

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

**Complaint / Representation No. 07/2024 | 12**

Demello Telepower Pvt. Ltd.,  
H.no.2/40A, Coutala Waddo,  
Saligao, Bardez, Goa-403 511,  
Through its operational Manager,  
Mr. Shashank Rode,  
Son of Mr. Satish Rode.

**..... 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**

**Dated : - 11/04/2024**

**ORDER**

1. This order shall dispose the complainant's complaint/representation dated 07.03.2024 filed on 12.03.2024.

**Case of the Complainant.**

2. Briefly stated, the complainant's case as culled from their representation is that they are a company incorporated under the Companies Act having their office at Saligao Goa. They are engaged in the business of providing passive infrastructure to various



cellular mobile companies across India and are registered with the Department of Telecommunications.

3. In pursuance of the said registration, the complainant entered into a leave and licence agreement with one Prabhakar Keshav Kunde for erecting a roof top tower on the terrace of the building known as "Hill View Hotel" at Margao Goa. The complainant then obtained a LTC connection with sanctioned load of 8.37 KW under CA no. 60004743773 for the said premises. The connection was charged on 26.07.2016, and the bills were paid regularly thereafter.
4. On 25.07.2023, the complainant applied to the licensee Department for load upgradation from 8.37 KW to 23.34 KW. At this stage, the concerned official of the licensee raised a concern that the installation was being wrongly billed under LTD tariff instead of LTC since May 2017. The Department then issued a demand letter dated 21.12.2023 for Rs. 7,00,002/- for the period from 08.05.2017 to 07.08.2023.
5. The complainant submits that the claim was time barred, that the connection under LTD category was the error of the Department, and that they were willing to pay the arrears of the last seven months i.e. from April 2023 to October 2023 amounting to Rs. 40,047/-.

Case of the Department.

6. The Department contested the complaint and filed its reply through the third respondent. Succinctly, it is their case that the appropriate tariff for mobile communication tower is LTC Commercial. However, it was erroneously classified as LTD at the time of release of the connection. On discovery of the error, a demand notice dated 05.09.2023 was issued to the consumer for an amount of Rs. 7,00,002/- for the period from 27.12.2016 to 06.07.2023. This communication was followed by two reminders on 09.10.2023 and 21.12.2023. The amount has not been paid the said amount. The claim was not time barred in view of the judgment of the Hon'ble

*Sandeshy Goveer*

Supreme Court in *Assistant Engineer vs Rahamatullah Khan* (Civil Appeal no. 1672 of 2020).

Hearing.

7. I heard the parties at length on videoconference at which time the complainant was represented by Shri. Mangirish Kenkare while the Department was represented by Shri. Anup Rane, AE.

Findings.

8. I perused the records and gave due consideration to the submissions of the parties. This is a case of "escaped assessment". The facts are largely undisputed. The complainant's connection for mobile communication tower was released on 26.07.2016, erroneously under LTD category instead of LTC. When the error was discovered, the Department sought recovery of the unbilled amount by raising the demand notice dated 05.09.2023.
9. I shall first deal with the complainant's submission that the claim is time-barred. The interpretation of Section 56 (2) of the Electricity Act 2003 is no longer *res integra* in view of the Hon'ble Supreme Court's judgment in *Prem Cottex vs. Uttar Haryana Bijli Vitran Nigam Ltd.* [2021 SCC Online SC 870]. The Apex Court, while ascribing the meaning of the term 'First Due' in Section 56(2) held that though the liability to pay arises on the consumption of electricity, the obligation to pay would arise only when the bill is raised by the Licensee and that, therefore, electricity charges would become 'First Due' only after the Bill is issued, even though the liability would have arisen on consumption. The period of limitation of two years would commence from the date on which the electricity charges became 'First Due' under Section 56(2) of the Electricity Act. The Hon'ble Court held that Section 56(2) of the Electricity Act 2003 does not apply in the case where a distribution licensee raises an additional bill after detecting a mistake. In light of the foregoing, I did not find any merit in the submissions of the complainant in this



respect. The limitation would commence from 05.09.2023 when the demand for the unbilled amount was raised.

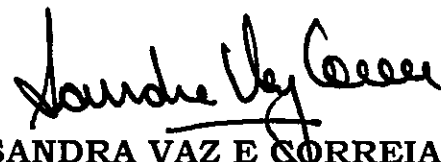
10. Coming to the next issue, no doubt the complainant is liable to pay for the energy consumed over the period of about six-and-half years at the appropriate tariff, however, the fact remains that the erroneous categorization happened due to the error of the licensee Department, which they have fairly conceded in their reply. In these circumstances, the consumer cannot be burdened with payment of six years' unbilled amount in a lump-sum for no fault of theirs. In my opinion, in the peculiar facts and circumstances, the interest of justice would be served if the amount is paid in installments without DPC.

Order.

11. Hence, the following order: -

- a. The complaint is partly allowed.
- b. The Department shall recover the arrears of Rs. 7,00,002/- from the complainant in equal installments over the next 24 (twenty-four) billing cycles without DPC.
- c. Department shall report compliance to the registry of this Forum within 30 days from receipt of this order.
- d. The complaint stands disposed accordingly. Proceedings closed.

12. The Complainant, if aggrieved, by non-redressal of his/her grievance by the Forum or non-implementation of CGRF order by the Licensee, may make an Appeal in prescribed Annexure-IV, to the Electricity Ombudsman, Joint Electricity Regulatory Commission for the State of Goa and UTs, 3<sup>rd</sup> Floor, Plot No.55-56, Service Road, Udyog Vihar, Phase-IV, Sector-18, Gurugram-122015 (Haryana), Phone No.:0124-4684708, Email ID: [ombudsman.jercuts@gov.in](mailto:ombudsman.jercuts@gov.in) within one month from the date of receipt of this order.

  
**SANDRA VAZ E CORREIA**  
 (Member)