

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)
B-53, Paschimi Marg, Vasant Vihar, New Delhi – 110 057
 (Phone No.: 32506011, Fax No.26141205)

Appeal against Order dated 10.01.2008 passed by CGRF-BRPL in case No. CG/225/2007.

Shri Rakesh Baliyan - Appellant

M/s BSES Rajdhani Power Ltd. - Respondent

Appellant Shri Rakesh Baliyan, Appellant attended alongwith
Shri Satish Kumar, Advocate

Respondent Shri Sujay Chaturvedi, Business Manager, Nangloi,
Shri Bhupendra Singh, Business Manager, MLCC and
Shri Kushal Singh, I.O., Vigilance Department all
attended on behalf of BRPL

Dates of Hearing : 29.02.2008, 19.03.2008
(Inspection Report received on 10.04.2008)

Date of Order : 15.04.2008

1) The Appellant Shri Rakesh Baliyan has filed this appeal against the orders of the CGRF-BRPL dated 01.01.2008 in case no. CG/225/2007 stating that the Hon'ble Forum has passed the

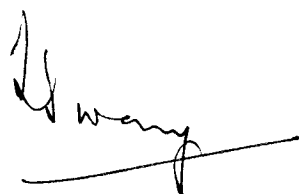
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impugned order on frivolous grounds presented by the Respondent. The Respondent stated before the CGRF that the old meter removed from the Appellant's premises was found installed at some other place and therefore, it can be concluded that this is a case of illegal shifting of the meter by the Appellant and the Appellant is bound to pay for the electricity consumed against the old meter installed at some other premises. It is the Appellant's contention that the CGRF completely ignored the pleas of the Appellant that he was not liable to pay for electricity which was not consumed by him and also that he is not responsible for shifting of the old meter to another premises, whose owner has already been booked for theft of electricity.

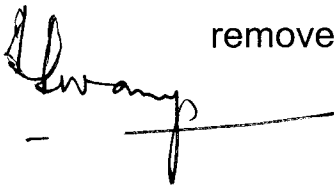
2) The background of the case is as under:

- (i) The Appellant Shri Rakesh Baliyan is the user of electric connection K. No. 2630 0A16 0026 for industrial purposes, at Kh. No.-61/5, Nangloi, Delhi, although the registered consumer is Smt. Kusum Lata. The Appellant has stated that he had purchased the property from Smt. Kusum Lata on 07.08.1989 and he is the Power of Attorney holder of the registered consumer. (A copy of Power of Attorney is filed)
- (ii) On 13.05.2007, the Appellant received a bill no. 670804 for Rs.9,77,110/-, including arrears of Rs.9,63,782.45, although all earlier bills had been paid by him.
- (iii) On a visit to the BSES office, he was informed that one meter no. 27049788, which was earlier installed at his premises, was



found at the premises of one Shri Manoj Shaukeen at plot near Talab Yadav Park, Kamruddin Nagar, with some uncharged readings, during an enforcement inspection on 30.04.2007. This meter was found illegally shifted to the premises of Shri Manoj Shaukeen and the Respondent raised the bills for the uncharged readings of this meter, against the K. No. of the Appellant.

- (iv) The Appellant produced a meter change report dated 15.09.2005 before the Business Manager of BRPL. The meter change report indicated that meter no. 27049788 was replaced with a new meter no. 27060631, and the report is prepared on the printed proforma of the BSES and is signed by the concerned officials. BRPL had been raising bills for consumption of electricity by the Appellant after 15.09.2005, based on the readings / consumption recorded by the new meter no. 27060631 and the bills were paid by the Appellant. The Respondent officials stated that the meter change report was not genuine and insisted for payment of Rs.9,77,110/-, including arrears of Rs.9,63,782.45 for the consumption recorded by the old meter.
- (v) The Appellant filed a complaint before the CGRF-BRPL stating that the Respondent had raised regular bills after 15.09.2005 and till date, as per the electricity consumed by him and recorded by the new meter. As such he was not responsible for the uncharged readings recorded in a meter which was removed from his premises on 15.09.2005 and was found at



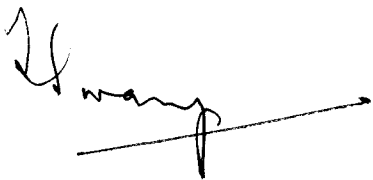
some other premises after two years. The Appellant stated that the Respondent had been taking monthly readings of the new meter, and had issued bills which have been paid. If the old meter was shifted illegally, he cannot be held responsible.

- (vi) Relying on the submissions made by the officials of the Respondent, the CGRF concluded that it was justified for BRPL to raise the bill on the basis of the reading of 277552 recorded on 22.12.2007 for the old meter no. 27049788 issued against K. No. 2630 0A16 0026.

Not satisfied with the above orders of the CGRF, the Appellant has filed this appeal on 31.01.2008.

- 3) During the pendency of the appeal, the supply of the Appellant was disconnected on 11.02.2008 and the Appellant moved an interim application for restoration of supply.

For considering his appeal, the Appellant was asked to deposit 1/3rd of the amount as assessed by the CGRF-BRPL as provided in the Regulations. The Appellant filed a petition before the Hon'ble High Court against the communication for deposit of 1/3rd amount of the bill under dispute. The Hon'ble High Court vide order dated 21.02.2008 observed that this is an unusual case where the Petitioner has been asked to pay a DAE / bill for a meter, which is not installed in his premises, but at some other location. The Writ Petition was disposed off with the direction that the Appeal be heard by the Ombudsman without the requirement of deposit of 1/3rd of the disputed bill, and the observations made in the order will not be



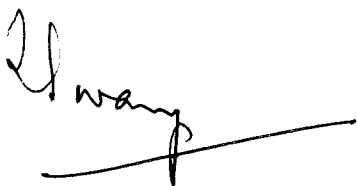
binding upon the Ombudsman, who will decide the matter on merits. The Hon'ble High Court also directed that the electricity supply of the Petitioner is disconnected and the Petitioner is given liberty to move an interim application before the Ombudsman.

- 4) After scrutiny of the contents of the appeal and the interim application, the CGRF's order and the replies submitted by the Respondent, the case was fixed for hearing on 29.02.2008.

On 29.02.2008, the Appellant was present in person. The Respondent was present through Shri Sujay Chaturvedi, Business Manager – Nangloi, Shri Bhupendra Singh, Business Manager, MLCC.

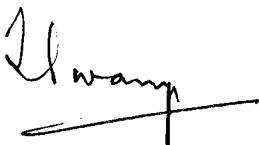
The interim application for restoration of supply was heard. The Appellant stated that he has been making payments in respect of the bills raised against the consumption recorded by the new meter installed on 15.09.2005. It was confirmed by the Respondent that except the disputed bill no. 670804 for an amount of Rs.9,77,110/-, including arrears of Rs.9,63,782.45, there are no other arrears against the Appellant. After hearing both the parties, it was directed that the supply of the Respondent be restored pending a decision on the appeal fixed for hearing on 19.03.2008.

- 5) On 19.03.2008, the Appellant was present through Shri Satish Kumar, Advocate. The Respondent was present through Shri Sujay Chaturvedi, Business Manager – Nangloi, Shri Bhupendra Singh, Business Manager, MLCC and Shri Kushal Singh I.O. from Vigilance Department.



During hearing, the Appellant stated that the Respondent has no legal authority to demand a sum of Rs.9,77,110/- from the Appellant under the impugned bill dated 13.05.2007 in so much as the old meter was replaced by the Respondent on 15.09.2005 by a new meter, on the basis of which the bills were raised by the Respondent and duly paid by the Appellant for over two years. The Appellant further stated that the Respondent cannot raise a double demand for two years against one electricity connection. The Respondent also has no legal authority to demand a sum of Rs.9,63,782.45 as arrears from the Appellant under the impugned bill no. 670804 dated 13.05.2007, as the Appellant had not consumed any electricity through the said meter, which was found installed at some other premises during the raid conducted by the Respondent, and the person responsible for the power theft has already been booked under the law. The Appellant pleaded that the impugned order of the CGRF dated 01.01.2008 is against the merits of the case and is against the principles of natural justice, because the vigilance report relied upon by the Respondent was never handed over to the Appellant.

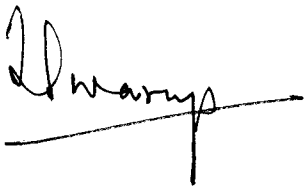
- 6) The Respondent officials stated that the meter change report no. 22028 dated 15.09.2005 issued by M/s. NCNL is not authenticated by the agency engaged during the period under reference. The bills were raised for K. No. 260 0A16 0026 with meter no. as 27049788, and it was stated that Respondent had never changed the meter at the said premises. The officials further stated that the old meter had been illegally shifted to another place and had stored readings. It is



the liability of the registered consumer who is the custodian of the meter to clear the dues of the stored readings. The old meter no. 27049788 had been illegally replaced by a new meter no. 27060631, and this had resulted in non-updation of data in the system. They submitted that the appeal of the Appellant may be dismissed in view of the above mentioned circumstances.

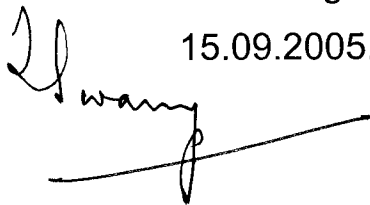
- 7) On enquiry, the Respondent officials admitted that the new meter no. 27060631 belonged to them and was issued to the agency appointed by them for use in district Nizamuddin. The Respondent officials stated that no record was available to indicate where this new meter issued by them was installed and against which K. No. The officials were asked to produce the booklet containing copies of the meter change report no. 22028. They further stated that this booklet is also not traceable.

The Respondent officials could not explain how the new meter (no. 27060631) which was issued from their stores reached the premises of the Applicant. It was informed by the Respondent officials that the concerned records have not been made available by the agency officials to whom the work was outsourced. In brief, no record of installation / change of meter was available. Nor was any record of receipt of the old meters removed / changed available with them although, 100 meters were issued from the stores, including No. 27060631, to the Agency appointed for the work.

A handwritten signature in black ink, appearing to read 'D. Mary', with a horizontal line drawn underneath it.

The Respondent officials could not also explain how they had concluded that the meter change report was 'unauthentic' in the absence of any relevant records to prove the same.

- 8) It is observed that after 15.09.2005 the Respondent had regularly raised bills based on the readings recorded by the new meter but the old meter no. is printed on the bills. They could not also explain as to why if the meter change particulars were not fed into their system, how the readings of the new meter were accepted by the system for raising the bills. In an eventuality where the meter number in the billing system does not tally with the meter no. at site, and different readings are entered for billing purposes, a mismatch between the meter number and readings would be evident. Apparently someone in the billing department has ignored the mismatch option, so that the bills are being raised based on the meter readings of the new meter, without changing the meter number.
- 9) After hearing both the parties, it is clear that a new meter, issued by the Respondent, was installed at the Appellant's premises on 15.09.2005 and the meter change report on the BSES's printed proforma with serial no. 22028, was prepared and was duly signed by the concerned officials of the Respondent or their agency. The Respondent officials could not produce any evidence to substantiate their claim that the meter change report was not genuine and the new meter (no. 27060631) issued from the store of the Respondent, was illegally installed at the premises of the Appellant on 15.09.2005.

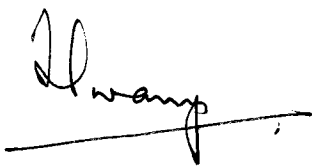


10) It is seen from record that based on the readings / consumption recorded by the new meter after 15.09.2005, bills have been raised by the Respondent which were paid by the Appellant. The meter (no. 27079788) which was removed from the Appellant's premises on 15.09.2005, at the reading of 11810 recorded in the meter change report, was found installed at some other premises, during the enforcement inspection on 30.04.2007 with a reading of 206817. From the CGRF orders, it is further noticed that the reading of 277552 was observed on 22.12.2007. This indicates that though the old meter was found illegally installed on 30.04.2007 by the enforcement team, it was allowed to remain at the site upto 22.12.2007. In case the meter was illegally installed / shifted, the same should have been removed on 30.04.2007 itself, during the inspection.

11) The Respondent was directed to file a copy of the enforcement inspection report, copy of the FIR filed and a status report on the investigations being done by the vigilance department, within a week's time.

In the reply received on 10.04.2008, the Respondent has enclosed a copy of the Enforcement Inspection report dated 30.04.2007 alongwith brief details of the theft cases booked against Shri Manoj Shaukeen for an amount of Rs.5,36,72,739/-.

The copy of the Enforcement Inspection report dated 30.04.2007 reveals that four number fake meters were found at the premises of Shri Manoj Shaukeen, including the meter no. 27049788, which was

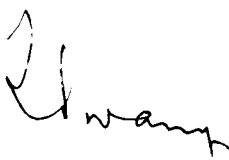


removed / replaced on 15.09.2005 from the premises of the Appellant. It is also stated in the reply that the AGM (West) has suggested for dropping the Enforcement bill of the Appellant, and for transferring the dues to the premises where the theft was booked.

- 12) Based on the submissions made by both the parties and the reply received from the Respondent on 10.04.2008, it is clear that the Respondent cannot raise the demand against the Appellant in respect of meter no. 27049788, after its removal on 15.09.2005 at reading 11810, as the Appellant could not have consumed any electricity through the said meter after its removal on 15.09.2005. The new meter no. 27060631 was installed on 15.09.2005 and the Appellant is liable to pay all the charges for the energy recorded by the new meter. **It is directed that the bill no. 670805 dated 13.04.2007 for an amount of Rs.9,77,110/- raised against the Appellant be modified accordingly by the Respondent.**

The CGRF's order is set aside.

15th April 2008


(SUMAN SWARUP)
OMBUDSMAN