

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-G(S)-94-10 dt. 23/2/2010

M/s. A.P. Sales CorporationComplainant

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
Mr. D'Mello M.J.

On behalf of the Respondent
1. Shri. M.N. Nagere, Asst. Engineer
2. Shri. D.A. Mehta, Dy. Engineer
3. Smt. Geeta Ashok, OA 'G/S' ward
4. Shri. B.A. Kamble, Sub-Engineer

Date of Hearing: 18/3/2010 at 12.00 noon

Date of Order : 13/5/2010

Judgment by Shri. R.U. Ingule, Chairman

M/s. A.P. Sales Corporation, 241, 2nd Floor, Pragati Industrial Estate, Plot No. 316, N.N. Joshi Marg, Lower Parel, Mumbai – 400 011, has come before Forum for grievances regarding to delete the pending amount from his bill.

Complainant has submitted in brief as under

1. As per complainant they were using the supply through the meters of bill no. 530-362-010 which was then converted into electronic meter of bill no. 200-004-251 and same bill no. is changed into 202-004-251.
2. As per complainant at the time of installing electronic meter, there was a credit of Rs.21,863/- for the old meter till Jan-2003. The same credit amount was not credited into the new bill no. 200-004-251.
3. The bill no. 200-004-251 since Jan-1997, complainant had been paying the monthly bill on time.
4. As per complainant all of sudden in Jan-2009, i.e. after a period of 10 years he received a bill of Rs.6,27,615/- as the arrears for bill no. 530-362-010 (58338 units was suddenly charged in the said bill).
5. In Dec-2009 complainant forced to give the Annexure-C.
6. Complainant prayed to Forum to relive his burden by deleting the deficit amount from his current billing system.

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

7. As per respondent the premises situated at 241, 2nd floor, Pragati Industrial Estate, N.M. Joshi Marg, Mumbai-11 were having 4 meters under A/c no. 530-362-010 in the name of A.P.Sales Corporation. Thereafter in Jan-1991, M/s. A.P.Sales Corporation had applied vide requisition no. 21972 dtd. 6/1/1997 for combination of these 4 meters under the industrial & commercial tariff. During investigation it was observed that meters bearing no. R890108 & E917623 were billed under the industrial tariff and meters bearing no. 0239071 & E906324 were billed under commercial tariff.
8. As desired by M/s. A.P.Sales Corporation, meter no. R890108 & E917623 under industrial tariff were replaced by meter No. P960532 and meter bearing no. 0239071 & E906324 under commercial tariff were replaced by meter no. G964608 on 22/1/1997.
9. As per respondent inadvertently meter No.P960532 was wrongly inserted in the bill No.530-362-010 but no billing was preferred under this account as billing for this meter was done through bill No. 200-004-251. On account of this and due to the interest on deposit credited every year in Feb-March there was an amount of Rs.21863.00 in credit in A/c no.530-362-010 till January-2003.
10. On further scrutiny it is observed by the respondent that meter no. P960532 was registered billing record and was billed under industrial tariff. However, meter no. G964608 was not registered in billing record and hence bills were not issued since its installation.
11. As per respondent during routine inspection in June 2006, it was noticed that meter no.G964608 was not billing since its installation. The reading recorded by the meter were 58338. On the basis of actual units recorded by the meter, the bill for the period from 22/1/1997 to 9/8/2007 amounting to Rs.5,09,574/- was prepared and debited in the A/c no. 530-362-010.
12. As per respondent complainant had raised dispute for high bill. Respondent have carried out site inspection and it was observed that said meter was found idle and consumer M/s. A.P.Sales Corporation using supply through meter No.P021734 under the A/c no. 202-004-251 for Gala no. 241. The outstanding amount of old A/c no. 530-362-010 was transferred to the new A/c no. 202-004-251 in Jan 2009.
13. Considering the installation of meter in 1997, slab benefit for entire period has been given by respondent and the initial claim amount has been revised.
14. Respondent prayed to Forum to direct the complainant to pay the outstanding amount.

Reasons

15. We have heard the Id. representative Mr. D'Mello M.J. for the complainant and Id. representative Shri. M.N. Nagere, Asst. Engineer, Shri. D.A. Mehta, Dy. Engineer, Smt. Geeta Ashok, OA 'G/S' ward, Shri. B.A. Kamble, Sub-Engineer for the respondent BEST Undertaking.

16. The complainant vide the instant complaint has mainly raised 3 contentions, that on providing a new electronic meters by the respondent Undertaking, firstly, no cognizance was taken of an amount of Rs.21,863/- standing to the credit of complainant. Secondly, from Jan 1997 the complainant has been availing an electric supply through the new A/c no. 200-004-251, for which the monthly charges were paid regularly. There was no any outstanding amount on the part of the complainant corporation payable to the respondent. However, all of a sudden in the month of Jan 2009 for a past period of nearly 10 years the respondent BEST Undertaking has claimed an arrears amount of Rs.6,27,615/- vide the A/c no. 530-362-010, which was supposed to be for a dead meter. As per the record maintained by the BEST Undertaking from a period of Jan 2003 till July 2007 for the A/c no. 530-362-010 reading was shown as zero. Thereafter all of a sudden reading has been shown as 58338 and charged vide A/c no. 530-362-010. When such mistake was brought to the notice of BEST Undertaking the complainant was directed to pay the current bill only. Thirdly, the respondent BEST Undertaking has been claiming a huge amount after a lapse of about 10 years therefore the same has been time barred.
17. In counter by placing on file a written submission alongwith various documentary evidence, the respondent BEST Undertaking has pointed out and established a fallacy in the aforesaid grievances raised by the complainant before this Forum. Respondent has vehemently submitted that the complainant corporation were having two meters covered under the **Industrial tariff** bearing no. R890108 and E917623. The complainant under the **Commercial tariff** was having another set of two meters bearing no. Q239071 and E906324. It is on the application submitted by the complainant corporation under its stamp and seal, these four meters were replaced by two meters on 22/1/1997.
18. In this context the Id. representative for the respondent has brought to the notice of the Forum an application submitted by the complainant placed on file at Ex-B alongwith its written statement. In a bare perusal of this application we find a mention of all the four meters possessed by the complainant viz. R890108 and E917623, Q239071 and E906324. The Id. representative for the respondent Shri. M.N. Nagere, Asst. Engineer & Smt. Geeta Ashok, OA 'G/S' ward, by bringing to the notice of this Forum the connection order in respect of electronic meter dtd. 21/1/1997 placed on file at Ex-D, has pointed out that as prayed by the complainant corporation, the meter no. R890108 and E917623 were replaced by a meter no. 960532 for **Industrial tariff**. This Forum further finds that the meter bearing no. 239071 and E906324 came to be replaced by a meter no. G964608 for **commercial tariff** on the said date. Accordingly we find the entries being made in the said connection order placed on file at Ex-D.
19. In the aforesaid documentary evidence we uphold the contentions raised by the respondent BEST Undertaking that it is on the written request made by the complainant corporation a meter no. P960532 was provided for **Industrial tariff** and a meter no. G964608 was provided for **commercial tariff** in the month of Jan 1997.
20. A vitally important contention has been raised by Id. representative Shri. M.N. Nagere, Asst. Engineer & Smt. Geeta Ashok, OA 'G/S' ward, for the BEST Undertaking that on account of a sheer lapse on its part an information in regard to replacement of only one meter viz. P960532 for **industrial tariff** had gone to its billing section. However an information in regard to connection of a meter no. G964608 for **commercial tariff** had not gone to its billing section. Therefore the complainant corporation received the charges in respect of meter no. P960532 only. However it is in a routine inspection conducted in the month of June 2006 it came to the notice of respondent BEST Undertaking that the meter no. G964608 was not billed since its installation. Therefore the respondent BEST Undertaking had taken a note of reading of 58333 units consumption of electricity by the complainant corporation shown by the said meter viz. G964608 for a period from 22/1/1997 to 9/8/2007. A bill for the said consumption of Rs.5,09,574/- was prepared and debited in the account no of complainant corporation bearing no.530-362-010.
21. Id. representative appeared for respondent BEST Undertaking has adverted to a copies of a ledger maintained by it and placed on file before this Forum at Ex-G alongwith written statement. This Forum on perusing the entries made in the said ledger observe that the applicant corporation was initially provided with four meters bearing no.E917623, E906324, Q239071, R890108. To reiterate these four meters were replaced by two meters viz. P960532 and G964608 in the month of Jan 1997. However in a bare perusal of the entries made in the ledger we find that an information to Electronic Data Processing (For short EDP) section of the respondent BEST Undertaking continued showing the old meter bearing no.E906324. To reiterate the said meter no.E906324 was already replaced by a new meter G964608.
22. On perusing the said ledger, this Forum finds that the complainant corporation has been billed for a replaced meter no.P960532 but not billed for meter no.G964608. This Forum further finds that it is for the month of Aug 2007 a consumption of 58333 has been shown and the same continued till Feb 2008 and thereafter a reading namely 58501 came to be shown till the disconnection of the said meter.
23. This Forum is of a considered view that the respondent BEST Undertaking has been maintaining a ledger in its EDP department showing the details such as, the account no, meter no, the consumption of electricity etc in respect of its about 9.5 lacs consumers in its routine course of conducting business. Therefore we do not have any hesitation in relying on the entries appearing in such ledger maintained by the respondent BEST Undertaking in respect of all its consumers including the complainant. We therefore observe that there has been a lapse of the part of the respondent Undertaking in not considering the meter no. G964068 installed from the month of Jan 1997 for **commercial tariff** on the request of the complainant for raising a bill against the complainant till the month of Aug 2007. During this period the entries in the ledger shows consumption of electricity of 58333 units by the complainant. Admittedly the complainant has not paid any charges for the said consumption of 58333 units of electricity.
24. An attempt has been made by the complainant corporation to contend that the respondent BEST Undertaking cannot raise such huge bill for consumption of 58338 units after of a lapse of nearly 10 year. Therefore there has been an obvious utter negligence on the part of the respondent. Also raising such bill has been time barred, therefore unsustainable under the law. This Forum however does not find any merit in said contention raised by the complainant corporation for a simple reason that, it is not only the respondent BEST Undertaking who has been negligent. This Forum also finds an utter contributory negligence on the part of the complainant M/s. A.P. Sale Corporation. We are of a considered view that in a natural course of action, the complainant corporation ought to have inquired with the respondent BEST Undertaking as to why it is not served with any bill for a meter no.G964608 for **commercial tariff**, especially when the said meter has been replaced at the instance of the complainant only. To reiterate such change in a meter was initiated in response to written application submitted by the complainant corporation itself. We therefore of a view that it is highly unsustainable on the part of complainant corporation to be blissfully complacent in enjoying the electricity consumption vide the meter no. G96408 that too for a period of nearly 10 years and to raise said grievance of lapses and negligence on the part of respondent BEST Undertaking. We further observe that the said meter was provided to the complainant on his request for its use. Therefore the complainant is liable to pay charges of electricity consumption shown by the said meter.
25. Now in regard to whether raising a bill for a consumption of electricity of 58338 units covering a period of 22/1/1997 to 9/8/2007 has been time barred or not, we find the respondent BEST Undertaking has rightly placed a reliance on a Judgement handed down by his Lordship of the Bombay High Court in the case of **Brihanmumbai Municipal Corporation V/s. Yatish Sharma** (reported in AIR 2007, Bombay-73). His Lordship on adverting to section 56 of the Electricity Act, 2003 has *inter alia* held that a sum cannot be due from the consumer unless a bill for the electricity charges is served upon him. Although a liability of a consumer arises on consumption of electricity, the payment falls due only upon the service of a bill. Therefore for the purpose of sub section (1) & (2) of section 56 a sum can be regarded due from consumer only after a bill on account of the electricity charges is served upon him.
26. We are therefore of a considered view that though under such section (2) of section 56 of the Electricity Act, 2003 it has been provided that, no sum due from consumer under this section shall be recovered after a period of 2 years from the date when such sum becomes first due, such period of 2 years needs to be reckoned from the date when a bill of electricity consumption charges has been served on the consumer like the complainant. Explicitly therefore as alleged by the complainant it is in the month of Jan 2009 a bill for the first time has been served on the complainant claiming the electricity charges for a consumption of electricity of 58333 units. Therefore though such bill covers a period from 22/1/1997 to 9/8/2007, the same cannot be said to be 'time barred', as alleged by the complainant in view of a law laid down by the Hon'ble Bombay High Court in the case of **BMC V/s. Yatish Sharma (Supra)**.
27. In this connexion, it is pertinent to note that Id. Representative Shri. M.N. Nagere, Asst. Engineer & Smt. Geeta Ashok, OA 'G/S' ward, for the respondent BEST Undertaking in its fairness has submitted that though for the consumption of 58333 units electricity charges were initially calculated as Rs.5,09,574.53, however after giving benefit of a slab for entire period 22/1/1997 to 9/8/2007 the said amount has been now reduced to Rs.3,57,334.22. In support of its contention the respondent has placed on file its calculation at Exhibit-H with its written statement. We therefore proceed to hold that for a consumption of 58333 units vide the meter no. G964068 by the complainant corporation, for a period from 22/1/1997 to 9/8/2007, the respondent Undertaking has

rightly claimed electricity consumption charges of an amount of Rs.5,09,574/- which later on reduced to Rs.3,57,334.22 and debited in the account no. 503-362-010 of the complainant corporation.

28. In regard meter no. G964608, ledger maintained by EDP section of the respondent, placed on file at Exhibit-G further manifest that in the month of March 2008 the complainant has consumed 163 units and as such the said meter has been showing a reading 58501 units. Thereafter we find the complainant not using the said meter, and ultimately the said meter being idle has been disconnected by the respondent BEST Undertaking on serving a notice dtd. 26th Nov 2008 on the complainant corporation. Accordingly we find a copy of the said notice being placed before this Forum at Exhibit-H alongwith the written statement.
29. Now in regard to the alleged not giving credit of an amount of Rs.21,863/- to the complainant corporation, we find that in counter by placing on file copies of a ledger book maintained by the respondent in respect of account no. 202-004-251 of the complainant corporation, the respondent has successfully shown a fallacy in the said contention. In a bare perusal of the said ledger on page no.7, in respect of the complainant corporation, we find an entry of an amount of Rs.21,863.08 standing to the credit of the complainant and has been shown in the month of March 2003. Thereafter while raising a bill for the electricity consumed by the complainant corporation, respondent BEST Undertaking has deducted the said amount therein. We thus find no merit in the said grievance raised by the complainant.
30. In the aforesaid observation and discussion we find no merit in any grievance raised by the complainant before this Forum. The complaint there should fail. Accordingly we proceed to pass following order.

ORDER

1. The complaint no. N-G(S)-94-10 dt. 23/2/2010 stand dismissed.
2. The respondent BEST Undertaking has been directed to serve a revised bill for an amount of Rs.3,57,334.22 on the complainant corporation in respect of consumption of an electricity vide the meter no. G964608 as per its revised calculation, at its earliest.
3. The complainant corporation has been directed to pay the electricity charges as claimed by BEST Undertaking within a period of one month from the date of receiving the revised bill.
4. The respondent BEST Undertaking has been directed to inform any compliances of the instant order passed by this Forum within a period of fortnight there from.
5. Copies be given to both the parties.

(Shri. R.U. Ingule)
Chairman

(Shri.S.P.Goswami)
Member

(Smt. Varsha V. Raut)
Member