

(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/2008/291

Appeal against Order dated 11.09.2008 passed by CGRF-BRPL in case CG. No. 150/2008.

In the matter of:

Shri Shobh Raj Jai Singhani - Appellant

Versus

M/s BSES Rajdhani Power Ltd. - Respondent

Present:-

Appellant Shri O.P. Ahuja, Consultant was present on behalf of the Appellant.

Respondent Shri R.R. Panda, Business Manager (KCC)
Shri Rajeev Kumar Bilaiya, Manager (KCC)
Shri Praveen Singh, Assistant Manager attended on
behalf of the BRPL

Dates of Hearing : 26.12.2008, 15.01.2009, 22.01.2009,
30.01.2009

Date of Order : 12.03.2009

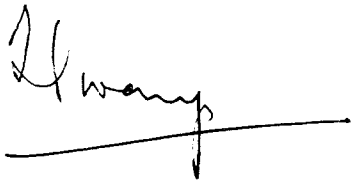
ORDER NO. OMBUDSMAN/2008/291

1. The Appellant has filed this appeal against the orders of the CGRF dated 11.09.2008 stating that the verbal contention of the Respondent without evidence has been upheld, whereas the contention of the Appellant was set aside. The Appellant has prayed that the supplementary demand of Rs.19,75,733/- may be set aside.

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2. The background of the case as per the contents of the appeal, the CGRF's order and the reply of the Respondent is as under:
 - i) The Appellant has an electric connection vide K. No. 214021102045 at his premises B-14, Vasant Vihar, New Delhi. The Appellant got his load enhanced from 25 kw to 90 kw for commercial purpose under NDLT tariff w.e.f. 31.08.2005 and LTCT meter was installed. The CT ratio 200/5 and multiplying factor '40' is recorded in the meter installation report dated 31.08.2005.
 - ii) The Respondent has been inadvertently raising the bills by applying the multiplying factor '20' instead of '40' from 31.08.2005 to 01.12.2007. During testing of the meter on 20.12.2007, the meter was found to be OK. The multiplying factor '40' is again recorded in the meter test report dated 20.12.2007. In the month of January 2008 the Respondent revised the bills retrospectively for the period 31.08.2005 to 01.12.2007, based on the revised multiplying factor '40' and a supplementary demand of Rs.19,75,733/- was raised.
3. The Appellant approached the PLA-I for settlement with regard to the supplementary demand raised by the Respondent.

Based on the arguments of both the parties the PLA-I observed that there is no possibility of an amicable settlement and the case was closed as unsettled. As per the interim order of PLA-I, the



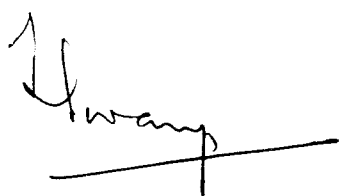
Appellant deposited a sum of Rs.4 lakhs on account, against the demand of Rs.19,75,733/-.

Thereafter, the Appellant filed a complaint before the CGRF on 28.07.2008.

4. The Appellant stated before the CGRF that the consumption for the period 31.08.2005 to 01.05.2007 was 17060 units per month whereas the consumption for the period 01.05.2007 to 01.01.2008 was 6630 units per month. Thus the consumption fell to just half during the period 01.05.2007 to 01.01.2008. The Appellant stated that it appears that the Respondent changed the CT box with a CT ratio of 100/5 to CT of 200/5 in the month of May 2007. As such, the claim of supplementary demand for the period from 31.08.2005 to 01.05.2007 is irrelevant and malafide.

The Appellant further stated before the CGRF that because of application of the wrong multiplying factor the meter may be said to have been slow by 50%. As such, the assessment of consumption for the period of more than six months reckoned back from 01.01.2008 is uncalled for, under Clause 38 (F) of the Supply Code of DERC.

The Respondent stated before the CGRF that the meter recorded less consumption during the period May 2007 to 01.01.2008 as a portion of the premises was reported to have been sealed by MCD in the month of May 2007.



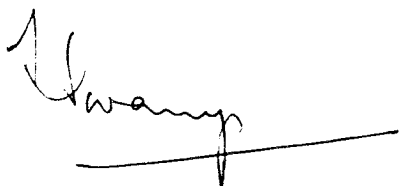
The Respondent further stated that the CT box has never been changed since the date of installation, which can be verified from the Meter Installation Report dated 31.08.2005 and Multiplying Factor Verification Report dated 20.12.2007.

The assessment has been done for under billed units as MF of '20' was applied instead of '40' inadvertently and the case does not fall under Clause 38 (F) of Supply Code of DERC.

The plea of the Appellant before the CGRF that the CT box was changed sometime in the month of May 2007 could not be corroborated by any documentary or other evidence. The CGRF observed that the consumption had started showing a declining trend w.e.f. 2007 on account of sealing of a portion of the premises by MCD in the month of May 2007.

The CGRF in its order upheld the supplementary demand raised by the Respondent and allowed the Appellant to make the balance payment in four installments, alongwith payment of current bills.

4. Not satisfied with the above order of CGRF, the Appellant has filed this appeal on the following grounds:
 - (a) The CT box of the meter was replaced in the month of May 2007 and multiplying factor of '40' is applicable from May 2007 onwards instead of from the date of installation.



- (b) The contention of the Respondent was upheld by the Hon'ble CGRF that the fall of consumption from May 2007 was due to sealing of the premises although it is not supported by any documentary evidence.
5. 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 26.12.2008.

On 26.12.2008, the Appellant was present through Shri O. P. Ahuja, consultant. The Respondent was present through Shri Rajeev Kumar Bilaiya, Manager (KCC).

Both parties were heard. The Appellant requested for time to produce records relating to his connection, including license for running a guest house, sealing orders etc. The Respondent was asked to produce the K. No. file from 2002 onwards containing load enhancement sanction, Site Visit Reports and the Statement of Account. The records were to be filed by 12.01.2009 and the case was fixed for further hearing on 15.01.2009.

The Appellant submitted the copy of Certificate of Registration under Section 8 of the Delhi Tax on Luxuries Act, 1996 in the name of Shri Nanak Ram Jaisinghani for carrying on the business known as J's INN at his premises B-14, Vasant Vihar, New Delhi – 57. The Appellant also submitted a copy of the letter of Office Incharge, Building, South Zone, Municipal Corporation of Delhi indicating that



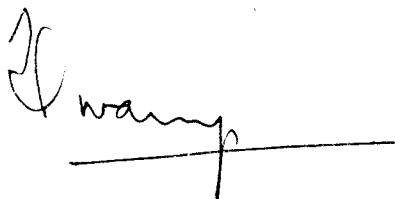
the seal was fixed by the MCD at the basement, ground and first floor of the building on 18.04.2007 in which a guest house was running under the name and style of M/s. J's INN.

6. Before the next date of hearing on 15.01.2009, the Appellant submitted a letter dated 13.01.2009 stating that the matter had been settled amicably with the Respondent for an amount of Rs.16,31,472/- against the impugned demand of Rs.19,75,733/- and this payable amount shall be paid in four equal monthly installments.

7. On 15.01.2009, the Appellant did not attend the hearing. Shri Rajeev Kumar Manager, (KCC) alongwith Shri Parveen Kumar, Assistant Manager (KCC) attended the hearing on behalf of the Respondent. The Appellant's letter dated 13.01.2009 was shown to the Respondent officials. The Respondent officials stated that so far no written agreement of the settlement has been signed with the Appellant. The consumption and payment record from 2002 onwards produced by the Respondent was taken on record.

The Respondent was asked to inform at the next date of hearing the details of settlement, if any, and to file a written agreement of settlement if arrived at before 22.01.2009, the next date of hearing.

8. On 22.01.2009, the Appellant was present through Shri O. P. Ahuja, Consultant. The Respondent were present through Shri R. R. Panda,



Business Manager, (KCC) and Shri Rajeev Kumar Bilaiya, Manager (KCC).

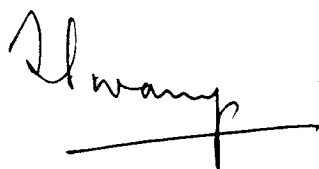
The Respondent stated that no formal agreement could be arrived at so far and requested for time to consult their legal cell. The Appellant did not object. The case was fixed for hearing on 30.01.2009.

9. On 30.01.2009, the Appellant was present through Shri O. P. Ahuja, Authorized Representative. The Respondent was present through Shri Rajeev Kumar, Business Manager and Shri Praveen Singh, Assistant Manager.

Both parties were heard at length. The Respondent stated that the matter be decided on merit as no settlement is contemplated.

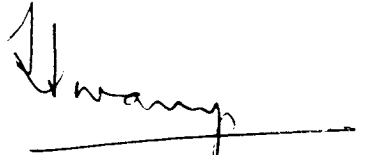
The Appellant stated that he had already made a submission that Regulation 38 (F) applicable to faulty meters, is also applicable in this case, and the assessment be limited to a period of six months only.

10. After considering all the facts and submissions it is seen that the Respondent had taken a stand before the CGRF that there was a drop in consumption from May 2007 to 01.01.2008 as part of the premises was sealed whereas the Appellant has stated in the appeal that the CGRF relied upon the verbal submissions without any evidence. The copy of the MCD's letter from the Office Incharge



Buildings, South Zone, indicates that sealing was done by the MCD of the basement, ground and first floors on 18.04.2007 as the said premises was being used for running a guest house. The Respondent stated that there had been a mistake / error in feeding the correct data regarding the multiplication factor after installation of the new meter on 31.08.2005. As such Regulation 38 (F) is not applicable in this case, as it applies only to cases where meters are found to be slow / fast on testing. The meter installation report dated 31.08.2005 and the meter testing report dated 20.012.2007 indicates that the multiplying factor was '40' and the meter number and metering cubical number are recorded on the reports. **It is therefore, concluded that the Appellant is liable to pay the supplementary demand raised by the Respondent based on the correct multiplying factor. The meter was not found to be faulty at any stage. This is actually a case of escaped billing and therefore there is no need to interfere with the order of the CGRF.**

12th March 2009


(SUMAN SWARUP)
OMBUDSMAN