

**CONSUMER GRIEVANCE REDRESSAL FORUM,
AMRAVATI ZONE, AKOLA.**

*“Vidyut Bhavan”,
Ratanlal Plots,
Akola: 444 001
Tel.No.2434476*

Dt- 14/08/2013

Complaint No.60/2013

Complaint in the matter of grievance for setting aside the incorrect bill for

Rs. 2,11,220/-, claim of mental harassment and costs

Quorum :

Shri T.M.Mantri,	Chairman
Shri P.B.Pawar,	Secretary
Shri A.S.Gade	Member

M/s Hotel Gulab bag Palace (Con.N 352920008627) ... Complainant

...VS...

The Executive Engineer, Achalpur Dn ... Respondent

Appearances:

Complainant Representative: Shri Dilip Deshpande, Akola

Respondent Representative: Shri D.P.Magar, Asstt.Engineer

1 The complainant consumer has approached this forum in respect of his grievance of issue of incorrect bill of Rs. 2,11,220/- allegedly towards the normal assessment, so also claim of amount of Rs. 5000/- towards mental harassment and similar amount for costs, alongwith relief on disconnection of electric supply till decision of the matter.

2 The complainant's case in brief is that it is a consumer of the N.A. since 25/11/2005 for hoteling business under name Hotel Gulab bagh Palace, having

connected load of 10 KW with exemption in Electricity Duty from 2/10/2006. It is alleged that the load was further extended to 15 KW from November, 2010 and the details in that respect have been filed.

3 It is alleged that on 25/3/2013 the Flying Squad of N.A. visited the premises of the complainant without giving any prior notice and sought acknowledgement on spot inspection form. Further alleged that the letter dated 26/3/2013 was received alongwith provisional bill of Rs. 2,11,220/- as plain assessment, without giving details of the calculation sheet. The complainant protested such type of bill by letter dated 8/4/2013, so also the documents about exemption of electricity duty were also enclosed and it was acknowledged by the flying squad on 12/4/2013. However, before that hearing date was fixed on 10/4/2013 under telephonic intimation. Final assessment was passed on 23/5/2013 which was received under letter dated 23/5/2013 in the first week of June, 2013. It is alleged that, before passing the final assessment order and without issuing the bill, amount of Rs. 2,11,220/- was debited to the complainant's CPL and referred to bills of April and May, 2013 with arrears of Rs. 2,11,220/-. It is alleged that to avoid disconnection, current bill for these two months were paid, after due correction by the N.A. Upon aggrieved by the decision of flying squad, the complainant approached this forum under the provisions and regulations.

4 It is alleged that prior to March, 2013, the complainant was paying the energy bills promptly by taking Prompt Payment Discount and there was no dispute about payment of bills or exceeding M.D prior to March, 2013. As alleged the inspection was effected on 25/3/2013 by the flying squad without any intimation. So also the complainant has not received any work order or job sheet, thereby apparently there were violation of regulations.

5 It is alleged that there is no provision for recovery of plain assessment in Electricity Act, 2003 or official laws. However as per the assessment sheet received, plain assessment for 25 months was carried out in first week of June, 2013. Reference has been made to clause 15.2.4 of Supply Code Regulation in respect of details of energy bills with further averments that the incorporated details received by the complainant prior to March, 2013 never reflected the exceeding of M.D. Reference has been made to clause No.14(2) of C.E. Regulation and alleged that those provisions have been contravened. No copy of M.R. has been given including that of 25/3/2013 when the inspection of flying squad was carried out, though letter dated 17/6/2013 was given. Further the complainant has objected recorded M.D. in inspection sheet as 45.4 KVA consequently also objected to alleged assessment and the bill. Reference has been made to energy bill of M/s Vardhaman Food, Akot as to how the MD recorded and charged.

6 It is alleged that even the spot inspection dated 16/5/13 carried out by Junior Engineer is an attempt to show earlier recorded M.D on 25/3/2013 is correct. Reference has been made to the report alleging that on 16/5/2013 it was found M.D. recorded as 45.4 KVA as recorded by Dy.E.E. Flying Squad whereas actually M.D. is required to be preset at the end of every month. Copy of M.R.I. was not given inspite demand of 16/5/2013, hence showing of M.D. 45.4 KVA on the said report of dated 16/5/2013 is totally false. In any case, which is not supported by M.R.I and further averred that the indicated load certificate by Jr.Engineer, Achalpur of 16/5/2013 was not more than 22 K.W. in that case how there could be recording of 45.4 KVA M.D.

7 Reference has been made to Panchanama dated 25/3/2013 and by referring to the column 12 of Load Test nothing is recorded. Similar averments

have been made in respect of Pulse Test alleging that it does not match with the so called M.D. Reference has been made to the correspondence made protesting the said assessment. Reference is made to tariff order December, 2012 of MERC so also the rejection of review petition of the N.A. licensee. Reference has also been made about the commercial circular of 2005 with averment that inspite of span of 10 years officers of the N.A. are acting contrary to the law hence it is necessary to protect the interest including that of interim order from disconnection of supply in view of the oral threat and sought relief prayed for. Alongwith complaint copies of bunch of documents came to be filed.

8 Notice as per regulations was issued to the N.A. for submitting reply to the complainant. Reply came to be filed, belatedly, admitting that the complainant is consumer since 2005 and load was extended to 15 KW from November, 2010. The Dy. E.E. Flying Squad, Amravati, on suspicion, visited the premises of the complainant by requesting the personnel for opening the gate. The owner was also called and inspection was carried out. The spot inspection report was acknowledged and it was carried out in presence of Mr. Bansal. Provisional assessment of Rs. 2,11,220/- was made and after giving the proper hearing to the consumer, final assessment order was passed on 23/5/2013. It is stated that though the amount of Rs. 2,11,220/- was debited to the account of the consumer but supply was never disconnected and he has been allowed to pay current bills of April and May,2013. It is stated that the complainant did not submit any objection to the final assessment order.

9 It is stated that in November,2012 the load of the complainant was extended to 15 KW and C.T. operated meter was installed, however inadvertently the energy feed of L.T. meter was given and not C.T. operated

meter to IT, hence monthly M.D. recordings were not taken. The Flying Squad has carried out the inspection as there are reasons to believe the indulgence for unauthorized use of electricity by the complainant. The said Flying Squad did not violate any provisions as inadvertently the consumer was billed as L.T. consumer, therefore plain/normal assessment of Rs. 2,11,220/- for exceeding M.D. i.e. 20 KW to 50 KW was charged to the consumer and the assessment was carried out as per the rules and there is no illegality therein. The N.A. is authorized to recover the amount for the energy utilized by the consumer. But it is stated that the MRI data was not available from 25/3/13 to 22/7/2013 in view of machine showing connection failure. So after collecting software from the concerned company, the MRI was taken on 22/7/13 showing the M.D. of 44.66 KW of 12/3/2011 and 45.48 KVA of 12/3/11. It is thus clear that the consumer was exceeding the M.D. since November, 2010 but did not intimate to the N.A. licensee, so also did not apply for extension of load in spite of using more than sanctioned load. Reference has been made to spot inspection report of 16/5/2013 alleging that the consumer was having connected load of 22 KW than that of sanctioned load of 15 KW. It is stated that the MRI data of the meter is now available, which clearly shows about exceeding of the M.D. by the complainant since November, 2010. It is stated that the final assessment order was passed after hearing the consumer against the normal assessment. Reference has been made to the Circular No.133 where under alleging M.D. can be calculated considering the consumption of units per month diversity factor, load factor etc.

10 It has been reiterated that after expansion of load of 15 KW in November, 2010 and C.T. operated meter for 50/5 Ampere was installed, however, inadvertently the energy meter feed to IT was not given for C.T.

operated meter (TOD meter). Hence monthly M.D. readings were not taken. As the complainant has dishonestly exceeded the M.D. without application for extension of additional load, over and above 15 KW.

11 It is alleged that the Dy.E.E. has carried out inspection of the premises and found about exceeding of M.D. so also user of the premises for marriage and reception hall. The Flying Squad charged the normal assessment of Rs. 2,11,220/- from March-2011 and after objection of the consumer against the normal assessment, hearing was taken on 10/4/2013 and final assessment for Rs. 2,11,220/- was passed on 23/5/2013. Reference has been made to Circular No.133 of dt 15/2/2011. Reference has been made to chart showing consumption per month and M.D. calculated with averments that the calculation has been made considering the use of electricity for 10 hours and 6 hours. Lastly, it is stated that the normal assessment made is correct. The complainant not entitled for relief, on the contrary he needs to be directed about the payment of normal assessment alongwith cost of Rs. 5000/-.

12 The matter was then posted for arguments. Heard Shri Dilip Deshpande, learned representative of the complainant and Shri D.P.Magar A.E. the learned representative for the N.A. During the course of hearing certain documents came to be filed from both the sides. It is admitted position that the complainant is commercial consumer of the N.A. since 2005 and earlier having connected load of 10 KW which was extended to 15 KW sometime in 2010. It is also not in disputed that till March, 2013 there was no controversy between parties in respect of payment of electric bills, on the contrary submission made on behalf of the complainant that on most of the occasions it has availed the benefit of discount on " Prompt Payment" has not been disputed from the side of the N,A. Controversy has arisen after the visit of

Flying Squad on 25/3/2013. After the said visit bill for normal assessment Rs. 2,11,220/- has been made, which has been objected. As per the N.A. the assessment sheet has been prepared by the Flying Squad styling as Provisional. In the said assessment sheet at Sr. No.6 the assessed consumption for " 25 months" has been mentioned, whereas the statement sent by the N.A. is for the period from March, 2011 to March, 2013 showing the total unit of 50344 and total months as " 27 Months". The details of the amount of Rs. 2, 11,220/- are mentioned therein towards the electricity charges, fixed charges, electricity duty etc. Subsequently, during the course of hearing i.e. on 5th August, 2013 revised assessment of Rs. 1,17,522.57, as per the assessment sheet, came to be filed. If one goes through these two sheets, it is clear that the total months of 27 as mentioned in the earlier sheet has been changed to 25, so also there are changes in respect of fixed charges. So also there is a difference in the amount in front of made payment in CPL. In earlier statement it was shown as Rs.3,18,470/- whereas in the alleged revised statement it has been shown as Rs. 3,82,479/-. Likewise, there is difference in the total amount also. Earlier it was shown as Rs. 5,29,686.57 whereas in the revised statement it is shown as Rs. 5,00,001.57. There is also difference in the final amount in both these statements. Earlier it was Rs.2,11,216.57 which has been rounded to Rs.2,11,220/-. Whereas in the revised statement, it is shown as Rs. 1,17,522.57 rounded to Rs. 1,17,523/-.

13 Before proceeding to consider the rival submissions of the parties for Elect. Readings, controversy of MD and electricity charges it will be just proper to consider the rival contentions of the parties in respect of controversy of electricity duty. From the above referred statements of N.A. it is clear that the amount of electricity duty worth Rs. 80,500 and odd is included towards the

alleged payment payable by the complainant. According to the complainant, though the State Government has granted exemption of payment of electricity duty, the N.A. is incorrectly / illegally claiming the substantial amount under that head. It has been pointed out by the learned representative of the complainant that in the bills issued to the complainant Code "49" is mentioned which means 'exemption from electricity duty' and earlier no electricity duty was levied, in view of the exemption. He has referred to the earlier electricity bills filed on record wherein no electricity duty has been levied, so also the documents such as Certificate of Government of Maharashtra, Directorate of Industries showing therein the electricity duty exemption period from 2/10/2006 to 1/12/2009. So also, letters of Electricity Duty Inspector, Amravati dated 4/8/2009, 4/5/2011 to the officials of the N.A. licensee about entitlement of the complainant for refund of electricity duty recovered from it. So also letter dated 5/11/2009 to the complainant is also not in dispute that the said letters have been complied with by the N.A. and thereafter no electricity duty has been levied in view of exemption, but in the alleged assessment sheet it has been levied for the alleged period mentioned therein i.e. for 27 months worth Rs. 80,500 and odd, as referred above. There is no justifiable explanation put forth from the side of the N.A. licensee though the complainant has made grievance in that respect also in his correspondence. The correspondence placed on record from the side of the complainant also clearly mentions (covering letter dated 19/6/2013) about such exemption and levying of electricity duty in the alleged assessment so also it has been specifically mentioned that though the complainant has made payment much more than shown in the said assessment, but it has been shown less as "Paid Amount on CPL". It is apparently clear that no cognizance there of has been taken, on the contrary,

insistence has been made that the assessment is correct and the amount as shown therein need to be remitted. In the additional reply, an attempt has been made from the side of the N.A. licensee to defend the said action alleging that the complainant using the premises for Marriage / Reception Hall and thereby the exemption from the electricity duty is a loss to the Government. The documents as already referred to above, clearly mention giving of exemption of electricity duty by the Government so also the concerned department including the Electric Duty Inspector. When enquiry was made with the learned representative of the N.A. licensee as to who is the competent authority for deciding this, it has been stated that, it is the State Government. So when the State Government has accorded exemption and when earlier no electricity duty was levied by the N.A. in the bills of the complainant what was the reason for including electricity duty in the bills and also in the assessment, has not been explained. Even, according to the N.A. it has no concern with the said amount and it is the amount of the State Government which N.A. is recovering as agent. It is not getting any benefit in acting as recovery agent of electricity duty. So when the State Government has accorded exemption, unless that has been revoked/ set aside the N.A. has no right to say that the complainant is liable for payment of electricity duty. In any case, nothing has been placed on record to substantiate the stand taken in the revised reply. There is no iota of evidence brought on record from the side of the N.A. So the claim of N.A. for that amount of Rs. 80,500 and odd in the alleged assessment towards the electricity duty is without any basis and right. Here it is pertinent to note that, though the complainant has raised objection to the authorities of the N.A. as void but they have justified the action and tried to refer the complainant from one authority to the other. The Dy.E.E. Flying Squad in his letter dated 15/7/2013 has asked the complainant to approach

the Sub Divisional Office, Achalpur-II in respect of the said bill and further mentioned that the amount of electricity duty levied in the said assessment is as per the directions of the said authority. Earlier, the said authority has asked the complainant to get clarification from the Flying Squad. So, it is, apparently clear that the authorities of the N.A. are unnecessarily referring to each other without having any right and authority for levying such amount.

14 Here it is pertinent to note that even in the subsequent bills of April, 2013 onwards no amount under the said head of Electricity Duty has been levied and exemption code '49' has been continued. When enquiry was made as to how in those bills the electricity duty was not levied if according to the N.A. the complainant was liable to pay the electricity duty, there was no explanation at all. So apparently, it is clear that the said electricity duty, inspite of exemption, has been levied without any basis and only as per the whims of the concerned authorities. The learned representative of the N.A. has admitted that it has no right to decide in respect of granting of exemption from payment of electricity duty, it is the exclusive right of the State Government. In view of the available documentary evidence on record and considering the submissions, it is apparently clear that such action of levying electricity duty against the complainant in the alleged assessment is totally incorrect and the same needs to be squashed and set aside.

15 As far as the other controversy in respect of exceeding of M.D. than the sanctioned load, it is pertinent to note that the complainant has asked for MRI data which could have thrown light on the controversy, but that has not been filed on record. In the letter of dt. 19/6/2013 the complainant has clearly referred about the same. It has been specifically mentioned therein that the complainant has been directed to approach the Flying Squad in that respect.

The documents on record clearly shows that the complainant has submitted letter dated 8/4/2013 alongwith the relevant documents and subsequently mentioned therein that time and again the officers of the N.A licensee have inspected the complainant's meter but at no point of time it has been informed that the M.D. is exceeded. It is categorically mentioned there in that, never, in writing it was informed that the M.D. is exceeded. Application has been submitted for enhancement of the load (20 KW to 50 KW). The final assessment order is on record which is dated 26/5/2013 whereby the final bill amount of Rs. 2,11,220/- has been fixed and it is pertinent to note that in the bill of April, 2013 itself this amount has been included. When the final assessment was made on 26/5/2013 how it could have been included in the bill of April, 2013 which is for the period 4/3/2013 to 4/4/2013. The learned representative for the complainant has also submitted that in CPL this amount was not included. There is no justification put forth from the said of the N.A.

16 During the course of submission the learned representative of the complainant has referred to the definition of M.D. " Maximum Demand under the Maharashtra Electricity Regulation Commission (Electricity Supply Act and other conditions of supply) 2005, which is as under :

"Maximum Demand in kilowatts or kilovolt amperes in relation to any period shall, unless otherwise provided in any general or special order of the commission, means the twice the largest number of kilowatt-hour or kilovolt ampere – hours supplied and taken during any consecutive thirty minute blocks in the period."

The above definition clearly shows the period of 30 minutes, so the consumption within the period of 30 minutes needs to be considered for

arriving at M.D. If one peruses the Spot Inspection Report of the Flying Squad it is clear that Sr. No.12 says

12. "LOAD TEST (30 minutes) (a) Meter Reading After Test Time -----hrs
Before Test Time -----hrs

In the said report these figures are kept BLANK. So apparently it is clear that the requirement as per the regulations has not been fulfilled. In the same manner Sr. No.16 of the said test report is of "Details of connected load", even this has been kept blank and there are no details as to how much load was connected for arriving at the said figure. So apparently, from the said inspection report itself it is clear that the basic requirements have not been fulfilled by the said authority. If one considers the reply of the N.A, in Para-4 it has been categorically stated that the mistake has been occurred inadvertently. The energy meter feed to IT is given as LT meter and not CT operated meter. Not only this, it has been categorically stated that monthly M.D. readings were not taken. As already observed above, inspite of the demand by the complainant as well as the instructions given by this forum, the N.A. has not produced on record the M.R. data, whereas the complainant has filed on record the meter reading form MRI (TOD) of one such consumer of the same circle and pointed out that at the bottom of the said form there is a certificate which has to be complied with. It states that:

"Certified that the M.D. indicator has been reset and sealed. Seal status is verified and found OK. Shift information is given by me. M.D. load current measured in my presence. Reading taken in my presence."

Whereby the details are required to be filled in, including that of exceeding M.D., submission made on behalf of the complainant that every time the M.D. indicator is required to be reset and that has to be in consonance with the certificate given at the bottom of the said form MR-9. Here in the present case, even according to the defense reply, there was no feed of C.T. operated meter (TOD meter) hence the monthly M.D. readings were not taken. So it is clear that there was a mistake and for such mistake it cannot be justified to penalize the complainant for the entire period of 27 months. From the side of N.A. MR Data is not produced but the load profile data of 27/5/2013 to 25/6/2013 and 26/6/13 to 25/7/2013 is filed on record alongwith additional reply at the time of hearing on 5/8/2013.

17 Firstly, this forum finds substance in the submission made on behalf of the complainant that MR-9 form is required to be submitted each month with a certificate as referred above, mentioning the details in various zones. In any case the said load profile data is not of relevant period. According to the N.A. it is of recent period i.e. 27/5/2013 onwards. How this is helpful to establish that prior to March -13, at the relevant time, the M.D. exceeded. Nothing has been brought on record for non-production of MR-9 form or MRI data, though it is required to be maintained. That document would have thrown light on the controversy and could have brought the fact before this forum. For non production of said vital document, this forum is inclined to draw adverse inference against the N.A., as per the settled position. The learned representative of the N.A. has referred to the commercial circular No.133. This forum finds substance in the statement made on behalf of the complainant that it is in respect of theft of electricity. In any case no cogent material / evidence has been brought on record from the side of the N.A. to establish the

actual consumption of the load, as alleged in the assessment. Relevant documents have not been produced on record. The N.A. again takes advantage of this circular to support the alleged assessment of dated 25/3/2013. As already observed above, even in the said assessment, the relevant data has been kept blank such as load test and connected load. Without these vital details the alleged assessment could not have been justified. So for all the reasons it is apparently clear that the N.A. has failed to justify its action. Here it is pertinent to note that the complainant in his letter dated 8/4/2013 has sought for enhancement of load 20 KW – 50 KW. If any requirement is necessary, the complainant should be asked to make compliance thereof. If according to the N.A. the complainant has exceeded the M.D. as mentioned in the additional reply dated 2/8/2013 in July, 2013, it could take appropriate action, upon making the compliance. But the same cannot be justifiable for the alleged assessment of 25/3/2013.

18 With such observations, needless to say that the complainant has deposited certain amount, the same needs to be adjusted in the electricity bills payable, while setting aside the alleged assessment of 25/3/2013 in question, In any case, it is already observed above that it was revised even according to N.A. to Rs.1,17,523/- which includes the amount of Rs. 80,500 and odd towards the electricity duty which is exempted. So for all the reasons this forum is of the considered view to set aside the said assessment. Whatever payment the complainant has made during the intervening period, apart from the current bills, the same needs to be adjusted in the electricity bills of the complainant.

19 The complainant has also claimed Rs. 5000/- towards the mental harassment and Rs. 5000/- towards the costs of the proceedings. As already

observed above even according to the N.A. inadvertently the energy meter feeding to IT was that of LT meter and not CT operated meter (TOD meter), it was the mistake of the concerned person. Had this mistake could not have been committed there would have been proper feeding, which could have avoided this litigation. In any case the said act was done in November, 2010 which allowed to be continued for all the years till March, 2013. Admittedly, the meter reading needs to be taken and this mistake neither been noticed nor rectified. That the concerned employee/officer of the office of the N.A. licensee is responsible there for which resulted in this litigation. Therefore, it will be just and proper, that the complainant's claim for harassment and costs needs to be properly considered. But it is made clear that the N.A. licensee to recover that amount from the concerned employee/officer for committing such mistake, apart from taking other action as per the service regulations. With such observations, this forum proceeds to pass the following unanimous order.

ORDER

- 1) The complaint NO. 60/2013 is partly allowed.
- 2) The N.A. licensee is directed to set aside the bill of Rs. 2,11,220/- made on the basis of the assessment in question and to issue the bill as per the actual consumption of the electricity by the complainant by adjusting the amount paid during the intervening period.
- 3) The N.A. licensee is to enhance the load (20 KW – 50 KW) of the complainant as requested in letter dated 8/4/2013 after fulfillment of all the necessary compliances.
- 4) The N.A. licensee to pay Rs. 1000/- to the complainant towards the costs of the proceedings.

- 5) The N.A. licensee to take appropriate action against the erring employee/ staff, in terms of the above order including that of recovery of the monetary liability the N.A. licensee is required to incur on account of this order apart from other actions as per the service regulations.
- 6) Compliance report to be submitted within a period of one month.

Sd/-
(A.S.Gade)
Member

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman