

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. S-B-307-2016 dtd. 21/10/2016.

The Registrar, Original SideComplainant
Bombay High Court

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri S.Y. Gaikwad, Member
2. Shri S.M. Mohite, Member, CPO

On behalf of the Complainant : 1. Shri Rajendra Virkar
2. Smt S.M. Deodhar

On behalf of the Respondent : 1. Shri R.G. Gandhi, Supdt. CC(B)
2. Shri D.S. Bodke, AAM CC(B)
3. Shri P.S. Shriram, AAO, CC(B)

Date of Hearing : 08/12/2016

Date of Order : 15/12/2016

Judgment by Shri. Vinayak G. Indrale, Chairman

The Registrar, Original Side, First floor, PWD Main Building, Bombay High Court, Dr. Kane Road, Mumbai - 400 032 has come before the Forum for exemption of Delayed Payment Charges in electricity bills levied without considering genuine technical grounds of late payment of electricity bills for the month May 2016.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 03/09/2016 for exemption of Delayed Payment Charges in electricity bills levied without considering genuine technical grounds of late payment of electricity bills for the month May 2016. The complainant has approached to CGRF in schedule 'A' dtd. 19/10/2016 (received by CGRF on 21/10/2016) as the complainant was not satisfied by the remedy provided by the IGR Cell of Distribution Licensee on his grievance.

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

- 2.0 The complainant, the Registrar Original Side, Bombay High Court has come before the Forum regarding his dispute about levy of Delay Payment Charges (DPC) amounting to Rs. 76,757.95 in respect of 15 Nos of electricity bills pertaining to Cycle No 24 and 1 number of electricity bill pertaining to Cycle 11 in the bills of June 2016. The complainant has stated that, the electricity bills of concerned accounts for the month of May 2016 were paid after the due date. The Undertaking has levied DPC in the bill month of June 2016 without considering technical grounds of late payment of electricity bills for the month May 2016.
- 3.0 Fifteen numbers of electricity bills (tariff applicable commercial) having bill date as 25/05/2016, due date as 13/06/2016 pertaining to cycle 24 were delivered on 01/06/2016 and one number of electricity bill (tariff applicable commercial) having bill date as 24/05/2016, due date as 13/06/2016 pertaining to cycle 11 was delivered on 30/05/2016. The payment of these bills were received on 14/06/2016 i.e after the due date for payment. The total bill amount of 16 numbers of bills was Rs. 37,87,830.00 for the month of May 2016.
- 4.0 The period between the bill date & due date for payment is in accordance with Clause 15.5.1 of MERC (Electricity Supply Code & Other Conditions of Supply) regulation 2005.
- 5.0 As there was delay in bill payment, DPC was levied on these 16 numbers of bills as per Schedule of Electricity Tariff approved by MERC. Hence, DPC amounting to Rs 76,757.95 was levied by the system in concerned electricity bills for the month June 2016. These electricity bills were paid in full by the complainant.

REASONS

- 6.0 We have heard Shri Virkar, representative of the complainant and Shri R.G. Gandhi, Supdt. CC(B), Shri D.S. Bodke, AAM CC(B) and Shri P.S. Shriram, AAO, CC(B) for the Respondent BEST Undertaking. We have perused plethora of documents annexed by either party to the proceeding.
- 7.0 We have cautiously gone through the correspondence made by the complainant with the Respondent BEST Undertaking as well as written statement filed by the Respondent BEST Undertaking. It appears that 16 electricity bills of total amount of Rs. 37,87,830.00 were issued by the Respondent BEST Undertaking to the complainant of which bill date was 24/05/2016 and due date was 13/06/2016. It is admitted fact

that bills were received by the complainant on 01/06/2016 as reflected from acknowledgement on pg. no. 99/C.

- 8.0 Shri Virkar, representative of the complainant has submitted that due to technical formalities required to be performed, there was one day delay in payment of electricity dues. He has submitted that the bills were for the month of May 2016 in which month most of the administrative staff was on summer vacation. He further submitted that after summer vacation, office was opened on 06/06/2016 and thereafter they prepared bills and sent it to Pay & Accounts Dept. for issuance of cheque and due to holidays falling on 11/6/2016 and 12/06/2016 the complainant received a cheque of electricity bills from Pay & Accounts Dept. on 13/06/2016 in the evening. He further submitted that on 13/06/2016, the concerned staff of High Court visited to the Cash Counter of the Respondent BEST Undertaking for depositing the cheque but same was found close due to closure of office hours and therefore on very next day they have deposited the cheque. Thus he has submitted that due to procedural aspect, delay has been caused and it was not intentional on the part of the complainant.
- 9.0 The Respondent BEST Undertaking has submitted that their action falls within the ambit of MERC Regulation and therefore charging of DP charges is legal. They have submitted that as per computer feeding if electricity payment is received late, automatically DP charges are levied in next month's electricity bills. Thus the Respondent BEST Undertaking supports their action of charging DP charges.
- 10.0 The Respondent has brought to our notice the Regulation 15.5.1 of MERC (Electricity Supply Code and Conditions of Supply), Regulation, 2005. We think it just and proper to reproduce the same.

15.5.1 The due date for the payment of a bill shall be mentioned on the bill and such due date shall be not less than twenty-one days from the bill date in the case of residential and agricultural consumers, and not less than fifteen days in the case of other consumers.

- 11.0 The Respondent BEST Undertaking relied upon the above said regulation and submitted that the bill date of all 16 electricity bills was shown as 24/05/2016 and even though they have sent the bills on 01/06/2016 there was no contravention of the Regulation as the period not less than 15 days is required to be counted from the bill date. The Respondent BEST Undertaking further submitted that at present they used to send the information of electricity dues well in advance on the registered mobile of the consumer as well as used to upload the electricity bill of the consumer on the website of BEST Undertaking with a view that each consumer must be aware of electricity dues. However, it is not practical for each and every consumer to give its registered mobile as well as to have computer and facility of internet to know the electricity dues. It appears that considering the strength of consumer, in Regulation 15.5.1 the period not less than 15 days is to be counted from the bill date. In the instant case it appears that there is some delay on the part of the Respondent BEST Undertaking to

deliver the bills to the complainant. If viewed from this aspect and couple with the fact that the complainant required time to process the electricity bills for receiving cheque of electricity charges from Pay & Accounts Dept , the delay appears to be not intentional since procedure is made for the convenience and it should not come in the way while doing the substantial justice.

- 12.0 It appears that the complainant has reasonably explained the one day delay for payment of electricity charges and the same delay was beyond the control of the complainant as Pay and Accounts Dept. passed the cheque on 13/06/2016 in the evening. The complainant has submitted that on the 13/06/2016 they sent the person to Cash Counter for depositing the cheque but due to closure of office hours he was unable to deposit the cheque. It appears that on very next day the complainant had deposited the cheque and cleared all the electricity dues, thus there is no substantial loss to the Respondent BEST Undertaking as if cheque would have deposited on 13/06/2016 in the evening, it would have encash on 14/06/2016.
- 13.0 Having regard to the above said reasons the Forum finds substance in the complaint of the complainant as due to technicalities one day delay was being caused in payment of electricity dues. It is not the case of Respondent BEST Undertaking that the complainant is habitual defaulter in payment of electricity charges. Thus the action of Respondent BEST Undertaking charging DPC appears to be arbitrary and it is because of automatic feeding of charging delay payment charges in the bill of next month.
- 14.0 For the above said reasons and considering the substantial amount of charging DPC, we find substance in the complaint as the complainant has satisfactorily explained one day delay in making payment. If viewed from all these angles, the complaint deserves to be allowed and the Respondent BEST Undertaking is liable to adjust the DPC in ensuing bill. In result we pass the following order.

ORDER

1. The complaint no. S-B-307-2016 dtd. 21/10/2016 stands allowed.
2. The Respondent BEST Undertaking is directed to refund the DPC of Rs. 76,757.95 to the complainant by giving credit of said amount in the electricity bill of ensuing month.
3. The Respondent BEST Undertaking is directed to comply the order in next billing cycle and report the compliance within 15 days there from.
4. Copies of this order be given to both the parties.

(Shri S.Y. Gaikwad)
Member

(Shri S.M. Mohite)
Member

(Shri V.G. Indrale)
Chairman