

Office of Electricity Ombudsman

(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 No. F. ELECT/Ombudsman/2008/287

Appeal against Order dated 06.08.2008 passed by CGRF–NDPL in the case CG.No. 1769/06/08/BDL.

In the matter of:

Smt. Beena Longani - Appellant

Versus

M/s North Delhi Power Ltd. - Respondent

Present:-

Appellant

The Appellant was present in person alongwith
Shri O.P. Ahuja, Advocate, Shri B.P. Aggarwal, Advocate
Shri Sunil Kumar, Advocate, Shri Vinod Goyal, Advocate
and Shri Ravinder Gupta, Advocate

Respondent

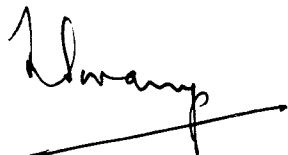
Shri Krishnandu Datta and Shri N. Datta Advocates
Shri Ramakant, AFO – KCG
Shri Ajay Kalsi, Sr. Manager
Shri Bhushan Prasad, Senior, Executive – KCG,
Shri Manish Kumar, Senior Executive – KCG
Shri Amit Bansal, Client Manager,
Shri Gautam Jai Praksh, A.M. (Legal)– KCG and
Shri Vivek, A.M. (Legal) attended on behalf of the NDPL

Dates of Hearing : 20.11.2008, 04.12.2008, 23.12.2008, 06.01.2009,
20.01.2009, 05.02.2009, 12.03.2009

Date of Order : 27.04.2009

ORDER NO. OMBUDSMAN/2009/287

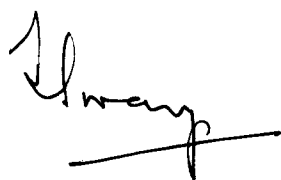
1. The Appellant has filed this appeal against the orders of the CGRF-NDPL dated 06.08.2008 in the case CG No. 1769/06/08/BDL, with the prayer that



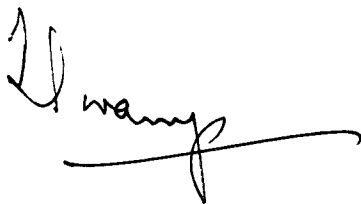
the CGRF's order dated 06.08.2008 may be set aside and the Respondent may be restrained from disconnecting the electricity connection K. No. 461040050189 for non-payment of impugned bill of Rs.20,44,961/-, as he had made payment of 1/3rd of the disputed bill.

2. The background of the case as per averments and records submitted by both the parties is as under:-

- i) The Appellant has a HT electric connection vide K. No. 461040050189 installed at S-97, Badli Industrial area, Phase -I, Delhi with a contract demand of 192 KW.
- ii) Earlier two SIP connections existed in the same premises, one connection in the name of M/s JBS Industries, vide K. No. 41301122681 with a sanctioned load of 93.05 KW, and the second in the name of Shri Hans Raj Longani vide K. No. 41300111857, for a sanctioned load of 98.25 KW. The old meters were changed on 22.08.2003 for both the connections.
- iii) On the request of the Appellant, these two SIP connections were disconnected / amalgamated and a new HT connection K. No. 461040050189 for a load of 192 KW was installed / energized through a new HT meter on 10.09.2004. As per the Appellant the bills raised against the HT connection were being regularly paid upto January 2008.
- iv) In the month of February 2008, the Respondent suddenly raised a bill of Rs.8,54,444/- reflecting an amount of Rs.4,89,816/- as arrears, whereas the previous bills contained no arrears.

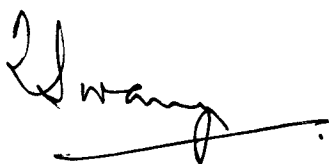


- v) The Appellant filed a petition before the Hon'ble High Court of Delhi and the same was referred to the CGRF-NDPL for disposal. The Appellant filed a complaint before the CGRF-NDPL in June 2008. Thereafter, the Respondent raised a bill in June 2008 for Rs.20,44,961/- which included an amount of Rs.16,77,919/- as arrears and Rs.29,231/- as LPSC charges. No details were provided to the Appellant with regard to the huge arrears added in the bill.
- vi) The Appellant stated before the CGRF-NDPL that the bills raised earlier by the Respondent on actual reading basis were (for two no. SIP connections) paid in full by him and after a period of more than 3 years the Respondent is claiming huge arrears on the presumption that five dial overs had occurred in connection K. No.41301122681, and three dial overs had occurred in the other SIP connection K. No. 41300111857. The Appellant contended that no dial over had occurred.
- vii) The Appellant further stated that the meters against the two SIP connections were disconnected on 10.09.2004, whereas the Respondent has downloaded the data from the electronic meters in July 2007 and on the basis of such data, huge arrears are now being claimed. The supplementary demand (arrears) raised is against the provisions of Section 56(2) of the Electricity Act 2003. The supplementary demand now raised for the period prior to the amalgamation of connections on 10.09.2004 is in contravention of Clause 15 and 50 of the DERC Regulations 2007.
- viii) The Respondent stated before the CGRF that on the request of the Appellant a single HT connection was given against the existing two SIP connections. The provision of the DERC Regulations which came into



effect in the year 2007 are not applicable in this case as the supplementary demand is for a period prior to the date of the enforcement of the said Regulations. Regarding more than three years delay in downloading the data, the Respondent stated before the CGRF that the electronic meters disconnected on 10.09.2004, were required to be sent to the manufacturer for downloading the data, as such it took time for downloading the data and for analyzing the same. The electronic meters installed for the SIP connections had the provision of displaying five digits only, and as per the data downloaded, the occurrence of dial overs is established. The Respondent also stated that as per the decision of the Appellate Tribunal for Electricity the period of limitation of two years shall start from the day the bill or demand notice for payment is sent to the consumer.

- ix) The CGRF in its order observed that the K. No. summaries of both the SIP connections revealed that during the period August 2003 to September 2004, the sequential readings recorded were not consistent as remarks of PL (premises locked) NR (not read) etc. stand recorded. The CGRF observed that this clearly indicated that during the period under dispute (August 2003 to September 2004) the consumer was not billed correctly as per the actual consumption.
- x) The Respondent stated before CGRF – NDPL that cumulative KWH and KVAH figures of 337735 and 98138 units as recorded by downloading the data on 16.07.2007 have been considered and corrected as 537735 and 598138 respectively. This tallies with the average power factor of 0.899 for K. No. 41301122681 and meter no. 02267888. Similarly, cumulative reading of KWH of 200807 and KVAH 184561 have been considered / corrected as 300807 and 384561. This tallies with the



average power factor of 0.782 for K. No. 41300111857 and meter no. 2267886.

Based on the above arguments of the Respondent, CGRF in its order held that the supplementary demand raised by the Respondent is payable by the Appellant without any LPSC, and the Appellant was allowed to clear the demand in six equal monthly installments.

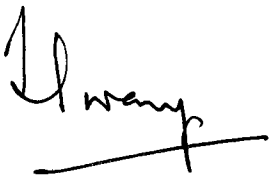
Not satisfied with the CGRF's order, the Appellant has filed this appeal.

3. After scrutiny of the contents of the appeal, the CGRF's order and the replies submitted by both the parties, the case was fixed for hearing on 20.11.2008.

On 20.11.2008, the Appellant was present through Shri B. P. Aggarwal, advocate, Shri Sunil Kumar, advocate, Shri Vinod Goyal and Shri Ravinder Gupta. The Respondent was present through Shri Ramakant, AFO – KCG, Shri Bhushan Prasad, Senior Executive – KCG, Shri Jai Prakash, A.M. (Legal) – KCG, Shri Manish Kumar, Senior Executive – KCG and Shri Vivek, A. M. (Legal).

The Appellant reiterated the submissions already made in the appeal. The Appellant further stated that the two old meters of SIP connections disconnected on 10.09.2004 are still at site and were never removed for downloading the data as claimed by the Respondent.

In the written reply, the Respondent has submitted that the two meters were sealed in the presence of the registered consumer under his signatures and finally removed on 19.10.2004. The meters were sent to the NDPL Meter Management Group for downloading the data. This statement differs from the statement made by the Respondent before the



CGRF that the electronic meters were required to be sent to the manufacturer for downloading the data, as such it took time for downloading the data and for analyzing the same. The statement of the Appellant that the meters are still at site and the statement of the Respondent that the meters were removed for downloading the data, created a peculiar / uncertain situation. Therefore, the Respondent officials were directed to get the site rechecked and to confirm the correct position as they were unable to confirm the same during hearing.

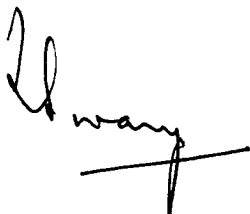
The statements of account / summary submitted by the Respondent, and the monthly reading / consumption details of both the SIP connections produced, were given to both the parties for checking / reconciliation. The Respondent officials were asked to produce the K. No. files of the two old SIP connections by the next date of hearing i.e. on 04.12.2008.

4. On the request of both the parties, the hearing was rescheduled for 23.12.2008.

On 23.12.2008, the Appellant was present in person alongwith Shri B. P. Aggarwal, Advocate. The Respondent was present through Shri Gautam Jai Prakash, A.M.(Legal) – KCG, Shri Mani Bhushan Prasad, Senior Executive – KCG, Shri Rama Kant, AFO – KCG, Shri Manish Kumar, Executive – KCG and Shri Vivek, A. M. (Legal).

Both parties argued their case at length. The statements of account filed by Respondent after rechecking were taken on record, reflecting the consumption / billing and payments etc.

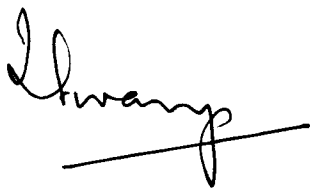
In their written reply, the Respondent has now admitted that it was inadvertently mentioned in the earlier submissions that the two meters of



the SIP connections were removed from the site, while infact the same were retained at the site, even after energization of the HT connection. The Respondent further submitted that the data from the meters was downloaded through a Common Meter Reading Instrument on 16.07.2007 for further analyzing the data. It is also stated by the Respondent that prior to disconnection also on 10.09.2004, the data was downloaded on 07.08.2004.

The Respondent submitted that based on the downloaded data there were five dial overs in the meter pertaining to connection no. 41301122681 and three dial overs in the meter pertaining to connection no. 41300111857, during the period 22.08.2003 to 10.09.2004.

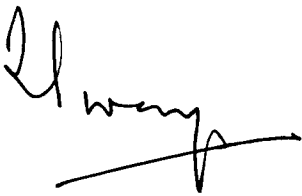
5. It is observed from the calculations submitted, that the Respondent has tried to justify the five dial overs and three dial overs by working out the consumption for different periods. The consumption so worked out was not found convincing as for K. No. 41301122681 the consumption of 138926 units has been shown from 26.08.2004 to 10.09.2004 i.e. for a period of 15 days. Similarly, a consumption of 107253 units has been shown for the period 22.08.2004 to 10.09.2004 i.e. for 19 days. The Respondent officials could not give any satisfactory / convincing reply for showing such high consumption for these periods as per their calculations. To the query as to why monthly readings were not downloaded, the Respondent officials stated that the monthly readings can be downloaded if the meter MDI is set every month. Infact this had not been done. The calculations of the Respondent appear to be based on downloaded readings, but have been re-worked on the basis of average power factor. Such a method of working out the consumption does not appear to be logically correct. The reading / consumption records indicate that the



dispute has arisen as the Respondent has failed to take regular monthly readings, otherwise the timely detection of dial overs would have been possible. It is noted that a number of times 'zero' consumption is shown when no reading was actually taken. The case was fixed for 06.01.2009 for further arguments.

6. On 06.01.2009, the Appellant was present through Shri B. P. Aggarwal, Advocate, Shri Vinod Goyal and Ravinder Gupta. The Respondent was present through Shri Bhushan Prasad, Senior Executive – KCG, Shri Gautam Jai Prakash, A.M. (Legal) – KCG and Shri Vivek, A. M. (Legal).

Both parties argued at length on the accuracy of the data downloaded and the calculations leading to dial overs claimed by the Respondent. After going through the records, it is stated by the Appellant that excess dial overs have been recorded / claimed and in some cases readings were not available, resulting in excess provisional billing. The Respondent could not give any satisfactory reply as to why the dues were not finalized within a reasonable period with the data downloaded on 07.08.2004, which was available before the connections were disconnected on 10.09.2004. The final dues were required to be worked out within a month of disconnection. The Respondent officials also could not explain as to why it was felt necessary to again download the data after a period of 3 years i.e. on 16.07.2007. Normally, whenever the current reading is less than the previous reading, the billing software automatically considers / takes into account a dial over. This is confirmed from the consumption record when the current reading 27154 recorded on 03.07.2004 was less than the previous reading 94470 recorded on



26.04.2004, and the Appellant was billed for 32684 units by taking a dial over into consideration.

Regarding K. No. 41301122681, the Respondent has claimed two dial overs during the period 31.10.2003 (R - 72840) to 01.01.2004 (R- 73601) as only 761 units were recorded as consumed during these two months. The Appellant justified this low consumption by stating that this was due to the fact that his machinery had broken down. The Appellant was directed to produce the record of production in his unit or any other documentary evidence in support of his contention. The case was further fixed for hearing on 20.01.2009.

7. On 20.01.2009, the Appellant was present in person alongwith Shri Vinod Goyal, Advocate and Shri O. P. Ahuja. The Respondent was present through Shri Vivek, A.M. (Legal) and Shri Manish Kumar, Executive –Legal – KCG.

The Appellant seeks time for reconciling the data downloaded regarding dial overs. The Respondent does not object. The parties were asked to meet and reconcile the data and to make their submissions before 05.02.2009. The case was fixed for further hearing on 05.02.2009.

8. On 05.02.2009, the Appellant was present through Shri O. P. Ahuja and Shri B. P. Aggarwal, Advocates. The Respondent was present through Shri Krishnandu Datta, Advocate, Shri Ajay Kalsi, Senior Manager, Shri Shishir Singh, Manager KCG, Shri Mani Bhushan Prasad, Senior Executive and Shri Gautam Jai Prakash, A.M. – KCG.

Both parties continued their arguments on the merits of the case. Finally the Appellant and the Respondent both agreed that in the meter no.



2267886 for K. No. 41300111857, there had been two dial overs, one in January 2004 and the other in September 2004. For K. No. 41301122681 with meter no. 2267888, the Respondent agreed that there were four dial overs instead of five dial overs as stated earlier, after reconciling the data. The Appellant however states that there were only two dial overs against the four claimed, and disputed the meter readings for the remaining two dial overs. The Appellant requested for production / scrutiny of original meter reading records. The Respondent agreed to trace out the record and to produce the original meter readings record for the Appellant's scrutiny by the next date of hearing i.e. on 12.03.2009.

9. On 12.03.2009, the Appellant was present through Shri Vinod Goyal, Advocate and Shri O. P. Ahuja. The Respondent was present through Shri N. Dutta, Advocate, Shri Shishir Singh, Manager – KCG, Shri Gautam Jai Prakash, A.M. – KCG, Shri Amit Bansal, Client Manager – KCG and Shri Vivek, A.M. – Legal.

The Respondent states that the record of readings is available upto November 2003 and thereafter, the practice of maintaining the meter book was discontinued by the company. The Appellant after scrutiny of the available record does not dispute the reading record for the period, but disputes that there were two dial overs, one on 01.01.2004 and one dial over on 26.04.2004. He however agrees that there was one dial over each in July 2004 and September 2004. The Appellant also filed written submissions which were taken on record. It was directed that a reply if any, to these be filed by the Respondent in week's time. Instead of filing the reply, the Respondent has made fresh submissions.

10. From the arguments / submissions made by the Appellant and Respondent, it is seen that:



- (i) Both the parties have agreed during the course of hearings that two dial overs had occurred in the meter no. 2267886 for K. No. 41300111857, one dial over occurred on 27.01.2004 and the other dial over on 10.09.2004. The dispute regarding dial overs regarding this meter stands settled.
- (ii) It was also agreed by the Appellant and the Respondent that two dial overs had occurred in the meter no. 2267888 for K. No. 41301122681, one dial over on 03.07.2004 and another dial over on 10.09.2004.

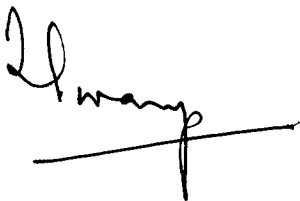
The dispute thus remained unresolved regarding the two more dial overs claimed by the Respondent between 31.10.2003 to 01.01.2004, and the second dial over between 27.01.2004 to 26.04.2004. These continued to be disputed by the Appellant.

11. OBSERVATIONS:

IN RESPECT OF THE TWO DIAL OVERS CLAIMED BY THE RESPONDENT IN THE FIVE DIGIT METER NO. 2267888 BETWEEN 31.10.2003 TO 01.01.2004, DISPUTED BY APPELLANT

As per records, it is seen that:

- i. Reading 72840 was recorded on 31.10.2003
- ii. No reading was recorded on 29.11.2003
- iii. And reading 73601 was recorded on 01.01.2004. These readings are not disputed by the Appellant. These readings show a consumption of 761 units for a period of 62 days. This gives an average consumption of 12.27 units per day.



iv. After change of meter on 22.08.2003, the consumption for different periods for which bills have been paid by the Appellant without any dispute are as under:

- the consumption for the period of 70 days from 22.08.2003 (R-0) to 31.10.2003 (R-72840) = 72840 units

The average monthly consumption = 31217

- The consumption for the period of 68 days from 26.04.2004 (R-94470) to 03.07.2004 (R-127154) = 32684 units

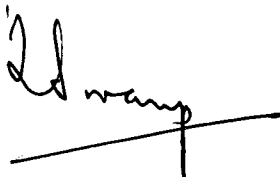
The average monthly consumption = 14419

- The consumption for the period of 69 days from 03.07.2004 (R-27154) to 10.09.2004 (R-137723) = 110569 (with one dial over).

The average monthly consumption = 48073 units

Thus, the Appellant's consumption is 216093 units in 207 days which gives an average consumption of 1043.92 units per day. It can therefore be concluded that the consumption of 761 units in 62 days evidently appears to be too low as compared to the average consumption of 1043.92 units per day. However it is also seen that if the claim of the Respondent of two dial overs in the 5 digit meter, during this period is accepted, the consumption would be 200761 units in 62 days i.e. an average consumption of 3238 units per day, which is nowhere near the undisputed average of 1043.92 units per day. Thus the claim of the Respondent that two dial overs occurred is also unacceptable. On the other hand, the consumption of 761 units in 62 days is too low / unrealistic.

The Appellant could not produce any evidence in support of his contention that during this period his machinery had broken down resulting in such low consumption of 761 units in 62 days or 12.27 units per day. It was stated that the



tenants who had used the electricity during the said period had already left the premises without giving any concrete evidence that the unit was not functional. It is therefore not possible to consider the plea of the Appellant that the unit was non-functioned since no evidence is available about the breakdown of the machinery. The records also indicate a large variation in consumption as 110569 units were consumed in 69 days between 03.07.2004 to 10.09.2004, which gives an average consumption of 48073 units per month.

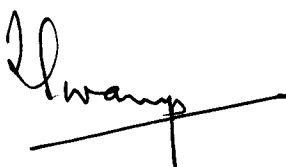
In view of the above, it can logically be concluded that between 31.10.2003 to 01.01.2004 only one dial over has occurred leading to a consumption of 100761 units in 62 days, instead of two dial overs claimed by the Respondent, and 761 units stated to be the consumption by the Appellant.

12. **IN RESPECT OF ONE DIAL OVER CLAIMED BY THE RESPONDENT
BETWEEN 27.01.2004 TO 26.04.2004 AND DISPUTED BY THE
APPELLANT**

As per records, it is seen that:

- v. The reading 85165 was recorded on 27.01.2004
- vi. No reading was recorded on 24.02.2004
- vii. No reading was recorded on 10.01.2004
- viii. And reading of 94470 was recorded on 26.04.2004.

The above readings are not disputed by the Appellant. These readings indicate a consumption of 9305 units in 90 days i.e. an average of 103.38 units per day. This average is much less than the over all average of 1043 units per day as already worked out in the above para.



For this period also the Appellant could not give valid reasons / evidence for such low consumption. The claim of one dial over by the Respondent i.e. a consumption of 109305 units in 90 days appears to be quite justified.

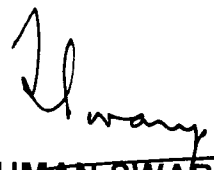
12. Conclusion:

Thus, in respect of connection no. 41301122681, the Appellant is liable to pay the electricity dues worked out on the basis of four dial overs instead of five as claimed by the Respondent. For K. No. 41300111857 both the parties have agreed that there were two dial overs, one each on 27.01.2004 and 10.09.2004, instead of the three claimed earlier by the Respondent. The Respondent is directed to revise the bills on the basis of the above conclusions and after accounting for the payments already made by the Appellant. No LPSC will be leviable.

The above order be complied with within a period of 21 days of this order under intimation to this office.

The order of CGRF – NDPL is modified to the extent above.

27th April 2009


(SUMAN SWARUP)
OMBUDSMAN