

**BEFORE THE COMPLAINANT 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. EA-141-2012 dt . 27/03/2012**

Mr. Jawahar T. Bhuta .....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 : Shri. Davinder Singh

On behalf of the Respondent : 1. Shri. D.N. Pawar, DEEA  
2. Shri. Y.F. Bagul, Supdt. CC(G/N)  
3. Shri. R.J. Sonawane, Dy. Engr.

Date of Hearing : 08/05/2012

Date of Order :

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

Mr. Jawahar T. Bhuta, M/s Bhuta Storing Services, 144, Ashoka Silk Mill Compound, Sant Rohidas Marg, Sion (W), Mumbai - 400 017 has come before the

Forum for his grievance regarding waiver of amended amount and refund the amount paid against exceeding Contract Demand - A/c no. 202-028-137\*3.

**Complainant has submitted in brief as under :**

- 1.0 The complainant has approached to IGR Cell on 20/10/2011 regarding his grievance of waiver of amended amount and refund the amount paid against exceeding Contract Demand - A/c no. 202-028-137\*3 The complainant has approached to CGRF in schedule 'A' dtd. 'NIL' (received by CGRF on 22/03/2012) as no remedy is provided by the Distribution Licensee regarding his grievance. The complainant has requested the Forum to waive the amendment amount of Rs. 2,17,083.79 and also refund the amount which was paid by him on the name of Exceeding Contract Demand.

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

- 2.0 This is a case of an amendment claim of meter No.P081852 installed on 23.11.2009 for meter no.Q990139) dtd. 1.12.2009 with reference to Vigilance S.M.A.No.12584 dtd. 17.11.2009. As Vigilance dept. informed EA dept. that Vigilance raid was conducted at the complainant's premises on 6.11.2009 and a notice of unauthorized use of electricity under section 126 of EA Act 2003 was served to complainant on 6.11.2009 as connected load was found 36.589 kw against sanctioned load of 12kw and informed EA dept. to replace complainant's old meter no. Q990139 (A/c no.699-398-003) by new ToD compatible electronic meter. They have also informed complainant to approach DECC(G/N) ward for regularizing the load and given provisional claim of Rs.4,00,774.00 to complainant in respect of unauthorized use of electricity. In this regard, EA had replaced complainant's old meter no. Q990139 by new ToD compatible meter no. P081852 on 23.11.2009 and allotted A/c no.200-028-137 under cycle 19 with LT II a tariff inadvertently, & did not apply correct tariff of LT II b with reference to connected load of 36.589 kw as informed by Vigilance dept. However, on Confirmatory C.O.E/7104774, tariff was mentioned as LT II a with complainant's original sanctioned load of 12kw. Hence, complainant remained under LT II a tariff as he was actually eligible for LT II b tariff.
- 3.0 In this connection, EA dept. had informed DEVig. vide our DL 28.9.2010. The complainant's correct tariff will be regularized in billing cycle 1.9.2010 to 1.10.2010 and necessary amendment for change in tariff will be carried out after implementation of correct tariff to the complainant. After implementation of correct tariff i.e. LT II b, the EA dept. has put up proposal to Audit on 25.5.2011 for change in tariff amendment. Audit has approved our

proposal on 8.7.2011 as per the amendment proposal. The total debit worked out to Rs.217083.79 for the period 1.11.2009 to 1.9.2010. Subsequently, EA dept. has intimated same to the complainant vide our letter dtd. 26.7.2011 and debited amount of Rs. 217083.79 in complainant's A/c in the bill month of Sept. 2011.

- 4.0 Complainant M/s.Bhutta Storing Services disputed the matter and registered complaint vide their letter dtd. 17.8.2011 in EA dept. against the debit amount Rs. 217083.79 and informed that they had already applied for extension of load vide requisition no. 71106404 dtd. 23.3.2011 in CC(G/N) and stated that area falls under Substation due to which CC(G/N) did not sanction complainant's additional load and informed not to impose the penalty against exceeding contract demand. In this connection, DEEA had asked DECC(G/N) ward for confirmation of status of complainant's requisition vide our DL dtd. 29.9.2011. On 12.10.2011, as Supdt. CC(G/N) with remark of Dy.ES2 has submitted their DL and mentioned that requisition no.71106404 dtd. 23.3.2011 for extension of load under process at their end.EA dept. had given reply on 8.11.2011 against complainant complaint letter dtd. 17.8.2011.
- 5.0 Complainant had disputed the matter and registered a complaint in Annexure `C' form dtd. 21.10.2011 wherein complainant requested to waive the amendment claim amount Rs. 217083.79 and asked credit of exceeding contract demand penalty amount. Also requested to release more load or lay down higher capacity cable to fulfill his load requirement. Reply to Annexure `C' form complaint was forwarded vide our letter dtd. 30.11.2011. Complainant registered a complaint in Annexure `A' form dtd. Nil received in CGRF on 22.3.2012.
- 6.0 Complainant's name & address is correct as per our record. We have confirmed the present status from DECC(G/N) ward with remark of Dy.ES2 that requisition no.71106404(V 39186) for extension of load is under process. Hence complainant's statement is not correct. Undertaking could not sanctioned complainant's additional load as there was no available spare capacity in Dharavi Purification DSS to release the complainant's additional load. Also, TC is in process for replacement of 1 no. of Distribution transformer at Dharavi Purification DSS hence complainant's requisition is pending. Penalty for exceeding contract demand is levied in complainant's every month bill as per MERC tariff schedule as complainant is using excess load then the sanctioned load.
- 7.0 It is the case of unauthorized use of electricity load. Hence, notice under section 126 of EA 2003 was served to the complainant on 6.11.2009 as connected load was found as 36.589kw against sanctioned load of 12kw. Therefore, ToD compatible meter no.P081852 was installed for demand base tariff on 23.11.2009 as connected load (maximum demand) found more than 20kw on complainant conventional meter no.Q990139 at the time of vigilance

inspection. However, excessive load is not permissible due to our loaded LV network, even though it is unauthorized, we have calculated only the difference between tariff LT II b to LT II a. We have already informed complainant to approach our Divisional Engr. CC(G/N) ward, Wadala for regularizing his load vide our DEVig. letter dtd. 17.11.2009.

- 8.0 Regarding change of tenant in the premises (i.e. occupant), change of name is not found carried out. Even though, complainant is paying monthly bill regularly the occupant had found using the load more than the sanctioned load(i.e.12kw) which attract penalty as per section 126 of EA Act 2003. It is found that complainant has changed the tenant and the previous tenant had used the unauthorized load during the duration of amendment period as per clause no.10.5 of MERC's conditions of supply regulations 2005. The present occupant is liable to pay the pending dues of the licensee so the amended claim bill of Rs.217083.79 levied to the complainant A/c is in order and exceeding contract demand penalty levied in complainant's every month bill as per MERC tariff schedule as complainant is using excess load against his sanctioned load.
- 9.0 The amended bill levied in complainant A/c by BEST Undertaking is correct and cannot be withdraw / waive off.
- 10.0 While routine inspection carried out by Vig.dept. on 6.11.2009, maximum demand recorded by meter no.Q990139 was 36.589 kw against sanctioned load of 12kw. Hence, notice under section 126 of EA 2003 was served to complainant for unauthorized use of electricity and provisional claim of Rs.400744.00 was preferred to complainant. Meter no.Q990139 was replaced by new ToD compatible meter no.P081852 on 23.11.2009 as MD found more than 20kw but tariff was not changed from LT II a to LT II b for new ToD meter. Hence, complainant was billed under LT II a tariff when he was actually eligible for LT IIb tariff for the period 1.11.2009 to 1.9.2010. Complainant correct tariff i.e. LT II b was regularized from the billing cycle of 1.9.2010 to 1.10.2010.
- 11.0 It is to be stated here that our amended bill period is 1.11.2009 to 1.9.2010 i.e. prior to complainant's application for extension of load. We have confirmed from DECC(G/N) ward with remark of Dy.ES2 that for extension of load is under process and complainant yet not shown the new service position, means incomplete compliances. However, excessive use of load is not permissible. The net debit amount towards change in tariff amendment worked out to Rs.217083.79 was informed to complainant vide our letter 26.7.2011 and the debit amount was debited in the bill month Sept.2011. In reply complainant is informed that amended bill of Rs. 217083.79 is correct and in order and extension of load is under process and also informed to contact our DECC(G/N) ward for further progress of requisition. Please note that the amended bill of Rs.217083.79 is debited in complainant bill is as per section 56(2) of Electricity Act 2003.

12.0 The amendment claim raised is based on actual connected load and is in order. The complainant may not be allowed to produce any more evidences before the Hon'ble CGRF during the hearing of the case without giving us an opportunity to offer our comments. The complainant should not be allowed to change the facts of the case presented in his application.

**REASONS :**

13.0 We have heard Shri Davinder Singh for the complainant and for respondent BEST Undertaking its officials viz. Shri D. N. Pawar, Divisional Engineer (Energy Audit), Shri Y. F. Bagul, Supdt. Customer Care (G/N) and Shri R. J. Sonawane, Dy. Engineer Perused documents placed before us.

14.0 We find the controversy raised in the instant matter, moves in a very narrow compass.

15.0 It is the contention of the complainant that, by serving a notice on him, respondent BEST Undertaking has demanded electricity charges of Rs. 2,17,083.79 for a period from 1/11/2009 to 1/9/2010, on a ground that, for using the electricity on higher capacity, the complainant was to be billed as per the tariff LT-II(B). However, inadvertently, the complainant has been charged electricity under tariff LT-II(A). Therefore, the respondent BEST Undertaking amended the bill and demanded Rs. 2,17,083.79 from the complainant by serving a notice on him. Complainant's contentions that, the respondent licensee ought to have made a correction in tariff within one billing cycle period. Secondly, the premises was rented out to the tenant, who was enjoying the electricity supply and paying the bill. Now, the said tenant has vacated the premises of the complainant, therefore, the complainant has been made to pay said amended charges of Rs. 2,17,083.79 which was payable by his tenant. The complainant further contends that, the electricity load has not been upgraded by the respondent despite complainant has submitted a requisition no. 71106404 dtd. 23/3/2011.

16.0 This forum did not find any merit in any contention raised by the complainant. In this context, we find that, a report dtd. 6/11/2009 submitted under the signature of Divisional Engineer (Vigilance) department, placed before us at Exhibit-A, manifest that, the complainant was sanctioned 12 KW electricity load, however, in the inspection carried out on 6/11/2009 by the Vigilance Department, the complainant found to have been using a load of 36.589 KW through his meter no. Q-990139. At this juncture, this forum observe that, this vigilance committee report has been counter signed by K. T. Bhatia and it has been addressed to the complainant.

- 17.0 This forum further observe that, in the oral submission made before us using the electricity load of 36.589 KW has not been denied by the complainant. We further observe that, the same has not been denied at any point of time in the past also. We therefore, uphold the contention raised by the respondent that, the complainant was liable to pay electricity charges as per tariff of LT-II(B). However, inadvertently, the same has been charged under LT-II(a). At this juncture, we may observe that, the consumer's old meter no. Q-990139 was replaced with a new ToD compatible meter no. P-081852 on 23/11/2009 i.e. after the inspection carried out by the Vigilance Department. In our opinion, the respondent BEST Undertaking has been within its right to amend the bill for a period from 1/11/2009 to 1/9/2010, as the complainant was inadvertently billed under the tariff LT-II(A) when he was liable to pay electricity bill as per tariff LT-II(B) as his consumption of electricity was not as per the sanctioned load of 12 KW but the same was found being 36.589 KW by the Vigilance Department in its actual inspection.
- 18.0 This forum further observe that, initially the complainant was consider for taking action under Section 126 of the Electricity Act, 2003, accordingly, a notice dtd. 6/11/2009 at Exhibit-A was served on him. A subsequent letter dtd. 17/11/2009 at Exhibit-B also manifest that, the provisional assessment arising out of such unauthorise use of electricity by the complainant was made to Rs. 4,00,774. However, this forum thereafter finds that, instead of proceeding under Section 126 of EA 2003, taking a lenient view, respondent licensee proceeded to amend the bill for a period from 1/11/2009 to 1/9/2010 by raising a demand of electricity charges of Rs. 2,17,083.79.
- 19.0 This forum does not found any merit in the contentions raised by the complainant that, the premises under consideration was rented to his tenant. In this context, the complainant has placed on file a Leave and License Agreement signed with the tenant Smt. Jyoti T. Bhatia dtd. 7/8/2010. The forum finds that, the respondent licensee has been serving the bills for consumption of electricity in the name of complainant. The same has not been objected by the complainant at any point of time. Obviously, therefore, the liability lies on the complainant to pay the charges of the electricity provided to the premises owned by the complainant as the bills have been issued in his name only.
- 20.0 This forum does not found any iota of evidence placed before us to show that, the respondent licensee was informed by the complainant about the premises being occupied by its tenant and therefore, the said tenant being liable to pay the electricity charges. In our consider view, the said contention raised by the complainant has been merely an after thought, we find the same being liable to be turned down.
- 21.0 In context to a contention raised by the complainant that, respondent has not sanctioned complainant's requisition for upgradation of the load, we find a

merit in the submission made on behalf of the respondent licensee that, the same has been dtd. 23/3/2011, while the amended bill of Rs. 2,17,083.79 has been for a prior period of 1/11/2009 to 1/9/2010. This forum therefore, does not find this contention having any bearing on the instant controversy under consideration. In this context, the respondent licensee has submitted that, the said requisition no. 71106404 dtd. 23/3/2011 has been under process and consideration of the respondent licensee.

- 22.0 In the aforesaid observation and discussion, for want of any merit, we find the instant complaint be liable to be rejected, accordingly we do so.

**ORDER**

- 1.0 The complaint no. N-EA-141-2012 dtd. 27/3/2012 stand dismissed.
- 2.0 Copies be given to both the parties.

(Smt Varsha V Raut)  
Member

(Shri S P Goswami)  
Member

(Shri R U Ingule)  
Chairman