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Office of Electricity Ombudsman
(A Statutory Body of Govt. of NCT of Delhi Under the Electricity Act, 2003)
B-53, Pashimi Marg, Vasant Vihar, New Delhi- 110057
(Phone No. 32506011, Fax No. 26141205)

Appeal No. F.ELECT/Ombudsman/2007/200

Appeal against Order dated 05.07.2007 passed by CGRF – BRPL in case no. CG 61-2007.

In the matter of:

Shri Shiv Shankar Gupta - **Appellant**
M/s Rama Oil Mill

Versus

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

Present :

Appellant : Shri Shiv Shankar Gupta owner of the M/s Rama Oil Mill

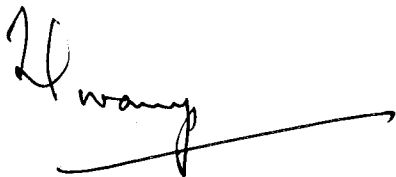
Respondent : Shri I.J. Nagpal (AFO),
 Shri Ambrish Pandey, Business Manager,
 Shri Biswajeet Biswas, Commercial and
 Shri Pradeep Gupta, Legal Retainer, on behalf of BRPL

Date of Hearing : 21.11.2007, 04.12.2007

Date of Order : 12.12.2007

ORDER NO. OMBUDSMAN/2007/200

1. The Appellant Shri Shiv Shankar Gupta proprietor of M/s Rama Oil Mills has challenged the order of the CGRF-BRPL dated 05.07.2007 in CG 61-2007 by filing a Writ Petition (C) no. 5449 of 2007 in the High Court of Delhi. The Hon'ble High Court vide order dated 27.07.2007 has directed that an alternate remedy against such an order is available before the Ombudsman under Section 42 (6) of the Electricity Act 2003. The Appellant was permitted to withdraw the petition with the liberty to file an appropriate application before the Ombudsman in terms of Section 42 (6) of the Electricity Act, within one week, and in any event not later than 03.08.2007.



2. In pursuance of the Hon'ble High Court's orders, Appellant has filed this appeal against the CGRF-BRPL's order stating that only a waiver of 25% of the LPSC amount of Rs.2,00,238/- has been directed and has prayed that :

- (i) The impugned order dated 05.07.2007 passed by the Consumer Grievance Redressal Forum (BRPL) in case no. CG/61-2007, to the extent whereby only a meager waiver of 25% on late payment surcharge of a sum of Rs.2,00,238.01/- has been directed, be quashed
- (ii) To direct the Respondent to withdraw the imposition of late payment surcharge of a sum of Rs.2,00,238/- and to issue a revised bill accordingly.

3. The back-ground of the case is as under:

- i) The Appellant has a sanctioned load of 20 HP (14.92 KW) at his premises 1853-C/10, Govind Puri Extension.
- ii) Earlier the Appellant's case was decided by the Hon'ble PLA order dated 27.08.2004 for a debit amount of Rs.7,49,400/- (Dr-I) payable in five equal monthly installments at the reading of 146617, as on 15.05.2004. The first installment was to be paid on or before 10.09.2004. The installments were to be deposited alongwith the current bill demand. The Business Manager informed the Appellant vide letter dated 10.05.2007 of the following further demand up to 11.04.2007, at the meter reading of 294796:

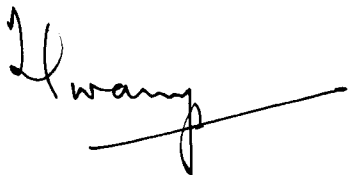
Add: Further demand

Reading on 15/05/2004	=	146617
Reading on 11/04/2007	=	294796

Total Units	=	148179 units

Total amount payable for of 148179 Units	=	Rs. 7,89,391.33 (Dr. II)
Total amount (Dr. I + Dr. II)	=	Rs.15,38,792.05
Less:- Payments made	=	Rs.12,25,524.08

Principal amount up to 11/04/2007	=	Rs.3,13,267.97
LPSC on arrears for the period	=	Rs.2,00,238.01
August 2004 till 11.04.2007		
Current bill up to 11/04/2007	=	Rs.5,13,505.98



- iii) The Appellant has disputed the LPSC arrears amounting to Rs.2,00,238/-. CGRF in its order has allowed only a relief of 25% of the LPSC amount.

Not satisfied with the order of CGRF-BRPL, the Appellant has filed this appeal.

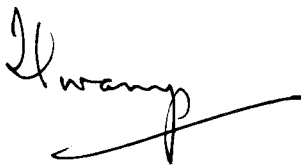
4. After scrutiny of the appeal, the records of the CGRF and the reply/comments submitted by the parties, the case was fixed for hearing on 21.11.2007.

On 21.11.2007 the Appellant was present in person. On behalf of Respondent Shri Ambrish Pandey, Business Manager, Shri I.J. Nagpal (AFO), Shri Pradeep Gupta, Legal Retainer, Shri Biswajeet Biswas, Commercial Officer were present.

5. The Appellant stated that he does not dispute the Hon'ble PLA's decision dated 27.08.2004, regarding the amount of Rs.7,49,400/- being due from him, as on 15.05.2004. However the first bill for the first installment as decided by the Hon'ble PLA, was raised in May 2005 only by the Respondent, although the decision was given on 27.8.2004. As such, LPSC may not be levied as the delay was on the part of the Respondent. The Respondent was asked to give reasons for non implementation of the Hon'ble PLA's decision and to produce the complete statement of account before the next date of hearing, fixed for 4.12.2007.

6. On 4.12.2007, the Appellant was present in person alongwith Advocate Shri Vineet Chadha. The Respondent was present through Shri Ambrish Pandey, Business Manager, and Shri Biswajeet Biswas, Commercial Officer.

7. Both parties were heard and the Statement of account produced by Respondent taken on record. The Respondent produced copies of two bills reflecting the arrears as per the Hon'ble PLA's decision. These were also taken on record. As per the statement of account produced by the Respondent, no LPSC has been charged on the amount indicated in the Hon'ble PLA's order, till May 2005 when the first bill was raised. The Appellant paid four monthly installments regularly as per the bills raised. As such no LPSC has been charged on these four installments. LPSC has however been levied on the 5th installment and on the arrears of current demand, whenever these were not paid. Respondent clarified that no bill has been raised for the 5th installment of the amount decided upon by the PLA. It was argued by the Appellant that since the 5th installment amount was not reflected in any bill, he could not pay the last & final installment. LPSC should not be charged as this was a lapse on the part of the Respondent. The Respondent confirmed that no bill was raised.



The Appellant stated that he has received the latest statement of account on 04.12.2007 and needed time to check the payments made by him. Time was given upto 7.12.2007 for any discrepancy to be pointed out by the Appellant. No discrepancy has been pointed out by the Appellant by the due date. As such the statement of account furnished to him by Respondent is taken to be in order.

8. After hearing both the parties and scrutiny of the statement of account and other records, the following is observed:

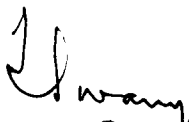
- a) The Respondent has not raised the bills, for the amount decided upon by the Hon'ble PLA in time. The bill for the 5th installment was not raised at all.
- b) The Appellant has not been paying the current dues regularly.
- c) There is a lack of clarity in the bills raised by the Respondent with regard to the arrears.

Considering the facts on record it is decided that no LPSC is chargeable on the amount of Rs.7,49,700/- decided upon by the Hon'ble PLA till such time as bills for the installments were raised, since delay in payment is due to non-raising of bills by the Respondent in time.

The Appellant is however liable to pay the dues, including the 5th installment of the amount decided upon by the Hon'ble PLA, as per the revised statement of account given to him on 4.12.2007. The Respondent has earlier shown an LPSC amount of Rs.2,00,238/- upto April 2007 before the CGRF. In the revised statement, LPSC has been worked out to Rs.89,258.46 upto April 2007 and Rs.1,19,034.40 upto 7th November 2007, which the Appellant does not dispute. The revised statement indicates a principal amount of Rs.2,42,391.76 alongwith LPSC amount of Rs.1,19,034.40. Thus the payable amount comes to Rs.3,61,426.16 as on 7th November 2007, which the Appellant should pay within 10 days of this order, alongwith current dues.

The CGRF order is accordingly modified.

Dated 12th December 2007


(Suman Swarup)
Ombudsman