135 of the IE Act, 2003 were registered.
- 24.0 The complainant states that they are aware of the said provisions as mentioned in para 3 of the written submission of the respondent. However, the said provisions are not applicable in the present case due to reasons as set forth herein:
- 24.1 Although on 29/4/2008 respondent has discovered alleged direct supply and falsely registered case upon this complainant by raising an exorbitant claim of Rs.78,17,841/-. However, the same is not as provided for in the IE Act, 2003. Further when the male director of the

complainant was out of town respondent pressurized wife of the said director to admit the alleged theft under undue influence and pressure and was also made to deposit Rs.15,00,000/- with the alleged undertaking to pay the balance sum under threat of facing prosecution. Complainant has already narrated the said facts more elaborately in its application before this Hon'ble Forum as well before Appellate Authority before whom an Appeal u/s 127 is filed, admitted and pending and craves leave to refer to and reply upon the same as and when produced. On receipt of Rs.15,00,000/- respondent restored the supply for a period of one month and above. Thereafter respondent had revised their claim from Rs.78,17,841/- to Rs.32,36,539/- without giving any opportunity of hearing to this complainant. This complainant states that after reconnection of the supply of electricity respondent has never raised any notice upon this complainant to pay of the balance sum. Instead disconnected the said supply on 17/6/2008 under alleged pretext of theft under IE Act, 2003. In fact in one of the anticipatory bail application the Hon'ble High Court Bombay has directed to pay further sum of Rs.5,00,000/- which has also been abided by this complainant vide deposit of the said sum of Rs.5,00,000/- in all total deposit of Rs.20,00,000/-. Complainant states that section 135 of the Act clearly provides that only on the receipt of the assessed sum the respondent is empowered to restore connection. Respondent reconnected on receipt of Rs.15,00,000/- against alleged claim of Rs.78,17,841/- knowing very well that they have raised exorbitant claim of Rs.78,17,841/- and thereafter reconnected the same on receipt of Rs.15,00,000/-. Complainant states that respondent having reconnected the said supply has no power under the provisions of the IE Act, 2003 to disconnect the same without following the due procedure as laid down in the Act. Complainant states that since respondent has reconnected the supply on receipt of Rs.15,00,000/- cannot now take pretext of the alleged theft of electricity u/s 135 of the IE Act, 2003 to challenge the jurisdiction of this Hon'ble forum from entertaining this application. Complainant states that respondent should be called upon to furnish reasons for restoration of supply on receipt of sum of Rs.15,00,000/- and justify the said reconnection as per provisions of the said Act and thereafter called upon to further furnish the reasons of disconnection on 17/6/2008 again on the pretext of alleged theft of electricity. Complainant states that respondent cannot be allowed under any provisions of law to disconnect the supply twice under one ground of alleged theft of electricity u/s. 135 of the IE Act, 2003 which is done so on 29/4/2008 as well as 17/6/2008 which amounts to double jeopardy in the eyes of law and cannot be allowed. This respondent shall crave leave to refer to rely upon paper and proceedings filed in Appeal u/s 127 before the Appellate authority for its true meaning and purport.

- 24.2 Complainant states that he has moved one application u/s 127 of the IE Act, 2003 but the same is not based upon the same grievance as more falsely stated by respondent to mislead this Hon'ble Forum. Infact the prayer sought by this applicant before the Appellate authority u/s 127 of the IE Act is in variance with that of the present application.

- 24.3 In the circumstances aforesaid applicant states that this Hon'ble forum has jurisdiction to entertain the present application and reply filed by respondent is false perverse and filed with malafide intention to mislead this Hon'ble forum from entertaining the present application. Applicant states to take stern action against the false and perverse statement made by the respondent in the said reply opposing the admission of the Applicant's application.

BEST in its written statement and during Hearing stated the following:

1. Respondent informed that this is a case of reconnection of electric supply originated from theft of Electricity, which fall falls under section 135 of IE Act, 2003, complaint in schedule 'A' dtd. 29-12-2008 was forwarded to vigilance department on 12-01-2009 to reply to the grievances.
2. On 29-04-2008, direct supply cases were detected by staff of vigilance (E.S.) Department at Matruchhaya Building, Matunga, Mumbai-400 019. Total of five cases of Direct supply were registered in the same building including four for residential cases and one consumer for the above referred commercial establishment namely Reliance Jewellery Watches Pvt. Ltd.
3. This was a very typical case of using direct supply taken through hole in bushings and change over switches at premises, such that alternatively they could utilize the meter as well as direct supply. As per procedure in force, vigilance claim of Rs.78,17,841/- and compounding charges of Rs.7,06,910/- was preferred to the consumer. The police case under LAC No.281 was registered with Matunga Police Station.
4. Subsequently, complainant has deposited Rs.15,00,000/- as part payment and represented the case to the GM, BEST for review and assured to pay the revised claim amount. Thereafter electric supply of the consumer premises was restored. Further claim was revised to Rs.32,63,569/- with compounding charges remaining same as Rs.7,06,910/- duly approved. Consumer made further part payment of Rs.5,00,000/- as on 21-05-2008.
5. Despite assurances, the consumer failed to pay balance revised vigilance claim of Rs.12,63,569/-, the supply to the premises was discontinued.
6. The provisional claim of Rs.78,17,841/- was revised at the behest of the consumer by the General Manager, BEST, only on the assurance that he would pay the balance amount immediately, by not adhering to his own commitment, the consumer has committed a breach of trust and hence no further leniency may be given to the consumer.
7. Despite being a case registered under section 135 of E.A. 2003, the consumer is approaching various forums like the Electricity Inspector and CGRF, only to subvert the process of law. As the case is being tried in Session Court and being sub judice, we are unable to offer any further comments in the matter.

8. In view of the above fact, and till receipt of the balance vigilance claim of Rs.12,63,569/- clearance for Requisition No.900903036, dtd 13-10-2008 for reconnection of electric supply cannot be considered.
9. Before approaching CGRF, complaint in schedule 'A', the consumer Reliance Jewellery Watches Pvt. Ltd has made complaint in Annexure 'C' Form dtd. 19-11-2008 for reconnection of electric supply vide Requisition No.90903036, dtd. 13-10-12008. It was informed to the consumer vide letter No.CCFN/AOFN/Annexure 'C'-27/30072/2008, dtd. 03-12-2008 that due to raid by our vigilance department on 29-04-2008, vigilance claim was given vide letter VGN/022/D08 which is still unpaid. No vigilance clearance given by our vigilance department due to non-payment of claim. Vide ESL-9 dtd. 25-11-2008 consumer was informed the same.
10. BEST invite the attention of the Hon'ble Forum to the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman Regulations, 2006) as regards following:
 - 10.1 The Forum shall not entertain a grievance:
 - Clause 6.7 (d) where a representation by the consumer, in respect of the same grievance, is pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority.
 - Clause 6.8 If the Forum is prima facie of the view that any grievance referred to it falls within the purview of any of the following provisions of the Act the same shall be excluded from the jurisdiction of the Forum :
 - (b) offences and penalties as provided under sections 135 to 139 of the Act.
 - 11.0 Theft of Electricity has done by the complainant residing in a posh locality with a high Tech tampering of meter. The complainant is having commercial premises at the ground floor of Matruchayya Building, Matunga. In the same building the complainant is residing.
 - 12.0 Supply was restored to other 4 cases in the same building as the concerned consumers have paid 50% of the provisional vigilance claim.

Observations

1. Based on the submissions made and the evidence brought to the notice of the Forum prima-facie it appears that, the said case falls under Section 135 of part XIV of Electricity Act 2003, which deals with theft of electricity and hence is not under the purview of the Forum.
2. The points raised by the complainant are mainly procedural and they do not change the nature of the matter under dispute.

3. Complainant may approach the appropriate authority for Redressal of his grievance.

ORDER

1. As the case falls under Section 135 of part XIV of Electricity Act, 2003, it does not fall under the purview of the Forum. The case is not admitted.
2. The case is disposed off.
3. Copies be given to both the parties.

(Shri. M. P. Bhave)
Chairman

(Shri. S. P. Goswami)
Member

(Smt. Vanmala Manjure)
Member