

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-E-103-10 dt . 20/8/2010

M/s Plastic ArtComplainant

V/S

B.E.S. & T. UndertakingRespondent

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. Smt Ankita V Anvekar

On behalf of the Respondent 1. Shri. M R Dharaskar, DECCE
2. Smt Estella F Jacques, AOIGR

Date of Hearing: 28.09.2010

Date of Order : 07-10-2010

Judgment by Shri. R.U. Ingule, Chairman

M/s Plastic Art, (Prop. Vikesh Anvekar) 3rd Floor, 166 J Karia Indl. Estate, M.K.Street, Mumbai – 400 011 has come before Forum for grievances regarding excess billing, delayed payment charges and billing on actual reading and not on average basis of A/c No. 536-362-002 (old) [200-010-759 (new)].

Complainant has submitted in brief as under

1. Complainant M/s Plastic Art, (Prop. Mr Vikesh Anvekar) was using electric supply to the premises, 3rd Floor, 166 J Karia Indl. Estate, M.K.Street, Mumbai – 400 011 through meters of A/c No 536-362-002 (old) [200-010-759 (new)].
2. As per complainant, there were two meters D-894512 and 0078168 under account no 536-362-002. The dispute started in the month of November 1998 when complainant had received bill of Rs 96,628.07 in which meter no 0078168 showed 17408 units consumed. The complainant had been to respondent's Dadar Office and since it was a disputed bill, respondent told complainant to pay Rs 20,000.00 on account. Complainant was receiving the electric bills including arrears of previous bill amount and complainant was paying the bills as per the respondent's office instructions.
3. As per complainant, their bi-monthly consumption was in the range of 1300 to 1400 units. In addition to that, respondent added DPC from Nov 1998 till the removal of meter and also further even after removal of meter upto Nov 2000. Respondent had replaced the meter 0078168 by K-810244 and same again replaced by L-990995. Complainant state that during the course of replacement of meters, respondent overcharged the complainant because units consumed did not tally with meter reading.
4. As per complainant, respondent had replaced both meters and installed electronic meter P-01281 on 20-2-2000. Complainant states that the business had come down, they were hardly using the premises and affected consumption recorded on new electronic meter P-01281. As per complainant the consumption was up and down respondent replaced P-01281 meter by new electronic meter P-001691 on 31-10-2000. Respondent started charging on average billing of 730 units per month up to march 2001 and 890 units till removal of meter on 7-10-2002.
5. Complainant states that during the period of electronic meter from 31-10-2000 to 7.20.2000 respondent charged on average basis and in addition to that kept on charging DPC. This continued upto Feb 2002 when an amount of Rs 2,36,938.30. The respondent had debited the arrears of Rs 2,64,836.70 which was the amount of a/c no. 536-362-002 in the current bill of a/c no. 200-010-759 & the amount has come to Rs 5,01,775/-. Respondent gave complainant the credit of Rs 1,21,596.52 in the month of July 2003 and the bill was pending Rs 3,80,178/-. Respondent was sending bills to the complainant even after removal of the meter.
6. Complainant approached through 'C' form complaint, till date complainant not received any response from respondent.

7. According to the Complainant, following discrepancies are yet to be sorted out :
 - 7.1 The credit of wrong billing for units 17408, 6288, 7491 which was wrongly charged, The credit of units overcharged during the course of meter replacement. The credit of 5800 units which was billed two times on average basis.
 - 7.2 Credit of average billing of electronic meter till the removal of meter (31-10-2000 to 7-10-2002).
 - 7.3 Cancellation of DPC which were charged during the dispute date i.e. Nov 1998 till removal of electronic meter and DPC even after removal of meter in both case i.e. ordinary and electronic meter.
 - 7.4 To explain the period of credit of Rs 1,21,596.52 for which meter it was given.

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

8. Respondent states that meter no. D894512 and 0078168 were installed for premises of the complainant M/s Plastic Art under A/c no. 536-362-002 on Industrial Tariff. It is observed that the complainant was billed for 17408 units in the month of Nov-98. As per the remarks of respondent's meter reader on reading folio, the reading recorded by the meter no.0078168 was correct reading. Hence no credit was given for 17408 units charged in the month of Nov-98.
9. As per respondent, meter no. 0078168 was replaced by meter no.K810244 in the month of Feb-99 and again meter no. K810244 was replaced by meter no.L990995 on 28.03.1999. During these replacements, the complainant was overcharged by 4087 units, for which credit of Rs.24,681.91 was given in the complainant's bill for the month of Nov-99. As per respondent the complainant was also billed on average basis for 5800 units in the month of Jan-2000 and March-2000 for which credit of Rs 9,044.84 was given in the month of April-2000.
10. Respondent states that both the conventional meters i.e. D894512 and L990995 were replaced by electronic meter no. P001281 on 29.02.2000 and the complainant was billed under electronic A/c 200-010-759.
11. As per respondent, average monthly consumption recorded from the date of installation of electronic meter no. P001281 till 01.09.2000 was about 1135 units per month. After 01.09.2000, meter no. P001281 was found to be defective (Display Defective). Hence it was replaced by meter no. P001691 on 31.10.2000. Complainant bill was amended for the period from 01.09.2000(date of last reading) to 31.10.2000(date of replacement of meter), taking the old average of 1135 units per month and complainant

was billed for Rs.11,076.70; this amount was debited in complainant bill for the month of Dec-2002.

12. As per respondent, complainant consumption dropped from 31.10.2000; therefore they were billed on average from the month of 31.10.2000 onwards due to nil consumption till meter was removed on 07.10.2002.
13. As per respondent, complainant inform vide letter dtd. 05.01.2001 & 22.02.2002 that the company is closed. On the basis of test report of meter no. P001691 on 02.04.2002, complainant was billed on minimum amount of Rs.75/- per month for the period from 31.10.2000 to 07.10.2002, which worked out to Rs.2000.98 and credited all the units charged on average which amounted to Rs 98,854.13/-. The delayed payment charges of Rs.24743.37 on the excess charged amount was refunded. All these adjustment were given in the complainant 's bill for July-2003
14. Vide respondent reply letter no.CCNE/IGR-E/Annex-C/ 8693/ 2010 dated 21.04.10 to annexure `C' dtd. 12.03.201, respondent gave detailed explanation to the complainant that all the credit due to average billing is already given to complainant except the credit for 17408 units charged in the month of Nov-1998 as the same was correct reading and informed that after all these adjustments, final outstanding amount as on 01.04.2010 for A/c no.200-010-759 is Rs.4,86,175.43 (which included arrears amount of Rs.2,64,836.70/- transferred from old A/c 536-362-002). Complainant requested to pay the actual energy charges of Rs.2,68,273.72/- and get the reconnection of supply. On payment of Rs.2,38,273.72/-, the total delay payment charges of Rs.1,17,905.13/- (for both A/c's) and interest on arrears of Rs. 99,997.43/- will be waived.
15. Respondent states that the said dispute filed by the complainant is without jurisdiction & not maintainable for the reason that the said dispute is barred by the Clause No. 6.6 of the MERC (CGRF & EO), Regulation, 2006. The said dispute is not filed within 2 years from the cause of action. It is therefore respectfully submitted with the dispute is liable and ought to be rejected with cost on the above said preliminary ground alone.
16. The complainant M/S Plastic Art has stated in his submission that he is ready to pay the actual bill which is due. The old arrears amount as on 01.08.2010 is Rs.4,86,175.43. Respondent will be giving credit of Rs.3,54,907.89, if the complainant agrees to pay Rs. 1,31,267.54 towards actual energy charges.
17. The Hon'ble Forum may scrutinize the case of outstanding arrears in purview of the provisions of Electricity Act 2003 and MERC Regulation and complainant may be directed to pay the outstanding actual Energy charges and get the Reconnection. The Delayed Payment Charges and Interest on arrears will be waived.

REASONS

18. We have heard Smt Ankita Anvekar for the complainant and representatives Shri Dharaskar and Smt Jacques for respondent BEST Undertaking. Perused papers.
19. The controversy raised before this Forum, moves in a very narrow compass. Although many contentions have been raised in the complaint filed before us but during the oral submission the representative Smt Anvekar for the complainant has confined her contention to the alleged improper and erroneous readings recorded by the officials of BEST Undertaking in the month of November 1998 as 17,048 units recorded by meter no 0078168 allotted to the complainant.
20. The complainant was running its business of plastic article manufacturing for which two meters viz 894512 & 0078168 were provided to the complainant with a/c no 536-362-002 on industrial tariff. The complainant has vehemently assailed the consumption of 17,048 units recorded by meter no 0078168 in the month of November 1998 being highly erroneous and improper one, therefore, imposing a bill of Rs 96,628.07 was also improper and illegal. The representatives of respondent BEST Undertaking incounter by placing heavy reliance on hand-written ledger folio placed on file at Exhibit 'A' along with the written statement, pointed out that remarks recorded thereon shows that the meter was recording correct readings of the electricity units consumed by the complainant.
21. Respondent, further, submitted that the complainant never complained in any manner in regard to the alleged improper and wrong recording of 17,048 units consumption recorded by meter no 0078168. Respondent brought to the notice of this Forum that it is after a lapse of 12 yrs when the complainant has been in need of restoration of electric supply to its premises, by approaching this Forum has been raising its said grievance without having any foundation and basis. The grievance raised by the complainant, therefore, has been inordinately stale one and unsustainable in 'fact and law'.
22. We find a great force in the contentions raised by the respondent BEST Undertaking. We observed that admittedly, meter no 0078168 has recorded electricity units consumption of 17,048 units by the complainant. It is significant to observe at this juncture that not an iota of evidence has been placed on file by the complainant to show that till the date of filing the instant complaint the complainant has raised any grievance in any manner either with the respondent or any other Authority, raising the objection about the alleged improper and wrong reading recorded by the said meter in the month of November 1998. The complainant has candidly admitted before this Forum having no evidence with her to place on file about raising such grievance in the past and submitted a reason about missing the concern file containing such objections.

23. We however find ourselves unable to ascribe any merit to such submission made by the representative of the complainant before this Forum for a simple reason that all the concerned record has been placed before us, by the respondent BEST Undertaking including two letters of the complainant addressed to the respondent dated 2nd Jan, 2001 and 22nd Feb, 2002. Vide letter dated 2-1-01, the complainant has informed the respondent about closing down of its business activities. Similar information has been given to BEST Undertaking vide letter dated 22-2-02. However, there has not been even a whisper in both these letters about alleged improper and wrong recording of the electricity unit consumption recorded by the meter no 0078168 being on higher side as 17,048 units in the month of November 1998. We also find that the hand-written ledger folio maintained by the respondent shows the remarks recorded thereon about the meter being correct one. We find no reason to disbelieve the said ledger folio maintained by the respondent in its routine course of business.
24. In the aforesaid discussions and observations, we hold that the contention raised by the complainant about the alleged improper and wrong recording of electricity unit consumption of 17,048 being devoid of any merit. At this juncture we may observe that, had there been any grievance on the part of complainant in regard to the meter provided to it being not proper and recording incorrect consumption of electricity, then in such circumstances the complainant was under statutory obligation to take a recourse to subsection (6) of Section 26 of the Indian Electricity Act, 1910. This section inter-alia, provides that wherever any difference or dispute arises about the correctness of the meter, aggrieved party is required to file an application before the Electricity Inspector for his decision thereupon, and before filing such an application before the Electricity Inspector, the complainant consumer was under statutory obligation to give to the respondent BEST Undertaking not less than 7 days Notice of his intention so to do. Admittedly, the complainant has failed to take recourse to such a legal remedy provided in the Indian Electricity Act, 1910. Therefore, on this ground also, it is highly unsustainable on the part of complainant to raise such a grievance before this Forum. We, therefore, turn-down the said grievance without any hesitation.
25. This Forum, however, observe that there could be a lethargy or lapse on the part of the complainant to take recourse to the statutory remedy provided in the Electricity Act, 1910 as well as not approaching the respondent BEST Undertaking for redressal of its grievance at the relevant time. However, a bare perusal of the ledger folios placed on file manifest that on an average bi-monthly consumption of the complainant has been within the range of 1,300 – 1,400 units. There has been a sudden rise in consumption of electricity units in the month of November 1998 of 17,048 units recorded by meter no 0078168. We further observe that the complainant was required to close down its business and accordingly informed the respondent vide its letter dt 02-01-01. We, therefore, observe that the complainant is required to be extended with some relief like paying the electricity consumption charges in arrears in monthly installments to make it feasible and viable on the part of the complainant to clear the same

and get restoration of electric supply. Accordingly, we proceed to pass the following order.

ORDER

1. The complaint no. N-E-103-10 dated 20-8-2010 stands partly allowed.
2. The respondent BEST Undertaking has been directed to allow the complainant to pay only the arrears of consumption charges of Rs 1,31,267.54 in 6 equal monthly installments.
3. Copies be given to both the parties.

(Smt. Varsha V. Raut)
Member

(Shri.S.P.Goswami)
Member

(Shri. R.U. Ingule)
Chairman