

		Date	Month	Year
1	Date of Receipt	07	10	2020
2	Date of Registration	08	10	2020
3	Decided on	26	11	2020
4	Duration of proceeding	42 days		
5	Delay, if any.	NIL		

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-D-411-2020 dtd.08/10/2020

New Taj RestaurantComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Coram : Shri S.A. Quazi, Chairman

Member

1. Shri R.B. Patil, Member

On behalf of the Respondent : 1. Shri M.P. Rananaware

On behalf of the Complainant : 1. Shri Abubakar A. Balwa

Date of Hearing : 20/11/2020

Date of Order : 26/11/2020

Judgment

- 1.0 The complainant has requested this Forum to direct the Respondent to withdraw the demand of bill of Rs. 1,38,410/- as mentioned by him in the grievance application made in Annexure 'C' to IGRC, as according to him the premises where the meter was installed in respect of the said bill was given for redevelopment to the developer by the society in the year 2002 itself and there was no meter existing and thus there was no consumption from the year 2002.
- 2.0 The grievance of the complainant as per his grievance application and as he has orally submitted before the Forum, in the course of hearing seems, to be as under.
- a) The complainant is running a restaurant by name New Taj Restaurant where electricity connection and meter has been given. However, near to the said restaurant there is another premises on which there was electric meter and connection in the same name of consumer as New Taj Restaurant. According to the complainant, the said premises was being used by the staff of the restaurant. The consumer number in respect of that premises is 819-095-247. This premises was given for redevelopment by the society along with other premises adjoining and belonging to the housing society, in the year 2002. The developer and the society were expected to inform the Respondent that the premises has been given for redevelopment and therefore the Respondent should remove meter installed there. The complainant remained under impression that developer must have informed the Respondent and meter must have been removed. In the meanwhile the premises was demolished and redeveloped by the developer. After redevelopment the new premises came into existence and developer got new connection and electric meter on the new premises in the year 2008. However, in respect of the old a/c no. 819-095-247 which was in the name of New Taj Restaurant, the bill used to come to the Restaurant and the complainant used to pay the bill wrongly along with the original Restaurant's bill till 2013 where separate connection was given. Thereafter there was no bill of that premises. However, in the year 2019 before 12/09/2019 when the officials of the Respondent were asking him to pay the dues of Rs. 1,38,410/- in respect of the said old a/c 819-095-247, he realized that the Respondent is asking to pay the bill pertaining to the electric meter which was pertaining to the demolished premises. Therefore, he gave the complaint to IGRC of Customer Care 'D' ward of Respondent and mentioned that the premises was already given by him to the developer for redevelopment in the year 2002 itself. The new premises has been constructed, possession thereof has been given in the year 2008 and new meter has been installed in the new premises. In view of such circumstances the complainant requested IGRC to remove the said grievance.
- b) The IGRC appears to have informed to the complainant that a/c no. 819-095-247, as per record, has outstanding of Rs. 1,45,460/- till the month of November 2019. However, the meter was removed on 10/07/2014. The revised amount under Amnesty Scheme (Procedure Order 246) is Rs. 78,467.85. In view of above, IGRC requested the

complainant to pay the revised amount under the said scheme to avoid any further complications. In view of this, the grievance application was disposed off by the IGRC.

- c) Being aggrieved by the said findings of the IGRC, the complainant has filed the instant grievance application before this Forum and has requested to direct the Respondent to withdraw the aforesaid demand.

3.0 The Respondent has given reply to the aforesaid complaint before this Forum in writing. The submissions as put forth by the Respondent, in their reply, may be stated in brief as under :-

- a) The New Taj Restaurant is registered consumer of the Respondent having a/c no. 819-095-247 of Room no. 7, Ground floor, Murga Giran CHS, 83, Patthe Bapurao Marg, Mumbai - 400 008. Meter no. 0273274 was replaced by new meter no. D947485 on 17/05/1994. However, the new meter number was not updated in the system maintained by the Respondent for reading and billing etc. but as per the ledger, consumption was recorded by the new meter no. D947485 and the consumer was billed accordingly till November 2010 when manual reading folio system was in vogue. After introduction of electronic folio in 2010-11 since new meter no. D947485 was not updated, the consumer was billed zero units from March 2011 to June 2012. Subsequently the consumer was charged average 100 units from July 2012 to November 2013. The consumer had been making payment towards the bill till the month of November 2013 regularly. However, the consumer stopped paying the bill after November 2013. In the meantime, the site visit was carried out by the Respondent's officials to confirm correct meter number of the consumer and new meter was brought on record in January 2014 vide ID 1499826. The old meter was finally removed from the system vide ID no. 1830854 in July 2014. The final reading of the meter as per above ID is 45034. However, the exact date of meter removal is not available in the system. The consumer was billed for 4501 units in the month of October 2014.
- b) The Respondent further contends in the reply that the consumer's a/c was not closed even after the removal of old meter D947485 since the consumer had not cleared the outstanding dues of Rs. 77,120/- as per the bill for the month of October 2014. However, vide application under Annexure 'C' dtd. 27/11/2019, the consumer complained to IGRC and disputed regarding outstanding bill amount of Rs. 1,38,410/- and questioned as to why the bills are sent to him ?, as according to him in the year 2002 the said meter was handed over to the builder. In the said complaint, the consumer also submitted that he has already received possession of new premises in the redeveloped building in the year 2008.
- c) Then the IGRC disposed off the said grievance of the consumer by aforesaid reply dtd. 21/01/2020 and demanded the consumer to pay revised amount of Rs. 78,667.85 under the Amnesty Scheme. However, the consumer did not turn up for making payment of outstanding dues. Vide ID 4845909, the final bill of Rs. 1,49,840/- was

prepared in the billing month of March 2020 after closing the consumer's account and accordingly, the complainant has been asked to pay the same.

- d) According to the Respondent, before this Forum, the complaint (consumer) has no merit in this case. The consumer cannot handover the Respondent's electric meter to the developer. The consumer should have approached the Respondent in the year 2002 itself for removal of the meter and for paying his outstanding dues. The consumer has failed to take such appropriate action for removal of the meter and payment of the dues. As per the ledger maintained by the Respondent, it is clear that the consumer was making payment of electricity bills regularly till the bill for the month of November 2013. Hence complainant's contention that he had handed over the meter to the developer in the year 2002 and there was no consumption, is not correct. The Respondent has referred to the copy of ledger pertaining to a/c no. 819-095-247 and produced the same with the reply. According to the Respondent, the consumer is liable to make final payment of Rs. 1,49,840/- as of bill for the month of March 2020. However, his accumulated units were charged in the bill for the month of October 2014. The bill can be revised by giving slab benefit to the consumer for the period from February 2011 to October 2014 and waiving of Delayed Payment Charges and interest on arrears subject to Audit verification. The net payable amount will be intimated to the consumer if he agrees for settlement of the case.
- e) The Respondent has requested in their reply submitted before this Forum that the consumer be directed to make the payment of electricity bills after giving slab benefit due to wrong billing during the period February 2011 to October 2014 and waiving of Delayed Payment Charges and interest on arrears after Audit verification. For all these reasons, the Respondent has pleaded in their reply submitted before this forum that the grievance application of the consumer is liable to be dismissed.
- 4.0 We have heard the submissions of the parties. They have made their submissions as per their contentions in their respective pleadings and the documents placed by them before the Forum in the record, which we have noticed here in earlier in detail.
- a) The complainant's representative Shri Abubakar Balwa has submitted that when the premises itself was handed over by the complainant for redevelopment to the developer, it was duty of the developer to inform the Respondent. The complainant remained under impression that developer must have informed the Respondent about the premises being demolished and redeveloped after the year 2002. It is submitted that when there was no premises, no question arises about the meter being existed there and electricity being consumed through the said meter. It is submitted that the premises of the Restaurant was near to the disputed premises, which was given for redevelopment. The Respondent's officials used to give the bills of both premises at the existing premises of the Restaurant. As both the meters were in the name of the Restaurant, the bills were paid till 2013 wrongly by the consumer, though there was no existing meter for a/c no. 819-092-247. Thereafter, no bills were received by the consumer and hence no payment was made till 2019. But, when in the year 2019, the

Respondent was threatening to disconnect the electricity provided to the existing premises of the Restaurant where separate meter was already given, the complainant made further enquiries and found that the old a/c no. 819-095-247 is being pressed into by the Respondent for making payment of arrears pertaining to that account. Therefore the grievance was put forth to IGRC, but IGRC has not resolved the grievance properly and hence the complainant has approached the Forum. The representative of the complainant has submitted that the documents relied upon by the Respondent before this Forum are not reliable to hold that the complainant is liable to pay aforesaid amount mentioned in the bill for the November 2019 as Rs. 1,45,460/-. Hence it is submitted that the Respondent be directed to withdraw the demand for a/c no. 819-095-247.

- b) The Respondent's representative Shri Rananawre has submitted that the earlier meter pertaining to a/c 819-095-247 was admittedly in the name of the complainant. Therefore it was the duty of the complainant (consumer) to inform about demolition and redevelopment of the premises in the year 2002. As the consumer has not informed the Respondent, there is no question of removing the meter or disconnecting the connection or closing the a/c 819-095-247 in the year 2002. According to the representative of the Respondent, the meter was existing on the premises in the year 2014 and its officials used to take the reading and the computer system used to record reading. The consumer has not disputed that the bills upto year 2013 have been paid. The representative of the Respondent relied upon the Exhibit 'A' and 'B' filed by them with their reply before this Forum to contend that the site of the meter was visited in the month of November 2013 and the meter was removed and reading was taken as 4458 as final reading. He has submitted that as per computerized system the statement shows that in January 2014 there was outstanding of Rs. 68,998.97 pertaining to the said a/c no. 819-095-247. He has submitted that till this date the new meter no. D947485 was not on record of this computer system but in January it was taken on record and before that the meter that was on record was 0273274. Therefore, in January 2014 when new meter no. D947485 was taken on record on system, the reading was shown only as '2'.

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 liable to pay the aforesaid demanded amount pertaining to the old a/c no. 819-095-247	No
2	What is the order ?	The Respondent is directed to withdraw the aforesaid demand pertaining to a/c no. 819-095-247.

6.0 For the aforesaid finding we record our reasons on the points for determination as under :

- a) What is understood from the grievance of the complainant and reply given by the Respondent thereto is that the complainant's contention is that in the year 2002 the premises in question pertaining to a/c no. 819-095-247 was handed over to the developer for redevelopment along with other premises of the society concerned. However, the consumer has another premises of restaurant, nearby old premises pertaining to a/c no. 819-095-247. The Respondent used to give the bills pertaining to both the premises at the premises of existing Restaurant and the consumer used to pay the bills wrongly, in respect of the demolished premises also, till the year 2013. The payment as such till November 2013 is not disputed by both the parties. However, thereafter, according to the Respondent, the meter was removed but the outstanding amount pertaining to a/c no. 819-095-247 was existing and account was maintained in this regard. The Respondent relied on the statement at Exhibit 'B' annexed to reply given before this Forum. This statement shows that it is pertaining to the period from the month of December 2010 to March 2020. In the month of December 2010, the previous reading is shown as 1153 and current reading is shown as 1406 and units consumed are shown as 253 and current bill is shown as Rs.1,220.76. Thereafter in January 2011 previous reading is shown as 1406 and current reading is shown as 1406 and hence units consumed are shown as '0' and current bill is Rs. 234.00. Then in February 2011, previous reading is shown as 1406, current reading is shown as '0' and units consumed are shown as 154. Thereafter upto June 2012, the previous reading is shown as '0' and then in July 2012, the current reading is shown as '0' and units consumed are 100. The same is about August 2012. Then from September 2012 to November 2013 the previous reading is shown as 100 and current reading is shown as 100, hence units consumed are '0'. This is what is the position of old meter no. 0273274 upto November 2013.
- b) From 2010 to 2013 the above position of the reading supports the contention of the complainant that the premises and the meter were not in existence. The aforesaid position shows that the officials of the Respondent did not visit the premises to take the actual reading. Therefore, the above record cannot be evidence of existence of the meter at the premises or about consumption of electricity.
- c) Then in January 2014, the new meter no. D947485 was introduced in the system of the Respondent in respect of a/c no. 819-095-247. It is submitted by the Respondent that this new meter D947485 was changed in the year 1994 but till November 2013 it was not taken on record of system and therefore the readings are not recorded in the system. In the statement at Exhibit 'B', for the month of January 2014 the previous reading of meter no. D947485 is shown as '2' and current reading is shown as '2', hence units consumed are '0' but the current bill is shown as Rs. 68,993.47. On perusal of the Exhibit 'B', same position appears about reading pertaining to D947485 from February

2014 to March 2020. No reading is shown in this statement during the period of 5 to 6 years. These circumstances clearly indicate that actually there was no meter functioning at the premises and the bills were raised only on estimation. The Representative of the Respondent tried to show the documents, which have not been placed on record before this Forum, to show that the readings were taken as per said record. But we have not allowed to produce these documents and to make submission on that basis for the reasons firstly, that is at belated stage and secondly these documents were not referred to before IGRC and thirdly copies of these documents have been never provided to the consumer. What is seen from the Exhibit 'B' produced before this Forum is noted herein earlier, from which it appears that the meter was not in existence at the premises concerned pertaining to the said account and it was kept running by the Respondent and whatever outstanding might be prior to 2014, they are being raised in the year 2020 by making aforesaid demand. The claim of the Respondent, therefore, is not supported by cogent evidence about actual consumption of the electricity by the holder of a/c no. 819-095-247. There is no record as to what was the reading of the meter which was removed even if the case of the Respondent is accepted that in July 2014 the meter was removed from the site. In absence of such final readings of the meter the contents shown in the statement at Exhibit 'B' for Rs. 68,993.97 as outstanding, cannot be accepted.

- d) Another reason for declining the contention of the Respondent about outstanding may be noticed from the circumstances is that in their reply before this Forum, the Respondent has pleaded that the meter was finally removed vide ID 1830854 in July 2014 and the reading as per above ID is 45034, however, the exact date of removal is not available in the system. The consumer was billed for 4501 units in the month of October 2014. These submissions of the Respondent are self contradictory in respect of the units consumed for paying the bill in 2014. The Respondent tried to convince us that the aforesaid number 45034 must be 4503.4. However, even if that is accepted, the position is not clear as to actual consumption of units, if we peruse the documents at Annexure 'A' filed with the reply of the Respondent before this Forum. This document is titled as 'Transmission and Distribution Information Management System'. In this document it is said that on 22/07/2013 there was request / complaint relating to meter pertaining to New Taj Restaurant / consumer for Room no. 7, Ground floor. This document, according to the Respondent, is about the report of official of the Respondent in respect of the site visit and meter inspection on the site. However, in one of the columns of this document, it is shown that existing meter position is '00000'. This indicates that on the date of such alleged visit there was no meter at the site. This has not been explained in reply submitted before this forum. In this document in the column of Final reading of Existing Meter is shown as 4458 whereas in reply submitted before this forum, the meter reading is shown as 45034. This contradiction is also not explained properly by the Respondent.
- e) Finally it will have to be observed that the aforesaid demand of the Respondent is pertaining to the year 2014. After such a long period, the Respondent cannot have a

right to make demand for such dues without giving any proper explanation to the consumer and without showing clear and transparent record about meter reading etc.

- f) For all the aforesaid reasons we hold that the Respondent is not entitled to demand and the complainant is not liable to pay the aforesaid amount pertaining to a/c no. 819-095-247 as shown in the bill dtd. 05/11/2019 and in the reply given by the Respondent before this Forum. Accordingly, we have recorded findings on point (1) as above and we hold that the respondent is liable to withdraw the said demand pertaining to the a/c no. 819-095-247. Hence we proceed to pass the following order.

ORDER

- 1.0 The grievance no. S-D-411-2020 dtd. 08/10/2020 stands allowed in following terms.
- 2.0 The Respondent is directed to withdraw its demand pertaining to the a/c no. 819-095-247 for the period from November 2013 onwards.
- 3.0 Copies of this order be given to all the concerned parties.

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

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