

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

Case No. 53/2018

Date of Grievance : 14.11.18

Hearing Date : 13.12.18

Date of Order : 17.01.19

In the matter compensation for delay in change of name.

Shri Swami Packaging Pvt .Ltd.,
Gala No.10, Kandali, MIDC,
Tal.- Junnar, Pune -412412
(Consumer No. 174591665039)

---- **APPELLANT**

VS

The Executive Engineer,
M.S.E.D.C.Ltd.,
Manchar 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) Mr.Vineet Savla, Consumer Representative

C] - On behalf of Respondent

- 1) Mr.Prakash S.Khandekar, EE, Manchar Dn.
- 2) Mr.Umesh L.Kaepe, DyEE, Narayangaon S/dn.

Consumer No. 174591665039, Billing Unit 5835, Connecting supply date of connection 12.11.1993, Connecting load 65 HP, Sanctioned Load 65 HP, tariff category 36 LT B-II, Meter No.076-03177409,

The above named consumer initially filed an application before the Respondent Utility Officials for change in the name of supply connection in the favour of Shri Swami Packaging Pvt. Ltd., the Appellant. Original connection was in the name of Shri. Vijay Nivrutti Vaman. According to the

Appellant consumer the said premise of Shri Vijay Nivrutti Vaman were purchased by Shri Swami Packaging Pvt. Ltd., by execution of a sale deed of on **24.7.2012** following which the present incumbent consumer Shri Swami Packaging Pvt. Ltd., occupied the said premises. The electric supply to these premises is also being used by the Appellant for the purpose of packaging unit situated in the Industrial Estate, at Plot No.E-10. The Appellant, thereafter, submitted an application in the year **2015** to the Respondent Utility for change in the name of consumer from the then Vijay Nivrutti Vaman to Shri Swami Packaging Pvt. Ltd. together with transfer of the said connection in its name.

2. The Appellant further submits that it had received the supplementary bill on **02.07.2018** for amounting to **Rs. 10,63,540/-** which had also been objected by and had also lodged a complaint against the Respondent Utility initially on **16.7.2018** and challenged the said bill. Since grievance of the Appellant consumer was not resolved by the concerned officials of the Utility, the consumer approached the IGRC and filed its grievance in **Form No. X** on **7.8.2018**. The Appellant-consumer has filed the copy of the said disputed bill issued by the Respondent Utility for of **Rs.10,63,540/-**. The Consumer has also attached copies of each of the following documents along with his Appeal –

- i) Notarized Agreement dt. **28.12.2012** between the Appellant and Shri Vaman representing sale-deed of the premises identified as 'E-10' I Junnar Taluka Industrial Co.op. Society Ltd.,
- ii) Registered Lease Agreement dt. **24.01.2012** between the Appellant and the Junnar Taluka Industrial Co.op. Society Ltd.,
- iii) Undated Application – **Form 'U'** for Change in the name of the Consumer submitted to the Respondent Utility, along with consent for change of Name on or around **03.08.2015** on the Non-Judicial Stamp paper, without acknowledgement of the concerned officials of the Utility under Utility Seal,
- iv) Affidavit dt. **12.05.2017** made by Ramnik Hirji Savla, Director of the Appellant Company in respect of loss of original documents in

respect of Registration of the Company at Thane on **03.05.2017** together with copy of FIR filed at Nupada Police Station, Thane,

v) As a result of the above facts, the Appellant could not make an application persuasion of filing original document.

3. During the course of visit of the Officials of the Respondent Utility to the premises of the Appellant on **02.07.2018** under 'Spot Inspection', the officials found that as per AE QC CT/PT R & Y Phase CT had been missing from the meter and the said meter had not been receiving supply under R & Y phase. Resultantly, the Respondent Utility had issued the 'Provisional Bill' to the consumer for unrecorded consumption to the tune of 1,32,999 units with bill amount of **Rs.10,63,540/-**, which had been resisted by the consumer. **It is, however, pertinent to note that neither the Appellant nor the Respondent Utility considered it necessary to file 'Spot Inspection Report' covering their observations about missing Phase R & Y during their visit to the premises of the consumer on 02.07.2018.**

4. After the consumer filed the complaint. IGRC registered the grievance under No. **20/2018-19** on **08.8.2018**. On **29.08.2018**, an opportunity of personal hearing was also given to the consumer and his representative Shri. Vinit Savla and also the Respondent Utility Official Mr.V.L.Kapre, Dy. E.E., Narayangaon Sub/dn. On **5th Oct.2018** the IGRC pronounced the order and allowed the complaint partly with directions to the utility to reassess and revise the bill for the period of twenty four (24) months precedent to the date of detection of fault of metering unit on **02.07.2018**. Aggrieved by the order of IGRC, the consumer filed the present Appeal before this Forum on **14.8.2018**. This office has registered the Appeal with distinctive No. as Case **No.53 of 2018** notice was issued to the Respondent Utility on **05.12.2018** directing it to file its reply on or before **13.12.2018**. The Respondent Utility, however, failed to file its say within the stipulated timeframe, but had filed its reply dt. **12.12.2018** received at the Office of the CGRF on **21.12.2018** along with detailed report and analysis of MRI data. The Respondent Utility has submitted that the said consumer was issued the supplementary bill in the name of Vijay Nivrutti Waman as R & Y Phase CT were found open for the period on **11.2.2014** and reading was found to **25064.4**. After availability of

40 -200 A meters, the meter of the consumer was replaced on **25.5.2018**. At the time the meter was replaced, the old meter reading (**FR**) recorded was . Hence the recorded units on the old meter (**91563.8 - 25064.4 = 66499.4**) was only one third of the actual consumption by the consumer and, therefore, unrecorded units of consumption were assessed at **1,32,999** units ($66499.4 \times 2 = 1,32,999$) corresponding to provisional assessment of the bill for **Rs.10,63,540/-**. **In view of directions of the IGRC, as contained in** After the order of IGRC, the Utility has not accounted for the amount of the provisional / supplementary bill in current bill from the date of filing the complaint till the order. The Respondent Utility further stated that as a part of compliance of the IGRC order, it has reassessed the consumption of the consumer for the period of twenty four (24) months preceding 02.07.2018 and issued revised bill to the consumer for unaccounted units of 62,717 (i.e. 31358.3×2) with corresponding amount of the bill at **Rs.4,45,500.00** and, therefore, the consumer is obliged to pay the said bill. In support of its claim, the Respondent Utility had also attached copy of other documents as well – i.e. MRI report with detailed analysis, Office note, meter details report and copy of complaint filed with the IGRC and the order. **The Respondent Utility has, however, not filed compliance report in respect of rest part of the IGRC order in respect of directions to the E.E., Manchar to investigate the matter for such a long back continuous billing on faulty metering unit and initiate the action on the defaulter as per Utility's prevailing rules.**

5. I have perused the document filed by the consumer and contention of consumer to reassess the bill for three (3) months in view of the provisions of in Regulation No. 15.4.1 of the Supply Code. After perusing rival contentions of the consumer and the Respondent Utility, following points have occurred for my consideration to which I have recorded my finding together with the reason therefor.

- a) Whether supplementary bill for unaccounted units of **1,32,999** with corresponding value for **Rs.10,63,540/-** for R & Y Phase CT, , which was found open for the period from **11.2.2014** onwards till the date of repair and replacement the meter is in order?

- b) Whether the consumer is entitled to claim revision in the bill, if any, as per tariff **Regulation Code 15.4.1** restricted for the period of three (3) months?
- c) Whether the consumer is entitled for other reliefs, if any?
- d) What order?

Reasoning:-

6. a) I have given an opportunity to the consumer and the representatives of the Respondent Utility for personal hearing on **13.12.2018**. It appears that the consumer had purchased the said premises by an agreement dt. **28.12.2010**, though the supply for the premises continued to be in the name of its erstwhile owner – i.e. **Shri Vijay Nivrutti Vaman**. The premises and the electric supply is being used in the **Industrial** area for carrying out the business of packaging. Regular bills were being issued by the Utility to the consumer. The consumer filed an application, along with other documents / affidavit, for change in the name of consumer on or around **03.08.2015** and the said application was under process. The Respondent Utility Officials visited the premises of the consumer on **25.05.2018** for spot inspection and observed that the meter was not recording proper current as supply at R & Y terminus of CTPT was open leading to not recording proper units, thereby the units consumed by the industrial unit of the consumer were being recorded less as compared to actual consumption. The MRI Report was therefore prepared by the Respondent Utility to ascertain the exact consumption of the electricity by the industrial unit of the consumer during the period under consideration. It is, however, to be noted that the consumer had not filed the 'Meter Testing Report', if any, to supplement his claim that the meter in question was defective and, therefore, the consumer is eligible to claim the benefits admissible under Regulation No. 15.4.1. In view of this, the provisions under Regulation No. 15.4.1 of the Regulations under the 'Electric Supply Code and Other Conditions of Supply' shall not be applicable in the instant case and reliance of the Respondent Utility on the outcome of MRI Report prevails. As per the said MRI Report, the existing meter of the consumer was then replaced with another meter and the old meter was brought to the Laboratory and checked on the basis of MRI data when it was revealed that

the R & Y phase on CT were open since **11.2.2014** at KWH reading **25064 units**. A copy of the said detailed MRI report is filed on record. The said meter reading was, accordingly verified, assessed and it was found that the meter having recorded less unit consumption over the period, i.e. only one third of the units consumed by the consumer were recorded in the Meter, which was reassessed and **unrecorded units were assessed as 66499.4 x 2 phases (R & Y) = 1,32,999 units in aggregate**. Therefore the said **unrecorded units were valued at Rs.10,63,540/-**. Accordingly, the supplementary bill was issued by the Respondent Utility to the consumer under which difference of units consumed by the consumer was assessed for the period from **11.02.2014** to **25.05.2018**.

b) The consumer preferred to challenge the said provisional supplementary bill for R.10,63,540/- which, according to the consumer, was excessive. As regards change in the name of the consumer, though the sale transaction of the premises in question had taken place on **28.12.2010** and a Notarized document had been entered into between the consumer and Shri Vijay Nivrutti Vaman on that date and an application for change in the name was submitted to the Utility on or around the **3rd August, 2015**, it appears from the documents on record that neither the Utility had acted upon the said application of the consumer for change in the name nor did the consumer appear to have followed up the matter with the Utility after initial submission of the application for change in name. It is also observed from the documents placed on record by the consumer that Shri Ramnik Hirji Savla, one of the Directors of the consumer-Company, had filed a complaint with the Naupada Police Station on **12.05.2017**, together with an Affidavit in support of the complaint, that the original Registration certificate issued to the Company had been lost by him during his travel by Rickshaw on **03.05.2017** at Thane. This appears to be the prime reason for absence for follow-up of the issue on the part of the consumer with regard to change in the consumer name, despite the period of almost twenty one (21) months had already elapsed by then. However, the Respondent Utility would not derive any benefits for these facts and circumstances

to claim an excuse for inaction on their part on the application of the consumer for required change in the name.

c) The consumer, vide his letter dt. 16.07.2018, had raised his objections for the said supplementary bill for Rs.10,00,000/-, as against the actual bill for Rs.10,63,450/-, issued to it under the plea that CT R & Y Phase of the meter are integral parts of the meter as a whole and, therefore, the case / grievance of the consumer is in respect of “faulty meter” and, accordingly, provisions as per Regulation 15.4.1 of MERC (Electric Supply Code and Other Conditions of Supply) Regulations, 2005, the utility need to charge the consumer for the period not exceeding three months. For ready reference, the provisions of Regulation No. 15.4.1 are reproduced hereunder –

“15.4 – Billing in the Event of Defective Meters” –

15.4.1 – Subject to the provisions of Part XII and Part XIV of the act, in case of a defective meter, the amount of the consumer’s bill shall be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report of the meter along with the assessed bill.

d) In addition to the provisions as contained in Regulation No. 15.4.1 as above, the consumer too had relied upon the various decisions of the Hon’ble Bombay High Court, including the one in the case of M/s. Bafna Auto Cars as also the judgment in the case of M/s. Rototex Polyesters, Supreme Court and pressed that the Regulation No. 15.4.1 of the Electricity Supply be applied. The consumer had filed copy of the said judgments for perusal along with copies of judgments decided by this Forum earlier. I have perused the said copies of the judgments, and observe that the provisions of the Regulations 15.4.1 of the Supply Code cannot be made applicable where the MRI data for assessment of the units consumed is available despite the consumer having objected the said supplementary bill. Further, the Utility too failed to change the name of the consumer on the

supply bill, as also the Appellant-consumer too failed to get its name changed on the supply bill though it had executed necessary documents for purchasing the said property way back during the year 2010. It is observed that the defect and error in the name of the consumer - i.e. absence of change of the name of the consumer - was raised by the Appellant and brought to the notice of the Respondent Utility Officials only in the year 2018. Therefore consumer is also equally at fault for not reporting and taking action in the matter together with inaction on the part of the Utility. Inasmuch as applicability of Regulation No. 15.4.1 under Supply Code and restricting the liability of the consumer for the period of three months preceding the date of detection, I am of the considered view that the said claim / prayer of the consumer is not tenable.

f) I have gone through the recent judgment on this issue which was a Full Bench decision of Bombay High Court. In these circumstances when MRI data and nature of defect is confined to recording of less consumption of the electricity units due to not receiving R & Y phase at CT meter despite consumer has been issued the Electricity bill for less consumption, as against the actual consumption of the electric supply which the consumer had utilized, the Utility is entitled to recover the same from the consumer for the reasons of short billing. In the instant case, the Appellant consumer has been charged by the Utility for unrecorded consumption of units for two phases – i.e. R & Y Phases, and per phase less recording of the consumption has been assessed at 66,499.2 units on the basis of MRI data, thereby aggregate less consumption recorded being at **66499 X 2 = 1,32,999** units has been charged to the Appellant, which is in order and the Respondent Utility is entitled for recovery of the same from the consumer. However, only in the fair interest of justice, since the delay is long back and already cured by the order of IGRC the difference of arrears has been assessed and restricted to only for the period of twenty four (24) months preceding the detection of error – i.e. 02.07.2018. I am, therefore, inclined to hold the decision of IGRC on this point, under which the Utility has already reassessed the bill for unaccounted consumption of aggregate units to the tune of **62,717** units (i.e. 31,358.3 X 2) leading to the billed amount of **Rs.4,45,500.00** Under the given circumstance the contentions raised by the consumer before this Forum to

charge him for the period of three months only in tune with the Regulation No. 15.4.1 of the Supply Code does not sustain, and therefore, cannot be entrained. The consumer is, therefore, not considered entitled for any reliefs under **Regulation No. 15.4.1** of the Supply code and, therefore, liable to pay the reassessed arrears of supplementary for the period of preceding 24 months from the date of detection for **Rs.4,45,500.00**. Hence the consumer complaint is liable to be dismissed with cost.

The time limit of 60 days prescribed for disposal of the grievance could not be adhered to due to member/secretary was on leave.

Hence I proceed to pass following orders.

ORDER

1. Consumer Complaint No.53 of 2018 stands dismissed with cost.
2. Respondent Utility is entitled to recover less recorded unit bill for 62,717 units with value of Rs.4,45,500.00 in 10 equal monthly installments restricted to twenty four (24) months period from the date of detection.
3. No Interest, penalty & DPC shall be charged to the consumer.
4. The Licensee has to report compliance within one month from the date of this order.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune on 17th Jan. - 2019.

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

Sd/-
BEENA SAVANT
MEMBER- SECRETARY
CGRF:PZ:PUNE

F