

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. 10/2020

(Against the CGRF-TPDDL's order dated 15.11.2019 in CG No.114/2019)

IN THE MATTER OF

SHRIINDER KUMAR

Vs.

TATA POWER DELHI DISTRIBUTION LTD.

Present:

Appellant : Shri Inder Kumar

Respondent: Shri Gautam Jai Prakash, Sr. Manager (Legal), on behalf
of the TPDDL.

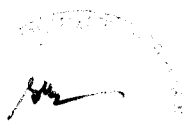
Date of Hearing: 03.07.2020

Date of Order: 07.07.2020

ORDER

1. The appeal No. 10/2020 has been filed by Shri Inder Kumar, against the order of the Forum (CGRF-TPDDL) dated 15.11.2019 passed in CG No. 114/2019. The issue concerned in the Appellant's grievance is regarding the issue of non-refund of fixed charges by the Discom (Respondent) in respect of his small industrial power (SIP) connection bearing CA No. 60002153181 installed at Shop No. 3, K - Block, J.J. Colony, Wazirpur, Delhi.

2. In the instant appeal, the Appellant has stated that he has an industrial connection with a sanctioned load of 19 KVA in the name of his father Shri Jangli Mal, the Registered Consumer (RC), at Shop No. 3, K - Block, J.J. Colony,




Wazirpur, Delhi. The sanctioned load of his electricity connection was gradually enhanced by Discom from 12 KVA to 19 KVA during the year 2012 to 2015 based on the recorded MDI's (Maximum Demand Index). But now when he approached the Discom in April, 2019 for reduction of the sanctioned load, in accordance with his actual consumption, to 12 KVA the same was not carried out by them. He, further, stated that he again followed up the matter with the Discom vide his letter dated 28.06.2019 but he neither got any response from them nor his load was reduced to 12 KVA as requested by him. He also applied for change of name of the Registered Consumer of his electricity connection but the same was also denied by the Discom on one pretext or the other.

Being aggrieved for not having received any response from Discom, he approached the Forum wherein his sanctioned load was finally reduced by Discom from 19 KVA to 12 KVA as per the directions of the Forum. Regarding the change of name, the Forum decided the matter that as and when the Appellant will produce the revalidated industrial license which had expired in 1999, the Discom will process the case for change of name. Another grievance of the Appellant regarding refund of excess amount charged towards fixed charges, the Forum decided the matter by directing the Discom to refund/adjust the fixed charges beyond the load of 12 KVA levied on the Appellant with effect from 09.06.2019 up to the date when the load was actually reduced by them. The Forum also directed the Discom to refund/adjust the differential security deposit on account of the load reduction.

As the Appellant was not fully satisfied by the above order of the Forum, he filed a review application in the Forum, on the grounds that fixed charges levied on him are not correct and needs to be reviewed. The Appellant stated that the fixed charges taken from him by the Discom from January, 2014 onwards till December, 2019 are wrong and need to be refunded. The review application was considered by the Forum and since it did not find any valid grounds to allow the application, the same was dismissed.

In view of above, the Appellant has preferred this appeal and has finally prayed that the differential fixed charges which have been levied by Discom and duly paid by him during the last five years based on the sanctioned load instead of current demand/ MDI be got refunded to him by the Discom.



3. The Discom in its reply has submitted that the appellant requested for change of name and reduction of load on 30.04.2019 but the same was suspended by them on the ground of the requirement of valid industrial license in the name of the Registered Consumer. The Appellant approached the Forum against suspension of his above request and refund of excess fixed charges, wherein the Forum directed them to reduce the load up to 12 KW/13 KVA despite the fact that the Appellant was not the Registered Consumer so as to request for load reduction. But still the load was reduced by them in compliance to the order of the Forum. The Discom further submitted that the matter was finally disposed of by the Forum with the direction to them to refund/adjust the fixed charges beyond 12 KW load levied from the Appellant w.e.f. 09.06.2019 up to the date when the load reduction has been actually done. The final order of the Forum was duly complied with by them and an amount of Rs.7,578.73 has been credited in the account of the electricity connection of the Appellant bearing CA No. 60002153181.

The Discom further stated that appellant is now agitating for refund of the alleged excess fixed charges levied on him during the last five years due to non-reduction of the sanctioned load in accordance with the actual consumption recorded against his industrial electricity connection.

In this regards, the Discom argued that the present appeal is liable to be rejected and cannot be entertained on the sole ground that the Appellant herein is not the registered consumer of the said electricity connection and neither he is in the possession of the required documents i.e. valid industrial license for name change of said electricity connection. Further, as per Discom the Appellant is also precluded from agitating the present issue over fixed charges at such a belated stage as he has not acted at any point of time whenever the sanctioned load was increased against his industrial connection. Thus, the present complaint is also not maintainable on the basis of doctrine of laches as he has not acted within a reasonable time to enforce his alleged rights, if any.

4. Discom also submitted that being in Regulatory business they are required to follow the guidelines, norms and tariff orders issued by the DERC (Delhi Electricity Regulatory Commission) from time to time and fixed charges against the said electricity connection of the Appellant have been levied by them as per tariff order for 2019-20. In the relevant provision under Tariff Order for 2019-20, Clause 2 of the 'Notes' to the Tariff Schedule, it has been provided that for all categories other than

domestic, fixed charges are to be levied based on the billing demand per KW/KVA or part thereof and where the Maximum Demand, as defined in DERC (Supply Code and Performance Standards) Regulations, 2017, reading exceeds sanctioned load/contract demand a surcharge of 30% shall be levied on the fixed charges corresponding to excess load in KW/KVA for such billing cycle only. Discom also submitted that tariff orders for all the previous years contained similar provisions with regards to applicability of fixed charges in categories other than domestic consumers.

Discom further submitted that in view of aforementioned, they have accordingly levied the fixed charges against the industrial connection of the Appellant and the same are liable to be paid by him. Further, as the connection of the Appellant is an industrial one, the suo moto reduction of sanctioned load is itself not applicable as per the extant regulations. As per the regulation prevailing prior to the notification of DERC Supply Code, 2017, the Regulation 21 of DERC Supply Code, 2007 was the relevant provision for deciding with reduction of load, which clearly stipulates that the consumer has to apply for the reduction of load in case of non-domestic connections. On the other hand, however, the domestic consumers were eligible for reduction of load on the basis of maximum demand being less than the sanctioned load, as per the guidelines issued in this context from time to time. In view of the above, Discom submitted that the contention of the Appellant in this regard is not sustainable.

The Discom further submitted that it is relevant to mention here that the Appellant while applying for reduction of load must prove that either he is the registered consumer of the connection or has been authorized by the registered consumer to apply for the same. Discom cannot act upon the request of a person not authorized to do so and it is humbly submitted that while disposing of the complaint of the Appellant, the Forum has not appreciated the fact that Appellant was not eligible for reduction of load for the reason that he was neither the registered consumer of the Discom nor authorized by the registered consumer for such action on his behalf. The Appellant had applied on 30.04.2019 for name change and load reduction but his request for name change and load reduction was suspended by them as he failed to complete the required commercial formalities.

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Further, it is also relevant to mention here that as per the documents submitted by the Appellant, registered consumer had expired in the year 1975 but there was no effort made on his behalf to get the connection transferred in his own name. This shows that Appellant has not been expeditious and prudent in his conduct and thus does not deserve any relief. Discom also submitted that the Appellant does not possess a valid industrial license in his favour and as per the copy of old industrial license submitted by him, he is running the business of flour mill. The prevailing law requires that a person running such business must possess a valid industrial license to obtain an industrial electricity connection. Since the Appellant is seeking change in the name of registered consumer it is imperative that all the requisite documents should be in his possession.

In view of the foregoing, Discom submitted that it is evident that there is no valid substance in the contention of the Appellant as the Discom has charged the fixed charges as per the Tariff Orders applicable and therefore it is prayed to dismiss the present appeal as the same is devoid of any merit.

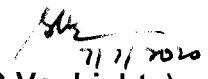
5. After going through the material on record and hearing the arguments of both the parties at length, the basic issue which emerges is that the Appellant is not the registered consumer of the electricity connection and had applied for name change and reduction of load only on 30.04.2019. The Appellant approached the Forum after his request for change of name and reduction of load was suspended by Discom, wherein his issue of reduction of load was duly resolved as per the directions of the Forum in the proceedings on 18.10.2019. Further, the issue of refund of fixed charges and differential security deposit on account of load reduction was also resolved favourably by the Forum and he got a credit of Rs.7,578.73 on account of the same from the Discom by way of adjustment thereof in the account of his electricity connection. The issue of name change also stands resolved by the Forum with the direction that the case for name change will be processed by Discom after completion of all required commercial formalities and production of revalidated industrial license by the Appellant.

Now, the only grievance of the Appellant which needs to be examined is regarding the refund of fixed charges for the last five years during which he has been charged by the Discom on the basis of sanctioned load instead of Maximum Demand. As per the Appellant, the MDI during these five years has been quite less as compared to sanctioned load and he should be charged accordingly. Given the



above exposition and taking all the factors into account, it is observed that as per the regulations the Discom cannot reduce the load suo moto in case of non-domestic electricity connections and the consumer needs to apply for the same, if required. In the instant case, the Appellant should have applied for the reduction of load during the period he was having lower maximum demand as compared to the sanctioned load as per the procedure laid out in the regulations. On being specifically asked during the hearing about any request made by him for reduction of load to the Discom during the last five years, the Appellant could only produce one letter dated 26.06.2018 vide which he had requested Discom to charge him on the basis of MDI reading instead of sanctioned load but no request was made for reduction of load in the letter. As per the available records, it is quite evident that the Appellant had applied for reduction of load only on 30.04.2019 and on the basis of his request his load was rightly reduced by Discom as per the directions of the Forum and he was also given the due credit on account of differential fixed charges.

In view of the above, it is held that the Discom has rightly levied the fixed charges during the last five years and the contention of the Appellant for refund of fixed charges during the said period is not in order and cannot be accepted. Hence no substantive case is made out for any intervention with the verdict of the Forum and the appeal is disposed of accordingly.


(S.C.Vashishta)
Electricity Ombudsman
07.07.2020