

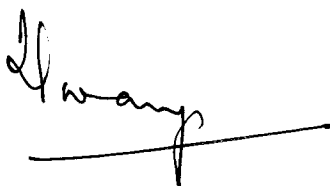
(Phone No.: 32506011, Fax No.26141205)

Hon'ble High Court on 14.12.2007 with the directions to the Appellant to seek the statutory remedy before the Ombudsman. So this appeal has been filed by the Appellant with the following prayer:

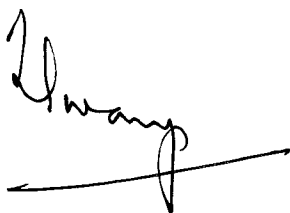
- (a) To hold the order dated 18.10.07 passed by the Consumer Grievance Redressal Forum in case number CG/221/2007 as illegal, wrong and to quash the same.
- (b) To direct the Respondent to hear the Appellant and then to revise the bill for Rs. 1,58,392/- for the month of June 2006 showing the date of amendment as 15.11.07, and to direct the Respondent not to disconnect the electricity connection and not to start coercive proceedings against the Appellant for recovery of the electricity bill in question.
- (c) To pass any other order or orders as may deem fit in the facts and circumstances of the case.


2. The background of the case is as under:

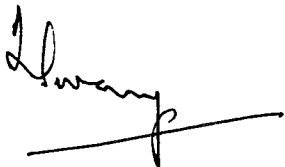
- i) The Appellant runs a small industrial unit in the name and style of M/s Bachnesh Plastic for manufacture of plastic balls for sports.



- ii) The Appellant has an electricity connection viz. No. 26600A080026, for a sanctioned load of 14.49 KW.
- iii) The Respondent raised a bill in June 2006 for Rs.1,58,392/- and the Appellant disputed the bill as it did not reflect any break-up, and all the earlier bills had been regularly paid upto date.
- iv) The Appellant filed a Writ Petition No. 15784/2006 which was disposed off on 25.7.07 by the Hon'ble High Court of Delhi directing the Appellant to exhaust the alternative remedy available before the CGRF and to deposit through demand draft in the aggregate, a sum of Rs. 1,30,000/- with the Respondent within two days, and electricity connection of the petitioner was to be restored subject to completion of all formalities. The petitioner would continue to pay the current demand charges.
- v) Accordingly the Appellant made a payment of Rs. 1,30,000/- and filed a complaint before the CGRF on 3.8.2007.
- vi) During the hearing before the CGRF, the Business Manager of the Respondent informed that:

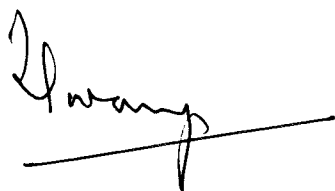


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- It is a case of under reading/no reading of the meter due to the connivance of the Appellant and the Meter Reader;
 - The 3 phase meter had been regularly under read/not read for the period from 30.5.05 to 18.5.06
 - A special reading was taken on 31.12.2005 and the meter was reported to have burnt on 10.1.2006 (i.e. after the special reading) which was replaced on 16.1.2006. Again a special reading of the new meter was taken on 18.5.2006 and the meter got burnt again on 1.6.2006;
 - The rectified bill has been raised on 29.5.2006 based on the special readings taken on 31.12.2005 of 76451, and on 18.5.2006 of 16843. The CMRI report has also confirmed the final reading taken in May 2006.
 - The supply against the connection was disconnected on 23.3.07 at the reading of 27505. At the time of removal of the meter on 31.7.07 the reading was found to be 33853, which indicates that the Appellant had restored the supply illegally.



3. Keeping in view the different aspects of the case, the CGRF directed as under:

- a) A bill will be issued based on the special reading of 76451 taken on 31.12.2005. Some of the readings as reflected in the Meter Reading Chart could be treated as Null & Void, prior to 31.1.2005 (should have been 31.12.2005) as per verification of consumption pattern.
- b) As the supply remained direct for the period from 10.1.2006 (when a complaint was received of burning of the meter) to 17.1.2006 (when the meter was replaced), necessary assessment for this period will be done on the basis of the consumption recorded by the meter for a period of twelve months, prior to 10.1.2006.
- c) A bill for the period from 17.1.2006 to 18.5.2006 will be issued on the basis of the Special Reading of 16843 taken on 18.5.2006.
- d) As the supply remained direct for the period from 18.5.2006 (when meter was burnt) and upto 1.6.2006 (when a new meter was installed), necessary assessment will be done on the basis of the consumption recorded by the meter for the




period from 17.1.2006 to 18.5.2006 as Base Period I and 1.6.2006 to 4.12.2006, as Base period II. The Forum decided not to go beyond 17.1.2006 with respect to the base period to be fixed for assessing the period of direct supply, which was a very limited period.

- e) The bills were also to be issued in respect of the meter installed on 1.6.2006, on the basis of the reading of 33853 having been observed on 31.7.2007 i.e. the date of removal of the meter.
- f) The bill be revised on the above basis and all payments made by the Appellant be accounted for, and no LPSC be charged at the time of revision.

Not satisfied with the above orders, the Appellant filed a Writ Petition before the Hon'ble High Court of Delhi, and was directed to file this appeal.

- 4. After scrutiny of the appeal, the records of the CGRF and submissions made by both the parties, the case was fixed for hearing on 5.2.2008.

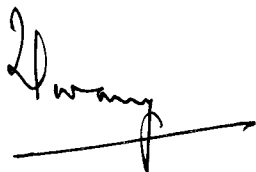
On 5.2.2008 the Appellant was present through Shri P.K. Bajaj and Shri R.K. Sharma advocates. The Respondent was present



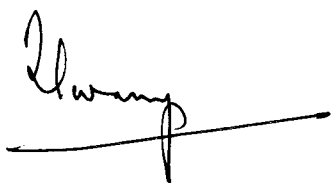
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through Shri Sanjay Bhagat, Manager Commercial, Shri R.S. Hooda, AFO and Shri S.K. Panda, Legal Retainer,

5. Both the parties were heard. The Respondent was directed to produce the K. No. summary and statement of Accounts from January 2003 onwards, inspection reports, meter change reports, photos etc. of the burnt meter, if, any. The Appellant was directed to produce the bills for the one year prior to the disputed period. The case was fixed for arguments on 20.2.2008.
6. On 20.2.2008, Shri Bachnesh Kumar, the Appellant was present through Shri P.K. Bajaj and Shri R.K. Sharma, Advocates. The Respondent was present through Shri S.K. Panda, Legal Retainer, Shri Sanjay Bhagat, Manager Commercial and Shri R.S. Hooda, AFO. Both the parties were heard. The Appellant filed the bills for one year prior to the disputed period and the Respondent filed the statement of account of the K. No. 2660 0A08 0026 from 2003.
7. The Appellant argued that the bills raised on the basis of a special reading are challenged as all payments have been made for the bills prior to the special readings, and no notice or information was given for taking the special reading. As such, the demand raised on the basis of special readings be quashed.

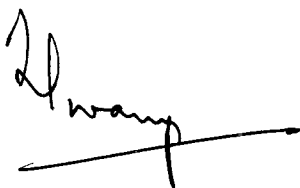


8. The Respondent was asked to explain the reasons why it was felt necessary to take a special reading. The Respondent drew attention to the statement of account of the K. No. which indicated that a reading of 58186 was recorded on 30.5.2005 and thereafter provisional bills were sent up to November 2005 i.e. the Meter Reader had not recorded any reading. The next reading was recorded as 59382 units on 8.12.2005. The consumption on the basis of the reading on 30.5.2005 and 8.12.2005 was seen to be extremely low as compared to the past consumption of the consumer. It was felt necessary to record a special reading so as to verify the data recorded by the Meter Reader. The special reading recorded on 31.12.2005 was 76451 units. No further reading could be taken of this meter as it got burnt on 10.1.2006 and was replaced on 17.1.2006. Again irregular readings were recorded by the Meter Reader. The reading recorded on 4.4.2006 was 2541 whereas the next reading recorded on 1.5.2006 was 14477. Because of this abnormal reading, a special reading was again taken on 18.5.2006 which was 16843. No further readings could be taken of this meter also which again got burnt on 1.6.2006. The consumer has been billed on actual



readings/special readings taken on 30.5.2005, 31.12.2005, 18.5.2006 and assessment has been done by the Respondent for the period during which the supply remained direct, because of the meter being burnt. The Appellant argued that there was no work with him during the disputed period. However, he could not produce any supporting evidence such as production record or excise duty record in support of his contention. The Appellant could not give appropriate reply to the query as to how the meter has recorded consumption as per the special readings. This indicates that the supply was in use. The working of the meter has never been disputed by the Appellant.

9. From the arguments of the Appellant and Respondent, it is observed that the bills have been raised on the basis of actual consumption recorded during special readings and the assessment has been done for the periods during which the meter remained burnt. It appears to be an un-usual co-incidence that twice the meter got burnt immediately after the special readings were taken. The CGRF has issued clear directions after taking all facts into account. There is also force in the argument of the Respondent that there has been a collusion between the Meter Reader and the

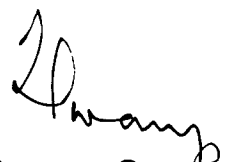


Appellant in this case. It is, therefore, directed that an enquiry be conducted against the concerned Meter Reader and other officials involved in the collusive action.

I am of the view that the relief sought can not be given and there is no need to interfere with the orders of the CGRF, except that the date of treating the readings as null and void should be taken as 31.12.2005 instead of 31.01.2005 wrongly indicated in the CGRF order.

The appeal is accordingly dismissed.

16th March 2008.


(Suman Swarup)
Ombudsman