

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No. 20/2018

Date of Grievance : 03.05.2018

Hearing Date : 05.06.2018

Date of Order : 02.07.2018

IN THE MATTER OF COMPLAINT OF RECOVERY OF ARREARS AND
SUPPLIMENTARY BILL EXCLUDING FIXED CHARGES.

M/s. Rembo Estate Development Pvt. Ltd., ---- Complainant
1319, Shivajinagar,
Pune- 411005.

VS

The Executive Engineer,
M.S.E.D.C.L.
Shivajinagar Division,
PUNE.

---- Respondent

Present during the hearing:

A] - On behalf of CGRF, Pune Zone,Pune.

- 1) Shri. A.P.Bhavathankar, Chairman, CGRF,PZ,Pune
- 2) Mrs.B.S.Savant, Member Secretary, CGRF, PZ, Pune
3. Mr.Anil Joshi, Member, CGRF, PZ. Pune.

B] - On behalf of Appellant

- 1) Shri .Swapnil Khatpe, Consumer Representative.

C] - On behalf of Respondent

Shri. S.R.Shendge, Addl. Ex. Engr., Shivajinagar Sub/dn.

M/s. Rembo Estate Development Pvt. Ltd. - **Consumer No.** - 160220964270,
Sanctioned load - 50 KW LT, **Date of connection** - 22.01.2010.

The above named consumer M/s. Rembo Estate Development Pvt. Ltd. received bill in consolidated units in the month of July-2017 amounting to **Rs.5,95,840/-** for the period from April-2015 to July-2017. Of the total bill, the Consumer paid part of the bill amount - i.e. **Rs.2,00,740/-** in the month of Oct.2017 under protest. The aggrieved Consumer submitted that the said premises / property was rented out during the disputed period, i.e. from April-2015 to July-2017. The Tenants / occupants during the said period had made regular payments of the utility bills issued by the MSEDCL to the consumer / then occupants. Now, the then Tenants/occupants had left the premises, and the bills under dispute is of past period and there is no scope to recover the said bills, as claimed by MSEDCL, from those tenants now who have already left the premises. The aggrieved consumer further stated that at the most, the company may pay the utility bill for the period of six (6) months as per disputed bill. Accordingly, the consumer initially filed complaint before the IGRC in the month of April-2018. After receiving the said complaint, the IGRC registered the case with distinctive number as 'T-10 of 2018' on **21.02.2018**. The IGRC gave an opportunity of hearing to both the parties and the matter was decided by the order of IGRC on **30th April-2018**. The Respondent utility was represented by the Additional Ex. Engineer, Shivajinagar Sub/dn. who appeared during the hearing. The written reply was filed by the Respondent as per letter AEE/SNCC/T/3017 on dt. 8.12.2017. As per the reply of the Respondent utility, the bill charged to the consumer as per "IT system usages" from **April-2015 to June-17** was with negative consumption with those reading was taken. As per the data available for the reading for the billing period during April-2015 to June -2017, the consumer was charged only for the fixed charges and no other charges was charged were levied in the bills issued to the consumer during the said period, viz. charges towards EC, ED, FAC, DOSS etc. After follow up with the IT Dept. of the utility, corrections in the bills were carried out and the consumer was issued the bill for **Rs. 5,95,840/-** in the month of **July-17** which had reflected in the bill issued to the consumer in the month **September-2017** for the period

April-15 to June-17, i.e. for the period of **26 months**. The IGRC gave observation, that earlier the consumer was charged only for fixed charges and no other charges were levied on the consumer due to negative consumption. After follow-up, the bill was corrected by preparing B-80 for **Rs.5,95,840/-** for the premises which was rented and mentioned in the bill for the period from **April, 2015 to June, 2017**. As the consumer was not ready to pay the said bill, and since tenant-occupants had already left the premises, the IGRC passed the order against the consumer saying that the bill issued to the consumer were correct and, therefore, did not require any corrections. Being aggrieved by the order of IGRC passed against the consumer, the aggrieved consumer approached the Forum and raised the dispute by filing the complaint in 'Schedule - A' on **03.05.2018**. The aggrieved Consumer also attached copy of the IGRC order. The consumer alleged that the electricity bill, which was claimed by the MSEDCL subsequently for the premises is a commercial space admeasuring 265.90 sq.mt. addressed at Rembo Plaza, S.No.139, Shivajinagar, Pune. According to the consumer the premises was rented to the two group of companies and payments were made regularly during the period of their respective occupancy. In the month of **Aug. 2017**, the consumer received the bill for high amount i.e. **Rs.5,95,840/-** covering the period between **April-15 to June-17**, only for the charges as earlier claimed, i.e. only for fixed charges and no other charges were claimed against the previous consumers in the bills by the Utility for the period of twenty seven months. According to the consumer, against the claim of the Utility, the consumer had deposited the **Rs.2,00,740/-** under protest in the month of **Oct.2017**. The Consumer raised the grievance that the Utility had issued the bill for 27 months thereby putting burden on the consumer is improper and illegal recovery, when the consumer had paid the bills regularly during the stipulated period and that now the tenants had already left the premises. Therefore, the aggregate bill issued by Respondent utility for 27 month is unnecessary burden for him and that it cannot be recovered from the past tenants whose actually consumed the electricity i.e. consumption by the tenants who were occupants of the

premises during the period under consideration. The aggrieved Consumer further pleaded that putting the burden / liability on him for the past period of twenty seven months, during which two different occupants had occupied the said premises, for which the consumer is being asked to pay off the liability to the Utility is not just and reasonable. The consumer further claimed that payment of such bills issued on the basis of faulty meter is restricted to only for last six months, and the supply of the consumer should not be disconnected merely under this pretext with total disregard to his past history / track record. The complaint was registered with the Forum with **Case No. 20/2018**. Following registration of the complaint of the aggrieved consumer, the office of the Respondent Utility was issued notice for filing the reply on 03.05.2018. On service of the notice, the Respondent utility filed its reply on or before **28.5.2018**. The Respondent utility submitted that the premises stand in the name of M/s. Rembo Estate Development Pvt. Ltd., with Consumer **No. 160220964270**. When the earlier bills issued to the consumer were verified it was noticed that the consumer was being charged only for fixed charges which was paid by the consumer regularly during the period of April-15 to June-17 though the meter was in proper working conditions. Even then, MRI data was retrieved from the existing meter and analyzed. The copy of CPL was verified with the help of IT-based data system and verified. It was ascertained thereupon that the bills generated by the system were only for fixed charges. The problem was analyzed and discussed with the IT programmers. The bill was charged through '**B-80**' only. Therefore the revised bill is issued in the month of **July-2017** on the basis of '**B-80**' from data retrieved from the meter for the period of **April-15 to June-17**. As per the CPL record in the month of June-2017, the reading was recorded for the consumption of **174319** units whereas in the month of **April-2015** reading was shown as **133317 units**, with total difference, as per reading, coming to **41002** units consumed during the period under consideration. Accordingly, '**B-80**' was prepared, according to which the claim of the Utility MSEDCL was arrived at **Rs.5,95,840/-** for the period of preceding 27 months under review.

The amount calculated as per 'B-80' had reflected in the bill issued to the Consumer during the month of Sept. 2017. The objection raised by the consumer is, therefore, liable to be rejected since no penalty, DPC or other charges are included in the said bill. The Consumer was issued the bill, as claimed by the utility, in the month of September-2017 is, therefore, legal, valid and correct. It appears that the Consumer is not agreeable with the order of the IGRC and had, therefore, appealed for amendment of the bill, which is not correct. Hence the consumer complaint is liable to be dismissed with the cost.

The consumer was given an opportunity of hearing before this Forum on **5th June 2018** and the matter was heard. The consumer was directed to provide the copies of agreement/s executed between the then 'occupier of the premises' and the aggrieved consumer, i.e. M/s. Rembo Estate Development Pvt. Ltd., mentioning the period of their occupancy specifically. The consumer was also directed to provide a copy of such agreements to this Forum and the Respondent utility as well. The Respondent Utility primarily relied upon the MRI data and system generated reports, 'B-80' reports showing the difference of 41002 units. Supplementary reply was also submitted on **6.6.2018** by the Respondent utility for charging the consumption of 41002 units for the period between April-2015 to June-2017, bifurcating the consumption data period-wise for twenty six months with no other charges, penalty, faulty meter or DPC being included in the claim amount. The Respondent utility insisted that the system generated bill is liable to be recovered from the consumer as per agreement though the Consumer has earlier deposited / made part payment under protest. The MSEDCL, therefore, claimed that the Consumer is liable for payment of the additional unpaid amount, as above.

I have perused the documents filed by the consumer and the Respondent utility minutely. Accordingly, following points have emerged

for my consideration with the reason. I have recorded my findings given below:-

1. Whether the Respondent utility is entitled to recover the supplementary bill prepared on IT for the period of April-15 to June-17 calculating difference in consumption of 41002 units and amounting to **Rs. 5,95,840/-** from the consumer?
2. Whether the consumer is liable to pay the said bill and charges to the Respondent utility?
3. What is the period for which recovery of arrears of the Bill is legally available to the Respondent utility?
4. What order?

REASONING

After giving an opportunity of hearing to the consumer and his representative Shri Swapnil Khatpe, and the Respondent utility official, the AEE, Shivajinagar Sub/dn., it appears from the record that, during the period April-2015 to June-2017 bills only for fixed charges have been issued by the Utility which have also been paid by the consumer. There is no dispute about the Consumer / the occupant/s regularly paying the bills at appropriate times as and when the bill were issued by the Respondent. However, on verification of the bills, it was revealed that the bills being issued to the Consumer over the period, and claimed by the Respondent, were only for Fixed Charges. It, therefore, amounts to issuing the bills by the Utility to the consumer for the less amount, i.e. without levy and recovery of the charges, as mentioned by utility, i.e. EC, ED, TOSS, FAC etc. since during such earlier period no amount is claimed by the utility. It, therefore, appears to me that other charges which are liable to be recovered from the consumer for the period under consideration, and claimed in the system generated bill by the Respondent through 'B-80', the same have been claimed and reflected in the bill issued to the Consumer during **Sept. 2017**. Therefore, it cannot be said

that the bill issued by Respondent utility in Sept.2017 is bad, illegal or inappropriate. In technical sense for all the charges recoverable by the Utility the consumer is liable to pay the same. The dispute, according to me, is how the Respondent utility can claim the bill for more than twenty four (24) months in lump sum for the accumulated units and that too from the existing consumer M/s. Rembo Estate Development Pvt. Ltd., who had produced copies of the periodical agreements for perusal of this Forum. The copies of the agreements produced by the consumer, and verified by the Forum, reveal that the agreement executed on **17th June-15** by M/s. Rembo Estate Development Pvt. Ltd., with **M/s. Prosperity Recreation Pvt. Ltd.**, the clauses as mentioned in the agreement, state that the liability, as agreed in Clause C, Clause D, clearly indicate that the Licensor retains the liability of payment of charges of electricity consumption and as per existing agreement period, M/s. Prosperity Recreation Pvt. Ltd. should be held liable to pay the bill arising out of the bifurcation of units recoverable representing unclaimed charges from him. Unfortunately, however, M/s. Prosperity Recreation Pvt. Ltd. is not a party in these proceeding before this Forum. The subsequent occupant, as per agreement executed by M/s. Rembo Estate Development Pvt. Ltd. on 06.01.2017 is **M/s. Kixx Media Pvt. Ltd.** During the period of this agreement, the occupant-tenant is M/s. Kixx Media Pvt. Ltd in occupation of the premises and, therefore, liable for payment of the utility charges for consumption of electricity charges rest with the occupant-consumer. During the proceedings the Respondent utility had raised an objection that the consumer name was not changed and as per the record M/s. Rembo Estate Development Pvt. Ltd., is the continuous consumer and, therefore, liable to pay the said bill. Accordingly, the unpaid charges should be recovered from the consumer i.e. M/s. Rembo Estate Development Pvt. Ltd. being the periodical liability of the consumer to pay the bills raised. In this case, the aggrieved consumer had, under protest, already paid part of the bill amount - i.e. Rs.2,02,002/- in order to prevent disconnection of the supply. In this context the question had arisen before me is - how the Respondent utility can

recover the charges when the consumer-occupants had already derived the benefits. In this context the occupants who had actually derived the benefits of utilization of the electricity had already left the premises and, therefore, in my view, the disputed recovery of the bill is liable to be recovered in separate / other proceeding. The bills should be bifurcated as per the period of occupancy of the premises by the respective occupants under the relative agreements, and the amount recovered accordingly. According to me, for the other charges representing actual consumption of the electricity, which have actually benefited the then occupants who actually utilized / derived the benefits over the period, representing earlier period and who have already left the premises, forced recovery of the same cannot be allowed from the aggrieved consumer.

Therefore, I am inclined to allow the consumer complaint partly and I proceed to pass the following order.

I agree,

Anil Joshi
Member
CGRF:PZ:PUNE

Anil Bhavthankar
Chairperson
CGRF:PZ:PUNE

Member Secretary, (B.S. Savant)

I have gone through the above reasoning and my opinion in this matter is differing as below:

M/s.Rembo Estate Pvt.Ltd. having consumer no. 160220964270, and its agreement made between MSEDCL and M/s. Rembo Estate Pvt. Ltd. The bill issued in the name of M/s.Rembo Estate Pvt.Ltd. and it is legally owner as per MSEDCL's say and hence the arrears shall be recover from the consumer of MSEDCL i.e. M/s. Rembo Estate Pvt. Ltd.

Sd/-

B.S.Savant
Member/Secretary
CGRF:PZ: PUNE

Hence the order by majority

ORDER

1. The bill issued in Sept.2017 is legal, valid and proper.
2. The Respondent utility shall divide the consumption of unit as per the occupant-consumer name who had occupied the said premises during the period under consideration and who had used the consumption on the basis of the copy of agreement provided. Only part of the bill can be recovered from the concerned occupants for the units consumed from the occupants who at present occupy the premises. For rest of the recovery, the earlier Occupants should be proceeded against by the Respondent in the appropriate and competent court of Civil jurisdiction.
3. No order as to cost.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, and Pune on 02nd July - 2018.

NOTE

1. If Consumer is not satisfied with the decision, he may file representative 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

Sd/-
ANIL JOSHI
MEMBER
CGRF: PZ: PUNE

Sd/-
A.P.BHAVTHANKAR
CHAIRPERSON
CGRF: PZ: PUNE