

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. 17/2021

(Against the CGRF-TPDDL's order dated 06.04.2021 in CG No. 128/2020)

IN THE MATTER OF

SHRI VARUN BATRA

Vs.

TATA POWER DELHI DISTRIBUTION LTD.

Present:

Appellant : Shri Varun Batra along with Shri Gaurav Madan, Advocate,

Respondent: Shri Ajay Joshi, Sr. Manager and Shri Arun Malik, Manager
on behalf of the TPDDL.

Date of Hearing: 25.08.2021 & 01.09.2021

Date of Order: 17.09.2021

ORDER

1. The appeal No. 17/2021 has been filed by Shri Gaurav Madan, Advocate, as an authorized representative on behalf of Shri Varun Batra, against the order of the Forum (CGRF-TPDDL) dated 06.04.2021 passed in CG No. 128/2020. The issue concerned in the Appellant's grievance is regarding the erroneous bill received by him from the Discom (Respondent) during the period of 55 days of faulty meter, against his electricity connection bearing CA No. 60008643375, installed at 36/11, B-Block, G.T. Karnal Road, Industrial Area, Delhi - 110033.

2. The Appellant submitted that he received an unjustified bill for the period of 55 days from 08.05.2020 to 01.07.2020, when his meter was declared faulty by the Discom. Actually the meter got stopped which was changed after a long gap

of 50 days by the Discom. The Appellant further added that as per the Discom no bill was sent to him whereas he received a bill of fixed charges. Basically the main grievance raised by the Appellant is that the Discom has raised the bill for these 55 days of faulty meter based on the readings of the corresponding period of the last year, whereas there was a complete lockdown this year on account of Covid-19 and therefore he submitted that he will not pay these unnecessary bills which have not been calculated as per the prevalent circumstances. He accordingly requested to send the bills for these 55 days on the basis of either of the two following ways as suggested by him:

- (i) Either send his genuine consumption from the master meter which is supplied to factories after deducting other factories bills and theft or wastage of electricity which is the easiest way to calculate.
- (ii) Or take his April, 2020 and May, 2020 consumption as base because the scenario was for lockdown only till August, 2020

Since his request was not considered by the Discom so he approached the CGRF, wherein, he pleaded his case that the meter faulty period was a 'National Lockdown' period and no business was running and after his meter was replaced in July, 2019, the lockdown was getting relaxed by the Government step-by-step and it took lot of time in picking up of the business again. The business gradually picked up resulting in increased consumption in subsequent months and therefore his consumption cannot be compared on the basis of average of subsequent three months as ordered by the CGRF in their order dated 06.04.2021. In view of the same, the Appellant has demanded to take up the average consumption of whole defaulted period on the basis of previous months from April, 2020 to May, 2020. In addition to the above, he has also prayed that action should also be taken on the Discom for taking such a long time of 55 days in replacing his meter which is very high as compared to what has been provided/allowed to them as per the Regulations.

3. The Discom in its reply has submitted that the Appellant had filed the complaint before the CGRF disputing the billing during the period 08.05.2020 to 01.07.2020. He has further alleged that the meter was changed/replaced after a gap of 50 days. The basis advanced by the Appellant before the CGRF for disputing the consumption was that there was complete lockdown in industrial

area by the Government and no business or low business activity was there. He also contended that in his building 4 tenants were there and all were not operational during this tenure and this is supported by their consumption for the month of May, 2020. The Discom further stated that meter against the electricity connection bearing CA No. 60008643375 was replaced on 02.07.2020 with 'No Display' remarks. Last OK reading prior to replacement of the meter was recorded on 07.05.2020. Accordingly, the assessment was carried out for the period from 08.05.2020 to 01.07.2020 on the basis of recorded consumption of corresponding period in the preceding year i.e. from 09.05.2019 to 08.07.2019 in accordance with the Clause 39(1) of DERC Supply Code and Performance Standards Regulations, 2017. On account of assessment, an amount of Rs.1,67,048.71 for 17285 KVAH units had come as payable which was added in the bill for the month of August, 2020.

The Discom also added that considering the concern raised by the Appellant with respect to less industrial activity during lockdown period, reassessment was carried out taking three months consumption after replacement of faulty meter. On account of reassessment, the earlier assessment amount of Rs.1,67,048.71 got reduced to Rs.1,11,585.94 for 11406 KVAH. The matter was considered by the CGRF sympathetically as per their order dated 06.04.2021, considering that the business activities of the Appellant must have slowed down during the months of April, 2020 to June, 2020, and in view of peculiar facts of the matter they directed to carry out the assessment for the disputed period from 08.05.2020 to 01.07.2020 in two parts mentioned as under:-

- (i) Period 08.05.2020 to 31.05.2020 be revised considering the average actual consumption recorded during the previous month billing cycle from 13.04.2020 to 07.05.2020.
- (ii) Period 01.06.2020 to 01.07.2020 be revised on the basis of average actual consumption recorded for 3 billing cycles post replacement of meter from 03.07.2020 to 01.10.2020.

Directions were also passed to waive of LPSC amount for the disputed period. In compliance to the CGRF's order, assessment has been carried out by them and payable amount has come out as under:

- i) Assessment period 08.05.2020 to 31.05.2020 - Amount Rs.26,142 for 2705 units.
- ii) Assessment period 01.06.2020 to 01.07.2020 - Amount Rs.62,132/- for 6429 units.
- iii) Waiver of proportionate LPSC amount of Rs.3,438/-.

After compliance of the CGRF order, earlier assessment amount of Rs.1,11,585.94 further reduced to Rs.88,274/-

4. The Discom further submitted that the Appellant is still not satisfied and has sought further relief, wherein he has requested to take the consumption of April & May, 2020 as base period for assessment in view of the prevailing situation of lockdown till the month of August, 2020. In this respect, the Discom denied all the claims and contentions of the Appellant as the same are without substance and merit. They submitted that the last reading was actually downloaded on 07.05.2020 and accordingly bill till May, 2020 was issued on the basis of actual reading. Further, for the reading in next billing cycle after completion of 30-35 days of last OK reading, the data could not be downloaded through AMR (Automated Meter Reading) in scheduled time therefore Notification was generated on 16.06.2020 for downloading of reading and was carried out on 19.06.2020 through CMRI (Common Meter Reading Instrument) for raising the bill for next billing cycle however data could still not be downloaded. Further, reading follow-up was taken on 23.06.2020 and after the same the meter was declared 'Faulty'. Finally the meter was replaced on 02.07.2020 with 'No Display' remarks. The above makes it clear that they replaced the meter within timelines of declaring the meter defective. It is relevant to mention here that it was time of Covid Pandemic and they were functioning with reduced staff on rotation basis when unlock activities had just started from 01.06.2020 and a backlog of pending tasks from March, 2020 to May, 2020 was pending.

The Discom also submitted that Nationwide Lockdown was promulgated on 24.03.2020 and it remained in force till 31.05.2020. Unlock process started from 01.06.2020 onwards. It is relevant to mention here that the electricity consumption of the Appellant signifies that even at the time of Nation-wide Lockdown during the period March, 2020 to till May, 2020, the activity at his industry was going on. Although, the period for which assessment was carried out was related to the period when Unlock Process had started, however, still the Discom taking into consideration, the concerns raised by the Appellant proposed and carried out the reassessment by the considering the average consumption of

area by the Government and no business or low business activity was there. He also contended that in his building 4 tenants were there and all were not operational during this tenure and this is supported by their consumption for the month of May, 2020. The Discom further stated that meter against the electricity connection bearing CA No. 60008643375 was replaced on 02.07.2020 with 'No Display' remarks. Last OK reading prior to replacement of the meter was recorded on 07.05.2020. Accordingly, the assessment was carried out for the period from 08.05.2020 to 01.07.2020 on the basis of recorded consumption of corresponding period in the preceding year i.e. from 09.05.2019 to 08.07.2019 in accordance with the Clause 39(1) of DERC Supply Code and Performance Standards Regulations, 2017. On account of assessment, an amount of Rs.1,67,048.71 for 17285 KVAH units had come as payable which was added in the bill for the month of August, 2020.

The Discom also added that considering the concern raised by the Appellant with respect to less industrial activity during lockdown period, reassessment was carried out taking three months consumption after replacement of faulty meter. On account of reassessment, the earlier assessment amount of Rs.1,67,048.71 got reduced to Rs.1,11,585.94 for 11406 KVAH. The matter was considered by the CGRF sympathetically as per their order dated 06.04.2021, considering that the business activities of the Appellant must have slowed down during the months of April, 2020 to June, 2020, and in view of peculiar facts of the matter they directed to carry out the assessment for the disputed period from 08.05.2020 to 01.07.2020 in two parts mentioned as under:-

- (i) Period 08.05.2020 to 31.05.2020 be revised considering the average actual consumption recorded during the previous month billing cycle from 13.04.2020 to 07.05.2020.
- (ii) Period 01.06.2020 to 01.07.2020 be revised on the basis of average actual consumption recorded for 3 billing cycles post replacement of meter from 03.07.2020 to 01.10.2020.

Directions were also passed to waive of LPSC amount for the disputed period. In compliance to the CGRF's order, assessment has been carried out by them and payable amount has come out as under:

three months after replacement of faulty meter. On account of reassessment, an earlier assessment amount of Rs.1,67,048.71 reduced to Rs.1,11,585.94. Vide CGRF's order/directions, the assessment amount further reduced from Rs.1,11,585.94 to Rs.88,274/-. The Discom finally submitted that in accordance with provisions of Regulation, the Appellant is liable to make payment of Rs.1,67,048.71 which is in accordance with the provisions of law on the basis of consumption in corresponding period of the preceding year. It is further submitted that the Regulation does not provide any extraneous factors to be taken into consideration in carrying out assessment /billing incase of defective or damaged meter. Further, the assessment directions passed by the CGRF are also not in consonance with provisions of Regulations. Hence, in the light of submissions made hereinabove, the Discom prays that the present appeal be dismissed as the same is devoid of merit.

5. After hearing both the parties at length and considering the material on record, it is pertinent to mention here that the basic dispute as raised by the Appellant pertains to the period of nationwide lockdown and just after the lockdown was being relaxed by the government gradually. The bill for the period from 08.05.2020 to 01.07.2020 during which the meter was defective was assessed by the Discom initially on the basis of average of the corresponding period of the last year viz., from 09.05.2019 to 08.07.2019 in accordance with the Regulation 39(1) of DERC Supply Code and Performance Standards Regulations, 2017, but later on the same was reassessed by them on the request of the Appellant, on the basis of average of 3 months period after replacement of the meter on 02.07.2020. As the Appellant was not satisfied, he approached the CGRF, wherein the CGRF had given him some relief taking into consideration of the complete lockdown from March, 2020 to May, 2020.

In this regards, it is observed that the CGRF has rightly decided in not following the Regulation 39(1) in the instant case, in view of the Force Majeure Circumstances due to Covid-19 pandemic and has correctly divided the disputed period from 08.05.2020 to 01.07.2020 in two parts viz.; from 08.05.2020 to 31.05.2020 when it was a complete lockdown and the next period from 01.06.2020 to 01.07.2020 during which period the lockdown was gradually being relaxed. During the period from 08.05.2020 to 31.05.2020 the CGRF decided to revise the bill, considering the average actual consumption recorded during the previous month billing cycle from 13.04.2020 to 07.05.2020. Whereas, for the period from 01.06.2020 to 01.07.2020 the Discom was directed to revise the bill

on the basis of average actual consumption recorded for 3 billing cycles post replacement of meter from 03.07.2020 to 01.10.2020. Directions were also passed to waive of LPSC amount for the disputed period.

The Discom accordingly reassessed the bill of the Appellant in compliance to the direction of the CGRF and the earlier assessment of Rs.1,11,585.94 further reduced to Rs.88,274/-. The Appellant was however satisfied with the first part of the decision but in the present appeal he has sought direction to take the consumption for period from 01.06.2020 to 01.07.2020 also on the basis of the average of the consumption of April & May, 2020 in view of the prevailing situation of lockdown till August, 2020. In this regards, the consumption details of the Appellant's connection, as submitted by the Discom have been analyzed and it has been observed that the consumption of the Appellant during the complete lockdown months of March, April & May, 2020 are still showing the consumption of 5552, 3725 & 2705 KVAH units respectively. This clearly shows that even during the complete lockdown his industry was running, however on a smaller scale. The consumption figures post replacement of meter during the months of August, September and October, 2020 show a consumption of 6029, 6686, 6364 KVAH units respectively. From the analysis of above data, it is quite evident that however the industrial activity of the Appellant had picked up significantly post replacement of meter but still not to its full capacity.

6. It is important to mention here that the lockdown was relaxed very slowly and gradually by the government during the months of June & July, 2020 and in view of the same the consumption during the disputed period of 01.06.2020 to 01.07.2020 cannot be assessed purely on the basis of the consumption for the period of 3 months post replacement of meter. Since the lockdown was being relaxed very slowly, so in my considered opinion the assessment for the period of 01.06.2020 to 01.07.2020 should be done on the basis of average of three months viz, May, August & September, 2020 instead of the months of August, September & October, 2020 as decided by the CGRF.

Hence, in view of the above, based on the facts of the case and the documents produced, it is held that there is no doubt that the business activities of the Appellant must not have picked up to as much extent during the month of June viz, from 01.06.2020 to 01.07.2020 as envisaged during the months post meter replacement and in view of peculiar facts of the matter, the assessment carried out by the CGRF for the said period of 01.06.2020 to 01.07.2020 can be




further reviewed. Therefore, as regards the assessment period w.e.f. 01.06.2020 to 01.07.2020, the same be revised considering base period viz, on the basis of average of actual consumption recorded for 3 billing cycles during the months of 07.05.2020, 01.08.2020 and 01.09.2020 instead of from 03.07.2020 to 01.10.2020 as decided by the CGRF.

As regards the contention of the Appellant that his meter was replaced by the Discom after a long gap of 50/55 days, it is held that it was a period of peculiar and extraordinary circumstance of Covid-19 pandemic and hence the Discom was functioning with reduced staff on rotational basis and therefore the delay in replacement of the meter under the circumstances cannot be treated as an infirmity on the part of the Discom. The contention of the Appellant in this regards is not tenable.

In view of the above background, the order of the CGRF is partially modified to the extent of reassessment of the bill for the period from 01.06.2020 to 01.07.2020 as explained supra. The Discom is directed to reassess the bill of the Appellant accordingly within 15 days and adjust the amount in his future bills.

With the above direction, the appeal is disposed of accordingly.


(S.C.Vashishta)
Electricity Ombudsman
17.09.2021