

OFFICE OF THE ELECTRICITY OMBUDSMAN

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)

B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057

(Phone No: 011- 26144979)

Appeal No. 07/2022

(Against the CGRF-TPDDL's order dated 06.01.2022 in CG No. 67/2021)

IN THE MATTER OF

SHRI SOURABH SHARMA

Vs.

TATA POWER DELHI DISTRIBUTION LTD.

Present:

Appellant : Shri Hari Banshi Jha, Adovcate, on behalf of the Appellant

Respondent: Shri Ajay Joshi, Sr. Manager (Legal) & Shri Chiranji Tanjea, Sr. Manager and Shri Amit Pasricha, Manager, on behalf of the TPDDL.

Date of Hearing: 27.05.2022

Date of Order: 30.05.2022

ORDER

1. The appeal No. 07/2022 has been filed by Shri Sourabh Sharma through Shri Hari Banshi Jha, Advocate, against the order of the Forum (CGRF-TPDDL) dated 06.01.2022 passed in CG No. 67/2021.

2. The main issue in the appeal is arising from an assessment bill of Rs.9,49,596/- issued by the Respondent in the month of January, 2021 against the Small Industrial Power (SIP) electricity connection bearing CA No. 60000004618 in the name of M/s S R Industries, installed at I-2265, DSIIDC, Narela, Delhi - 110040. The Appellant also stated that the said property was purchased by his father Shri Uma Shankar Sharma, from Smt. Indra Gupta, proprietor of M/s S R Industries in the year 2013.



3. The background of the case is that the Appellant let out the aforesaid property to Shri Bhushan Gupta to run his business in the name of Ms/ Mahashiv Enterprise. The Appellant received a bill amounting to Rs.15,29,150/- for the month of December, 2020. In this bill an amount of Rs.9,49,599/- is reflected under the head of 'Adjustment' without mentioning any reason. The supply of the said electricity connection was temporarily disconnected by the Respondent on account of non-payment of the bill on 18.12.2020.

3.1 After that the Appellant approached the office of the Respondent for restoration of the electricity supply and rectification of such an exorbitant bill. The Appellant also stated that on assurance of the Respondent, he had deposited an amount of Rs.9,49,596.65 (an assessment bill for the period 11.06.2020 till 13.08.2020 on the basis of average consumption) but electricity connection was not restored.

3.2. The Respondent also changed the said connection meter on 14.08.2020 and enhanced the load from 107 KW to 119 KW in the month of August, 2020. Subsequent to enhancement of the load, the Respondent raised the fixed charges amount accordingly.

4. The Appellant had sent various applications to the Respondent for restoration of the disconnected electricity supply and reassessment of an exorbitant bill but he had not received any response/reply from them. Hence, the Appellant approached the CGRF with the prayer that:

- (i) To waive off the bill amount to Rs.9,49,599/- for December, 2020, and to adjust the amount against CA No. 60000004618.
- (ii) To restore the electricity supply
- (iii) To adjust the amount of fixed charges against the enhanced load.
- (ii) To grant Rs.1.00 lakh compensation on account of mental agony.
- (iv) Cost of litigation

5. The Respondent's response before the CGRF was that the electricity connection bearing CA No. 60000004618 was used by the tenant of the Appellant in the premises. On one hand, the complainant paid the disputed amount of Rs.9,49,596.65 and on the other hand raising the issues of load enhancement after considerable lapse of time. The Respondent further stated



that all the grounds of complaint have been raised only after removal of the meter.

5.1 The Respondent further stated that in accordance with the Regulations, an assessment amount of Rs.9,49,596.64 (for the period the meter remained faulty) was added and bill for an amount of Rs. 15,87,041.67 was issued on 30.01.2021. The bill has been made in accordance with Clause 39 (1) of DERC Supply Code, 2017 and has a component of arrear. Out of this bill, an assessment amount of Rs.9,49,596.65 was paid by the complainant on 12.02.2021 without registering any protest. Thereafter current demand started accumulating against the said electricity connection, but the complainant did not make any payment for almost six months and finally the connection was disconnected and meter removed on 06.07.2021. The primary dispute in this matter is related to assessment amount of Rs.9,46,596.65 for 97158 units which was carried out for the period 11.06.2020 till 13.08.2020 on the basis of average consumption of the period 14.06.2019 to 14.08.2019.

5.2 Further, the Respondent submitted that the complainant wrongly stated that the load was enhanced from 107 KW to 119 KW in the month of August, 2020, whereas, the load was enhanced with effect from 01.07.2019 on the basis of MDI recorded during the F.Y. 2018-19, in accordance with Clause 17(4) of DERC (Supply Code and Performance Standards) Regulations, 2017.

5.3. The Respondent stated that faulty meter was replaced on 14.08.2020 and last reading based bill was issued on 11.06.2020. Therefore, assessment was carried out for the period 11.06.2020 to 13.08.2020 on the basis of average consumption 14.06.2019 to 14.08.2019. Accordingly, an assessment amount of Rs. 9,49,596.65 (for 97158 units) became payable. This assessment was carried out in accordance with the Regulation 39 (1) of DERC (Supply Code and Performance Standards) Regulations, 2017, which states that:

(1) The consumer shall be billed on the basis of actual average consumption recorded during the corresponding period in the preceding year, excluding the provisional billing.....

6. After deliberations on the matter, the CGRF viewed that the connection was already permanently disconnected almost six months back, hence, the new connection can only be granted after paying pending dues and completion of all commercial formalities. The CGRF further stated that there is no need to interfere with the assessment bill raised by the Respondent. However, considering the special circumstance of slowness of business activities due to



Covid-19 pandemic, relief for LPSC can be given to the complainant and ordered that for getting new connection, the complainant be allowed to make payment of principal outstanding amount of Rs.5,56,067/- (after waiving of entire LPSC amount of Rs.1,18,691/-) in two installments:-

- (i) First installment of Rs.3,00,000/- be paid within 7 days of the order.
- (ii) Second installment of balance amount of Rs.2,56,067 be paid within 30 days of the first installment.

6.1 After payment of first installment of Rs.3.00 lakhs the complainant may apply for new connection for the desired load and complete the commercial formalities. On release of new connection, the complainant shall pay the consumption bill as well as the second installment in time and the Respondent will be at liberty to take appropriate action in case of non-payment of second installment or the regular consumption bill.

7. Aggrieved from the order of the CGRF, the Appellant filed this appeal on the following grounds:

- (i) That Meter was burnt on 27.07.2020 and replaced with new Meter on 14.08.2020. As per DERC's Regulations, meter should have been changed within 15 days. The Respondent raised the assessment bill after delay of four months without assigning proper reason.
- (ii) That despite depositing partial payment on 12.02.2021, the Respondent did not restore the electricity connection.
- (iii) That the Respondent illegally assessed the said bill during the defective period of the Meter.
- (iv) That this case is exceptional because assessment was made during the period of lockdown. The consumption for the period 12.03.2020 to 12.04.2020 was 17047 units and 13.04.2020 to 10.05.2020 was 25922 units.
- v) That during the assessment period, his business was badly affected due to Covid-19 pandemic. Hence, the assessment was to be carried out based on immediate preceding six month period rather than based on corresponding period in the previous year.



- (vi) That the CGRF has not considered the deficiency in services of the Respondent but also failed to compensate him as per Regulations on account of harassment and suffering due to their illegal and unjustified act.

7.1 And the Appellant prayed:

- To set-aside the CGRF order dated 06.01.2022 in CG NO. 67/2021
- To quash the assessment bill amounting to Rs.9,49,596/- issued in the month of January, 2021.
- To grant compensation amounting to Rs.1.00 lakh or any other relief which this court may deem fit and proper in the interest of justice.

8. The Appeal was admitted in the month of March, 2022 and ground of the appeal shared with the Respondent to send their comments in the form of written statements. After going through the grounds of appeal, written statements and other documents, the date of hearing was fixed for 27.05.2022.

8.1 On 27.05.2022, both the parties and their respective legal counsels were present. The proceedings started with the Appellant making his contentions and also the grounds of appeal. The appellant's main contention was based on the assessment of the bill for the period 11.06.2020 to 13.08.2020, in which the Appellant claimed that the assessment of Rs.9,49,596.65 is high and has been wrongly assessed as the Respondent took it on the basis of average consumption of the corresponding period of the year 2019, i.e. 14.06.2019 to 14.08.2019. He further claimed that during the assessment period Covid-19 lockdown was in place and most of the units including his were affected by the lockdown and there was no production or reduced production in the unit. The Appellant requested for taking average of preceding six months of consumption to calculate the consumption during the assessment period in view of the exceptional circumstances. He further contended that despite depositing partial payment on 12.02.2021, the electricity connection was not installed. The Appellant also conveyed that the order of CGRF did not consider the negligence and deficiencies in services of the Respondent, and there was no compensation given to him for mental agony faced by him.

8.2 Opportunity was also given to the Respondent. The Respondent rebutted the contentions made by the Appellant and conveyed that the assessment, temporary disconnection, permanent disconnection, late payment surcharge and



also enhancement of load was done according to the rules and regulations in force vide DERC (Supply Code & Performance Standards) Regulations, 2017. The Respondent further contended that the Appellant was given opportunity to get the connection installed after paying the amount billed. As the connection was Small Industrial Power, an officer was also deputed to go through the facts and circumstances of the case and facilitate the consumer for release of electricity connection for running the unit smoothly. Despite the deployment of an Officer, the dispute with regard to the assessment could not be resolved and hence the dispute has come to the Ombudsman while going through the required grievance redressal mechanism.

8.3 During the proceedings, relevant questions were asked and queries raised by Advisor (Engineer), Advisor (Law) and the Ombudsman to seek further clarifications on the issues. I have gone through the documents filed very minutely and heard both the parties in person and I am of considered view that CGRF has passed the order as per the extant rules and regulations of DERC Supply Code, 2017 and I do not intend to interfere with the order so passed.

8.4 Yet in view of the exceptional circumstances i.e. Covid-19 pandemic, there was large scale disruption in all spheres of life including unit in question. It is also a fact that this disruption started w.e.f. 23.03.2020 (when Janata Curfew was imposed) and subsequent period till August, 2020 and later. Subsequently, lockdown was lifted in phases. Even DERC while assessing the whole situation imposed a 'force majeure' clause for the above period.

In view of the exceptional circumstances, I am of considered opinion that lenient view be taken in the above case and for assessment of the period in question, the base period should be taken for a comparable period as against the assessment made by CGRF in their order, i.e. corresponding period of last year 2019. In this case, I intend to concur with the Appellant to take the consumption of preceding six months for calculation of consumption of electricity between 11.06.2020 to 13.08.2020 (assessment period) considering prevailing extraordinary situation (Covid-19).

8.5 In view of above contention, the Respondent are required to calculate the average consumption of preceding six months to assess the consumption for these two months. I am also inclined to waive off the late payment surcharge completely for the period 20.01.2021 till date. The Respondent is required to make the final bill accordingly in next fifteen days and the Appellant would make payment within seven days on receipt of the final bill along with completion of



formalities for new connection. The Respondent shall provide a new connection to the Appellant immediately thereafter (within seven days of completion of commercial formalities).

9. During the discussion on the issue of providing electricity connection as per CGRF's order dated 06.01.2022, the Forum was informed that the connection was not provided as the Appellant could not complete the commercial formalities. On being asked, the Respondent could not satisfactorily explain the reason for not providing the connection. The Respondent never conveyed it to the Appellant and nor did the Respondent bring it to the notice of the CGRF regarding non-implementation of the order. It is shocking as well as unfortunate that order of the CGRF was not implemented for more than four months despite the fact that the Appellant deposited the first installment of Rs.3,00,000/- within the stipulated time. The Respondent should put in place a mechanism to monitor implementation of CGRF/Ombudsman's order and hold somebody responsible/accountable for the above lapse and take action.

This order is stand alone order and would not be taken as a precedent for adjudicating such cases

The appeal is disposed off accordingly.


(P.K.Bhardwaj)
Electricity Ombudsman
30.05.2022