

**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. S-D&C-108-10 dt . 20-12-2010**

Mr. Vinod V. Chothani .....Complainant

V/S

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

**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. Shri Vinod V. Chothani  
2. Shri Anant S. Khale

On behalf of the Respondent :  
1. Shri. N.N. Chougule, DCECC (N/E)  
2. Shri P. Subhash, DECC CC 'C' Ward  
3. Shri Sanjay S. Bansode, DECC 'D' Ward  
4. Shri H.K. Shendge, Supdt. CC 'C' Ward  
5. Shri V.K. Ade, AECC 'C' Ward  
6. Shri Appa Gaikwad, Sup(P), CC 'C' Ward

Date of Hearing : 3-2-2011

Date of Order : 25-2-2011

**Judgment by Shri. R.U. Ingule, Chairman**

Mr. Vinod V.Chothani, 33, Grd flr, Ganeshwadi, M.J. Market, Mumbai - 400 002 has come before Forum for grievances regarding Comprehensive / Complete Settlement of A/c No 445-447-095\*8, A/c No 384-041-023\*8, A/c No 384-041-013\*5.

Complainant has submitted in brief as under :

1. The complainant states that he was using his premises at 4<sup>th</sup> floor. 10 Ladhbai Bldg., 1-A, Mama Permanand Road, Mumbai - 400 004 (D-Ward) for residential purpose. From 5/9/2000 the tariff was changed to commercial tariff without any notice or intimation to him.
2. The complainant further states that the tariff was wrongly charged and the tariff was made residential against consumer no 445-447-095 (Meter no Q990633). The refund of Rs.70,003.25 due to the excess payment made to BEST arising out of wrongly levied commercial tariff. As he did not get refund, I was forced to withhold the payment of Rs.69,686.77 towards consumer no 445-447-095 (Meter no Q990633) of Rs.30,158/-, 384-041-013\*5 (Meter no. C0780197) of Rs.22,349.77/- & 384-041-023\*8 (Meter no. B033784) of Rs.17,179/- the above amount was confirmed by respondent's Head Office, Colaba. It was then also assumed that this amount will be adjusted and he continued to pay the current bill till date as per the instruction by Head office. Therefore, there were no arrears to be paid to respondent.
3. As per complainant, for the last 7 years he was harassed as respondent did not clear the case & he had to visit respondent office every month since 2003. Hence, he requested Forum to suitable compensation damages against above harassment.
4. The complainant states that respondent assumed arbitrary methods to conclude the period of commercial tariff where as the premises was always used for residential purpose. Respondent has no proof for the usage of commercial purpose.
5. The complainant states that he had paid all the bills as per his usage the arrears as well as interest / late payment charges should be waived.
6. Complainant states that, in the mean time he humbly request Forum to accept the current bills of the both the accounts of C & D ward till the settlement of the issue.

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

7. In the year 2000, as per the respondent's outdoor staff's report the tariff of consumer no. 455-447-095 was changed from residential tariff to commercial tariff (report copy not available). But to prove the same the complainant's letter itself is an evidence that the part of premises was used for commercial purpose.
8. Complainant's Meter No.Q990633 at 10, Ladhbai Mansion , 4<sup>th</sup> floor, Opera House, 1-A Mama Paramanand Marg, Mumbai - 400 004 was installed on

7/11/95 for residential purpose, but in the year of November, 2000 consumer was charged commercial tariff till July, 2003.

9. As per complainant's contention he used small portion (one room) for office purpose temporarily for a period about 6 to 7 months as his office premises in C ward (Account no. 384-041-023) was under repairs. He assured to submit the relevant documents in due course of time. Complainant requested to refund of difference between commercial to Residential tariff vide letter dt. 28/7/2003.
10. On 3/3/2005 respondent's ward office intimated complainant vide letter no. Supdt.(CS) D/Dy.ECC(CS)D/LC13755/2005 to produce documentary evidences regarding certificate of repairing from BMC of his office premises, but complainant could not produce the relevant documents.
11. From consumption pattern (November 2000 to July 2003) it seems that complainant's consumption is reduced from 04/07/2002. Therefore difference in commercial to residential tariff is worked out from 04/07/2002 to 04/07/2003.
12. Necessary Debit / Credit and Refund of delay payment charges and interest was calculated by respondent and approval of the same was received on 16/08/2010.
13. Respondent vide their letter Ref. DECC'D'/Supdt.CC'D' / 4675 / 2010 dtd. 27/09/2010 informed complainant that, your case was considered as a 'Special case' and the amount of Rs.86,790.89 was credited to electricity bill account. (The amount of Rs.70,348.33 was credited in the month of September, 2010 & amount of Rs.16,361.56 was credited in the month of July, 2010).
14. As per respondent, as evidence complainant has submitted his telephone bills for the period November 2000 to December 2003 in which it is also observed that the calls had been increased.
15. Respondent pray to the Hon'ble Forum to dismiss the grievances made by consumer as the case was treated as a special case the amount of Rs.86,709.89 is already refunded to the complainant.
16. As per respondent, Bill No.384-041-013\*5 stands in the name of Shri Vinodrai V. Chotani for room no.3 and No.384-041-023\*8 stands in the name of Shri Vinodkumar Vaghajibhai Chotani for room no.2 at Ground Floor, Ganesh Bhavan, 33/35, 1<sup>st</sup> Ganeshwadi, Mumbai 02.
17. Complainant was regularly paying electricity bill of A/c no.384-041-023\*8 upto December 2003. Complainant's old meter no.D968877 was replaced by new meter no.B033784 on 06.01.2004 for reason " Higher Capacity".
18. As per respondent, the first electricity bill generated against meter no.B033784 was on Feb.2005. (after 13 months) which had an accumulated

bill of 3800 units, amounting to Rs.22, 885.48. This was issued with nine months slab benefit. However the said bill was not paid by complainant. Again second bill of 3982 unit, amounting to of Rs.27, 659.10 with four months slab benefit along with arrears of Rs.23, 670.64 was issued in June 2005. (Total payable amount thus was Rs.51, 330/-) complainant was thus given total slab benefit of 13 months instead of 17 months. (06.01.2004 to 13.06.2005) This slab benefit payable by complainant was worked out manually and revised bill of Rs.47, 179/- was raised to complainant.

19. Complainant Shri Vinodkumar V. Chotani had submitted under protest two cheques of Rs.30, 000/-(Ch. No.314321 dated 06.09.2005 of Tamilnadu Mercantile Bank td.) and other for Rs.17, 179/-(Ch.No.314322 dated 05.10.2005 of Tamilnadu Mercantile Bank Ltd.) payment against regular electricity bill of account no.384-041-023\*8 of Rs.47, 179/-. Only Cheque of Rs.30,000/- which was deposited was realized by respondent on 15.09.2005. Complainant vide his letter dated 14.09.2005 informed respondent not to deposit cheque of Rs.17, 179/- without complainant's prior information and requested us to solve the matter before 05.10.2005 and also requested to returned the cheque of Rs.17, 179/-, and adjust the said excess amount and to close the matter in order to keep harmonious relationship. Complainant also informed us to continue his meter working for office premises and residence. As per complainant letter it is seen that the cheque of Rs.17, 179/- was returned to him.
20. Complainant is also having another account no.384-041-013\*5, meter no.D965553 for electricity supply address at Ground Floor, Shop No.03, 35 Ganeshwadi, Sk.Memon St., Mumbai 400 004. Due to non payment of regular bill meter no.D965553 was removed on 05.03.2004.
21. As per respondent, this account is showing arrears of Rs.46, 353.58 as on Nov.2010. As per Procedure Order No.164 payable amount is Rs.22985.80 after waiving delay payment charges and interest on arrears.
22. Against this account, arrears of pro-claim of Rs.24, 532.39 is also pending. Proclaim papers are not available in respondent's 'C' ward nor with EDP Department, since it is an old case, this case was put to respondent's Audit Department to withdraw the claim but Audit Department vide query dated 26.11.2010 mentioned that 'They do not have any Administrative Order to withdraw the pro-claim for the reason, "record not available" .
23. As per respondent, after removal of meter no.D965553 on 05.03.2004 of account no.384-041-013\*5, complainant clubbed room no.2 &3 and is using supply from meter no.B033784 of account no.384-041-023\*8
24. Complainant is paying regular electricity bill of account no.384-041-023\*8 of respondent's Customer Care 'C' Ward by keeping arrears amount of Rs.17, 179/- aside. At present this arrears amount is Rs.51, 365.94 including current bill due to delay payment charges and interest on arrears.

25. Complainant was informed vide reference DECC(C)/AE/31811/10 dated 21.09.2010 to pay the entire bill of Rs.48, 824/- of account no.384-041-023\*8 pertaining to respondent's 'C' Ward.
26. As per respondent, complainant is still paying current electricity bill (only energy charges) by keeping arrears amount aside.
27. Details of arrears of respondent's Customer Care 'C' Ward are as under.

Bill No.384-041-013*5	Rs.22, 985.80	Removed meter on 05.03.04
Bill No.384-041-013*5	Rs.24, 532.39	Pro- claim
Bill No.384-041-023*8	Rs. 51,365.94	upto Nov.2010.

Total amount thus payable to respondent's C Ward is Rs.98, 884.13.

### REASONS

28. We have heard the complainant Shri Shri Vinod V. Chothani & Shri Anant S. Khale in person, and representatives Shri. N.N. Chougule, Shri P. Subhash, Shri Sanjay S. Bansode, Shri H.K. Shendge, Shri V.K. Ade & Shri Appa Gaikwad for the respondent BEST Undertaking, at length. Perused papers.
29. At the outset we observe that the complaint filed before us has not been properly worded and submitted before this Forum. In this context we refer to the column No.7 provided for "nature of relief sought from this Forum", provided in schedule 'A', i.e. a format in which complaint needs to be filed before this Forum. Therein one would find that the complainant has referred to page no. 36 to 38, being a relief sought from this Forum. To our surprise page no. 36 & 37 are the copies of the same letters dated 22-2-2010. While page no. 38 narrates an incidence of settlement tried to be reached before the Chairman of the BEST Committee viz. Shri. Bagalkar and other officials.
30. To reiterate we thus observe a complaint filed before us has been very clumsy and not properly made out with the relief sought therein. However, to the extent of grievance of the complainant pertaining to meter no. Q990633 this Forum could apprehend the dispute raised by the complainant and relief sought by him on the basis of the documents placed before us. Therefore this Forum proceed to redress the grievance made by the complainant to this extent only.
31. We may proceed to observe at this juncture that for the rest of the grievance if anything remains to be resolved by this Forum, the complainant may approach this Forum again by filing a complaint afresh properly worded and submit the relief in clear term, sought from this Forum.
32. As submitted by the complainant he was having a premises for residential purpose in 'D' ward. In regard to this residence, the Respondent BEST

Undertaking has changed the tariff from 5-9-2000 from residential to commercial tariff, without any intimation or giving notice to the complainant. The complainant further submits that later on BEST Undertaking has admitted wrongly charging the tariff and made the same again a residential in respect of meter no. Q990633. The complainant further submits that he was entitled for a refund of Rs.70,003.25 due to such excess billing. The complainant therefore was forced to withhold the payment of electricity charges in respect of: i) Meter no. Q990633 ii) Meter no. C0780197 & iii) Meter no. B033784

33. The payment towards these 3 meters were of Rs.30158, Rs.22349.77 & Rs.17179 respectively, totally Rs.69686.77. The complainant further contends that the Head Office of Respondent BEST Undertaking had agreed to adjust these amount and therefore complainant continued to pay the current bills only. As such there are no arrears to be paid by the complainant to the Respondent BEST Undertaking.
34. Now we proceed to assess the merits in this contention raised by the complainant, that the meter no. Q990633 has been never used by him for any commercial purpose. We observe that the Respondent BEST Undertaking in counter submits that in the years 2000 its "outdoor staff" had reported that the tariff of the consumer no. 445-447-095 was changed from residential to commercial tariff. Therefore after investigating the reading statement and ledger statement from Nov-2000, it is observed that the complainant was charged commercial tariff till July 2003. On considering the representation made by the complainant the Respondent BEST Undertaking on considering the consumption pattern during a period from Nov-2000 to July 2003 found the consumption of electricity been reduced from 4-7-2002. Therefore the Respondent BEST Undertaking proceeded to work out a difference in commercial to residential tariff from 4-7-2002 to 4-7-2003. The said proposal was approved by the concerned authority of the Respondent BEST Undertaking on 13-5-2010 as a special case.
35. We thus find that the Respondent BEST Undertaking on the basis of "outdoor staff" report, proceeded to charge the complainant, commercial tariff instead of residential tariff. There after limited the same for a period from Nov-2000 to 3-7-2002 and proceeded to give a credit of Rs.86,790.89 to the complainant in his electricity bill. Therefore the Respondent BEST Undertaking in respect of ward 'D' now pray to the Forum, to dismiss the complaint in regard to ward 'D'.
36. On going through the documents placed before us we find that the Respondent BEST Undertaking has proceeded to change the residential tariff to commercial tariff in regard to meter no. Q990633, purely on the basis of report of "outdoor staff". Significant to observe that in the same breath, the Respondent BEST Undertaking is also submitting that such report has not been available for submitting before this Forum.

37. The representatives of the Respondent BEST Undertaking during the course of oral submission before this Forum, submitted that there has been a remark passed on the folio maintained in respect of said meter no. Q990633 in respect of change in tariff from residential to commercial tariff. Pertinent to observe in this regard that the said folio has also not been made available to the Forum for its perusal. Later on reported to this Forum that the said folio has been eaten by the rat, as such not available. We thus find that, absolutely there has not been any iota of evidence placed before this Forum by the Respondent BEST Undertaking, in support of their contention that the premises wherein the meter no. Q990633 was installed, was used by the complainant for a commercial purpose during a period from Nov-2000 to July-2002.
38. In this connexion an attempt has been made by the Respondent BEST Undertaking that the complainant himself has admitted that the same premises was used by him for a commercial purpose. In this regard the Respondent BEST Undertaking has been referring to letter dated 20-4-2009 addressed to it by the complainant and placed on file before this Forum at Exhibit-C. On perusing this letter we find that the complainant has been reiterating that the said premises was never used for any commercial purpose and a small portion of his house was used for keeping the office record temporarily for a short period. We thus find that the Respondent BEST Undertaking has been blowing the so called admission given by the complainant, out of its proportion, to serve its purpose in a most unjustified way and manner.
39. We further proceed to advert to the ledger maintained by the Respondent BEST Undertaking in regard to meter no. Q990633 allegedly used for commercial purpose during the period from Nov-2000 to July-2002 by the complainant. Admittedly prior to Nov-2000 the meter no. Q990633 was used for residential purpose. In the month of July-2000 we find the consumption of units of 2250. Significant to observe that during a period of alleged consumption on commercial tariff, only in a month of July-2001 the consumption of electricity units found to be 2156. During the rest of the period we find the consumption of units being on much lower level. We thus find that there has not been any abrupt or sudden increase in the consumption of electricity unit, during a period from Nov-2000 to July-2002 for ascribing an allegation to the complainant that the use of electricity was for commercial purpose.
40. To conclude on this aspect, we do not have any iota of evidence placed before us to support and prove the contention raised by the Respondent BEST Undertaking that during a period from Nov-2000 to 3-7-2002 the Complainant had used the meter no. Q990633 installed in his premises at 'D' ward, for a commercial purpose. We therefore proceed to hold that the said meter was used for residential purpose only and accordingly complainant should have been charged on residential tariff. Needless to say therefore that the Respondent BEST Undertaking has wrongly proceeded to charge the complainant on commercial tariff during a period from Nov-2000

to 3-7-2002 in regard to meter no. Q990633. Accordingly we proceed to pass the following order.

ORDER :

1. The complaint no S-D&C-108-10 dt. 20-12-2010 stands partly allowed.
2. It is hereby declared that the Complainant had used the meter no. Q990633 during a period from Nov-2000 to 3-7-2002 for residential purpose therefore he is liable to pay electricity charges for the said period on residential tariff basis.
3. The Respondent BEST Undertaking therefore directed either to refund or proceed to adjust whatever excess payment made by the Complainant towards the A/c no. 445-447-095 in respect of meter no. Q990633. The Delayed payment and interest if any levied by Respondent BEST Undertaking in regard to this account stands waived.
4. The Respondent BEST Undertaking has been directed to inform this Forum the compliances as above within a period of one month from the date of passing this order.
5. Copies be given to both the parties.

(Smt Varsha V Raut)  
Member

(Shri S P Goswami)  
Member

(Shri R U Ingule)  
Chairman