

**OFFICE OF 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**  
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**Appeal No. 17/2024**

(Against the CGRF-TPDDL's order dated 15.05.2024 in C.G No. 02/2024)

**IN THE MATTER OF**

Shri Gordhan

Vs.

Tata Power Delhi Distribution Limited (TPDDL)

**Present:**

Appellant: Shri Gordhan along with Shri Mukesh Kumar Gill, Advocate.

Respondent: Shri Ajay Joshi, AGM (Legal), Shri Vivek (AGM), Shri Rakesh Batra (AGM), Shri Anil Kumar (AGM), Shri Gaurav Sharma, Sr. Executive, Ms. Sakshi Praliya, Shri Riyaz Abbas and Shri Rajesh K Gupta, Managers, on behalf of the TPDDL

Date of Hearing: 04.09.2024, 17.09.2024 & 25.09.2024

Date of Order: 26.09.2024,

**FINAL ORDER**

1. Appeal No. 17/2024 has been filed by Shri Gordhan, R/o House No. 100 Ground Floor, Pitampura Village, Delhi, 110034, challenging the CGRF-TPDDL's order dated 15.05.2024 passed in CG No. 02/2024, directing that the Appellant is liable to pay Rs.1,77,910/- for consumption of electricity, besides revised LPSC.

2. The instant case is that the Appellant is a registered consumer of a non-domestic (NDLT) electricity connection bearing CA No. 60017626445 installed at the above-cited address with a sanctioned load of 6 KW. The Appellant received a bill dated 26.07.2015 for Rs.1,84,090/-, including an adjustment amount of Rs.1,77,910.99, LPSC of Rs. 105.04 and an arrear of Rs. 4,093.07. The plea taken by





the Appellant is that the connection was energized on 18.01.2014 and, on 05.09.2014, the meter was found faulty, which means the meter was already defective at the time of installation. However, the submission by Discom is that during their Enforcement Team's visit at the subject premises on 5.9.2014, in the meter bearing CA No. 60017626445 the fault of 'No Display/No Pulse of the Meter' was noticed. Consequently, the old meter (No. 43206233) was replaced by a new meter (No. 44187328) on 08.09.2014. The defective meter was sent to the M/s Electronics & Quality Development Centre (EQDC)'s lab for inspection purposes. Subsequently, the data was downloaded, and the reading on 24.09.2014 was found to be 18936 KWh/20815 KVAh. The bill for the period 18.01.2014 (considering reading of '0') to 08.09.2014 (considering reading of 20815) was revised on the basis of consumption recorded by the meter. This reading and consequent charges were added to the bill dated 26.07.2015 leading to bill of Rs.1,84,090/-.

3. Against this bill, the Appellant filed a complaint before the District Consumer Disputes Redressal Commission (DCDRC) in 2015 (Case No. 1034/2015), which was dismissed by the District Court vide its order dated 29.11.2023, being not maintainable. However, DCDRC observed that the demand of Rs. 1,77,910/- is as per consumption of electricity, hence legal and justified. Subsequently, the Discom raised a bill for a total payable amount of Rs. 3,56,453.94 (including adjustment of Rs. 1,80,555.41 and LPSC of Rs. 1,71,287.68) in compliance with the DCDRC's order dated 29.11.2023.

4. The Appellant approached the CGRF with a request (a) to quash/withdraw the exorbitant amount of bill along with LPSC, (b) not to disconnect supply till final decision of the case, (c) to penalize the Discom as per the DERC's Supply Code, 2007 and (d) to pay Rs.1.00 lakh and Rs.25,000/- respectively as compensation and litigation cost.

5. The CGRF-TPDDL considered the Enforcement Department's Inspection Report dated 05.09.2014, in which it was mentioned that no display/pulse of the meter was found and the old meter (No. 43206233) was replaced by a new meter (No. 44187328) on 08.09.2014. The meter was duly tested by M/s Electronics & Quality Development Centre (EQDC) in its lab, the data was downloaded and reading on 24.09.2014 was 18936 KWH/20815 KVAH. The lab test report was duly signed by both parties. Accordingly, the revised bill of Rs. 1,77,910/- for the period 18.01.2014 to 08.09.2014 was raised on the basis of consumption as recorded.

The CGRF in their order dated 15.05.2024, directed that the complainant is liable to pay the assessed amount of Rs. 1,77,910/- on the basis of downloaded data and directed the Respondent to revise the bill dated 26.07.2015 by waiving off 80% of





LPSC within ten days of the issue of the order. The complainant was also directed to pay the revised bill within 15 days of the issue of the bill. The Forum did not find any merit in other grievances, e.g., compensation, litigation cost, etc., as raised by the complainant.

6. Not satisfied by the order dated 15.05.2024, passed by CGRF-TPDDL, the Appellant has preferred this appeal and reiterated the submission as before the Forum. Now, the Appellant has also requested to quash/withdraw the entire assessed bill dated 11.11.2023 of Rs. 3,56,450/- against the subject connection (CA No. 60017626445-6 KW) issued in compliance with CDRF(NW). The appellant plea is that apparently the meter was defective on the date of installation, i.e. on 18.01.2014. Further, he had paid all the bills received during the eight months' period, before the meter was changed on 08.09.2014, but the assessment bill was issued on 26.07.2015, after a lapse of eight months. Therefore, it was clearly a violation of Regulation 43(i) of DERC's Regulations, 2007 - for billing during the period of defective/stuck/stopped/burnt meter, remained at site. In addition, reliance on Regulation 37(i) of DERC's Regulations, 2007, Regulation 15(16) of Grievance Handling Procedure of DERC's Regulation 2018 and Section 100 of the Cr. P.C. has also been placed by the Appellant.

7. The Appellant has prayed for (i) setting aside the CGRF-TPDDL's order passed on 15.05.2024, (ii) to direct the Respondent to quash/withdraw the entire assessment and LPSC amount, (iii) allow suitable compensation on account of mental harassment/agonny with litigation cost and, (iv) any other relief/order in the interest of justice.

8. The Discom, in its written submission dated 15.07.2024, has stated that the presumption of the Appellant that the bill was on the basis of assessment is completely wrong and without any material. The bill is based on reading, and there is no deficiency in issuing supplementary demand. As such, reliance on Regulation 43(i) and Regulation 37(i) of DERC's Supply Code, 2007 is misplaced. Further, even in the reports, no meter tampering is mentioned and the meter was recording the readings which were available. The enforcement team inspected the premises on 05.09.2014, and paper seals were pasted on the meter to maintain the status quo in the presence of the Appellant. The date of testing was duly informed to the Appellant, and in his presence, the data was downloaded by the third-party testing agency, namely, EQDC, on 24.09.2014. The Appellant did not raise any objection, either at that time of testing or thereafter. Therefore, the amount assessed on the basis of third party testing, cannot be disputed. Furthermore, the Appellant is not entitled to any relief with respect to LPSC, as he kept the matter lingering before the Consumer Court for almost eight years and enjoyed the stay granted by the Court.





9. The appeal was admitted and fixed for hearing on 04.09.2024. During the hearing, the Appellant was represented by Shri Mukesh Kumar Gill, Advocate and the Respondent was represented by its authorized representatives. An opportunity was given to both the parties to plead their respective cases at length.

10. During the hearing, the Advocate for the Appellant contested that the Discom failed to comply with Regulation 43 (i) of DERC (Supply Code and Performance Standards) Regulations, 2007, while raising the impugned bill. Whereas, the representative for the Respondent requested that on account of sad demise of the father of the concerned officer, an adjournment may be granted.

11. Request of the Discom for adjournment of the matter was allowed. The Ombudsman directed the Advocate to ensure presence of the Appellant on the next date of hearing for obtaining clarification on certain aspects of the matter. Further, for addressing the important aspects of billing and technical issues pertaining to the case, the Respondent was also directed to ensure attendance at the next hearing, of the concerned officers.

12. On 17.09.2024, the Appellant was present along with his advocate and the concerned officers of the Discom were also present along with their legal representative, as directed in the last hearing held on 04.09.2024.

13. During the hearing, the Appellant reiterated his submission and prayer as stated on the last date of hearing held on 04.09.2024. The Appellant further stated that the procedure of billing cycle, as laid down, was not followed. Also, there was no periodical inspection of the working of the meter, as provided in the DERC Regulations, 2007. In view of queries on the last date of hearing, the Appellant submitted that the load of 6 KW was taken for running of industry, which activity did not materialize but his request for load reduction from 6 KW was rejected in 2015. He had, therefore, rented his premises wherein grinding work for switches was being carried out which requires minimal consumption of electricity.

14. In rebuttal, the Discom reiterated their written submission but did not make any controverting submission with regard to load reduction. It was asserted that the villagers in Pitampura were at the relevant time conniving with meter readers for recording of lower consumption and lower billing, without reflection of the actual consumption pattern. Accordingly, action had been taken against some meter readers. To substantiate malpractices in the premises, the Discom submitted that there were three electricity connections viz. two commercial (one subject connection in Appellant's name and another one in the name of his father) and one domestic, which existed in the premises. In respect of misuse of one commercial connection in the name of





father, it was booked for 'Direct Theft' during 2012. In support of their contention, the Discom submitted papers i.e. copy of an inspection report carried out by the Enforcement Team in 2012 against that commercial connection of his father. The 'Direct Theft' case was subsequently settled before the Court between the parties and payment made. Though the Appellant admitted the fact of such incident but submitted that there was no correlation between the present case and direct theft case. It was submitted by the officers present for the Discom that the documents indicated malpractices by the Appellant at various stages. Regarding the low consumption pattern, as reflected in the bills sent between January, 2014 to June, 2015. Officers present also mentioned that there was a possibility of connivance of the meter reader with the local residents for mentioning the lower consumption resulting in low billing. It was also clarified by the Discom that the billed amount had been adjusted in the final adjustment bill submitted to the Appellant for the payment.

15. Both the parties were heard in detail. Data/Information submitted by the Discom reveal a pattern of consumption of around 9000 units during ten subsequent years (from 2014 to 2024) in comparison to the disputed period. During this period the MDI recorded was also found to be low vis-a-vis the sanctioned load. In case there was any manipulation of recording of readings in connivance with meter reader as suggested by the Respondent, the alleged manipulation by the consumer in connivance with the meter reader could have also continued for ten years between 2014 till 2024.

16. The Ombudsman, therefore, directed the Respondent to carry out a fresh joint site inspection with photograph / videography while associating the Appellant and / or his advocate for ascertaining the nature of activity carried out in the subject premises as well as consumption pattern etc. It was also directed that the meter presently installed be withdrawn and a new meter be installed for downloading of existing data, evaluating the actual consumption pattern as of today. This will help the O/o the Ombudsman to evaluate the technical aspects of the matter and the variation in the downloaded data and the consumption pattern compared with the earlier downloaded data. The report was directed to be submitted before the next date of hearing fixed for 25.09.2024.

17. On 25.09.2024, neither Appellant nor his Advocate was present. However, the Respondent was presented through its authorized representatives. The Respondent stated that as directed by the Ombudsman during the last hearing held on 17.09.2024, the enforcement team visited the premises for a site inspection on 18.09.2024 and downloaded the data in the presence of the Appellant. Shri Rakesh Batra who was a part of the Enforcement Team informed the Ombudsman that during the visit, a part of the property was not allowed to be inspected and some portion was found locked. The Officer from Meter Division was also present and submitted that it is required to





concentrate on the specific period and the consumption pattern as reflected by the downloaded data since the connection is commercial in nature and the subsequent variation on consumption pattern can have no bearing on the downloaded data. As regards, the difference in the readings, the officers present emphasized that the same could be on account of manipulation and connivance of the meter reader with the consumer in that period which involved taking of manual readings. In response to a specific query that why no enforcement action was taken in September, 2014, Respondent could not give any satisfactory response? The Officer, however, stated that no tampering of the meter was found during the visit. The Officer mentioned that the Enforcement Team had carried out inspections on various occasions during the last ten years but nothing adverse was found. In response to a query on monitoring of such cases the Officer mentioned that whenever any case goes into litigation, no coercive measures are taken during pendency of the case or without order of the Court. The Officer reiterated its submission that the meter was not defective, as claimed, on the basis of data downloaded by an independent testing meter testing agency i.e. EQDC, the bill was raised.

18. Having taken all factors, written submissions and arguments into account, the following aspects emerge for consideration:

- (i) The Appellant took a non-domestic electricity connection bearing CA No. 60017626445 with 6 KW load, at Pitam Pura Village, Delhi – 110034 on 18.01.2014. His regular payment of the bills received during 2014 and till April, 2015 on the basis of actual billed consumption is a matter on record and not in dispute. After eight months of installation of the meter, the Enforcement Team of the Discom visited the site in September, 2014 and found fault i.e. no display/pulse of meter. Accordingly, the bill for an amount of Rs.1,84,090/- was received by him including adjustment amount of Rs.1,77,910.99, LPSC of Rs.105.04 and arrear of Rs 4,093.03 on account of downloaded reading of meter in Lab. The Enforcement Team, however, did not find any unauthorized use or theft. The Appellant approached the Consumer Court, Shalimar Bagh in 2015 (CC/1034/2015). The Court vide its order dated 29.11.2023 dismissed the complaint as non maintainable since the connection was for commercial purpose.
- (ii) The Discom got the meter tested in EQDC's lab. Data was downloaded and reading on 24.09.2014 was 18936 Kwh and 20815 Kvah. This was added to the bill dated 26.07.2015 leading to an outstanding bill of Rs.1,84,093/- on July, 2015. The consumption recorded by the meter is as per Meter Inspection Report and downloaded data. No explanation is placed on record for the abnormal delay in billing between September, 2014 till July, 2015.





- (iii) Stand of Discom is that the supplementary bill/demand is supported by case law. The reliance upon Regulations of 2007, have been stated to be not relevant to the issue.
- (iv) Discom does not dispute the actual billing and payment made by Appellant as highlighted in the submissions before the Consumer Court (numerous payments made between the period May, 2014 till July, 2015, and the copies to the bills enclosed with the appeal).
- (v) DERC (Supply Code & Performance Standards) Regulations, 2007 inter alia provide as under:-
- *Responsibility of the Licensee to maintain meter and keep it in working order at all times – 35 (iv)*
  - *Meter to be read once in every billing cycles - 37(i)*
  - *Meter not recording consumption for last two consecutive cycles to be replaced within seven days - 39(b)*
  - *Bill for every billing cycle on actual meter reading – 41 (ii)*
  - *Billing on the basis of consumption pattern for next 12 months after the installation, if earlier pattern s not available – 43(ii) not followed.*

The Discom has failed to discharge its responsibility regard to the above stipulations.

- (vi) Consumption pattern for the year 2015-16 (July, 2015 to June, 2016) may be relevant to make an assessment on the claims/justice in the case and in compliance with the provision of Regulation 43 of DERC's Supply Code, 2007.
- (vii) Enforcement inspections are carried out on the basis of some specific input/lead/exceptional and subsequent analysis by business team. Enforcement team of the Discom carried out the inspection of above cited address on 05.09.2014, wherein, three meters were found existing. Out of which, one meter bearing CA No. 60017626445, was observed with irregularities by the team and it noted that display of the meter not working, no pulse blinking of the meter could be seen when connected with external load. The Meter No. 43206233 was replaced with new Meter No. 44187328 on 08.09.20214 and seized meter was sent to lab on 09.09.2014. Enforcement Team's report was duly signed by both parties. The meter was





tested in Lab on 24.09.2014 and the reading was downloaded having final reading 18936 Kwh. All seals etc. were found intact and no tempering/abnormalities were found in the meter, lab test report duly signed by both the parties.

- (viii) It is relevant that at no stage did the meter reader pointed out that the meter was not working or display of reading was not available. There was no regular inspection of the working of the meter, as contemplated in Regulation 35 (iv). The excessive reading of consumption of 18936 Kwh did not correspond with the consumption pattern as mentioned in the bills. Even in succeeding periods, no pattern of large consumption can be seen. This raises a possibility of a fault in meter consequent reading.
- (ix) Bill dated 26.07.2015 with due date 13.08.2015 was sent to the Appellant, showing adjustments of Rs. 1,77,910.99 and net amount payable of Rs.1,84,090/- . On inquiry with the Discom, the Appellant was apprised about raising of bill on downloaded data and reading based on lab report and thus ignored the reading noted by the Meter Reader. The Appellant approached the DCDRC on 09.09.2015 to challenge the bill. However, after more than nine years, the DCDRC vide its order dated 29.11.2023 held that since the connection is non-domestic category/commercial connection, it lacks jurisdiction in the matter.
- (x) Perusal of the consumption history in the case file from 18.01.2014 to 20.06.2015 of 18 billing cycles reveals that average consumption per month is 93.77 units. The billing data shared by the Discom from 18.01.2014 to 18.02.2024 (>10 years) reveals that the consumption lies in the range of 100-200 units per month. MDI was also in the range of 0.20 KW to 5.01 KW. While as per Lab Report, MDI recorded was 17.75 KW on 11.06.2014. There is no explanation by the Discom for this discrepancy/variation in data.
- (xi) From technical point of view, it can be safely assumed that meter did malfunction and jumped readings, as well as MDI, which is possible due to many technical reasons, e.g. voltage fluctuation, power surges, harmonics, software error etc.
- (xii) Respondent's report dated 12.08.2024 sent to this office shows that meter reading recorded on 02.04.2014, showed MDI as 3.4 in KW at 1 AM, while at 3 AM, it was 6.5 in KVA. Technically both these parameters are interrelated, which clearly establishes that meter was defective.





(xiii) An analysis of the downloaded data provided by the Discom reveal as under:

- Downloading was carried out on 18.09.2024 and provided readings for non-continuous period. DL from 21.08.2023 to 18.09.2024 is continuous, in this period commutative consumption is 229.9 units.
- DL carried out in various time zone from 13.10.2020 to 28.10.2020, reading is properly downloaded in increasing order of units.
- Only Single Date DL of 16.05.2017.
- Single Date DL 22.10.2016
- Single Date DL 17.05.2016
- Single Date DL On 18.08.2015

Complete consumption pattern have been checked from 26.02.2014 to 23.08.2024 i.e. >10 years, which varies from 0 to 225 Units per month. Apart from this, Respondent has submitted CP of another CA No. 60012415521, which is also existing in same premises in the name of Shri Gordhan and after replacement of defective meter against disputed CA No. 60017626445/NX on 08.09.2014, the seasonal CP of other meter in same premises is normal/matches in corresponding month of previous year, which mean no load was transferred from disputed connection on this connection also. In picture and video nothing is found abnormal.

(xiv) During the hearing, the Respondent reiterated that the readings downloaded by the lab should be considered for raising the bill. However, the report does not state that the meter accuracy was also checked. The submission of the Respondent is not convincing since meter and its reading are two pivotal part, on which basis revenue is generated. Moreover, the Respondent submitted billing Invoice details from 18.01.2014 to 18.02.2014, in which in first two columns following main parameters are shown as under:

1 <sup>st</sup> Column	2 <sup>nd</sup> Column
INV No.	Load (Kw)
INV Date	Load (Kva)
Bill Type	Bill load
Power Factor	MDI (KW)
INV Status	MD((KVA)
Billing Doc.	Cont demand





From 1<sup>st</sup> Bill of period 18.01.2014 to 26.02.2014 and latest period 18.02.2024 to 20.03.2024, all above parameters are shown which is only technically possible with downloading of meter, in which above parameters are captured. Thus, statement of the Respondent is not sustainable. The consumption pattern provided by the Respondent from first bill date of 26.02.2014 till 23.08.2024, is also the same.

- (xv) The Discom has miserably failed to justify their inaction for approaching the Consumer Redressal Forum (DCDRC) in 2015 itself and pleading lack of jurisdiction at the very initial stage for disposal of the matter at the earliest. The submission about connivance of the meter reader with the consumer for recording the power consumption and inaction by the Discom for recovery of the dues for years together cannot be accepted. Even the Discom failed to recover the amount from the recruiting agency, on account of their vicarious liability. The energy consumed is a national resource and Discom is only a custodian. The total absence of a foolproof mechanism for a check on theft, unauthorized use or manipulation in billing reveals sorry state of affairs. There is no plausible explanation for the uniform consumption pattern reflected in various billing cycles during the period 2014 to 2024 and its incompatibility with the downloaded data on meter testing. Preponderance of probability suggests that the meter was defective from the time it was installed in January, 2014, and, therefore, upon replacement the increasing consumption pattern is not reflected at any stage during the next ten years. The Supreme Court of India, in its decision K.S. Ranganatha vs. Vittal Setty decided on 08.12.2021 (Criminal Appeal 1860 of 2011) has recognized that *"inference of preponderance of probability can be drawn not only from the materials brought on record by the parties but also be reference to the circumstances upon which they rely"*.
- (xvi) On the basis of the aspects mentioned above, Regulation 43 of DERC's Supply Code, 2007, becomes relevant and applicable as mentioned below:
- a) *The consumer shall be billed for the period of the defective/stuck/stopped/burnt meter remained on site, subject to maximum of six months, based on the estimated energy consumption by taking the consumption pattern of the consumer for the twelve months prior to the period during which the meter remained defective. The amount already paid by the consumer for the period meter remained non-functional or defective, shall be adjusted in this bill. The assessment bill shall be raised within two billing cycles from the date of changing the meter.*





- b) *In case where the recorded consumption of past twelve months prior to the date meter became defective is either not available or partially available, the consumption pattern for the next twelve months after the installation of new meter would be used for billing purposes. In this case, this condition will be applicable*


19. After taking into account the points mentioned above ( i to xvi) and also going through the pleadings minutely, this Court directs as under:

- (i) The order passed by the Forum is set-aside.
- (ii) For ensuring fair play and prevention of travesty of justice and also in compliance with Regulation 43 of DERC's Supply Code, 2007, the actual consumption pattern for succeeding twelve months after September, 2014, shall form the basis for evaluation of the consumption for billing with adjustments of the payments already made.
- (iii) No LPSC shall be payable by the Appellant.

20. This order of settlement of grievance in the appeal shall be complied within 15 days of the receipt of the certified copy or from the date it is uploaded on the website of this Court, whichever is earlier.

The parties are hereby informed and cautioned that the Order of Settlement of Grievance raised in the appeal is, as per Regulation 65 of DERC's Notification dated 24.06.2024, final and binding on the parties.

The case is disposed off accordingly.

  
(P.K. Bhardwaj)  
Electricity Ombudsman  
26.09.2024