

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-HVC-256-2015 dtd. 06/04/2015.

The Great E. Shipping Co. Ltd.Complainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri S.S. Bansode, Member

On behalf of the Complainant : 1. Shri Nitin Khambati
2. Shri T.S. Patil

On behalf of the Respondent : 1. Shri D.N. Pawar, DEHVC
2. Shri R.R. Bandel, AEHVC

Date of Hearing : 29/04/2015

Date of Order : 29/05/2015

Judgment by Shri. Vinayak G. Indrale, Chairman

The Great E. Shipping Co. Ltd., C/o The Great Eastern Royale CHS Ltd., 1 G to 25, 25th floor, Plot 333, A, Great Eastern Royal, Jahangir Boman Behram Marg, Bellassis Bridge, Tardeo, Mumbai - 400 034 has come before the Forum regarding high bill complaint regarding a/c no. 100-005-109*7.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 27/01/2015 for bill complaint pertaining to A/c no. a/c no. 100-005-109*7. The complainant has approached to CGRF in schedule 'A' dtd. 30/03/2015 (received by CGRF on 30/03/2015) as they were not satisfied by the remedy provided by the IGR Cell Distribution Licensee regarding his grievance.

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

- 2.0 The meter no.T960383 was installed on 23.4.1997 for fire fighting purpose at the premises of The Great Eastern Shipping Co. Ltd. As per tariff schedule in force at that time, the consumer account was to be charged Rs.7.00 per KWH unit consumed subject to a minimum amount of Rs.75/- per KW per month, whichever is higher, in addition to other charges such as Electricity Duty, FAC, MST etc. However, for the period between 23.4.1997 to 1.3.1999, consumer account was charged only on the basis of actual KWH units consumed and not on the basis of connected load of 186 kW was not considered for billing purpose resulted in incorrect bill for the period from 23.4.1997 to 1.3.1999. Hence the consumer account no.100-005-109 was amended against the incorrect bill and an amount of Rs.2,90,118/- was inserted in electricity bill as proclain amount in the year 2005. Further, same amount was continuously shown in electricity bill as a proclain amount till date.
- 3.0 In spite of rigorous follow up and correspondence had with Society, the proclain amount was not paid. Hence, an amount of Rs.290118/- was debited in the regular electricity bill in the month of December.2014.
- 4.0 The proclain of Rs.290118/- towards wrong billing due to non consideration of connected load of 186 kW for the period from 23.4.1997 to 1.3.1999 preferred in the year 2005 is admissible and payable. The Electricity Act 2003 came in force from year 2005. However, the regulation framed afterwards. Hence, the proclain of Rs 290118/- is payable. Further, the said proclain amount is recoverable as the amount of Rs.290118/- is continuously shown in electricity bill as proclain from year 2005 onwards to till date.
- 5.0 Proclain amount of Rs 290118/- is debited in consumer regular account number 100-005-109. The bill debited amounting to Rs.290118/- is in order and payable by the consumer.
- 6.0 As per the letter dated 28.4.2005 by the BEST Undertaking, the recovery of proclain of Rs.290118/- towards incorrect billing due to non consideration of connected load for the period from 23.4.1997 to 1.3.1999 of consumer account no.100-005-109, meter no.T960383 was charged in April 2005 and in spite of rigorous follow up and correspondence had with Society, the proclain amount was not paid hence an amount of Rs.290118/- was debited in regular electricity bill in the month of December 2014 is correct and payable by the consumer.

REASONS

- 7.0 We have heard arguments of Shri Nitin Khambati and Shri T. S. Patil representing the complainant and Shri D.N. Pawar representing the Respondent BEST Undertaking. Perused the documents filed by the complainant and documents filed by the Respondent BEST Undertaking along with written statement and same are marked at Exhibit 'A' to 'W'.
- 8.0 It is not disputed fact that the Respondent BEST Undertaking has given the electricity connection to the complainant society for firefighting purpose on 23/04/1997. According to the Respondent BEST Undertaking the connected load was not considered for billing purpose which resulted into incorrect billing for the period from 23/04/1997 to 01/03/1999. It is the contention of the Respondent BEST Undertaking that as per tariff schedule in force at that time, the consumer account was to be charged Rs. 7/- per kwh units consumed subject to minimum amount of Rs. 75/- per kw per month whichever is higher, in addition to other charges such as Electricity Duty, FAC, MST etc. According to the Respondent BEST Undertaking for the period between 23/04/1997 to 01/03/1999, the consumer account was charged only on the basis of actual kwh units consumed and not on the basis of connected load of 186 kw which was not considered for billing purpose and resulted into incorrect bill for the said period. The complainant did not dispute the fact of charging of incorrect bill, the only grievance of the complainant is that the amended bill of Rs. 2,90,180.00 is for the period of 23/04/1997 to 01/03/1999 and therefore same is barred by limitation and thus the Respondent BEST Undertaking has no right to recover the said amount under the amended bill.
- 9.0 It is the contention of the Respondent BEST Undertaking that the amount under the amended bill was debited in the electricity bill for the year 2005 and same was continuously shown in electricity bill as proclaim amount and inspite of repeated follow up and correspondence the complainant society has avoided to pay the said amount and therefore an amount of Rs. 2,90,118.00 was debited in the regular electricity bill in the month of December 2014.
- 10.0 Having regard to the above said rival contentions, the Forum is required to see whether the claim under amended bill is barred by limitation or not. On this point admittedly the period for amended bill was since before enactment of E.A. 2003, there is no period of limitation for recovery of amount was provided in the E.A. 1910, the Electricity Supply Act, 1948 and Electricity Regulatory Commission Act, 1998. The record goes to show that in the year 2005, the Respondent BEST Undertaking has shown the amount under amended in the electricity bill and same was continuously shown in further electricity bills. Considering this aspect, even if we hold that the provisions of section 56 of E.A. 2003 would apply to this case, in that case also it cannot be held that the amount is barred by limitation as due to oversight the bill was under charged and when this fact was came to know in the year 2005, the Respondent

BEST Undertaking has issued amended bill and shown the amount in every electricity bills. It appears from the record that due to oversight the bill was under charged for the above said period and thereby the Respondent BEST Undertaking is required to issue amended bill for that period. If any ruling is required on this point, the Forum will reply upon the ruling between *M/s Rototex Polyester & Anr. v/s Administrator, Administration of Dadra & Nagar Haveli, Silvassa (W.P. 7015 of 2008)*. In this ruling it has been held that if the consumer was under billed due to clerical mistake or human error or such like mistake, the limitation starts from the date when the valid bill is issued. In this case the Hon'ble High Court relied upon ruling of *AIR 1978 Bombay 369 (Bharat Barrel & Drum Manufacturing Co. Pvt. Ltd. v/s The Municipal Corporation for Greater Bombay)*. In this case the additional amounts for eleven years period were claimed from the consumer on the basis of failure to multiply the reading by 2(two) and not on the basis of faulty meter. The question was whether the licensee had to restrict its claim to six months. The Division Bench observed that u/s 26 of the Indian Electricity Act, 1910 restriction as to six months does not seem to apply to a claim made by the licensee on the ground that there was a failure to multiply the reading by the changed multiplication factor. The same has happened in this case as the bill is charged on basis of actual units and not on the basis of 186 kwh provided to the society.

- 11.0 In view of this aspect even though the arguments advanced by the complainant that the Respondent BEST Undertaking has no right to recover the amount under amended bill after 15-16 years appears to be lucrative, it has no legal force.
- 12.0 Having regards to the above said reasons this Forum does not find any substance in the complaint. Thus the complaint deserves to be dismissed. In result we pass the following order.

ORDER

1. The complaint No. S-HVC-256-2015 dtd. 06/04/2015 stands dismissed.
2. Copies of this order be given to both the parties.

(Shri S.S. Bansode)
Member

(Shri V.G. Indrale)
Chairman