



BEFORE THE OMBUDSMAN

(Appointed by the Maharashtra Electricity Regulatory Commission under Section 42(6) of the Electricity Act, 2003)

606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051
Tel. / Telefax: 022-2659 2965

REPRESENTATION NO. 34 OF 2005

In the matter of Supplementary Bill

M/s. Su-raj Diamond Industries Limited..... Appellant

Versus

B.E.S. & T Undertaking..... Respondent

Present:

1. Shri W.G.Gorde, Ombudsman
2. Shri S. N. Yadwad, Secretary

On behalf of the Appellant:

1. Shri R. Mahadevan

On behalf of the Respondent:

1. Shri A.R. Damani, Superintendent, B.E.S.& T Undertaking

Date: 29th November, 2005

1. M/s. Su-raj Diamond Industries Limited is a consumer of B.E.S. & T Undertaking and is located at Mittal Court, 151-C Wing, Nariman Point, Mumbai – 400 021. The consumer has filed its representation dated 6th October, 2005 against the order of the Consumer Grievance Redressal Forum of B.E.S.&T Undertaking, issued on 6th September, 2005. The Forum observed that the consumer has not disputed the meter reading. It has also not requested for testing or changing of the meter and concluded that B.E.S.&T Undertaking has raised the bills based on the correct meter readings. The Forum directed B.E.S.&T Undertaking to prepare a fresh schedule with 12 equal interest free monthly instalments for remaining unpaid amount. The consumer is also directed to pay the instalments as per the fresh schedule.

2. M/s. Su-raj Diamond Industries Limited (hereinafter referred to as the Appellant) is aggrieved with the above order of the Forum and filed this representation which is registered at Serial No. 34 of 2005. It has raised the following points for consideration in the appeal.

3. The B.E.S&T Undertaking (hereinafter referred to as the Respondent) has raised arrears for payment of electricity after a period of 7 years, although the Respondent claims that the bill is based on the actual meter reading. It appears that its billing department has not audited it. It has disputed the claim raised by B.E.S&T Undertaking stating it as unjustified. The company acquired the premises in MIDC Andheri area during the year 1995-96 where the activity of assorting diamonds was shifted. It says that the Company's shares and accounts department was also shifted to Andheri during the year 1996-97 but it was shifted

back to Nariman Point during May – June, 2000. The assorting activity continued at Andheri. The premises at Nariman Point was let out to other offices and part was being used by the company for sometime until the company shifted the entire activity in December, 2004 to Andheri, leasing out the entire premises at Nariman Point.

4. The Appellant says that B.E.S.&T Undertaking served them a notice dated 2nd September, 2004 for payment of arrears amounting to Rs. 13.96 lakhs billed for over a period of 7 years. Protesting this huge bill issued after seven years, the Appellant approached the Chief Engineer of the Respondent on 27th October, 2004 requesting to address the issue and not to disconnect the electricity supply. In reply, the Respondent vide its letter dated 9th November, 2004 informed that it had adopted a procedure of billing the consumer based on average basis whenever the consumption dropped drastically or became nil. Billing on average basis in this case, started in April 2000, at the rate of 1560 units per month on meter no. R910380. This was done despite the meter readings being taken on a regular basis by the Respondent. No efforts were made to correct the bills based on the actual meter readings for years together. The Respondent insisted that the payment of Rs. 13.96 lakhs for the period from April, 2000 to April, 2004 is for the under billed units and is based on the actual meter reading and needs to be paid.

5. Being aggrieved with the stand taken by the Respondent, the Appellant approached again to the Respondent for redress. Finally, arrangement was worked out on 16th December, 2004 and was approved by the Respondent by granting 9 instalments to make payment. The Appellant paid 4 instalments of Rs. 1.5 lakhs each till May, 2005 and then approached the Consumer Grievance Redressal Forum of B.E.S.&T Undertaking on 21st May, 2005 seeking redress in the matter. The Appellant paid the next instalment of Rs. 1.5 lakhs in June, 2005. The Forum heard the matter and issued the Order on 6th September, 2005 as referred in paragraph 1 above. The Appellant was aggrieved with the order and hence this representation.

6. Notice was issued to the Respondent to file its reply to the points raised in the representation. The Respondent filed its reply on 21st October, 2005. It says that the procedure was implemented in June – July, 1999 to bill the consumer based on average basis whenever the consumption dropped drastically or became nil. In this case, the consumer was billed on average of 1560 units bimonthly inspite of regular readings taken. This happened due to the administrative problem. The Respondent brought the fact to the notice that during the year 2000, the other meter no. 0915230 of the same consumer was also billed on average basis. The average billing for meter no. 0915230 stopped after February, 2001 and under code 68, the credit of Rs. 26,968.54 was given to the Appellant upon adjustment, based on the meter readings. However, in respect of meter no. R910380 it's computer did not accept the correct meter readings and therefore the average billing continued. Finally, the bill based on correct readings, was issued on 2nd September, 2004. The Respondent says that both the meters were tested on 18th May, 2004 and were found to be in order. The meter no. R910380 was tested again at site in September, 2004 and was in order.

7. The Respondent further says that the consumer was apprised of the position who agreed to pay the entire arrears in 9 monthly instalments starting from 16th December, 2004. In fact, the consumer paid 4 instalments of 1.5 lakhs each upto May, 2005 and then filed the

grievance with the Forum. It is seen that the consumer has further paid the instalment of Rs. 1.5 lakhs in June, 2005 i.e. after filing the grievance. The Respondent prays that since the bills are based on actual meter readings for energy units consumed, the consumer should be directed to pay the arrears.

8. The matter was heard on 11th November, 2005. The Appellant pleaded during the hearing that B.E.S.&T Undertaking has raised the arrears after a period of 7 years during which time the bills on energy consumption of 1560 units bimonthly were raised. The company paid the bills regularly during the period. Therefore, the company does not agree with the claims of B.E.S.&T Undertaking now raised belatedly. It is the Respondent's mistake of omission not to raise bills in time. Therefore, it does not absolve the Respondent from the act of raising an unjustified claim.

9. Upon query, the Appellant conceded that it did not raise any dispute about the correctness of the meter nor did it ask for any testing thereof. When asked about the arrangement entered between the consumer and the B.E.S.&T Undertaking on payment of instalments, the Appellant agreed to have consented to this arrangement and paid Rs. 6 lakhs up to May, 2005 and also an instalment of 1.5 lakhs in June, 2005 after the matter was lodged with the Forum. The Appellant narrated the details about the use of premises on 14th and 15th floors from 1995-96 to date and stated that the bills raised for the period between June, 1997 and June, 2000 appeared to be on higher side as compared with their operation and working in the premises.

10. The Respondent explained during the hearing that it had adopted a procedure of average billing from June – July, 1999 to 2004 whenever the consumption dropped drastically or became nil. It stated that due to administration problems, the consumer in respect of meter no. R910380 was continued to be billed on average of 1560 units bimonthly from April, 2000 to April, 2004 irrespective of the fact that bimonthly readings were noted on regular basis by their meter reader. He made a point that upon adjustment of the bills, the due credit was given in respect of the meter no. 0915230 which was also billed on average basis from August, 1999 to February, 2001. The consumption recorded by the meter no. R910380 is actually reflected in the bill showing arrears for the under billed units for the past period. The meter was tested and found working correctly. In spite of large arrears, the Respondent did not resort to disconnection of power in view of the arrangement arrived at with the consumer, granting instalments of payment. It prayed that the Appellant should be directed to pay the balance arrears of the bills which is raised on the actual units consumed during the period under consideration.

11. In view of the arguments presented during the hearing and the documents on record, the Respondent was advised to go through the issues once again especially the bills during the period of October, 1998 to December, 1999 and come out with clarification in this behalf. The Respondent vide its letter dated 17th November, 2005 informed that, from August, 1997 to August, 1998, the meter no. R910380 recorded practicably nil consumption and the consumer was billed accordingly. Between October, 1998 and December, 1999, bills were prepared on the basis of readings recorded by the meter. There was no average billing for this meter during this period and the consumer made regular payments of bills. The Respondent also clarified that the bill of Rs. 13.96 lakhs presented to the consumer is due to

the underbilled units arising out of the average billing for the meter no. R910380, commencing from April, 2000 and not for the period from October, 1998 to December, 1999.

12. In view of the clarifications furnished by the Respondent, it is observed that the Respondent has indeed prepared the bills belatedly due to their administrative problems. The meter readings were recorded regularly even though the bills were issued on average basis. The consumer has not disputed the correctness of the meter nor did it request for testing of meter at any time. There is no reason therefore to dispute accuracy of the meter at this stage. This is more so, as the Respondent has already tested the meter on two occasions and found it correct. In such a situation, readings recorded by meter are alone to be treated as correct, indicating the energy units consumed. In view of this, argument of the Appellant that the charges raised by the Respondent may not be accurate, cannot be accepted. It is also seen from the documents on record that the consumer has agreed to pay the entire arrears in 9 instalments. In fact, 4 instalments amounting to Rs. 6.0 Lakhs were paid before May, 2005 and then it preferred to file the grievance with the Forum. It is, also, noted that the Appellant has paid one more instalment of Rs. 1.5 lakhs in June, 2005 even when the matter was under consideration with the Forum. It clearly indicates that the consumer was in agreement with the facility of instalments granted by the Respondent. At no point of time, the dispute was raised regarding correctness or testing of meter. As such, it has to be concluded that the bills raised although belatedly on the basis of consumption of energy units measured by a correct meter are required to be paid by the consumer.

13. During the proceedings the Appellant did not raise any other point on belated issue of bill except to reiterate his request for consideration of the matter on realistic basis. The Respondent after going through the request, made by the Appellant clarified the issues raised during the hearing. The matter was also examined in details by the Forum before making the order. I do not find any reason to deviate from the views expressed by the Forum in the order.

ORDER

1. Appellant's prayer for relief from any further payment of amount demanded by the Respondent has no merit and is therefore rejected for the reasons elaborated at paragraph 12 above.
2. There is no reason to interfere in the order of the Consumer Grievance Redressal Forum directing the Respondent to prepare a fresh schedule with twelve equal interest-free monthly instalments for the remaining amount and directing the consumer to pay the instalments as per the schedule.

Sd/
(W. G. Gorde)
Ombudsman

Sd/
(S. N. Yadwad)
Secretary