

**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

**Representation No. S-HVC-365-2018 dtd. 31/07/2018**

The Secretary,  
The Cuffe Parade Persopolis CHSL .....Complainant

V/S

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

**Present**

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Dr M.S. Kamath, Member, CPO

On behalf of the Respondent : 1. Shri S.M. Sakpal, DE(HVC)  
2. Smt. M.B. Ugale, AE(HVC)  
3. Shri Nitin B. Nikam, Dy.E. CC(A)

On behalf of the Complainant : 1. Shri Omprakash V. Shanbhag

Date of Hearing : 25/09/2018

Date of Order : 28/09/2018

**Judgment by Shri. Vinayak G. Indrale, Chairman**

The Secretary, The Cuffe Parade Persepolis Premises, Co-op. Soc. Ltd., 100, Cuffe Parade, Mumbai - 400 005 has come before the Forum for dispute regarding refund of Rs. 1,67,764.20 paid towards wrong bill for the period 30/6/2007 to 31/10/2016 under protest at the time of reconnection of electric supply which was removed for non-payment of electricity bill pertaining to a/c no. 100-027-015\*9.

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

The complainant has approached to IGR Cell on 04/05/2018 dispute regarding refund of Rs. 1,67,764.20 paid towards wrong bill for the period 30/6/2007 to 31/10/2016 under protest at the time of reconnection of electric supply which was removed for non-payment of electricity bill pertaining to a/c no. 100-027-015\*9. The complainant has approached to CGRF in schedule 'A' dtd. NIL received by CGRF on 18/07/2018 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 :**

- 1.0 The complainant came before the Forum regarding its dispute about refund of Rs. 1,67,764.20 paid under protest towards tariff difference between LT-I (*residential*) & LT-VII (b) (*Temporary Supply Others -TSO*) tariff for the period from 30/06/2007 to 31/10/2016 at the time of reconnection of electric supply in July 2018, which was disconnected for non-payment of electricity dues pertaining to a/c no. 100-027-015\*9.
- 2.0 Electric supply was given to the complainant's premises with sanctioned load 75 kw for fire-fighting purpose through meter no. T950691 a/c no. 869-123-001. Inadvertently LT-I (*residential*) tariff was applied. The complainant had requested for change in tariff from LT-I (*residential*) to LT-VII (b) (*Temporary Supply Others -TSO*) in the month of August 2016. After investigation it was observed that, applicable tariff is LT-VII (b) (*Temporary Supply Others -TSO*). Accordingly meter no. T950691 was replaced by meter no. T110425 and new a/c no. 100-027-015\*9 has been allotted to the complainant with applicable tariff from September 2016.
- 3.0 Necessary dr/cr was carried out for recovery of tariff difference between LT-I (*residential*) to LT-VII(b) (*Temporary Supply Others -TSO*) for the period 30/06/2007 to 31/10/2016 resulting in net debit of Rs. 1,67,764.20 and same was informed to the complainant vide letter dated 16/08/2017 and debited in electricity bill for August 2017.
- 4.0 The complainant has not paid the electricity dues. Hence, notice dated 27/09/2017 had served for disconnection of electric supply for the reason non-payment of electricity bills. As the complainant has not paid electricity dues, its electric supply was disconnected by removing the meter on 24/04/2018. The electric supply has reconnected in the month of June 2018 after payment of outstanding amount of Rs. 1,96,750 under protest by the complainant.
- 5.0 The Undertaking has served supplementary bill to the complainant after rectifying it's clerical mistake in August 2017. This action is correct as per judgment by Hon'ble Mumbai High Court in case BMC versus Yatish Sharma, W.P. No 264 of 2006 and in case of M/S Rototex Polyester & Anr versus Administrator, Administration of Dadra & Nagar Haveli ( U T) Electricity Department , Silvassa W.P 7015 of 2008. Due date referred under section 56 (2) of the Electricity Act 2003 shall be the date of issue of revised bill and not from the date of actual consumption of electricity. Hence, complainant's request of refund of paid bill may not be considered.

**REASONS**

- 1.0 We have heard the argument of the representative of the complainant who is holding the post of Manager of the complainant society and for the Respondent BEST Undertaking 1. Shri S.M. Sakpal, DE(HVC), Smt. M.B. Ugale, AE(HVC) and Shri Nitin B.

Nikam, Dy.E. CC(A). Perused the documents filed by the either parties to the proceeding. The Respondent BEST Undertaking filed the written submission along with the documents placed at Sr. no. 1 to 10.

- 2.0 The representative of the complainant has submitted that the demand notice of tariff difference from LT-I to LT-VII(b) for the period from July 2007 to October 2016 of Rs. 1,67,764.20 is illegal as barred by limitation u/s 56(2) of E.A., 2003. He has further submitted that due to negligence on the part of officers of the Respondent BEST Undertaking, the consumer is not suppose to suffer loss as the complainant being Co-Operative Housing Society it is very difficult to recover the arrears of electricity from the members of the society. Against this the Respondent BEST Undertaking has submitted that the meter was installed as fire fighting and occasion of consumption of electricity would occur only in case of extinguishing the fire accident and thereby minimum charges would be applied.
- 3.0 It is further submitted by the Respondent BEST Undertaking that due to clerical mistake or human error of charging the tariff, the Respondent BEST Undertaking should not suffer loss as amount of arrears due shall be claimed only after issuing a valid demand notice to the consumer. It is further submitted that the Respondent BEST Undertaking has rightly carved out dr/cr note which is placed on record at pg. 21/C to 35/C. Thus according to the Respondent BEST Undertaking they have claimed the arrears as per MERC Regulation as tariff difference of LT-I to LT-VII(b) and claimed amount of Rs. 1,67,764.20.
- 4.0 After hearing above said submission, it is admitted fact that meter of firefighting was initially installed in the complainant society near about in the year 1965 and at that time applicable tariff was residential tariff. It is also admitted fact that since July 2007 the tariff for firefighting meter was changed from LT-I to LT-VII(b). The complainant did not dispute dr/cr note passed by the Respondent BEST Undertaking as well as amount carved out by the Respondent BEST Undertaking. The only contention of the representative of the complainant is that tariff difference claimed by the Respondent BEST Undertaking for the period from July 2007 to October 2016 is barred by limitation as per section 56(2) of E.A., 2003.
- 5.0 Having regard to the above said reasons only question poses before the Forum is whether amount claimed by the Respondent BEST Undertaking is barred by limitation as per section 56(2) of E.A., 2003 or as to whether the limitation shall start from the date of receipt of valid demand notice by the consumer. On this point the Respondent BEST Undertaking has submitted that the word "*sum become first due*" as shown in section 56(2) of E.A., 2003 is to be construed only on the issue of valid notice by the Licensee. On this point, the Respondent BEST Undertaking has relied upon ruling of Bombay High Court in W.P. 264 of 2006 Brihanmumbai Municipal Corporation through General Manager v/s Yatish Sharma and Others. We have cautiously gone through the ratio laid down in the said case law in which it has been held that a sum cannot said to be due from the consumer u/s 56(2) of E.A., 2003 unless a bill for electricity charges served upon the consumer.

- 6.0 In view of above, the Respondent BEST Undertaking has submitted that the limitation shall start only from the date of issue of valid demand notice by the Respondent BEST Undertaking to the consumer i.e. complainant. In the instant case admittedly the valid demand notice dtd. 27/09/2017 has been served on the consumer on 04/10/2017. The Respondent BEST Undertaking has further relied upon well known ruling in *W.P. 7015/2008 The Hon'ble Bombay High Court in M/s Rototex Polyester & Anr. v/s Administrator, Administration of Dadra & Nagar Haveli (U.T.) Electricity dept., Silvassa & Ors.*
- 7.0 We have cautiously gone through the ratio laid down in the above said case law in which it has been held that amount first become due means the date on which valid notice is served upon the consumer. In this case law the Hon'ble Bombay High Court has referred a ruling reported in AIR 1987 Delhi pg. 219, H.D. Shourie v/s Municipal Corporation of Delhi wherein the Hon'ble Delhi High Court observed that if the word "due" is to mean consumption of electricity, it would mean that electricity charges would become due and payable the moment electricity is consumed and if charges in respect thereof are not paid then even without bill being issued a notice of disconnection would be liable to be issued u/s 24 of E.A., 1910 which could not have been the intention of the legislature. The Hon'ble Delhi High Court observed that the word due in this context would mean due and payable after valid bill has been sent to the consumer. We applied the ratio laid down in above said case law and held that limitation shall start only on the date of issue of valid notice.
- 8.0 Considering the above said legal position we arrived at the conclusion that in any case it could not be held that the claim made by the Respondent BEST Undertaking is barred by limitation as per section 56(2) of E.A., 2006. It appears that due to clerical mistake or human error the Respondent BEST Undertaking's concerned officers ought to have not applied tariff difference and for that Distribution Licensee should not suffer loss.
- 9.0 For the above said reason we arrived at the conclusion that the claim of the Respondent BEST Undertaking is legal and thus the complaint deserves to be dismissed. In result we pass the following order.

**ORDER**

- 1.0 The complaint no. S-HVC-365-2018 dtd. 31/07/2018 stands dismissed.
- 2.0 Copies of this order be given to both the parties.

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

sd/-  
(Shri V.G. Indrale)  
**Chairman**