

BEFORE THE COMPLAINANT 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. EA-150-2012 dtd. 01/06/2012

M/s Shri Ram Cotton P. Factory P.Ltd.Complainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Quorum :
1. Shri R U Ingule, Chairman
2. Shri S P Goswami, Member
3. Smt Varsha V Raut, Member

On behalf of the Complainant : Shri. Davinder Singh Sudam

On behalf of the Respondent : 1. Shri. D.N. Pawar, DEEA
2. Shri. S.M. Sonawane
3. Shri. M.H. Waghmare

Date of Hearing : 17/07/2012.

Date of Order : 31/07/2012

Judgment by Shri. R.U. Ingule, Chairman

M/s Shri Ram Cotton P. Factory P.Ltd., 3, Reay Road, Opp. Cotton Green Rly. Station Bridge, Mumbai - 400 033 has come before the forum for grievance regarding wrongly charged penalty for exceeding Contract Demand for A/c no. 202-010-333*1.

Complainant has submitted in brief as under :

1.0 The complainant has approached to IGR Cell on 30/04/2012 regarding wrongly charged penalty for exceeding Contract Demand for A/c no. 202-010-333*1. The complainant has approached to CGRF in schedule 'A' dtd. 24/05/2012 (received by CGRF on 31/05/2012) as no remedy is provided by the Distribution Licensee regarding their grievance. The complainant has requested the Forum to direct the Distribution Licensee to refund the total amount in cash which is wrongly charged penalty for exceeding contract demand to them with interest and to give compensation of Rs. 5,000.00 to their representative who will be present for hearing and other miscellaneous expenses for paper works.

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

- 2.0 This is a case of receipt of electricity bill with penalty for exceeding contract demand against sanctioned load of 1Kw for LVCTO meter No.T 110198 having CT ratio = 150/5 i.e. MF=30 having A/c No.202-010-333*1. During scrutiny of consumer A/c with master data it is noticed that consumer having 5 nos. of LVCTO meters one at a time for different period with sanctioned load of 1Kw. Complainant is penalized against exceeding contract demand. During the scrutiny, it is noticed that average Maximum demand of complainant's meter No. T110332 is found above 100Kw approx. but sanctioned load appeared on their electricity bill is 1Kw.
- 3.0 The complainant had disputed the matter and registered a complaint in Annexure 'C' form dtd. 30.04.2012 wherein complainant has complained regarding receipt of electricity bill with penalty for exceeding contract demand. 1 kw is the sanctioned load of the meter No.T110198 having A/c No.202-010-333*1 and requested to stop the penalty charges and asked refund with interest against paid penalty amount for the exceeding contract demand.
- 4.0 We had informed the complainant vide our letter dtd. 1.8.2008 that to regularize his correct sanctioned load and intimate us their contract demand in KVA for further billing. We further informed that as per MERC's new tariff order dated 06.06.2008 for the year 2008-2009 the tariff has been changed with effect from 01.06.2008. Also informed complainant regarding maximum demand recorded by meter No. T970544 for the month January 2008 =54.39Kw, February 2008=49.8Kw and March 2008=57.06 KW and billing will be on demand based charges per KVA per month. We requested the complainant to intimate us their contract demand in KVA as recorded maximum demand on the meter is more than sanctioned load of 1Kw and to contact our respective Divisional Engineer, Customer Care ward to get regularize their load within 15 days by registering requisition failing which existing sanctioned load i.e. 1Kw will be treated as sanctioned load and contract demand of 1.25KVA will be considered for billing, the penalty charges would be levied for the exceeding contract

demand as per the tariff schedule. Hence, we charged the complainant with demand based tariff from the month of December 2008. Hence, penalty for exceeding contract demand is levied in complainant's every month bill is as per MERC's tariff schedule as complainant is using excess load than the sanctioned load and not approached to the undertaking since August 2008 for regularization of sanctioned load till date.

5.0 We levied penalty against exceeding contract demand to complainant by BEST Undertaking is correct and as per MERC's tariff schedule, hence same penalty cannot be refunded to consumer.

6.0 We pray as under

6.1 The penalty levied against exceeding contract demand to complainant by BEST Undertaking is as per MERC's tariff schedule and is in order.

6.2 Consumer asking for compensation of Rs.5000.00 to his authorized person who present in hearing of case is not ethical.

6.3 The complainant may not be allowed to produce any more evidences before the Hon'ble CGRF during the hearing of the case without giving us an opportunity to offer our comments.

6.4 The consumer should not be allowed to change the facts of the case presented in his application.

REASONS :

7.0 We have heard Shri. Davinder Singh Sudan for the complainant and for the Respondent BEST Undertaking Shri. D.N. Pawar, DEEA, Shri. S.M. Sonawane, Shri. M.H. Waghmare. Perused documents placed on file.

8.0 At the outset we find the instant complaint under consideration, being totally devoid of any merit and liable to be dismissed *per se*.

9.0 The complainant has placed a heavy reliance on a solitary contention that the Respondent BEST Undertaking, has already provided a "*T-series*" meter to it, on approving a load for more than 150.0 kVA. Therefore, now the Respondent BEST Undertaking can not claim against the complainant that the sanctioned load has been 1.00 kw and it has been exceeding contract demand load, therefore liable to be billed for 1.25 kw along with penalty.

10.0 In an attempt to support its case, the complainant has placed on file a letter dtd. 04/10/1974 under the signature of Divisional Engineer Commercial (North) and a letter dtd. 15/10/2008 allegedly addressed to the Respondent BEST Undertaking.

- 11.0 This Forum however finds that a cogent documentary evidence placed on file by the Respondent BEST Undertaking, totally shatter the case of the complainant. On behalf of the Respondent BEST Undertaking its Divisional Engineer, Mr. D.N. Pawar has rightly pointed out that a bare perusal of a Ledger Folio, maintained by the Respondent BEST Undertaking giving all the details viz. consumer's name, account no., meter no., sanctioned load, unit consumed, electricity charges paid and in arrears, taxes on it etc. blatantly manifest that from the year 1994 till 2011 i.e. for a huge period of about 16 years, this record shows initially sanctioned load being 0.67 kVA, thereafter rounded of to 1.00 kVA.
- 12.0 Significant to observe at this juncture that initially bimonthly and later on monthly electricity bills, served on the complainant from last 16 years have been accordingly showing such sanctioned load and fixed charges. In considered view of this Forum, thus the complainant has been aware and has accepted without any demur the sanctioned load from last 16 years has not been 165 kVA. In view of this Forum the sanctioned load could be 165 kVA in the past period as mentioned in the letter dtd. 04/10/1974 of the Respondent BEST Undertaking. But the same thereafter ought to have undergone the changes on lower level and the same has been agreed to and accepted by the complainant, as observed above.
- 13.0 This Forum further observe that as contended by the representative of the Respondent BEST Undertaking, Shri D.N. Pawar (Div. Engr.) vide the letter dtd. 01/08/2008, the Respondent BEST Undertaking has already informed the complainant in clear terms that complainant's sanctioned load has been 1 kw as per billing data available with the Respondent BEST Undertaking. However, the complainant was found to have been utilizing 54.39 kw in January 2008, the same was 49.8 kw in the month of February 2008 and 57.06 kw in the month of March 2008. The complainant was also directed to get extension of load, by registering requisition within 15 days. The complainant was also informed that failing to do so, penalty charges also would be levied.
- 14.0 Pertinent to note that the complainant has candidly admitted before this Forum receiving the aforesaid letter dtd. 01/08/2008. We also find an acknowledgement of the complainant to that effect at the foot of this letter. It is vitally important to note that despite receiving such intimation from the Respondent BEST Undertaking, the complainant has neither cared to reply this letter nor registered its protest in any manner or extent with the Respondent BEST Undertaking.
- 15.0 Now on the backdrop of aforesaid admitted set of facts, it would be significant to analyze and assess the merit in the letter dtd. 15/10/2008, allegedly addressed to the Respondent BEST Undertaking by the complainant vide this letter allegedly the complainant has informed the Respondent BEST Undertaking the sanctioned load being total 165 kw. But the electricity bill

served on it shows the same being 1.00 kw. Therefore, requested to make the necessary corrections in the electricity bills. Thus far and no further.

- 16.0 To reiterate the electricity bills, as shown in Ledger Folio, from the year 1994 never shows sanctioned load being 165 kw. Assuming for a moment that such letter was addressed to the Respondent BEST Undertaking by the complainant, that means after lapse of 14 years, the complainant all of a sudden awakened from a deep slumber and requested the Respondent BEST Undertaking to make a necessary changes in the electricity bill. Besides it, there has been no shred of evidence placed on file by the complainant about serving such letter on the Respondent BEST Undertaking, who has flatly refused receiving such letter. The complainant being a private ltd. company, certainly expected to pursue the matter with the Respondent BEST Undertaking till the desired corrections are made in the electricity bills. However, admittedly it is only in April 2012 for the first time the complainant has protested the same by filing complaint before IGR Cell.
- 17.0 Further significant to note that as admitted before this Forum, the complainant did receive intimation letter dtd. 01/08/2008, however to our surprise no reference has been made to this letter and its content, in the subsequent letter dtd. 15/10/2008 allegedly addressed to the Respondent BEST Undertaking. This Forum therefore without any hesitation hold that the alleged letter dtd. 15/10/2008 has been merely a subterfuge that emanates from a sheer artifice and conjecture on the part of the complainant to scuttle from a liability to pay penalty.
- 18.0 To conclude, we hold that despite an opportunity was offered by the Respondent BEST Undertaking to the complainant to get extended its sanctioned load, the later failed to avail the same. We therefore find no fault with the Respondent BEST Undertaking to serve bills on the complainant as per MERC's tariff schedule along with penalty.
- 19.0 In the net result the compliant should be dismissed. Accordingly we do so.

ORDER

1. Complaint no. N-EA-150-2012 dtd. 01/06/2012 stands dismissed.
2. Copies be given to both the parties.

(Absent)
(Smt Varsha V Raut)
Member

(Shri S P Goswami)
Member

(Shri R U Ingule)
Chairman