

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

Complaint / Representation No. 14/2024

M/s. Rajaram Bandekar (Sirigao) Mines Pvt. Ltd.,
Through Authorised Representative,
Smt. Neeta G. Nayak,
Office at 601, 6th Floor, Dr. Ozler Forum,
Near St. Andrew's Church,
Vasco Da Gama, Goa – 403 802.

..... Complainant

V/S

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

2. The Executive Engineer,
Electricity Department,
Div -XI, Vasco - Goa.

3. The Assistant Engineer,
Electricity Department,
Div -XI, S/D- I (U),
Vasco - Goa.

..... Respondents

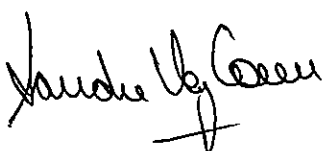
Complaint / Representation No. 15/2024/72

M/s. Narayan Bandekar & Sons Pvt. Ltd.,
Through Authorised Representative,
Smt. Neeta G. Nayak,
Office at 602, 6th Floor, Dr. Ozler Forum,
Near St. Andrew's Church,
Vasco Da Gama, Goa – 403 802.

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Div -XI, Vasco - Goa.

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Electricity Department,
Div -XI, S/D- I (U),
Vasco - Goa.

..... Respondents

Dated : - 25/06/2024

ORDER

1. The parties, facts and subject matter of the aforesaid two complaints/representations are identical, hence they are being disposed by a common order. The complainant M/s Rajaram Bandekar (Sirigao) Mines Pvt Ltd. is aggrieved with the supplementary bill/claim of Rs. 25,97,348/- (in Complaint/Representation no. 14/2024) and Rs. 26,57,341/- (in Complaint/Representation no. 15/2024) towards escaped assessment due to wrong application of MF factor.

Case of the complainant.

2. In a nutshell, the complainant's case as culled from their complaint is that they are having electricity connections bearing CA no. 60001623085 (in Complaint/Representation no. 14/2024) and CA no. 60001623192 (in Complaint/Representation no. 15/2024) in their name since 2012. The bills were being paid regularly and there were no outstanding dues. They received letters from the third respondent bearing no. AE/VSG/O&M/S/D-I(U)/Accts-8/3418/23-24 dated 05.01.2024 (in Complaint/Representation no. 14/2024) and AE/VSG/O&M/S/D-I(U)/Accts-8/3418/23-24 dated 05.01.2024 (in Complaint/Representation no. 15/2024). The communications stated that the installations were taken up for random assessment and it was found that the MF was being wrongly considered as 1 instead of 20 since their energization. A demand of

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Rs. 25,97,348/- (in Complaint/Representation no. 14/2024) and Rs. 26,57,341/- (in Complaint/Representation no. 15/2024) was raised. The complainant responded by letter dated 19.01.2024. The Department replied by letter dated 31.01.2024, which was relied by the complainant on 05.02.2024. This was followed by another round of exchange of correspondence.

3. The complainant claimed that wrong application of MF was the mistake of the Department that could not be foisted on the consumer. The claim was also barred by limitation which was two years from the date it became due. They sought directions from this Forum to declare the claims as time barred and to quash and set aside the communication dated 05.01.2024.

Case of the Department.

4. Per contra, the Department contested the complaint and filed its written version. Succinctly, it is their case that that under the LT agreement, the consumer was bound to pay any undercharged amount due to clerical error. The supplementary bills had been raised after considering MF 20 instead of 1. This had been informed to the complainant for the first time on 23.10.2023. Computation of the billing statement was produced. The submission of the demand being time-barred was refuted in light of judgment of Hon'ble Supreme Court in CA no. 7235/2009 followed by this Forum in Complaint/Representation no. 23/2023. They prayed for dismissal of the complaints.

Hearing.

5. I heard the parties at length on videoconference. Smt Ashweta Dessai represented the complainant while Shri Atul Ghate AE represented the Department. The complainant's representative sought leave to file written arguments.

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Findings.

6. I perused the file and gave due consideration to the submissions of the parties. The facts are largely not disputed. The connections were energised in 2012. In 2023, the Department raised a demand on amounts that escaped assessment due to erroneous application of MF factor (1 instead of 20) when the fact came to light during routine inspection. The consumer denied their liability to pay besides arguing that the claim was time barred.

7. In view of the rival contentions, the short point that crystalises for my determination is whether the Department's claim in the impugned communications bearing no. AE/VSG/O&M/S/D-I(U)/Accts-8/3418/23-24 dated 05.01.2024 (in Complaint/Representation no. 14/2024) and AE/VSG/O&M/S/D-I(U)/Accts-8/3418/23-24 dated 05.01.2024 (in Complaint/Representation no. 15/2024) was time barred.

8. In my considered view, the question is no longer res integra in view of the Hon'ble Supreme. Court's judgment in *Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Ltd* (2021) 20 SCC 200. Considering a case of supplementary demand vis-a-vis Section 56 (2) of the Electricity Act, the Hon'ble Apex Court held that though the liability to pay arises on consumption of electricity, the obligation to pay arises when the bill is first raised by the distribution licensee. Electricity charges would become 'first due' only after the bill is issued, even though the liability would have arisen on consumption. Section 56 (2) did not preclude a license to raise an additional or supplementary demand even after the limitation period in case of mistake or bonafide error.

9. In the case before me, consumption of electricity is not disputed by the complainant. On the contrary, they admit having consumed electricity and paying the bills on time. On the error coming to light, the Department issued a communication dated 05.01.2024 to the

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complainant (in continuation to its earlier letter dated 25.10.2023) regarding the clerical error that led to under billing and raising a supplementary bill of Rs. 25,97,348/- (in Complaint/Representation no. 14/2024) and Rs. 26,57,341/- (in Complaint/Representation no. 15/2024). Hence, the amounts became 'first due' on 05.01.2024. Further, the amounts were included in the bills of June 2024. That being so, the Department's claim for the escaped assessment amounts was well within limitation.

10. In their written arguments, the complainant relied on decision of Hon'ble Bombay High Court in *Maharashtra State Electricity Distribution Company Ltd v. Head Master, AnudanitPrathamik Ashram Shala, Devlapar and Another*(2022) 6 Mah LJ 596. However, the judgment does come to the rescue of the complainant as it was delivered on a different set of facts that are clearly distinguishable from the facts of the case before me.
11. The consumer in the cited case received an electric connection on 30.07.2007, but no bills were sent until 27.06.2012. Subsequently, the licensee issued multiple bills: a provisional bill of Rs. 6,74,093/- on 19.12.2014 without specifying the period, a bill of Rs. 6,69,970/- on 10.03.2015 for the period from 01.10.2012 to 28.02.2015, and another bill of Rs. 9,40,070/- on 09.09.2015. It was a case of non-billing simpliciter, unlike escaped assessment in the case before me. In fact, the Hon'ble Single Judge - rightly relying on *Prem Cottex*supra - held that the licensee could recover electricity charges due from consumer only for period of two years when such sum became **first due**, that where limitation period of two years under section 56(2) had already expired, no charges for electric consumption could be demanded for more than two years preceding **date of first demand** of such charges.
12. Be that as it may, the consumer cannot be penalised for the clerical error admittedly committed by the licensee Department and be

Sandhu V. Gaur

expected to pay almost 10 years arrears in a lump-sum. In the peculiar facts and circumstances, in my view, interest of justice will be met if the supplementary bill amount is recovered in the next 60 (sixty) billing cycles without DPC.

Order.

13. In the light of the foregoing, I pass the following order:

- a. The complaints are partly allowed.
- b. The supplementary bills of Rs. 25,97,348/- (in Complaint/Representation no. 14/2024) and Rs. 26,57,341/- (in Complaint/Representation no. 15/2024) shall be recovered from the complainant/consumer in equal installments over the next 60 (sixty) billing cycles, without DPC.
- c. Licensee Department shall report compliance to the registry of this Forum within 30 days.
- d. Complaint/Representation nos. 14/2024 and 15/2024 stand disposed accordingly. Proceedings closed.

14. 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, 3rd 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 within one month from the date of receipt of this order.


SANDRA VAZ E CORREIA
(Member)