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Consumer Grievance Redressal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S.Marg, Bhandup (W),
Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/

Date

Case No. 636

Hearing Dt.28.01.2016

In the matter of wrong billing

M/s. Saraswat Co-op. Bank Ltd.,

- Applicant

Vs.

M.S.E.D.C.L. Kolshet Sub Division

- Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.
- 2) Shri. Ravindra S. Avhad, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Archana Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri. N.N. Havaldar – Consumer Representative

C - On behalf of Respondent

- 1) Shri. J.M. Digankar Addl. Executive Engineer, Kolshet Sub Division

ORDER (Passed on 02.02.2016)

1. Above named consumer is in occupation of M/s. Saraswat Bank under agreement executed by M/s. Hiranandani Properties, Emraol Plaza, Block No.1, Shop No.1, Thane. The consumer obtain this electricity connection of commercial on site in occupation of residential building the power supply connected 3 HP (100/5CT). The

said connection is used by the consumer. It is contention of consumer they are using the said supply to the premises previously occupied by M/s. Mandavi Co-op. Bank. Thereafter 2004 the said Bank is merge in converted in M/s. Saraswat Bank. Respondent utility issued provisional bill for Rs. 3,73,866/- along with letter dated 15.02.2014 to Branch at Thane and claim recovery of the said difference of amount from period 10 /11/2004 to Jan 2014 and the premises was found used as commercial purpose . But wrongly bills till the date as per residential tariff by respondent utility MSEDCL, Kolshet Sub Division. After receiving the said notice and provisional bill consumer filed application under RTI for obtaining details of recovery but no detail was furnish consumer received letter mentioning their case will be reconsidered and final order will be issued.

2. It is contention of consumer on 14.03.2014 Mr. Yadav, Dy. Executive Engineer from Kolshet sub division visited the branch at Thane for the purpose of disconnection electrical supply for non-payment of recovery bill Rs. 3,73,866/-. They also threat to the consumer to pay the bill immediately or the supply will be disconnected. According to consumer the letter dated 15.02.2014 and 21.02.2014 issued by respondent utility calming the arrears of the bill of tariff difference arrears is exorbitant access and not according to provision of I.E.A. 2003. Thereafter consumer filed reply to the letter of utility under protest and deposited part of amount the bill of demand Rs. 3,73,866/- was not printed and it was manually preserved audit raised objection as per consumer passion of premises was taken by M/s. Saraswat Bank in the year 2007. However the bill was prepared shown assessment since 2004 to December 2013. As according to consumer in view of provisional sub section 56(2) respondent utility should have been issued the bill for period of 24 month as similar case about the branch was taken place at Kalyan Division and in that case the utility corrected error and issued to said bill for 24 months. Thereafter the consumer filed complaint before IGRC in Form No. 'X' the date on 10.02.2014 which was registered on 15.07.2014 notice was given to utility and

reply was filed on 29.05.2015. The hearing was made in case No. 11/2015. After giving opportunity to consumer and utility on dated 03.07.2015 the hearing was Coming on 30.01.2015 respondent utility submitted their reply and tariff difference claim by respondent utility for the period 3,73,866/- was held proper IGRC refused to apply provision sub section 56(2) I.E.A. 2003 as the judgment refer on this issued is pending before Hon'ble High court as it is refer to larger bench and decision was awaited on this ground claim of the consumer was rejected.

3. Being aggravated by filed said order above said consumer filed the grievance before this Forum on dated 08.12.2015. After filing this grievance notice was issued to respondent utility. After receiving the notice reply is filed to the complaint by respondent utility. According to contention of respondent utility as the issued is referred to larger beach and matter is subsidize provision of sub section 56 (2) are not applicable. Therefore respondent utility entitled to recover difference of tariff wrongly applied residential in fact it was commercial. According to respondent utility they visited the premises and found the premises is occupied by consumer since 2004 for commercial purpose and therefore they are liable to pay of consumption electricity bill application of commercial tariff and since then the difference of tariff is claim in provisional bill rightly by the respondent utility.

4. Consumer filed the document copy of IGRC order letter issued to consumer on 15.03.2015 copy of provisional bill and notice.

5. We have perusal all document filed by consumer reassessment as respondent utility. After perusing the rival contentions of consumer and respondent utility, following points arose for our consideration:

1. Whether the respondent utility is entitled to recover bill of tariff difference wrongly charge as residential instead of commercial since November 2004 to Jan 2014.

2. Whether consumer is entitled for any relief.

Reasons

6. We have given opportunity to Consumer and Representative for hearing and production of document on 12.01.2016 and 28.01.2016. We have perusal the contention of consumer it appears that M/s. Saraswat Bank are consumer of respondent utility in occupation of premises previously as per agreement with Hiranandani Properties, Emrol Plaza, copy of the said agreement production of date 22.07.2007. Thereafter of said Bank of converted and version name has M/s. Saraswat Bank. There is no dispute the liability of payment of arrears are payable by this consumer as the clause in the agreement fix the responsibility to consumer to pay the water charges bill and electricity bill land revenue and taxes as per condition on this consumer even otherwise the present consumer is occupation of premises since 2007.

7. The question appears in the case action taken by respondent utility for claiming wrong tariff application and issuing the bill at threat less rate charges wrongly as per residential tariff according to respondent utility they visited premises and as per verification report they found the premises is used for commercial purpose it is necessary for make to mention there is no dispute about it the calculation of unit as it is agreed by consumer. The dispute raised between consumer and respondent utility denied the claim of 24 month period only. According to me the action of respondent utility is totally wrong as provision of section 56(2) of I. E.A. 2003 permit limitation for recovery of arrases only 24 months instead of that respondent utility claim period of recovery of wrong arrears Nov.2004 to Jan .2014. It is the period beyond 24 months claim to the arrears of payment liability more than 24 months.

8. Coming to the reason application of 56(2) in this case various judgment which is reported pass by Hon'ble Ombudsman and reported judgment of Bombay High

Court and place before me. Consumer referred judgment Representation 23 of 2013 in case of M/s. Rushi Khambata Vs BEST dated 15.04.2013 consumer also referred judgment and Representation 115/2014 M/s. Revchi Garment Vs BEST judgment dated 12.11.2014 as the limitation under section 56(2) as held in various cases are place before me it concluded calming of arrears of bill more than 2 year are bark under section 56(2) I. E.A. and thereafter respondent utility cannot claim the arrears of the bill beyond the period of limitation to our view actual of consumption of electricity cannot be disputed as consumer already period of bill as per residential tariff as it was well the consumer within the knowledge he cannot take benefit own wrong. But provision under E.A. has to be followed scrupulously by respondent utility. Therefore provision we are constructed to hold supplementary bill issued by respondent utility beyond the period of 2 years in held illegal and cannot be claim before this Forum. However respondent utility is at liberty to filed Civil Suit subject to law of limitation against the consumer before appropriate Forum. We also come to conclusion only difference of arrears can be claim 24 months prior to the date of verification report dated 04.01.2014 period difference arrears shall be calculated without charging interest and DPC. Therefore claiming accumulated bill issued by respondent utility stands set aside.

9. During the course of hearing respondent utility calculated the difference of tariff arrears 24 months prior to June 2014 and the amount is required to be claim accordingly therefore we in client to allow the consumer complaint and we proceed to pass the order as follows:

ORDER

1. The consumer complaint No. 636/2015 is allowed.

2. Accumulated arrears bill issued by respondent utility is illegal and stands set aside.
3. The respondent utility shall issued tariff difference arrears for 24 months from the date of inspection 07.04.2014 without charging any interest and penalty. Accordingly correct bill shall be payable by consumer.
4. No order as to the cost.
Proceedings closed.
Both the parties be informed accordingly.

The order is issued under the seal of Consumer Grievance Redressed Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

Note:

- 1) If Consumer is not satisfied with the decision, it may proceed within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman

The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051

2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I Agree/Disagree

I Agree/Disagree

**DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP**

**ANIL P. BHAVTHANKAR
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**