

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-EA-129-2011 dt . 14-10-2011

M/s. BharatKshetra Sarees Pvt Ltd.Complainant

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 : Shri. Bhavesh K. Kapadia

On behalf of the Respondent :
1. Shri. D.N. Pawar, DEEA
2. Shri. M.P. Rannaware, AEEA
3. Smt. P.S. Kekane, AOEA
4. Shri. Chougale, M.R.U

Date of Hearing : 23-11-2011

Date of Order : 02-12-2011

Judgment by Shri. R.U. Ingule, Chairman

M/s. BharatKshetra Sarees Pvt Ltd, Grd floor, Shop No. 1/2/3, Vasant Smruti, Dadasaheb Phalke Road, Dadar (E), Mumbai - 400 014 has come before the Forum for his grievances regarding amendment of bills of A/c no. 202-026-785; Meter no. T080300.

Complainant has submitted in brief as under :

1. The complainant has approached to IGR Cell of the Respondent on 1.6.2011 for his grievances regarding amendment of bills of A/c no. 202-026-785; Meter no. T080300.
2. Not satisfied with Respondent's IGR Cell reply dtd. 27/06/2011, the complainant approached to CGRF in schedule 'A' on 18-8-2011 & then with revised schedule 'A' on 12-10-2011. He has requested the Forum to waive the debit note of Rs.1,29,062.51.

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

3. Meter No.T 080300 was installed at the premises on 19.3.2008. The same was read on actual through CMRI till replacement. Meter no. T 080300 was tested on 1.7.2009 and found slow by 22.12% (Exhibit 'A') and replaced by meter no.T081100 on 3.8.2009 (Exhibit 'B').
4. The bills were amended from 5.5.2009 to 3.8.2009 (date of replacement) on the basis of correction factor 1.28 based on the percentage slowness of the meter resulted into net debit of Rs. 129062.51. The details towards same preferred to the consumer vide our letter 25.4.2011 (Exhibit 'C').
5. The consumer disputed the matter & registered a complaint in Annexure 'C' dtd. 1.6.2011 (Exhibit 'D').
6. Reply to Annexure 'C' form complaint was forwarded vide our letter dtd. 27.6.2011. (Exhibit 'E').
7. Consumer registered a complaint in Annexure 'A' form dtd. 14.10.2011 (Exhibit 'F').
8. The amendment claim was informed to the consumer vide our letter dtd. 25.4.11 and the claim was debited into the A/c in the bill month of May 2011 i.e. after span of a month's period so that if any dispute raised by the consumer can be attended. However, the consumer disputed the matter in Annexure 'C' form dtd 1.6.2011 at that time the claim was already debited into the A/c. Hence the consumer's contention that the claim was debited even though the case is in dispute is not correct (Exhibit 'G').
9. Copy of the test report & copy of letter duly acknowledged was already enclosed to our letter dtd. 27.6.2011. However, we are once again forwarding the same alongwith this comment to the consumer (Exhibit 'A' & 'A1').

10. Regarding the comparative chart of consumed units of meter no. T 080300 & Meter no. 081100, we have to state that the chart provided by the consumer itself shows that the consumption pattern for the period 2008 is commensurate with the consumption pattern of 2010 but it shows drastic drop during 2009 i.e. disputed period. Hence consumer's contention that even after the replacement of the disputed meter no. T 080300 is in the same range is not acceptable. (Exhibit 'G').
11. The meter No. T 080300 was tested on 1.7.2009 with accucheck as Phase II voltage of the same meter was low about 84.49v instead of 240v. The meter was found slow by 22.12% and same was replaced on 3.8.2009. Also, the consumer had acknowledged the above fact and signed on the Undertaking to pay the amended bill of the period, if any.
12. The consumer was using the electricity through defective (i.e. slow) meter No. T 080300. Hence, the bills were amended for the period 5.5.2009 to 3.8.2009 on the basis of correction factor 1.28 based on 22.12% slowness of meter.
13. The net debit amount towards the same worked out to Rs.129062.51. and was informed to consumer vide our letter No.EA/R-1318/Dept.7/2540/2011 dated 25.4.2011 and the debit amount was debited in the bill
14. In reply consumer had requested to provide the details of the test reports and acknowledged copy, same was handed over to the consumer's representative Shri Rajesh Shelar.
15. While going through the consumption pattern, it is observed that after replacement of faulty meter no. T 080300, the consumption pattern is commensurate with the consumption pattern of the healthy period i.e. before disputed period.
16. Hence the bill based on actual is in order.
17. The amended bills issued by the BEST are to be treated as accurate.

REASONS :

1. We have heard Shri Bhavesh K. Kapadia for the complainant and Shri. D.N. Pawar, DEEA; Shri. M.P. Rannaware, AEEA; Smt. P.S. Kekane, AOEA; Shri. Chougale, M.R.U for Respondent BEST Undertaking and perused the documents placed before us.
2. On this occasion we have come across a case, which has been entirely devoid on any merits therein. The complainant admittedly has been running a saree shop located at Dadar. A report of testing of metering

equipment dtd. 21/07/2009 placed before us manifest that an electric meter no. T080300 was tested and checked by the Energy Audit Dept. of the Respondent BEST Undertaking on 01/07/2009 in presence of the representative of the complainant.

3. The officials of the Respondent BEST Undertaking found a defect in the said meter viz. "Phase II low voltage". Significant to note that the said meter was checked in presence of the representative of the complainant and he signed the said inspection report at the foot of it. The complainant has also placed its rubber stamp below its signature.
4. To our surprise, despite the meter was checked on 01/07/2009 and it was brought to the notice of the complainant the type of the defect developed by the said meter, the complainant preferred to remain silent till the Respondent BEST Undertaking by serving a letter dtd. 25/04/2011 claimed the deficit amount of Rs. 1,29,062.51.
5. Much hue and cry has been made by the complainant before this Forum by contending that the consumption pattern was very steady during the disputed period viz. 05/05/2009 to 03/08/2009. Even after the replacement of the disputed defective meter, the consumption of electricity remained in the same range. Therefore, the meter no. T080300 can not be called as a defective one as alleged by the Energy Audit Dept. of the Respondent BEST Undertaking.
6. We however do not find any warrant to ascribe any merit to this contention, for a simple reason that the very chart submitted before this Forum by the complainant blatantly manifest that in the earlier year viz. 2008 for the disputed period, the total units consumed by the complainant has been 61800 units. While, when the meter was checked and found same being slow by 22.12%, this Forum finds the total consumption of electricity unit dropped to 42200 units. Explicitly, therefore during the year 2009 the defective meter no. T080300 was 'slow' as contented by the Respondent BEST Undertaking. At the Cost of repetition, we may observe at this juncture that the meter was checked in the presence of the complainant who for years together did not raise any objection.
7. This Forum also finds the complainant submitting a contradictory statement before this Forum. On one hand the complainant contends that during the disputed period the chart shows the consumption was very steady. On the other hand it contends that the entire business volume depends upon the number of customers visiting its shop. The complainant is required to switch on some extra lights, moment the customer enters a shop. During the wedding season, its electricity consumption goes on higher side. Complainant therefore contends that its consumption chart for every month, would record a different units.

8. Let it, whatever may be, we find that the meter no. T080300 was checked on 01/07/2009 in the presence of the complainant and the complainant did not register its any protest. Therefore, it is highly unsustainable on the part of the complainant to agitate grievances before the Respondent BEST Undertaking and before this Forum on receiving bill for Rs. 1,29,062.51 which came to be served on complainant after lapse of about 2 years.
9. From the documents placed before this Forum, we find that the Respondent BEST Undertaking has rightly proceeded to find the meter no. T080300 being defective by checking the same on 01/07/2009. The documents placed before us manifest that the Energy Audit Dept. finds the said defective meter being 22.12% slow, having a correction factor of 1.28.
10. Accordingly, for the said defective meter we find the Respondent BEST Undertaking has properly taken a recourse to a statutory provision provided under Regulation 15.4.1 of the MERC (Electricity Supply Code and Others conditions of supply) Regulation 2005.
11. As provided under this statutory provision in a case of defective meter, the Respondent BEST Undertaking has been entitled to adjust the consumer's bill for a maximum period of 3 months prior to the month in which the dispute has arisen in accordance with the results of the test. We find that accordingly the complainant's bill has been adjusted by the Respondent BEST Undertaking for a period of 3 months i.e. for a period from 05/05/2009 to 03/08/2009 on account of slowness of meter by 22.12%, debiting the complainant's account by Rs. 1,29,062.51 for this period.
12. We thus find no error of law to any extent, on the part of the Respondent BEST Undertaking in directing the complainant to pay the amount of Rs. 1,29,062.51 for 3 months on account of the defective meter.
13. Before part with this order, we may observe that, an abysmal lethargy on the part of the officials of the Respondent BEST Undertaking has been writ large on the very face of the facts of the complainant under consideration. Most significant to note that the complainant has been a High Value Consumer. Admittedly his meter no. T030800 was tested on 01/07/2009 to find the defect of slowness in the said meter. In the considered view of this Forum, the concern officials ought to have replaced the said defective meter within a shortest possible time, either with a regular meter or ought to have installed parallel 'check meter'.
14. However, we find the said defective meter being replaced after a lapse of about a month i.e. on 03/08/2009. In short, the Respondent BEST Undertaking thus allowed the complainant to avail the benefit of slowness of defective meter for one more month.

15. Thereafter, to our surprise the Respondent BEST Undertaking has taken a huge period of about 2 years to claim the deficit amount of Rs. 1,29,062.51 from said the High Value Consumer, by serving a letter by debiting the account in the month of May 2011. We thus find that the concern officials of the Respondent BEST Undertaking has allowed the complainant to enjoy the benefit of the deficit amount of Rs. 1,29,062.51 for a period of 2 years.
16. An attempt has been made on behalf of the Respondent BEST Undertaking to submit that to quantify the amount to be recovered under the Regulation 15.4.1 from the complainant, the concern file moves from table to table and through the various departments and that consumes the time. In our considered view, despite such elaborate procedure required to be followed by the Respondent BEST Undertaking, still the delay of 2 years in recovering the deficit amount of Rs. 1,29,062.51 can not be said to be justified and reasonable one. We thus find the said explanation submitted by the Respondent BEST Undertaking being futile, frail and fragile. In the net result, an abysmal lethargy on the part of the Respondent BEST Undertaking to claim its legitimate dues from complainant has found by this Forum being a salient feature of this matter.
17. In the aforesaid observation and discussion needless to observe that the complaint is liable to be dismissed and accordingly we do so.

ORDER :

1. Complaint no. N-EA-129-2011 dt . 14-10-2011 has been dismissed.
2. Copies be given to both the parties.

(Smt Varsha V Raut)
Member

(Shri S P Goswami)
Member

(Shri R U Ingule)
Chairman