

		Date	Month	Year
1	Date of Receipt	28	02	2020
2	Date of Registration	04	03	2020
3	Decided on	03	11	2020
4	Duration of proceeding	281 days		
5	Delay, if any.	221 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 S-A-408-2020 dtd. 04/03/2020**

The Secretary  
Mehr Dad Co-op. Hsg. Soc. Ltd.

.....Complainant

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 S.S. Bansode, DECC(A)

On behalf of the Complainant : 1. Shri Subhan T. Khan

Date of Hearing : 29/10/2020

Date of Order : 05/11/2020

## Judgment

- 1.0 This complaint was received on 26/02/2020. 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. However, the parties have requested for personal hearing. Accordingly, the matter was heard on 29/10/2020 in person and order is being passed. For above reasons, the delay of 221 days has occurred in deciding this complaint.
- 2.0 In this complaint the grievance put forth by the complainant is that the Respondent has served supplementary demand notice dtd. 14/08/2019 to the complainant amounting to Rs. 22,37,680.00 regarding supply of electricity during the period from August 2012 to October 2018. It is mentioned in the notice that there was wrong billing during the aforesaid period from August 2012 to October 2018. It is also mentioned in that demand notice that during the aforesaid period the average units consumed per month were 2400 approximately and therefore the Respondent has additionally charged the complainant Rs. 22,32,680.00 and this amount has been debited in the account of the complainant bearing no. 220-205-049. About this demand of Rs. 22,37,680.00 the complainant has filed this grievance before this Forum. The contentions of the complainant in the aforesaid regard may be stated as under :
- a) According to the complainant the said demand of the Respondent is illegal and unjust and it is also beyond prescribed period of limitation.
  - b) According to the complainant it is not understandable, how it is possible that the meter's last counter number was not taken in record for about six years i.e. from August 2012 to October 2018 as is being explained by the Respondent to him. The aforesaid demand notice dtd. 14/08/2019 for the period from August 2012 to October 2018 does not stand as per MERC rules and regulations.
  - c) According to the complainant, the Respondent is responsible for periodical testing and maintenance of all consumers' meters. The Respondent contends that the meter was replaced in the year 2018 and prior to that there was old meter and its reading was not taken properly. In this regard, the complainant has submitted that if it is so, then why it took about ten months to inform the complainant about the previous meter billing default by the Respondent.
  - d) The complainant has submitted that the Respondent's action has crossed the MERC rules by charging the complainant for more than three months billing. Therefore, the complainant submits that the complaint was also made by the complainant to Internal

Grievance Redressal Cell (IGRC) under Annexure 'C' form. However, the IGRC by its order dtd. 31/01/2020 has rejected the said grievance of the complainant by taking unjust and wrong view that the demand of the Respondent for the aforesaid additional bill of Rs. 22,37,680.00 is proper. The complainant is not convinced with the said conclusion of the IGRC for the reason that it is not as per the provision of Electricity Act (E.A), 2003 and Regulations of MERC in respect of regular recording of billing, charging of billing and limitations of two years for recovery of the dues u/s 56(2) of E.A, 2003. Therefore, the complainant has submitted before this Forum that the Respondent be directed to withdraw the aforesaid demand of Rs. 22,37,680.00 by allowing this complaint.

3.0 The Respondent has filed reply before this Forum. It is not disputed by the Respondent that the complainant had made the complaint to the IGRC in respect of the aforesaid additional demand of Rs. 22,37,680.00 in respect of a/c no. 220-205-049 and the IGRC has rejected the said complaint of the complainant. The Respondent's contention as pleaded by them in their reply may be stated as under :

a) According to the Respondent, it is the case of escaped billing wherein the consumer was not charged with actual units consumed by the meter during the period from August 2012 to October 2018. During this period the electricity was provided through the meter no. 9071517. This meter no. 9071517 was replaced by the meter no, M186951 on 22/10/2018. The consumption on the new meter was monitored for six months. Thereafter, the proposal for escaped billing on earlier meter no. 9071517 was prepared and same was audited and it was found that the earlier meter was working 'OK' but due to human error (wrong record of meter reading) the consumer was under billed during this period from August 2012 to October 2018. It is submitted that in the bill for the April 2012, the Meter Reader has not recorded reading properly. He wrongly did not notice the first digit from right side of the reading. This resulted in insertion of improper reading in the computer system maintained by the Respondent for billing. The system has charged average unit consumption till the bill for July 2012 resulting in an appropriate billing. However, in July 2012 the meter counter crossed '0' reading (all the six counter digits became '0') and further readings noted in the RAMGRAM were directly taken by the system as accumulated reading, resulting in drastic fall in consumption since bill of August 2012. The actual reading which should have been recorded by the Meter Reader was around 2410 in the bill for the month of July 2012. However, it was recorded by him as 41. In the subsequent month of August 2012, the current reading was recorded as 287, which resulted in charging of 246 units in place of 2460 units. Accordingly, erroneous progressive meter reading was recorded and the consumer was charged less units per month till the meter replacement which took place on 22/10/2018. The anomaly was noticed in July 2019 when ID was registered under high consumption from new meter from November 2018.

b) It is further case of the Respondent that when after replacement of the old meter the aforesaid facts were noticed by the Respondent, the proposal for escaped bill on old meter no. 9071517 was prepared and same was audited and found that for the

aforesaid period from August 2012 to October 2018, the consumer is liable to pay for the additional units consumed but reading about which was taken wrongly. For this the Respondent submits that the consumer / complainant is liable to pay Rs. 21,96,494.00 and this was intimated by the Respondent to the complainant vide their letter dtd. 14/08/2019.

- c) It is submitted by the Respondent that the Secretary of the complainant's society has submitted the complaint for high bill vide letter dtd. 15/07/2019. In that complaint it was said that till November 2018 the meter reading was around 250 and the amount was very less but from November 2018 it was increased to 2564 and more. In the complaint it is stated that therefore the Respondent should refund the additional amount received by the Respondent under the new meter reading from November 2018. It is further case of the Respondent thereafter its concerned officials gave satisfactory reply to the query of the complainant by issuing the letter dtd. 14/08/2019 against which the complainant filed the complaint before IGRC in Annexure 'C'. The IGRC has rightly rejected the said complaint noticing the aforesaid wrong billing etc.
- d) Before this Forum, the Respondent submits that the consumer had been consuming the electricity of about 2500 units from the year 2011. But due to human error the consumer was charged around 250 units approximately per month from August 2012 to October 2018. This was resulted in wrong billing in the aforesaid circumstances and therefore the limitation period as referred to by the complainant under the law is not available to the complainant to escape the bill for additional demand. In this regard the Respondent has submitted that in the decision of Hon'ble Bombay High Court in the case of *M/s Rototex Polyester & Anr. v/s Administrator, Administration of Dadra & Nagar Havli (U.T.) Electricity Department, Silvassa & Ors. (W.P. no. 7015 of 2008) reported on 2009(5) All MR 579* and in the decision reported in AIR Jharkhand 98 in the matter of Sheno Shakti Cement, it was held that clerical mistake can be always corrected. For all the aforesaid reasons the Respondent has submitted that grievance put forth by the complainant is liable to be dismissed.
- 4.0 We have heard the parties. They have made their submissions as per their contentions in their respective pleadings which we have noticed here in earlier in detail.
- a) In addition to the pleadings, representative of the complainant Shri Subhan Shaikh has submitted that the claim of the Respondent is beyond the period of limitation as prescribed in 56(2) of E.A., 2003. He has also referred to the Cl. 21.4 of Terms and Conditions of Supply framed by the Respondent. The said Clause 21.4 is about the defective meter case. It is provided in that clause that in the case of defective meter the amount of the consumer's bill shall be adjusted for the maximum period of three months prior to the month in which the dispute has arisen. The representative of the complainant has also submitted that there is no basis on which the Respondent has charged the average units additionally for the period from August 2012 to October 2018 for 2400 units per month. He has submitted that the statement in this regard,

relied upon by the Respondent to notice the earlier reading prior to June and July 2012 to arrive at such average billing for the said period from August 2012 to October 2018 is without any record. He submits that therefore the grievance of the complainant may be allowed by this Forum and the Respondent may be directed to withdraw the aforesaid demand for the additional bill for the period from August 2012 to October 2018.

- b) On the other hand, the representative of the Respondent has submitted that the documents and written reply of the Respondent may be considered. He has additionally submitted that before replacement of the old meter, the old meter was conventional meter in which only 6 digits reading could be recorded. After the completion of 6 digits the reading starts afresh and earlier readings gets wiped out automatically and numbers do not remain in the RAMCRAM. This happened in July 2012 or around in respect of the said conventional meter of the complainant. Therefore, for the reading of concerned month of 2012 was wrongly taken in August 2012 by the employee of the Respondent. Therefore, from that reading till the meter was changed in October 2018 same error was being reported and inserted in the computer system of the Respondent. Hence, the system was also giving wrong reading and thus there was wrong billing. When the old meter was changed and new meter was installed in October 2018, and when the complainant had complained about high billing after change of the meter, the enquiry was made and the aforesaid defect was noticed. Therefore, appropriate action was taken by the Respondent for average charging for the period from August 2012 to October 2018. He has submitted that readings for six months after change of the meter were observed on the new meter and it was found that the complainant had been consuming an average units of 2400 per month during the said period of six months. Therefore, the Respondent has calculated on that basis for the period from August 2012 and October 2018 and has rightly put the additional demand to the complainant vide letter dtd. 14/08/2019. Hence it is submitted by the Representative of the Respondent the present grievance has no merits and therefore it be dismissed.

- 5.0 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 for the relief of direction to the Respondent to withdraw the demand for additional charges ?	No
2	What is the order ?	The complaint is dismissed.

**6.0 We record our reasons for the aforesaid finding on the points for determination as under :**

- a) We have examined the record submitted by both the parties. It appears from the statement of reading and billing that it is maintained by the Respondent in their computer system. This statement is for the period from 2010 to February 2020. It is seen that the meter reading and the consumption of units is mentioned in this statement from November 2010 to June 2012. The meter reading was taken in 6 digits and last reading in July 2012 was 998040. The units consumed from November 2010 to July 2012 is mostly more than 2000 except in 2-3 occasions in 2011 and 2012 when the consumption is shown in this statement as 1670, 1719 and 1930 respectively. Thereafter in July 2012 the statement shows that the previous reading through old meter no. 9071517 and reading was 998040 and current reading was taken only 41 and units consumed shown in this statement as 2001. This current reading of 41 should have been 410 but last digit is not noticed & recorded by the meter reader from the meter. The representative of the Respondent has submitted that in current reading as above for July 2012 till October 2018, the same error has occurred in taking the reading from the meter and therefore the units consumed were shown approximately 1/10<sup>th</sup> of actual consumption recorded by the meter, i.e. between 200 to 400 units. Then the meter was changed in October 2018 and therefore from this new meter when the reading was taken in November 2018, in it the previous reading was '0' and current reading is 2550, and thereafter till February 2020 the consumption was mostly beyond 2000 units. From these circumstances, the Respondent has come to the conclusion that there was error in taking reading and therefore there was fall in the billing for the period from July 2012 to October 2018 than the actual consumption. This explanation of the Respondent appears to be probable in view of history of consumption prior to 2012 and after October 2018. Such a low consumption of units between 200 to 400 units for the consumer whom load of 33.790 kw is sanctioned, is not probable.
- b) The complainant's grievance was that, during this period from August 2012 to October 2018 the consumption was shown less and after change of the meter from October 2018 billing was high. The enquiry and investigation were made by the Respondent in respect of that the complaint and the aforesaid error was noticed as noted in previous sub-para herein. Thus, it appears that the contention of the Respondent is just and proper in support of the additional demand of charges for the period from August 2012 to October 2018 as demanded by them in the letter dtd. 14/08/2019.
- c) It may be noted that the complainant has not disputed that prior to August 2012 the monthly consumption was more than 2000 units. In such circumstances also the claim of the complainant is not legally correct that the Respondent is violating law by demanding additional charges. The reliance placed by the complainant on section 56(2) of E.A., 2003 is also misplaced in view of the decision of Hon'ble Bombay High Court in the case of *M/s Rototex Polyester & Anr. v/s Administrator, Administration of Dadra & Nagar Havli (U.T.) Electricity Department, Silvassa &*

**Ors. (Writ Petition no. 7015 of 2008 dtd. 20/08/2009).** In that decision the Hon'ble Bombay High Court has held that the period of limitation provided u/s 56(2) is not applicable in case of wrong billing and therefore the Distribution Licensee is entitled to demand the additional charges on noticing the arrears of wrong billing. In view of this decision it cannot be said that the Respondent's claim and demand for additional charges for the period from August 2012 to October 2018 is illegal and unjust.

7.0 For all the aforesaid reasons we find that this complaint / grievance application has no merits and it is liable to be dismissed. Hence, following order is passed.

**ORDER**

1.0 The grievance no. S-A-408-2020 dtd. 04/03/2020 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**