

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

Case No. 54/2018

Date of Grievance : 15.11.18

Hearing Date : 13.12.18

Date of Order : 21.02.19

In the matter of excess and wrong provisional bill issued

M/s. Indus Towers Limited,

---- APPELLANT

246, Salumbre, Somatne,

Tal. Maval, Dist.-Pune

(Consumer No. 181603563357)

VS

The Executive Engineer,

---- RESPONDENT

M.S.E.D.C.Ltd.,

Rajgurunagar Division,

Pune.

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.D.S.Talware, Representative

C] - On behalf of Respondent

- 1) Mr.V.N.Jadhav, Dy. Ex.Engr., Rajgurunagar Dn.
- 2) Mr.S.Y.Patki, AEE , Wadgaon Maval S/dn.

Category of consumer – LT Commercial 3 Phase, the complaint about excess and wrong provisional bill issued on dated 26.6.2018 amounting Rs.8,70,170/-.

The above named consumer received the bill provisionally dtd. 25.09.2018 for consumption of 1,30,797 units in aggregate between the period of forty (41) months from May-2015 to Sept. 2018. On the basis of the provisional bill issued to the consumer, monthly average

consumption had been arrived at 3190 amounting Rs. 4785/- per month. Of the total bill for Rs. 9,81,357/- out of which the consumer had paid amount of Rs.6,95,184/- over the period and, therefore, the Utility had issued the bill for balance amount of Rs.2,86,442/- subsequently after giving credit for it through the system. Accordingly, the revised bill for Rs.2,86,442/- was issued to the consumer by the Utility under the cover of its letter No. 2403 dt. 09.10.2018. Thereafter the consumer initially raised the dispute for the said revised bill for Rs.2,86,442/- and demanded copy of the CPL within 15 days. Earlier also, the Appellant consumer was issued provisional bill for consumption of in aggregate 1,28,226 units with bill amount of Rs.8,70,170/- without mentioning on the bill the period to which the provisional bill so issued relates. The consumer, therefore, represented to the Utility vide his letter dt. 04.07.2018 and requested to communicate the exact period to which the said bill for Rs.8,70,170/- relate together with a copy of the CPL within the period of fifteen (15) days. Vide the said letter dt. 04.07.2018, the consumer also further informed the Utility that it would arrange for payment of the said bill on receipt of the exact period of the bill together with copy of the CPL and that pending it, the supply of the consumer may not be disconnected. Thereafter, vide an endorsement on its letter No.2403 dt. 09.10.2018, addressed to the IGRC, Circle Office, Pune – Rural, the Dy. EE, Wadgaon Maval advised the IGRC about issue of revised bill for Rs.2,86,442/- to the consumer after appropriation of the aggregate amount paid by the consumer over the period against the provisional bill amount – (i.e. Provisional Bill Amount – Rs.9,81,357.55 Less Rs.6,95,184.00 being the aggregate payment over the period = Balance amount Claimed – Rs.2,86,442/-). Since the grievance of the consumer remained unresolved, the Consumer raised the dispute with the IGRC by filing an application in Annexure – X on 05.09.2018. The IGRC registered the dispute / Case vide No. 27/2018-19 on 10.10.2018. As is evident from the IGRC Order bearing No. 6335 dt. 03.11.2018, an opportunity for hearing was given to the aggrieved consumer on 10.10.2018 and dismissed the complaint of the

consumer. It is to be noted that while dismissing the complaint of the consumer, the IGRC had not subscribed / substantiated the reasons and grounds for dismissal, thereby the order of the IGRC can hardly be called as 'speaking order.' Further, despite mention of the hearing date in the order of IGRC, the consumer, in his appeal to the CGRF subsequently in Schedule – A had claimed that IGRC had not called it for the enquiry nor did it communicate any decision to the consumer till 14.11.2018 – i.e. the date on which the consumer aggrieved by the order of IGRC had filed an Appeal with the CGRF, which was received at the office of the CGRF on 15.11.2018 and registered with distinctive case No. 54/2018. Following registration of the case, notice was issued to the Respondent Utility on 15.11.2018 directing it to file its para-wise and issue-wise reply on or before 29.11.2018. However, the Respondent Utility failed to file its reply within the given time line as also failed to seek extension in time for the same. The Utility, ultimately filed its reply vide letter No.6698 dt. 12.12.2018 with the office of the CGRF, which was received on 21.12.2018 - i.e. with total delay of 22 days in delayed submission attributable to the Respondent Utility, thereby exceeding the time limit specified by the CGRF. In its submission, the Respondent Utility stated that the consumer was issued the bill for total consumption of 1,30,797 units covering the period of 41 months from May, 2015 to September, 2018, leading to average monthly consumption to 3190 units/month equivalent to bill amount of Rs.4,785.26. Based on this average monthly consumption, the consumer was issued aggregate bill for 41 months from May, 2015 to September,2018 for Rs.9,81,357/-, of which the consumer had paid aggregate bill amount of Rs.6,95,184 over the said period, credit for which was afforded to the consumer through B-80 which was approved in the system vide BRID No.9292385 dt. 22.11.2018 leaving unpaid bill amount of Rs.2,86,442/- only. Accordingly, the consumer was issued revised bill for the said unpaid amount of Rs.2,86,442/- . The Utility also further confirmed that it had not disconnected supply of the consumer during the intervening period.

2. After filing the said reply and the relevant documents of assessment for the period May-2015 to Sept.- 2018, as also the data provided by the Utility, I have carefully gone through the data and grievance of the consumer. After examining the rival contentions of the consumer and the Respondent Utility, following issues have emerged for my consideration to which I have recorded my finding to the points for the reason given below:-

1. Whether the Respondent Utility is entitled to claim arrears of monthly consumption bill for the period from May-2015 to 8thSept. 2018 for 41 months?
2. Whether the consumer is entitled for any benefits?
3. What order?

Reasoning:-

I have given an opportunity of personal hearing to the consumer and the representatives of the Utility on dated 13.12.2018. During the hearing the Respondent Utility was directed to calculate the bill arrears afresh and the data is provided. On perusal it appears that the Respondent Utility had calculated the consumption of units by this consumer for 41 months on average basis. In view of provision of sub-section (2) of the Section 56 of Indian Electricity Act, the Respondent Utility cannot recover the arrears from the consumer beyond twenty four (24) months from the date when such sum became first due, as against the claim of the Utility for the aggregate period of preceding more than 41 months. The Respondent Utility was, therefore, obliged for the calculations of aggregate dues from the consumer restricted to the period of twenty four (24) months only. The contentions of the Respondent Utility that the actual consumption of units recorded and communicated to the consumer in provisional bill was for forty one (41) months which is not permitted by the statute, more particularly in view of the provisions of sub-section (2) of Section 56 of Indian Electricity Act. Therefore, under the given circumstances, the consumer is liable to pay the bill for the period of preceding twenty four (24) months from the date of first such detection. The Respondent Utility is, therefore, directed to restrict its recovery from the consumer for twenty four (24) months only preceding the date of first such detection, i.e. on June'2018. In view of present judgment

and guidelines issued in various judgments of MERC and Hon'ble Ombudsman, as reported, the judgments have been perused by me minutely. In the circumstances the consumer complaint liable to be allowed with grant of relief for restriction of recovery only for the period of twenty four (24) months. Admittedly the Respondent Utility had acted upon the complaint of the consumer and had revised disputed bill issued to the consumer and had also passed on the benefit of aggregate payments made by him through B-80. The Respondent Utility insisted and claimed that as per the order of the IGRC, the consumer is liable to pay the balance amount of Rs.2,86,442/- for the disputed bill for 9,81,357/-. However, as stated hereinbefore, the IGRC had not substantiated its order with any reasons for payment of Rs.2,86,442/- which, according to me is not in order in view of the liability of the consumer having been restricted to the period of twenty four (24) months preceding the date of first such detection as provided in sub-Section (2) of the Section 56 of the Electricity Act, 2003. The Respondent Utility is, accordingly required to revise the obligations of the consumer afresh by calculation of total amount for the period of twenty four (24) months only.

The time limit of 60 days prescribed for disposal of the grievance could not be adhered to due to delayed submission by the Respondent Utility by 22 days, as mentioned hereinabove. Hence I am inclined to allow the consumer complaint and proceed to pass the following order:

Hence I proceed to pass the following order:

ORDER

1. Consumer Complaint of Case No.54 of 2018 is partly allowed.
2. The Respondent Utility is directed to revised and reassess the bill only for the period of twenty four (24) months, as against the present assessment for forty one (41) months.
3. No Interest, DPC and penalty shall be charged to the consumer.
4. The remaining revised bill shall be paid by consumer by six (6) equal monthly installments along with current bills.

5. The Respondent Utility shall pay the token cost of Rs.1000/- to the consumer which can adjust in future bill/s of the consumer,
6. The Licensee is directed to report the 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 21st Feb. - 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