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**Office of the Electricity Ombudsman**  
(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)  
**B-53, Paschimi Marg, Vasant Vihar, New Delhi – 57**

Ref: E.OBM/2004-05/Secy/6

Dated: 4<sup>th</sup> July, 2005

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**Appeal No. F. ELECT/Ombudsman/2005-06/06**

Appeal against order dated 23.11.2004 passed by CGRF – BRPL in Complaint  
No: CG/2004/94

**In the matter of:** M/s Ashok Kumar Narula - Appellant

**Versus**

**Present:-** M/s BSES Rajdhani Power Ltd. - Respondent

**Appellant** Shri Pankaj Narula son of Shri Ashok Kumar Narula  
Shri O.P. Gupta, Advocate and authorized  
representative of Mr. Ashok Kumar Narula

**Respondent** Shri Anil Kumar, DGM (Enforcement)  
Shri Rakesh Tandon, Officer on Special Duty  
Shri Sitaram, Manager Enforcement and  
Shri Rajinder Singh, Junior Engineer - of BSES  
Rajdhani Power Ltd.

Date of Hearing : 15.06.2005 and 28.6.2005

Date of Final Order : 04.07.2005

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**ORDER NO. OMBUDSMAN/2005-06/06**

The premises of Narula Sons, having an Electric connection with K.No.2630J0590119 was inspected by a three member team of Enforcement Officials of BSES – Rajdhani Power Ltd. (BRPL) on 19.04.2004.

It is recorded in the Joint Inspection Report dated 19.04.2004, duly signed by each member that,

- i) The Sanctioned Load was 31.33 kw ( SIP category) where as Connected Load was found to be 106.185 kw.

- ii) Another premises, adjoining the above said premises is also owned by the same consumer i.e. the user and work of both the premises is same.
- iii) The Lighting Load is found intermixed with the said premises and its connected load found 202.526 kw and supplied through 3 no. connections vide
  - a) K.No. 2630jo590205 sd. load 15.42 kw.( SIP )
  - b) K.No.9Na5011302741 sd. load 18.89 kw.( SIP )
  - c) K.No.9NA501132007 sd. load 12.19 kw.( SIP )

In view of the above, the total connected load can be considered as  $106.185 + 202.526 = 308.711$  kw.

**Based on above inspection report, the Respondent clubbed the load of Shri Ashok Kumar Narula with the load of above mentioned three connections and a bill on Large Industrial Power(LIP) tariff for a total load of 308.711 kw (minus 5% tolerance) amounting to Rs. 6,28,254/-was raised on the appellant.**

Appellant approached the Consumer Grievances Redressal Forum (CGRF) - BRPL who in its order dated 23.11.04 gave no relief to him. The supply of all the four connections was disconnected on 16.03.2005. The appellant filed a writ petition in Delhi High Court who directed him to make a representation before the Electricity Ombudsman for redressal of his grievance.

**Appellant Shri Ashok Kumar Narula filed an appeal in the office of Electricity Ombudsman through his advocate Shri O. P. Gupta on 21.04.2005 along with copy of High Court order dated 4.04.2005**

On examining the contents of appeal, the record of the case was called for from CGRF-BRPL. The Chief Executive Officer BSES Rajdhani Power Ltd.(BRPL) was asked to furnish the following additional documents/ details/clarifications.

- A) Entire inspection report dated 19.04.2004 prepared at site by Inspecting Team.
- B) Copy of show cause notice dated 14.05.2004 and 28.05.2004 sent to the appellant and its receipt by him.
- C) A sketch indicating physical location of each of the four premises with reference to each other.
- D) Location/ position where each of the four electric meters are installed in each of the four premises.
- E) Copy of the assessment bill raised along with complete details of calculations and the period for which bill was raised.

- F) Consumption pattern in respect of each of the four connections for one year (period April'03 to April'04) prior to the date of inspection (19.04.2004).
- G) Name and designation of the members of the inspection team who inspected the premises of the appellant on 19.04.2004.
- H) Any other document which respondent may like to submit in support of his contention.

Appellant Shri Ashok Kumar Narula was also asked to furnish the following documents/details/clarifications,

- a) A sketch indicating physical location of each of the premises with reference to each other.
- b) Location / position where each of the four meters are installed in each of the four premises.
- c) Nature of work and working hours of each of the four premises and
- d) Any other document which appellant may like to submit in support of his case.

On receipt of details/documents from the respondent and appellant, the hearing was fixed for 15.06.2005. The CEO -BRPL ( Respondent ) was requested to direct the officers/officials who inspected the premises on 19.04.2004 to be present during the hearing on 15.06.2005 for providing any clarification/ information which Ombudsman may like to seek regarding findings/investigations at the time of inspection.

#### **Contentions of the Appellant**

In the appeal filed before Ombudsman, the appellant contended that,

- i) On 19.04.2004 an inspection was carried out and a false report was prepared to the effect that the appellant is also using the three other connections installed in the name of M/s Shree Ram Udyog, M/s Narula International and M/s Gulshan Metal Works, when they did not find any other irregularity in the connection of the appellant.
- ii) Appellant further contended that all the above units are working separately in separate portions of the building and every unit is having its different MCD license, different Sales Tax No. and separate ESI/ PF record.
- iii) A notice received from the Respondent was replied by him along with records but without considering these documents, the Personal Hearing Officer of the Respondent passed illegal speaking order dated 14.06.2004 and clubbed all the four connections in the appellant's connection on the ground that their lighting load is intermixed. Before passing speaking order, competent authority, never considered the units consumed and documents on record.

- iv) Feeling aggrieved by the said speaking order dated 14.06.2004, appellant approached DERC by way of filing the petition on 19.07.2004 and DERC referred the case to Consumer Grievances Redressal Forum (CGRF) of BRPL. The CGRF-BRPL without asking for a reply from the Respondent passed an illegal order dated 23.11.2004 for clubbing the load of all the connections on the plea that it is recorded in the inspection report that lighting load is intermixed.
- v) Feeling aggrieved by the said order the appellant has come up before Ombudsman on the directions of Hon'ble High Court of Delhi.

### **Delhi Electricity Regulatory Commission's (DERC) Regulations**

The DERC vide its Tariff Order 2003-04 regarding clubbing of more than one connection for classification under Small Industrial Power (SIP) or Large Industrial Power (LIP) stipulates in clause 2.36.35.4 as under,

**"The Commission is of the opinion that if separate connections have been taken in distinct portions of a building under different names, then the load should not be clubbed together for classification under SIP or LIP, unless it can be proved that the connections for one portion is used to supply other portion(s) or the connections are used in a unified premises"**

The issue before Ombudsman is whether the above provisions of DERC's tariff order for the year 2003-04 have been followed or not while clubbing adjoining 3 (no.) connections with the connection of the appellant on the basis of inspection report dated 19.04.2004.

It is observed from the Inspection Report dated 19.04.2004 that the inspection team has recorded that another premises adjoining the premises of the appellant is also owned by the same consumer i.e user ( appellant) and work of both the premises is same. The lighting load is found intermixed with said premises and its connected load was found to be 202.562 kw.

It is seen from the Inspection Report ,that the inspecting team has neither recorded the name of the adjoining premises which was being used by the appellant nor the details of step-by-step investigations carried out at site, on the basis of which it came to the conclusion that its lighting load is intermixed. It has also not elaborated on how it came to the conclusion that user and work of all the connections is same .

Perusal of speaking order dated 14.06.2004 of the Personal Hearing Officer of BRPL reveals that appellant had contended before him in the hearing that :

- (i) K.No.9NA-01078573647(old kno.) is being used by M/s Gulshan Metal Works, (Prop. Ms Renu Narula) for manufacturing of curtain fittings.
- (ii) K.No. 9NA 5011302741 is being used by M/s Shree Ram Udyog (partners Shri Rahul Narula and Ms Rima Narula) for manufacturing of sliding door, rollers and channels
- (iii) K.No.9NA 5011320073, M/s Narula International is being used for job work of sheet metal goods, and
- (iv) K.No. 2630J0590119 is being used by Shri Ashok Narula.

Thus, the appellant contended that all the Registered Consumers and users of all the four connections are different and their load should not be clubbed. It appears that the Personal Hearing Officer of the BRPL relied only on the inspection report and did not ask the inspecting team to explain the detailed investigations carried out at site along with evidence, if any, on the basis of which they came to the conclusion that the user and work of all the connections is same and their lighting load is intermixed. **Also the Personal Hearing Officer of the BRPL (Respondent) did not examine at all the contention of the appellant regarding different user and different works of all the four connections.**

**The CGRF – BRPL also without examining any evidence or investigation accepted the allegations of the Inspection Team and upheld the Bill raised by the Respondent on LIP basis by clubbing of all loads.**

#### **First hearing on 15.06.2005**

During the hearing on 15.06.2005, in the court of Electricity Ombudsman, none of the three members of the inspecting team attended despite specific direction for their presence in the notice for hearing.

Shri Anil Kumar Deputy General Manager (Enforcement) on behalf of Respondent informed that one of the members of inspecting team Shri Rajinder Singh, Engineer, is on leave and other two members S/Shri G.L.Verma and Sunil Kumar Sharma were on contract and are no more in service presently. **Shri Anil Kumar further informed that he was present at site when inspection was carried out.** This was refuted by Shri Pankaj Narula (for the Appellant) who said that Shri Anil Kumar was not present during inspection as he recognizes the members of inspection team. It may be noted that the inspection report also does not bear the signatures of Shri Anil Kumar nor is there any reference in it that Inspection was carried out in his presence (Shri Anil Kumar).

Shri Anil Kumar, being head of the Enforcement Department was asked to explain how the inspecting team came to the conclusion that user and work is same of all the four connections and their lighting load was intermixed. He informed that even after taking out cut-outs, lighting was still found to be on. He was asked that as per physical sketch submitted by the respondent the appellant's unit is located on Ground Floor only. M/s Shree Ram Udyog at basement, Ground Floor, First, Second and Third floor in the adjoining premises. M/s Narula International at basement, Ground Floor, First and Second Floor. Gulshan Metal Works is located at Third Floor of another adjoining premises. All of them have separate individual metered connections. If the lighting load of all these units was inter-mixed then their wirings must have been joined at some place with Change-Over-Switches. He was asked whether there was any evidence of such jointing or change over switches and if so whether any photographs etc. were taken to show that lighting load of all the four connections is intermixed. It was confirmed that the enforcement officials had no such evidence. He simply informed that lot of improvements are now being done and presently they are taking photographs / video films etc. by way of evidence.

**Enforcement officials also could not explain that if lighting load was found intermixed then why power loads were also clubbed even though this has not been reported in the inspection report.**

Appellant further informed that copy of inspection report was not given to him at site. He collected the Load Report from the office of the Respondent. At this point Business Manager (Enforcement) stated that such reports are never handed over to the consumer as it is their internal document. Enforcement officials present during hearing were informed that by doing so they were violating the DERC's (Performance Standards-Metering & Billing) Regulations 2002, as it is clearly laid down in Chapter VIII clause 31(iii) that the inspection report and the show cause notice must be signed by an authorized signatory of the licensee and must be handed over to the consumer or his/her representative at site immediately under proper receipt. In case of refusal by the consumer or his representative either to accept or to give a receipt, a copy of each must be pasted at a conspicuous place in/ out side the premises.

**The Delhi Electricity Regulatory Commission ( DERC ) tariff order for the year 2003-04/ guide lines were shown to the Enforcement Officials who stated that they were not aware of the same. It is a sad reflection on the working of the Respondent that the officials who are deputed/authorized to make inspections/ recommend penal actions against the consumers are not even aware of DERC's tariff orders/regulations.**

**The Respondent Distcom is directed to ensure that its personnel are aware of the DERC's Orders/ Guidelines/Regulations and that these are followed scrupulously.**

The Respondent and Appellant were given further time to furnish any additional evidence and to furnish submissions in this respect in writing by 20.06.2005. The presence of Shri Rajinder Kumar, Engineer and Team Leader was also required on 20<sup>th</sup> June'05 to explain the actual course of events on 19.04.2004 during inspection at the appellant's premises.

Shri Rajinder Singh was reported to be on leave hence at the request of the Respondent, the hearing was re-scheduled for 28.06.2005.

#### Final (2<sup>nd</sup>) Hearing on 28.06.2005

On 28.6.2005, Shri Rajinder Singh, Leader of Inspection Team attended alongwith Shri Rakesh Tandon, OSD and Shri Sitaram, Business Manager, to represent the Respondent.

S/Shri Pankaj Kumar and O P Gupta, Advocate were present for the Appellant.

To the query of Ombudsman, Shri Rajinder Singh confirmed that he was the team leader of the inspecting team which inspected the premises of the appellant on 19.04.2004. He stated that S/Shri Sunil Kumar and G L Verma were other members of the team along with one electrician, and that no other official of the BRPL was present during the said inspection. Thus it is evident that Shri Anil Kumar, Dy. Manager (Enforcement) was not present during the inspection on 19.4.2004. By stating that the inspection was carried out in his presence, Shri Anil Kumar has tried to mislead the Ombudsman.

Answering another query of the Ombudsman, Shri Rajinder Singh stated that no specific authorization letter was given to him by his Assistant Manager (Enforcement) to inspect/raid the premises of the appellant. He also could not name any person from the Appellant's side in whose presence the inspection was carried out. He confessed that in the Inspection Report, they do not normally write the name of the person in whose presence the inspection is carried out.

To another query of the Ombudsman, he further stated that when they entered the premises of the Appellant all the lights were found on and all machinery was working for manufacture of steel items. To the specific question of the Ombudsman as to how he came to know that user and work of the premises is same, he only stated that all was steel machinery so naturally all work is same. The Order dated 14.6.04 of Personal Hearing Officer of the BRPL was produced and its contents were read in the Court wherein different nature of work has been stated by the appellant for each of the premises. This has not been refuted by the Enforcement Officials of BRPL. Shri Rajinder Singh also could not say anything to refute the appellant's contention.

Shri Rajinder Singh stated that inter-mixing was recorded because the lights in appellant's premises were found on despite taking out fuse grips of appellant's supply. **This fact of taking out the fuse grips and finding the lights still on is not mentioned in the Inspection Report. Nor is it stated that this exercise was carried out in the presence of the appellant.** To a specific query, Shri Rajinder Singh agreed that appellant's lighting load cannot be inter-mixed simultaneously with other three connections as it is technically not possible. He further admitted that no investigation was conducted to establish that which particular connection (out of other three connections) was inter-mixed with appellant's connection for lighting load. No joint/any change over switch was found in the wires at any point which could prove inter-mixing.

He was asked when Power load (machinery load) was not found mixed why same was also clubbed. He merely stated that since all the premises appeared common, therefore all the loads were clubbed.

### **Observations & Findings of Electricity Ombudsman and its order**

- (1) The Inspection team of Enforcement cell of the Respondent, while inspecting the premises of the appellant has, without proper investigation, recorded that the user and work of both the premises is same and their lighting loads are intermixed. It has jumped to conclusions without any clinching evidence. As is evident from the above, it has not been able to prove that connection for one portion is used to supply the portion of the appellant or the connections are used in a unified premises.
- (2) It has failed to even identify and name the specific adjoining premises (out of the other three connections) with which lighting load of the appellant was alleged to be inter-mixed.
- (3) It has clubbed the entire load (light + power) even though inter-mixing of only Lighting Load was reported in the inspection report.
- (4) The Respondent has violated the Regulations of DERC by not handing over the Inspecting Team's report to the Appellant at site.
- (5) Two officials out of three member Inspection Team were engaged on contract basis and are presently not in service. In fact for conducting such an important work of raiding the consumer's premises and recommending penal action, well trained and experienced regular staff members should have been deputed instead of utilizing the services of adhoc personnel on contract.
- (6) Deputy General Manager (Enforcement) Shri Anil Kumar stated that he was present at the time of inspection. The inspection report dated 19.04.2004 does not bear his signatures nor is there any reference in it that the said inspection was carried out in the presence of Shri Anil



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Kumar. The statement on 28-06-05 of team leader Shri Rajinder Singh also confirms that Shri Anil Kumar was not present during the Inspection on 19.4.2004. By giving a false statement that he was present at the appellant's premises at the time of inspection on 19-04-04, Shri Anil Kumar, a senior officer of the BRPL has tried to mislead the court of Electricity Ombudsman. This has been viewed seriously. Therefore it is desired that the CEO BRPL impose a token fine of Rs.500/-only on Shri Anil Kumar with a warning to be more careful in future. The amount may be deposited with DERC under intimation to this office.

- (7) It is unfortunate that all the above consumers have suffered considerable loss and harassment due to disconnection of their supply since 16.03.2005. Consequent to Ombudsman's Interim Order dated 21.06.2005 the supply of all the four consumers has been restored.

**In view of the above findings, the action of the Respondent of clubbing the lighting and power loads and raising an LIP bill of Rs.6,28,254/-on the appellant is unwarranted and cannot be upheld. The said bill is directed to be withdrawn.**

The CGRF-BRPL also merely relied on the Inspection report and did not critically examine the basis on which loads of all the four connections were clubbed. It's order is not well reasoned and is not based on independent findings. It is accordingly set aside.

अशा मेहरा  
(Asha Mehra)  
Ombudsman