

**BEFORE THE CONSUMER GRIEVANCES REDRESSAL  
FORUM (CGRF), GOVERNMENT OF GOA,  
ELECTRICITY DEPARTMENT, VIDYUT BHAVAN,  
4<sup>TH</sup> FLOOR, VASCO, GOA.**

**Complaint/Representation No. 05/2020**

Shri. Sachit G. Naik,  
Gajanan Commercial Complex,  
Bldg Right 2/3/4/5, Opp. Harmonia Club,  
Margao, Goa-403601

**..... Complainant**

**V/S**

1. The Chief Electrical Engineer,  
Electricity Department,  
Government of Goa,  
Vidyut Bhavan, Panaji, Goa.

2. The Executive Engineer,  
Electricity Department,  
Div - IV, Margao - Goa.

3. The Assistant Engineer,  
Electricity Department,  
Div - IV, S/D I,  
Margao, Goa.

**..... Respondents**

**Present:**

1. Complainant appeared in person

2. Shri. Alvito Fernandes

..... for the Respondent

**Dated: - 14/01/2021.**

**ORDER**

Per Smt Sandra Vaz e Correia, Independent Member.

This order shall dispose the complainant's complaint dated 20.02.2020. It is a case of escaped billing caused by application of wrong MF to bills since

inception in 2008 leading to unbilled amounts of Rs. 31,47,092/- that is now sought to be recovered.

#### Case of the complainant.

The case of the complainant in brief as culled from the record is that he is owner of a hotel in Margao with an electricity connection for the last 13 years. He was regularly and punctually paying the bills. He received a letter dated 29.10.2019 from Asst Engineer (Com), Margao that MRT had inspected his installation and found that it had multiplying factor (MF) of 20 and that he was being wrongly billed for MF 20. Accordingly the bills for the period 24.07.2008 to 15.06.2019 had been revised and amount of Rs. 31,47,092/- was due. The complainant responded by letter dated 02.12.2019 expressing his shock and surprise to the claim of Rs. 31,47,092/-, that he was a senior citizen and a diabetic patient and that his health had deteriorated in receipt of the letter and that the claim had pushed him into a financial crisis. He requested for withdrawal of the bill/letter. The Department replied by letter dated 16.12.2019 that the request for withdrawal could not be considered. A detailed statement was enclosed to the said letter. The complainant then submitted representation dated 13.01.2020 to the Chief Electrical Engineer copied to the Chief Minister, Power Minister and Chief Secretary of the State. He received another bill for Rs. 148746/- dated 30.01.2020 for the period 27.02.2019 to 29.01.2020. He responded by letter dated 12.02.2020 that he had already paid an amount of Rs. 70453/- against bills issued during the said period and that the bill was wrong and suspected that the meter could be faulty. The complainant objected to the testing of the meter on various grounds in his letter dated 10.07.2020 addressed to the Asst Engineer (Com), Margao. He requested for quashing of the bill/letters dated 29.10.2019 and 30.01.2020.

#### Case of the Licensee Department.

Per contra, Department contested the complaint and filed their reply through Asst Engineer, SD-I, Margao. In short, their case is that during routine inspection, MRT Sub-Division found that the installation was provided with CT meter of CT ratio  $\frac{100}{5}$  having MF 20 reported vide test certificate dated 27.02.2019. It was noticed that erroneously MF 1 was recorded while billing

the installation since inception. On discovery of the error, the bills were revised supplementary bill of Rs. 31,47,092/- was raised from available billing records from 24.07.2008 to 15.06.2019. The connection was released on 02.05.2006 as per their records. Receipt of correspondence from the complainant was acknowledged.

The existing meter was found not functioning on the day of inspection. Hence it was removed with final reading 38227 and replaced with a new meter. The removed meter was working from 11.03.2008 to 04.08.2017 and stopped working thereafter. For the period from 04.07.2017 to 25.02.2019 when the meter was non-functional, the billing was revised based on average of three billing cycles prior to meter found operational, which worked out to 2609 units per month. Accordingly, a revised bill for Rs. 23,36,455/- was issued. Detailed revised billing statement was furnished on 06.11.2020. The non-functional meter was declared defective by MRT Unit on date of testing. It does not mean that the meter was defective from the date of its installation to the period it stopped working. Department prayed for dismissal of the complaint.

#### Hearing.

The parties were called for a hearing at which time the complainant appeared in person while Shri Alvito Fernandes EE represented the Department. I heard the parties at length. The complainant also filed written arguments. While reiterating the facts of his case, the complainant raised the issue of limitation and submitted that Department's claim was barred by limitation under the Indian Electricity Act.

#### Issues for consideration.

I have perused the records in detail and given due consideration to the submission advanced by the parties. In view of the rival contentions, the following issues crystallize for my consideration for disposal of the complaint;

- (a) Whether the Department's claim for arrears that accrued from 24.07.2008 is barred by limitation?
- (b) What is the complainant's liability vis-à-vis the claim raised by the Department?

### Findings.

#### Issue (a)

The complainant is aggrieved by the communication dated 16.12.2019 issued by Asst Engineer – I Aquem Margao raising a claim of Rs. 31,74,092/- for the period from 11.03.2008 to 25.02.2019. Juxtaposed against this, Section 56 (2) of Electricity Act reads as follows:

56. Disconnection of supply in default of payment:

(1) . . .

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

Hon'ble Supreme Court has settled the interpretation of Sec. 56 (2) of Electricity Act in **Assistant Engineer, Ajmer Vidyut Vitran Nigam Ltd v. Rahamatullah Khan** MANU/SC/0203/2020. The Hon'ble Court held that:

. . . The liability to pay arises on the consumption of electricity. The obligation to pay would arise when the bill is issued by the licensee company, quantifying the charges to be paid. Electricity charges would become "first due" only after the bill is issued to the consumer, even though the liability to pay may arise on the consumption of electricity. .

.The period of limitation of two years would commence from the date on which the electricity charges became "first due" under sub-section (2) of Section 56.

Applying the aforesaid ratio to the facts of the present case, the Department raised the supplementary demand on 16.12.2019 for the period 11.03.2008 to 25.02.2019. By the time the licensee company discovered the mistake of billing under the wrong MF, the limitation period of two years under Section 56(2) had already expired.

In the present case, the period of limitation would commence on the date of

discovery of the mistake i.e.,16.12.2019. However, Department shall be at liberty to take recourse to any other remedy available in law for recovery of the supplementary demand prior to 16.12.2017 if so advised.

Issue no. 2.

It is an admitted fact that the meter malfunctioned and was non-operational between 04.07.2017 to 25.02.2019. The billing for this period was based on working average of prior three billing cycles (06.01.2017 to 03.07.2017) that, according to the Department, worked out to 2609 units. In his rejoinder to the Department's statement, the complainant raised questions regarding the credibility of the test conducted by MRT. According to him, the non-functional meter was removed on 27.02.2019 but was tested only in June 2020 after a year-and-half. The high reading of 4096 units between 04.07.2017 to 04.08.2017 was highlighted (which, incidentally, was not included in the average calculation). The complainant implies that the meter was defective even prior to 04.07.2017.

In my opinion, and in view of what is stated earlier, the complainant is liable to pay for the electricity consumed between 16.12.2017 till date to avoid coercive measures such as disconnection, without prejudice to the Department's option to avail of other remedies available in law.

I am inclined to agree with the complainant that the defective/non-functioning meter having remained unattended for one-an-half year and the test having been conducted another one-and-half years later dilutes the credibility of the Department's claim that it was functioning normally prior to 04.07.2017. In the peculiar facts and circumstances, and without expressing any opinion on the condition of the meter prior to 04.07.2017, I feel that it would be prudent and proper to consider the average reading of the first three billing cycles recorded by the new meter installed on 27.02.2019.

Order.

Hence, I pass the following order:

- (a) The complaint is partly allowed.
- (b) The impugned letter/bill dated 16.12.2019 is set aside.

- (c) The Department's additional bill dated 16.12.2019 insofar as it pertains to the period prior to 16.12.2017 is held to be barred by limitation under Section 56(2) of Indian Electricity Act 2003. However, this shall not come in the way of Department taking recourse to any other remedies available in law for recovery of the supplementary demand prior to 16.12.2017.
- (d) The Department shall revise all bills issued for the period from 16.12.2017 to 25.02.2019 on basis of average reading of the first three billing cycles recorded by the new meter installed on 27.02.2019, and without DPC.
- (e) The revised bill shall be prepared within 30 days from receipt of this order, and the amount payable there under shall be recovered from the complainant in equal installments over the next six billing cycles without DPC.
- (f) Compliance shall be reported to this Forum within 40 days.
- (g) The complaint stands disposed accordingly.

**SANDRA VAZ E CORREIA**  
**(Member)**