

		Date	Month	Year
1	Date of Receipt	20	02	2020
2	Date of Registration	24	02	2020
3	Decided on	26	10	2020
4	Duration of proceeding	249 days		
5	Delay, if any.	189 days		

**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. 22799528

**Grievance No F-S-406-2020 dtd. 24/02/2020**

The Director .....Complainant  
C. Jairam (P) ltd.

V/S

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

**Present**

Chairman

Coram : Shri S.A. Quazi, Chairman

Members

1. Shri R.B. Patil, Member
2. Dr. M.S. Kamath, Member CPO

On behalf of the Respondent : 1. Shri B.K. Shelke, DECC(F/S)  
2. Shri Rohit Baile, AAO

On behalf of the Complainant : 1. Shri T.D. Jadhav

Date of Hearing : 26/10/2020 (Through Video Conference)

Date of Order : 28/10/2020

## Judgment

- 1.0 This complaint was received on 20/02/2020. However, due to epidemic of Covid-19, lockdown was declared by the Government from 23/03/2020 and consequently guidelines were issued by MERC in that respect. For these reasons the matter could not be heard personally by requiring the parties to remain present in the office of this Forum. Thereafter, the amended Regulations were received from MERC on 21/09/2020 in which option has been provided for hearing the parties through Video Conference. Therefore, the parties were asked whether they are ready for hearing through Video Conference. Accordingly, the matter was heard on 26/10/2020 through Video Conferencing and order is being passed. Therefore, the delay of 189 days has occurred in deciding this complaint.
- 2.0 The complainant C. Jairam (P) Ltd. has filed his complaint before this Forum and has requested to give directions to the Respondent BEST Undertaking to refund Security Deposit of Rs. 54,130.00 with interest from the date of removal of the meter no. N096196 pertaining to complainant's earlier a/c no. 519-176-003. The complainant has also requested this Forum to direct the Respondent BEST Undertaking to refund the amount of Rs. 45,420.00 which was paid by the complainant to the Respondent BEST Undertaking on 30/09/2019, according to him under protest, towards the alleged arrears pertaining to the earlier a/c no. 519-176-003. The complainant has also requested to direct the Respondent BEST Undertaking to refund any amount, if any, wrongly charged by the Respondent BEST Undertaking.
- 3.0 **The facts alleged by the complainant may be stated as under:**
- a) According to the complainant, the meter no. N096196 was installed pertaining to his earlier a/c no. 519-176-003. This meter was removed in view of the request of the complainant for extension of load from 8.80 kw to 21 kw. The load was extended accordingly and meter was changed from N096196 to meter no. P083657. The a/c no. was also changed to 202-029-841. At that time the complainant was required to pay deposit of Rs. 1,97,600.00. However, at that time the Security Deposit of Rs. 54,130.00 in respect of the earlier a/c no. 519-179-003 pertaining to meter no. N096196 was existing. Thereafter, the complainant again requested for extension of the load for two times i.e. in the year 2014 and 2019, for extending load to 66 kw and 140 kw respectively. The a/c was same during these extensions i.e. 202-029-841. In such circumstances when the complainant had requested for extension of load to 140 kw in the year 2019, the Respondent BEST Undertaking demanded to pay Rs. 45,420.00 towards the earlier a/c no. 519-176-003. According to the complainant this demand of the Respondent BEST Undertaking was illegal and beyond the prescribed period of limitation provided u/s 56(2) of the Electricity Act (E.A.), 2003. It is further case of the complainant that when the load was extended from 8.80 kw to 21 kw, at that time there was Security Deposit existing pertaining to that account. The meter was changed at that time, so the old account should have been closed. According to the complainant, as his new account was opened, it may be said that

there were no dues against the complainant in respect of the said earlier a/c no. 519-176-003. Therefore, the Respondent BEST Undertaking was liable to refund the Security Deposit to the complainant. Instead of doing so the Respondent BEST Undertaking has demanded the complainant to pay arrears of Rs. 45,420.00. As the complainant was required to get the extension of load from 66 kw to 140 kw in the year 2019, the complainant paid the aforesaid amount under protest. In the aforesaid circumstances, according to the complainant, he is entitled to get refund of Rs. 54,130.00 and Rs. 45,420.00, as described above.

- b) In view of the aforesaid circumstances, the complainant had approached to the IGRC of the Respondent BEST Undertaking by making the complaint dtd. 26/11/2019 under Annexure 'C' and requested for refund of the aforesaid amounts. However, the IGRC has not redressed the grievance of the complainant. Hence, the complainant has approached to this Forum and has made aforesaid request.

**4.0 The Respondent BEST Undertaking has filed reply to the aforesaid grievance petition of the complainant before this Forum as under :**

- a) The Respondent BEST Undertaking has not disputed about the earlier a/c no.519-176-003 pertaining to the complainant and therefor the load of 8.80 kw was sanctioned to the complainant and the electricity was supplied to the complainant through earlier meter no. N096196. The complainant made request for extension of the load to 21 kw. The Respondent BEST Undertaking extended the load but changed the meter and thus old meter no. N096196 was replaced by new meter no. P083657. New a/c no. 202-029-841 was also opened with this extension of load. Thereafter again in the year 2014, the complainant had requested for extending the load to 66 kw. This time also the extension of load was granted by the Respondent BEST Undertaking by retaining the a/c no. 202-029-841 but changed the meter and thus this time earlier meter no. P083657 was replaced by meter no. T111589. According to the Respondent BEST Undertaking again in the year 2019, the complainant had requested to extend the load to 140 kw. Therefore, the Respondent BEST Undertaking granted the extension from November 2019 by retaining the old a/c no. 202-029-841 and by changing the meter. Thus the meter no. T111589 was replaced by new meter no. T160682.
- b) About the old a/c no. 519-176-003, the Respondent BEST Undertaking has contended that when the load was extended from 8.80 kw to 21 kw in the year 2010 the arrears were shown pertaining to that a/c as Rs. 2,66,285.00 in the month of December 2010 as per the ledger of the Respondent BEST Undertaking. At that time the Security Deposit amounting to Rs. 54,130.00 pertaining to the old a/c 519-176-003 was shown as existing. The arrears and Security Deposit amounting to Rs. 54,130.00 were not transferred to new a/c no. 202-029-841, but the old a/c was kept live for the aforesaid arrears. The arrears remained unpaid for a/c no. 519-176-003. Then on 21/04/2011, the complainant submitted a grievance about high bill of Rs. 2,74,845.00 pertaining to a/c no. 519-176-003 alleging that the meter was changed on 02/11/2010

and therefore the complainant is not liable to pay the aforesaid arrears. About this grievance of the complainant, the Respondent BEST Undertaking enquired and found that this a/c no. 519-176-003 was wrongly charged with 27877 units in November 2010 for Rs. 2,66,285.00 after meter was changed from N096196 to P083657 for higher capacity. According to the Respondent BEST Undertaking, thereafter necessary dr/cr for period from 17/06/2010 to 11/11/2010 was carried out and credit of Rs. 1,61,375.88 was worked out but inadvertently this amount was charged as debit instead of crediting the same. According to the Respondent BEST Undertaking, the credit for wrong bill of Rs. 3,22,751.76 was given in the bill for the month of January 2012. Thus, the credit of Rs. 1,61,375.88 for wrong billing + refund of wrong debit of Rs. 1,61,375.88 was given. After adjustment as above net arrears in January 2012 were Rs. 1,46,519.58. Thereafter credit of Rs. 3,247.80 for refund of interest on Security Deposit in March 2012 and credit of Rs. 45,238.20 for refund of DP charges and interest charged for the period from August 2010 to March 2012 for wrong billing was given to the complainant in the month of July 2012. After giving various credits as above, net arrears of the a/c no. 519-176-003 in July 2010 were Rs. 98,033.58.

- c) According to the Respondent BEST Undertaking, the total arrears of the a/c no. 519-176-003 in September 2012 were Rs. 98,033.58 and Security Deposit of Rs. 54,130.00 plus interest was existing pertaining to that account. Total Rs. 56,295.00 of the Security Deposit was adjusted against arrears of 98,033.58 in October 2012 hence balance arrears of a/c no. 519-176-003 were Rs. 41,738.38 in November 2012 which got accumulated to Rs. 45,423.13 till September 2019 due to non-payment. Thus, the outstanding of Rs. 45,423.13 till September 2019 was to be paid by the complainant and hence the complainant was asked to pay the same when he applied for extension of load of 140 kw vide application dtd. 23/10/2019. Accordingly, the complainant paid the amount in September 2019. Consequently, the load of 140 kw was sanctioned and meter no. T111589 was replaced by meter no. T160682 on 04/10/2019 for higher capacity by retaining the same a/c no. 202-029-841.
- d) According to the Respondent BEST Undertaking, the grievance application submitted by the complainant under Annexure 'C' to IGRC was properly enquired into and sufficient opportunity was given to the complainant and after detailed enquiry, the IGRC found that the complainant has no case at all and his request was rejected for refunding the aforesaid amount.

5.0 We have heard the submissions of the representative of the complainant as well as the representative of the Respondent BEST Undertaking through video conferencing on 26/10/2020. Both the parties have mostly made their submissions as per the aforesaid submissions in their pleading.

- a) The complainant has submitted that the old meter no. N096196 was removed. Admittedly, according to him, when new account was opened the Respondent BEST Undertaking should have closed the old account. It is further submitted by him that the new account opens only after the Distribution Licensee finds that there are no

arrears against that account. It is also submitted that the meter was changed and new account was opened in the month of October 2010. Thereafter, no demand was made till the month of September 2019. According to him, demand of the payment of arrears pertaining to the a/c no. 519-176-003 for meter no. N096196 is beyond the prescribed period of two years as provided u/s 56(2) of the E.A., 2003. According to the representative of the complainant, the Respondent had not been taking readings of the old meter for about six months and therefore also the demand of arrears pertaining to the old a/c no, 519-176-003 is not legal as it is in contravention of Regulation 14.3 of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005. It is submitted that such demand was made by the Respondent BEST Undertaking in September 2019 only when the complainant had requested for extension of the load to 140 kw. As such demand of the Respondent BEST Undertaking is illegal and in contravention of aforesaid provisions. It is also in contravention of Regulation 11 of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005. The representative of the complainant has therefore submitted that the complainant is entitled for refund of the amount of Security Deposit as well as the aforesaid amount of payment under protest by the complainant in the year 2019 for getting extension to the load. Therefore the representative of the complainant submitted that aforesaid prayer may be allowed by the Forum.

- b) The Respondent BEST Undertaking has submitted that there is no contravention of any provision of E.A., 2003 including Section 56(2) or Regulation 14.3 & 11 of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005. It is submitted that the aforesaid provisions do not prevent Distribution Licensee to recover the dues. The representative of the Respondent BEST Undertaking has submitted that he relies upon written submissions made by the Respondent BEST Undertaking in its reply to the complaint and the same may be considered by this Forum.

6.0 In view of the above submissions of the parties and case pleaded by them, the following **points arise for determination**, on which we record our findings as under, for the reasons to follow.

Sr. No.	Points for determination	Findings
1	Whether the complainant is entitled to get refund of the Security Deposit pertaining to old a/c no. 519-176-003 and meter no. N096196 amounting to Rs. 54,130.00 and interest thereon ?	No
2	Whether the complainant is entitled for refund of the amount of Rs. 45,420.00 paid by him in the month of September 2019 pertaining to the old a/c no. 519-176-003 ?	No

3	Whether the complainant has established that there were any wrong readings or average charged and due to which the complainant is entitled for any refund of any amount ?	No
4	What order ?	The complaint is dismissed.

**7) Reasons for above findings on aforesaid points for determination are as under :**

- a) Reasons for finding all these points are being recorded collectively as these points are inter-related to each other, in view of the facts of the case. It may be noted that it is not disputed that the complainant was provided electricity through the old a/c no. 519-176-003 through the meter no. N096196 and at that time the sanctioned load was 8.80 kw. Then in the month of October 2010, the complainant had requested for extension of load to 21 kw. At that time the load was extended w.e.f. November 2010 but a/c no. was changed to 202-029-841 and meter was also changed. The old meter N096196 was removed at that time and new meter was installed i.e. P083657. Thereafter also in the year 2014 and 2019 the complainant had requested for granting extension of load and each time the load was extended to 66kw and 140 kw respectively by retaining the same a/c no. 202-029-841. But the meters were changed at each time. When last time in November 2019 the complainant had requested to extend the load to 140 kw, the Respondent BEST Undertaking asked the complainant to pay the arrears of old a/c no. 519-176-003. The said arrears were Rs. 45,423.00. The documents submitted by the complainant with this complaint includes, complaint letter dtd. 26/09/2019 addressed to the Supdt. CC(F/S), Wadala, Mumbai of the Respondent BEST Undertaking. In this letter the complainant has mentioned that Security Deposit of Rs. 54,000.00 is lying with Respondent BEST Undertaking for a/c no. 519-176-003 and therefore the aforesaid demand of Rs. 45,423.00 may be adjusted from the said Security Deposit and remaining may be refunded to the complainant. The another letter submitted by the complainant with this complaint is dtd. 30/09/2019. In this letter he has stated that he is paying the demanded amount of Rs. 45,420.00 pertaining to the old a/c 519-176-003 under protest. In this letter the complainant has stated that the said amount of Rs. 45,423.00 was demanded after the long period of nine years and it is being asked to be paid at the time when the complainant was requesting for extension of load. According to the complainant it was unjust on the part of the Respondent BEST Undertaking. In this letter the complainant has requested that the Security Deposit of Rs. 54,130.00 was wrongly adjusted by the Respondent BEST Undertaking against the outstanding bill of tenant of the premises without intimating to the complainant. This deposit was also paid by the complainant on behalf of the tenant. As the tenant vacated the place nine years back, the complainant is not liable to pay the bills of electricity on behalf of the tenant. The complainant has also submitted copy of bill of October 2011 in which the Security Deposit is shown as Rs. 54,130.00 pertaining to the a/c no. 519-176-003. He has also filed the electricity bill pertaining to the a/c no. 519-176-003 for the period from

09/08/2019 to 11/09/2019 for Rs. 45,423.00. The other bill submitted by the complainant is for a/c no. 202-029-841 for the period from 31/08/2019 to 30/09/2019.

- 8.0 The Respondent BEST Undertaking has filed electricity bill pertaining to the a/c no. 519-176-003 for August 2010, September 2010, March 2011, December 2016 and September 2019 to show the continuity of the demand of the arrears. However, there is no record of service of these bills on the complainant, but the service may be presumed as these bills are computerized / system generated. The Respondent BEST Undertaking has also filed applications of the complainant for extension of load in the year 2010, 2014 & 2019. The Respondent BEST Undertaking has also filed ledger statements from November 2010 to November 2019. All these documents have been relied upon in their reply also.
- 9.0 On examination of the documents produced by the parties we find that the electricity was supplied to the complainant through a/c no. 519-176-003 and meter no. N096196 prior to October 2010. In October 2010, the load was extended, the meter was changed and a/c no. was also changed. However, the old account was having arrears. The complainant has not submitted at any place in the record that there were no arrears pertaining to the old account and the complainant has paid entire amount pertaining to the old account. Therefore the explanation given by the Respondent BEST Undertaking in reply appears to be probable and acceptable to the effect that when in the month of October-November 2010, the load was extended from 8.80 kw to 21 kw, the new account was opened and the old meter was changed and old a/c no. 519-176-003 was kept live as there were arrears pertaining to the old account. Admittedly, the Security Deposit pertaining to the old account was also existing. The documents produced by the Respondent BEST Undertaking i.e. Ledger for the period from November 2010 to November 2019 shows that there were arrears as pleaded by the Respondent BEST Undertaking at that time. After that, on 21/04/2011, the complainant had complained about high bill for a/c no. 519-176-003. This was enquired into and ultimately the Respondent BEST Undertaking found that dues of Rs. 98,033.58 are to be recovered from the complainant as per Ledger. There was Security Deposit of Rs. 56,293.00 including interest and this was adjusted against the said amount of Rs. 98,033.58. After such adjustment the remaining amount was in arrears and till September 2019 it got accumulated to Rs. 45,423.00. This amount was recovered by the Respondent BEST Undertaking from the complainant in September 2019 when the complainant had requested for extension of load to 140 kw. It is the case of the complainant that the Security Deposit should not have been adjusted. According, to the complainant, therefore, the amount is paid by him under protest and he is entitled to ask for refund thereof and the Security Deposit. Reliance is placed by the complainant on Section 56(2) of the E.A., 2003. Section 56 is about disconnection of supply in default of payment. In sub-section (1), it is provided that the Distribution Licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity may cut off the electric supply of any person who neglects to pay any charge of electricity or any sum other than the charge for electricity due from him. In sub-section (2), it is provided that notwithstanding anything contained in

any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the Licensee shall not cut off the supply of the electricity.

- 10.0 It may be noted that the Hon'ble Supreme Court in the case of *Assistant Engineer (D1), Ajmer Vidyut Vitran Nigam Limited & Anr. v/s Rahamatullah Khan alias Rahamulla (Civil Appeal No. 1672 of 2020)* has referred Section 56(2) of the E.A., 2003 and has held that Section 56(2) does not preclude the Licensee Company from raising the supplementary demand after expiry of period of two years. The Hon'bel Supreme Court has further held that the said section only restricts the rights of the Distribution Licensee to disconnect the electric supply due to non-payment of dues after the period of limitation of two years has expired and it does not restrict other modes of recovery which may be initiated by the licensee company for recovery of supplementary demand.
- 11.0 In view of the above observations of Hon'ble Supreme Court in the aforesaid decision, we do not find that Section 56(2) is helpful to the complainant in contending that the Respondent BEST Undertaking is not entitled to recover aforesaid arrears by the aforesaid procedure adopted by the BEST Undertaking. Moreover, it is not the case of the complainant that for the recovery of the aforesaid amount, the Respondent BEST Undertaking had any time disconnected the supply.
- 12.0 It may also be noted that the complainant's case also suffers from laches. After removal of the old meter and opening of the new account in the year 2010, for the first time in the year 2019, the complainant is asking for refund of Security Deposit pertaining to old a/c no. 519-176-003. Secondly, the complainant had disputed the arrears in the month of April 2011 about high bill for a/c no. 519-176-003. The said matter was enquired into and necessary credit to the complainant was given and thus the issues raised by the complainant were finally decided by the Respondent BEST Undertaking by redressing the grievance of the complainant about high bill pertaining to the old account and the complainant was well aware of the same. This matter was settled in the year 2012 and ultimately the Respondent BEST Undertaking found that Rs. 98,033.58 was due and this was adjusted against the Security Deposit and remaining amount of Rs. 45,423.30 was recovered in the month September 2019 without cutting the supply. Therefore it cannot be said that section 56(2) was contravened in view of the aforesaid decision of Hon'ble Supreme Court. The complainant has also not established that any wrong reading or average reading is charged and therefore the complainant is not entitled for any refund as requested in this complaint.



13.0 For all the aforesaid reasons we have recorded our findings on point 1 to 4, as above and we hold that the complainant is not entitled for refund of Security Deposit as well as the amount of Rs. 45,423.30 paid under protest. In view of such findings we hold that the complaint is liable to be dismissed.

**ORDER**

1.0 The grievance no. F-S-406-2020 dtd. 24/02/2020 stands dismissed.

2.0 Copies of this order be given to all the concerned parties.

sd/-  
(Shri. R.B Patil)  
**Member**

sd/-  
(Dr. M.S. Kamath)  
**Member**

sd/-  
(Shri S.A. Quazi)  
**Chairman**