

		Date	Month	Year
1	Date of Receipt	02	05	2022
2	Date of Registration	09	05	2022
3	Decided on	05	07	2022
4	Duration of proceeding	56 days		
5	Delay, if any.	nil		

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 - 400001
Telephone No. 22799528

Grievance No.E-455-2022 dtd.09/05/2022

Laxmi IndustriesComplainant

V/S

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

Present

Chairman

Coram : Shri S.A. Quazi, Chairman

Member

1. Smt. Anagha A. Acharekar, Independent Member
2. Shri S.S. Bansode, Technical Member

On behalf of the Complainant : Shri Mark Fernandes

On behalf of the Respondent : Shri M.K. Anwar

Date of Hearing : 29/06/2022

Date of Order : 05/07/2022



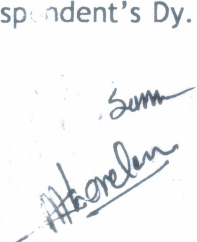

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Judgment

- 1.0 The complainant has grievance about demand of the Respondent for an amount of Rs. 2,28,959.08 and interest thereon, as alleged arrears towards electricity charges.
- 2.0 The case of the complainant may be stated as under :
- a) The Respondent provides electricity to the premises situated at ground floor of the building at plot -208, Atlas mill compound, Barister Nath Pai Marg, NR Mhatar Pakhadi, Mazgao, Mumbai-400010. The registered consumer of the said premises is complainant Laxmi Industries under a/c no. 513-055-002 since the year 2006. The Respondent also used to provide electricity to the other premises situated in the same building situated at plot -208, Atlas mill compound, Barister Nath Pai Marg, NR Mhatar Pakhadi, Mazgao, Mumbai-400010. The registered consumer of the said other premises was M/s Mamaji Industries Corporation. The said amount of Rs.2,28,959.08 pertains to the said consumer M/s Mamaji industries Corporation and its meter No. P113239 has been removed from the premises due to non-payment of its arrears. The Respondent ought to have recovered this amount from M/s Mamaji industries Corporation. But due to negligence on the part of the officials of the Respondent the said amount has remained to be recovered from the said consumer M/s Mamaji Industries Corporation. Now the Respondent's officials are trying to recover the said amount of dues from the complainant and they have added the said amount of Rs. 2,28,959.08 from the complainant, only because the premises of the complainant is situated in the same building on ground floor.
- b) According to the complainant, the Respondent has included the said amount of Rs. 2,28,959.08 pertaining to the account of the said M/s Mamaji Industries Corporation to the a/c No.513-055-002 of the complainant in the month of Jan. 2022. It is the case of the complainant that the Respondent is not entitled to include the said amount in the a/c No. 513-055-002, because the said amount pertains to the consumer of other premises by name M/s Mamaji Industries Corporation under a/c No. 200-024-651 which later on changed to a/c no. 202-006-927. The said firm M/s Mamaji Industries Corporation has been closed down and whereabouts of it are not known. The meter No. P085981 of said firm M/s Mamaji Industries Corporation about the premises of first floor was removed. The Respondent ought to have approached to the said firm M/s Mamaji Industries Corporation for recovery of this amount. The Respondent is not entitled to include the liability of the said firm M/s Mamaji Industries Corporation to the complainant's a/c No. 513-055-002. The Respondent has wrongly added the said liability of the premises situated at first floor pertaining to the firm M/s Mamaji Industries Corporation to the a/c No. 513-055-002 of the complainant pertaining to ground floor. On investigation and report dt. 23.12.2021 of Respondent's Dy. Engineer




(Milind Karanjkar)
Secretary
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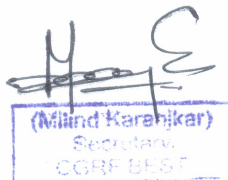

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Shri Sohail Anwar, the said amount of Rs. 2,28,959.08 was transferred to the a/c No. 513-055-002. The said investigation and report of Dy. Engineer Sohail Anwar is biased.

- c) The complainant submits that the Respondent has added the said amount in the a/c No. 513-055-002 in January 2022 "after a decade of three years" as pleaded by the complainant in the instant complainant. It is submitted by the complainant that just because the complainant is occupying the premises presently, the said amount of a/c No. 200-006-927, which was disconnected long back, of the firm M/s Mamaji Industries Corporation has been transferred to complainant's a/c No. 513-055-002. Hence, it is requested by the complainant that this amount of Rs. 2,28,959.08 be removed from its said accounts and the arrears pertaining to complainant's a/c No. 513-055-002 be allowed to be paid in installments, in view that there was lock down and the complainant company was also facing legal proceedings in National Company Law Tribunal. It is also requested by the complainant that the Respondent be directed not to disconnect the supply.
- d) According to the complainant, for the above reasons, the complainant is not liable to pay the additional amount of Rs. 2,28,959.08, added in the bill of the complainant and hence it be removed from the bill and the dues of the complainant's account may be allowed to be paid in installment and till then, for non-payment of these dues, the Respondent should not disconnect the supply.

3.0 The Respondent has filed reply and opposed the grievance of the complainant. The Respondent's case may be stated as under:

- a) The power supply given through a/c 202-006-927 was for the ground plus first floor of the building situated as mentioned by the complainant. It was in the name of M/s Mamaji Industries Corporation. Consumer a/c No. 513-055-002 of the complainant Laxmi Industries is on the ground floor of the same building. Due to non-payment of electric bills, the meter No. P113239 pertaining to a/c No. 202-006-927 of first floor was removed on 24.1.2019. Then on 23.12.2021 the official of the Respondent inspected the site of installation and found that there are four accounts namely a/c No. 513-055-002, a/c No. 513-055-003, a/c No. 513-055-004 and a/c no.202-006-927 in different premises in the said building but owners of all these premises are the family members and are inter connected. Therefore the Respondent transferred the dues amounting to Rs. 2,28,950/- pertaining to a/c No. 202-006-927 to the a/c No. 513-055-002, which is in the name of the complainant Laxmi Industries in the month of January 2022 under code 24. This code provides that arrears from old disconnected consumer account may be recovered. However, the complainant raised objection to it. Respondent informed the complainant that the said action is lawful and it would not be withdrawn as the premises are interconnected and the owners are from the same family. Moreover, though supply was disconnected to the premises of a/c No. 202-006-927, the supply to it was found ON from the premise of the a/c No. 513-055-002 of





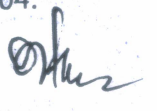
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complainant. Hence, the Respondent has asked the complainant to pay as per the above demand of the Respondent.

- b) According to the representative of the Respondent, their record reveals that in the year 1964, for the first time the Respondent started giving supply of electricity to the entire building comprising of ground plus first floor. The supply as such given was to the consumer called Texdyes Corporation under consumer a/c No. 513-055-001. Then on 09.07.1973, new electric connection was given in that building to the consumer called Mamaji Industrial Corporation Ltd. under consumer a/c No. 513-061-009 for ground plus first floor of the same building. It is also submitted by the representative of the Respondent that from their record it is revealed that subsequently, this a/c No. 513-061-009 was converted into the consumer a/c No. 202-006-927 in the same consumer name of Mamaji Industrial Corporation Ltd. Then in September, 1973, new connection was given in that building to the consumer called Mamaji Industrial Corporation Ltd. under consumer a/c No. 513-061-005 only for ground floor of the same building. Subsequently, meter of consumer a/c 513-055-005 of Mamaji Industrial Corporation Ltd of ground floor was changed by new meter and a/c No.513-055-005 was changed into 200-024-651 under the name of consumer Mamaji Industrial Corporation Ltd. for ground floor of the said building. Subsequently, there were arrears of Rs.3,59,100/- pending in respect of this consumer a/c No. 200-024-651 in the name of Mamaji Industrial corporation. Therefore, on 05.10.2015 meter of this a/c No. 200-024-651 was removed from the premises for the non-payment of the dues and the arrears were debited to the consumer a/c No. 202-006-927 of Mamaji Industrial Corporation Ltd. in Oct. 2016. These arrears were subsequently paid. Thereafter, from April 2018 the bills of this consumer account were not paid and, therefore, on 24.01.2019 the meter of this consumer a/c No. 202-006-927 of Mamaji Industrial Corporation Ltd. was removed. Till March 2019 the arrears of this consumer account were amounting to Rs.1,58,099/-. As on January 2022 these arrears from May 2018 to January 2022 became amounting to Rs. 2,28,950/- As there is existing consumer a/c No. 513-055-002 of M/s Laxmi Industries, in respect of ground floor premises of the building, these arrears have been debited to this a/c No. 513-055-002 of M/s Laxmi Industries.
- c) In the above backdrop, it is submitted by the Respondent that as far as the present case is concerned, in the month of November, 2017, the complainant of other connected grievance registered with CGRF vide No. E-454 of 2022, M/s Singnapurkar's Leather House Pvt. Ltd. had applied to the Respondent for giving additional connection of electricity for the premises in the same building in which already three electric connections existed vide a/c No.513-055-002, a/c No.513-055-003, and a/c No.202-006-927, all in the names of different sister concerns of the complainant M/s Singnapurkar's Leather House Pvt. Ltd. Being so, on the said application given in November 2017 for additional connection/meter, the Respondent gave additional connection and installed meter No.N175353 for new consumer a/c No. 513-055-004.




(Milind Karanjkar)
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This additional connection was given considering that the complainant M/s Singnapurkar's Leather House Pvt. Ltd. had taken responsibility for both the accounts installed at ground and first floors stating that if any outstanding of any account remained unpaid, it would be paid by the complainant. To this effect the said M/s Singnapurkar's Leather House Pvt. has given a written indemnity bond in favour of the Respondent. At the time of giving of the said new connection under a/c No. 513-055-004 they paid some of the outstanding amount pertaining to sister concern M/s Laxmi Industries under a/c No. 513-055-002, situated at ground floor. Further, M/s Laxmi Industries gave NOC for giving new connection to the M/s Singnapurkar's Leather House Pvt. Ltd. under a/c No. 513-055-003 and 513-055-004. While applying for new connection as such in Nov. 2017, Shri Kishore Singnapurkar of M/s Singnapurkar's Leather House Pvt. Ltd. also submitted along with the application, a copy of leave and license agreement between Mamaji Industries Corporation and Kishore S. Singnapurkar. From this it is clear that before installation of meter of a/c No. 513-055-004 of the M/s Singnapurkar's Leather House Pvt. Ltd., three meters were already existed for the same premises in different company names of the same family members under consumer a/c numbers vide a/c No. 513-055-002, 513-055-003 and a/c No. 202-006-927.

- d) According to the representative of the Respondent, due to non-payment the meter No. P113239 of a/c No. 513-055-004 was removed on 24.01.2019. As the consumer of a/c No. 513-055-003 and 513-055-004 is same person i.e. the present complainant, the outstanding amount of Rs.2,25,287/- pertaining to a/c No. 202-006-927 is debited to the consumer a/c No. 513-055-002 of the complainant, which is on the ground floor. Hence it urged that the complaint filed before this forum has no merits and therefore, it is liable to be dismissed.

- 4.0 We have heard both the parties and noted their submissions as above. In view of the above submissions of the parties and case pleaded by them, the following points arise for determination, on which we record our findings as under, for the reasons to follow:

Sr. No.	Points for determination	Findings
1.	Whether, the demand of the Respondent in respect of the outstanding amount of Rs.2,28,950/-pertaining to a/c No. 202-006-927, by debiting it to the consumer a/c No. 513-055-002 of the complainant Laxmi Industries is legal, valid and correct?	In negative.
2.	Whether the complainant is entitled to any installment facility in paying the amount arrears	The complainant is not entitled to installment facility in paying the amount of arrears.



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3.	What order is required to be passed to dispose this grievance application?	The instant grievance application/complaint is liable to dismissed and accordingly it is being dismissed, as is being directed in the operative order being passed herein below.
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5.0 We record reasons for our aforesaid findings on points No.(1) to (3) as under:

- a) It is not disputed that there is a building comprising of ground plus first floor. In this building the complainant's consumer a/c No. 513-055-002 exists for the premises on the ground floor. It is also not disputed on the first floor of this building there was another electric connection in the name of M/s Mamaji Industries Corporation under the consumer a/c No. 202-006-927 and this connection has been disconnected in the year 2019 and meter has been removed due to non-payment of the electric bills raised by the Respondent.
- b) The dispute raised by the complainant in this complaint seems to be that the Respondent has illegally added the arrears pertaining to earlier consumer M/s Mamaji Corporation Ltd. to the tune of Rs. 2,28,950/- to a/c No. 513-055-002 of ground floor pertaining to the complainant. He submits that these arrears are belonging to the earlier consumer Mamaji and Corporation who was holding consumer a/c No.202-006-927.
- c) The Respondent's defense to counter the above contentions of the complainant is that the building comprises of ground plus first floor. In the year 1964 the electric connection was given to the entire building under the name of Texdye Corporation. Then in 1973, the consumer Mamaji Corporation Ltd. took connection in its name for the ground plus first floor. Then for the ground floor the connection was given to consumer by name M/s Signapurkar's Leathers House Pvt. Ltd. In the other portion of ground floor the separate consumer a/c no. 513-055-002. Thus according to the Respondent all the four consumer accounts were belonging to the members of the same family and as per the undertaking given by them at the time of taking additional connection in their separate names they are bound to pay arrears of the other family members. The representative of the Respondent has pointed from their record about certain payments made by some of the family members in respect of the dues of account of the other family member's accounts. Therefore it is submitted by the representative of the Respondent that complainant is liable to pay the arrears of the earlier consumer of the entire building M/s Mamaji Industries Corporation as the complainant's premises is also part of that building.

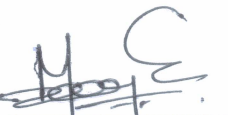


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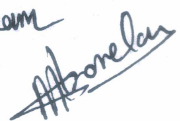
- d) We have examined the pleadings and documents of both the parties. What appears from the record of the Respondent is that initially the entire premises comprising of ground plus first floor was given one electric supply connection in the year 1964. The supply as such was given to the consumer called Texdyes Corporation under consumer a/c No. 513-055-001. Then on 09.07.1973, another new electric connection was given in that building to the consumer called Mamaji Industrial Corporation Ltd. under consumer a/c No. 513-061-009 for ground plus first floor of the same building. It is also submitted by the representative of the Respondent that from their record it is revealed that subsequently, this a/c No. 513-061-009 was converted into the consumer a/c No. 202-006-927 in the same consumer name of Mamaji Industrial Corporation Ltd. Then in September, 1973, third new connection was given in that building to the consumer called Mamaji Industrial Corporation Ltd. under consumer a/c No. 513-061-005 only for ground floor of the same building. Subsequently, meter of consumer a/c 513-055-005 of Mamaji Industrial Corporation Ltd of ground floor was changed by new meter and a/c No. 513-055-005 was changed into 200-024-651 under the name of consumer Mamaji Industrial Corporation Ltd. for ground floor of the said building. Subsequently there were arrears of Rs.3,59,100/- pending in respect of this consumer a/c No. 200-024-651 in the name of Mamaji Industrial corporation pertaining to ground floor. Therefore, on 05.10.2015 meter of this a/c No. 200-024-651 of ground floor was removed from the premises for the non-payment of the dues and the arrears were debited to the consumer a/c No. 202-006-927 of Mamaji Industrial Corporation Ltd. in Oct. 2016. These arrears were subsequently paid. Thereafter, from April 2018 the bills of this consumer account No. 202-006-927 of Mamaji Industrial Corporation Ltd. were not paid and, therefore, on 24.01.2019 the meter of this consumer a/c No. 202-006-927 of Mamaji Industrial Corporation Ltd. was removed. Till March 2019 the arrears of this consumer account were amounting to Rs.1,58,099/-. As on January 2022 these arrears from May 2018 to January 2022 became amounting to Rs. 2,28,950/-
- e) The parties have submitted the information of dates of installation of all the meters and connections are not available. Chronological record of connections and the divisions of the premises etc. of the premises is also not available. However, from the aforesaid submissions of the parties it can be inferred that there is a building comprising ground plus first floor. Initially in the year 1964 for the entire building of ground plus first floor only one electric connection was given in the consumer name as Texdyes Corporation under consumer a/c No. 513-055-001. Then on 09.7.1973, new connection for ground plus first floor of the building in the consumer name as M/s Mamaji Industrial Corporation under a/c No. 513-061-009 which was subsequently converted into the consumer a/c No. 202-006-927 in the same consumer name of Mamaji Industrial Corporation Ltd. Then in Sept. 1973 another connection was given only for ground floor of the building in the same consumer name as M/s Mamaji Industrial Corporation under a/c No. 513-061-005 which was subsequently converted into the consumer a/c No. 200-024-651 in the same consumer name of Mamaji Industrial Corporation Ltd. From the above facts at least at this juncture it is clear that




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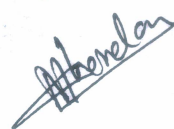

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there were two connections in the consumer name as M/s Mamaji Industrial Corporation, one for the first floor and the another for the ground floor. The documents produced by the Respondent show that apart from these two accounts, there exists third consumer-account in the said building and this third account is also on the ground floor presently in consumer name of the complainant Laxmi Industries under a/c No. 513-055-002. The complainant has shown as to from whom he got this premises and which electric connection existed in place of a/c No. 523-055-002. But from the copy of statement showing installation details of installation of a/c 513-055-001 given in the consumer name Texdyes Corporation in the year 1964, it appears till the year 2012 this a/c existed and then consumer name is changed to the name of the present complainant Laxmi Industries. It means the initial consumer Texdyes Corporation took connection in the year 1964 for the entire building and in July 1973 the first floor and part of the ground floor was given to Mamaji Industrial Corporation and remaining part of ground floor was retained by Texdyes Corporation. This position remained till the year 2012. In the year 2012, the present complainant Laxmi Industries got change of consumer name in its name from the said Texdyes Corporation. In view of this analysis, it becomes clear that the premises of first floor was given connection in the name Mamaji Industrial Corporation after the premises of the entire building was divided for the purposes of giving separate connection to Mamaji Industrial Corporation on the first floor and part of the ground floor. Only those who were or are occupying the first floor can be held liable to pay the arrears pertaining to the first floor separated from other parts of the building for the purpose of supply of electricity under separate connection. As the complainant was never occupying the premises of first floor, to which the arrears pertain, he is not liable to pay the arrears of the first floor connection under a/c No. 202-006-927. Merely because complainant's directors belong to the family of the directors of the other consumer M/s Singnapurkar's Leather House Pvt. Ltd. or the complainant paid arrears of other consumers of the building, the liability of paying the arrears of account of first floor cannot be fastened on the complainant Laxmi Industries.

- f) Therefore, for the aforesaid reasons we hold that the complainant Laxmi Industries cannot be held liable to pay the arrears of electric charges given to the separated first floor of the building. We further hold that the demand of the Respondent in respect of the outstanding amount of Rs.2,28,950/- pertaining to a/c No. 202-006-927, by debiting it to the consumer a/c No. 513-055-002 of the complainant Laxmi Industries, is not legal, valid and correct. Hence, we have recorded negative findings on point No.1.
- g) It is submitted by the complainant's representative that the arrears of his a/c 513-055-002 may be allowed to be paid in installments taking into consideration that since March 2020 there has been lock down in force on account of its imposition by the Government due to spread of virus of covid -19 and also that the complainant was required to face proceeding for liquidation in NCLT. The representative of the Respondent has strongly opposed these contentions of the complainant. We have




(Milind Karanjkar)
Secretary
CGRF BEST








examined these submissions of the parties. We do not find merits in the above submissions of the representative of the complainant. There is no law which entitles a consumer to get facility of installment for the aforesaid reasons. Hence we have recorded negative findings on point No.2.


- h) In view of the above reasons and findings recorded on point No (1) to (2), this complaint/grievance-application will have to be dismissed as is being directed in the operative order herein below. Accordingly, we have answered point (3) and hence we pass the following order:

ORDER

- 1.0 The Grievance No.E-455-2022 dtd.09/5/2022 is hereby partly allowed.
- 2.0 The Respondent is directed to withdraw its demand of Rs. 2,28,950/- made by it to the complainant and modify the concerned bills and issue modified bills of the complainant's consumer a/c No. 513-055-002, in the light of the directions given herein. The Respondent shall comply with this direction within two months from the date of this order. The Respondent shall not disconnect the supply for non-payment of the said disputed amount of Rs. 2,28,950/-.
- 3.0 The request of the complainant to grant facility of installments to pay the arrears is rejected.
- 4.0 Copies of this order be given to all the concerned parties.


(Shri. S.S. Bansode)
Technical Member


(Smt. Anagha A. Acharekar)
Independent Member


(Shri S.A. Quazi)
Chairman




(Milind Karanjkar)
Secretary
CGRF BEST

