

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/2009/317

Appeal against Order dated 26.05.2008 passed by CGRF–NDPL in
CG.No. 1677/03/08/CVL

In the matter of:

Shri Amitabh

- Appellant

Versus

M/s North Delhi Power Ltd.

- Respondent

Present:-

Appellant Shri Tarun Ahuja, Advocate attended on behalf of the
Appellant

Respondent Shri R.C. Kher, HOD (HRB &M)
Shri H.C. Verma, (HOG-Coml. Mgmt. NDPL),
Shri Manoj Kharbhanda, A.M. (EAC)
Shri Praveen Chawla, Associate (HRB)
Shri Gagan Sharma (Asstt. Officer) and
Shri Vivek, Manager (Legal) attended on behalf of the
NDPL

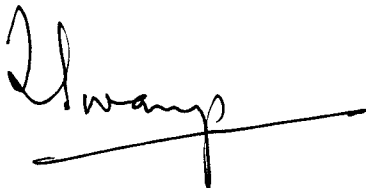
Date of Hearing : 23.06.2009, 04.08.2009

Date of Order : 17.08.2009

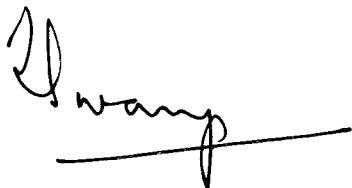
ORDER NO. OMBUDSMAN/2009/317

The Appellant, Sh. Amitabh has filed this appeal dated 27.03.2009
against the order of CGRF-NDPL dated 26.05.2008 in the case
C.G.No.1677/03/08/CVL with the following prayer:

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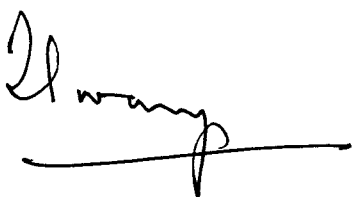


- a) To declare the assessment raised for an amount of Rs.4,78,502.54 (Rupees Four Lakhs Seventy Eight Thousand Five Hundred Two and paise Fifty Four only) shown in the adjustment column in the bill for the month of August 2007 pertaining to K.No. 35500253483T, as unlawful and illegal.
 - b) To direct the Respondent to refund the amount realized if any with respect to the assessment made and reflected in the bill for the month of August 2007.
 - c) To direct the Respondent to make an assessment for six months on account of slow/faulty meter as per the regulations issued by the DERC.
2. On the basis of the submissions of the parties, the brief facts of the case are as under:-
- a) The Appellant is a registered consumer of electricity connection bearing K.No. 35500253483T having a sanctioned load of 70.82 KW under the commercial category.
 - b) The existing CT meter was replaced on 21.05.2005 with another meter No. 02081954 at reading 13884. Thereafter, the Appellant had been making payment of electricity bills raised from time to time.
 - c) On 03.11.2006, the NDPL carried out an inspection and recorded that the meter installed was of C.T. ratio 60/5



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whereas the line C.T. ratio was 100/5 and as per the aqua-check meter was found to be 40% slow.

- d) The meter No. 02081954 was replaced on 08.05.2007 at the final reading of 130831 KWH.
- e) On 21.05.2007, the Appellant received a letter from NDPL through speed-post containing a show-cause notice dated 03.11.2006 under section 135 (c) of Electricity Act, 2003 (for theft of electricity) asking the consumer as to why a case for dishonest abstraction of energy/DAE should not be booked against him. The Appellant was directed to appear before the Enforcement Cell on 10.05.2007 (extended date) for personal hearing. On 23.05.2007, the Appellant appeared for hearing and gave a written representation stating that he had never manipulated the meter, the meter readings were okay and all the meter seals were found intact during inspection dated 03.11.2006. No tampering of the meter was also found.
- f) After personal hearing, the NDPL it appears did not issue any speaking order, as no such record has been made available. However, the NDPL issued a letter dated 06.08.2007 informing the Appellant that a revised bill is being issued for the period from 21.05.2005 to 20.05.2007, during which period the billing was done for less than the actual consumption. The NDPL debited an amount of Rs.4,78,502.54 in August 2007 bill being the 'escaped' demand for the period 21.05.2005 to

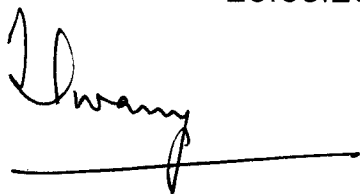


20.05.2007. No details as to how such a demand was calculated has been made available.

g) The Appellant filed a case before the CGRF-NDPL, as well as before the Hon'ble ADJ Court. The CGRF dropped the case in view of the above on 08.01.2008. The Appellant withdrew the complaint filed before the Hon'ble ADJ's Court on 01.02.2008 and filed a fresh complaint before the CGRF-NDPL on 12.03.2008 vide CG No.: 1677/03/08/CVL.

h) In his complaint before the CGRF-NDPL, the Appellant stated that :

- no details of assessed amount have been provided.
- the veracity of the accuracy check of meter done on 03.11.2006 is disputed.
- the assessment on account of slow meter raised by NDPL for the period 21.05.2005 to 20.05.2007 was disputed on the plea that it is against the provisions of the rules and regulations of DERC, as there is no such provision in the case of mismatch of meter and CT ratios.
- It was for NDPL to ensure installation of the correct meter as per Section 55(1) of Electricity Act, 2003 and under Section 55(3), any default of the Respondent regarding this was to be made good by the licensee.
- The banquet hall remained sealed from 10.03.2006 to 20.05.2006 and from 08.09.2006 to 28.07.2007, and



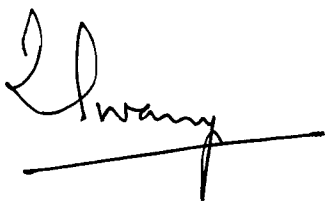
during this period the supply was being used only for maintenance purpose. If the meter was faulty the assessment be restricted to six months only.

- i) The NDPL stated before the CGRF that :

The meter No. 02081954 installed on 21.05.2005 at reading 13884 was replaced on 08.05.2007 at reading 130831. During the inspection dated 03.11.2006 the meter C.T. ratio was found to be 60/5 whereas the C.T. ratio was 100/5. The Appellant continued to be billed without taking this mis-match of meter and C.T. ratio into account, and the supplementary demand/escaped demand has been raised on account of the mismatch, therefore this is a case of computation error. The consumption from 21.05.2005 to 20.03.2006 is found to be almost 30-40% less compared to the consumption for the period 14.05.2004 to 21.05.2005 i.e. prior to the replacement of meter.

- j) The CGRF in it's order observed that:

The average consumption recorded during the period 14.05.2004 to 21.05.2005 was 349 units per day and after installation of meter on 21.05.2005 the average consumption dropped to 275 units per day during the period 21.05.2005 to 20.03.2006 i.e. prior to sealing of the premises. Thus, there was appreciable fall in

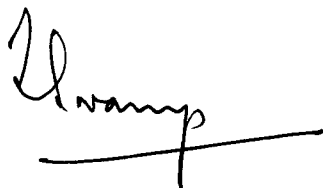


consumption immediately after replacement of the meter on 21.05.2005.

The CGRF further observed that considering it a case of omission where correct meter particulars were not fed into the system for billing purpose, the consumer was billed for less units than actually consumed.

The CGRF also observed that the meter should have been replaced immediately within (30 days) after the inspection dated 03.11.2006. The meter was however replaced on 08.05.2007 and the Respondent took almost six months for replacement of the meter after carrying out the inspection in November 2006, for which the consumer cannot be made liable as the Respondent should either have replaced the meter immediately, or should have started applying the correct multiplying factor. The CGRF ordered that the supplementary demand raised due to mis-match of meter and C.T. ratio should be restricted to the period 20.05.2005 to 03.12.2006 i.e. upto one month after the inspection dated 03.11.2006, and the revised bill should not have any element of LPSC.

3. After scrutiny of the contents of the appeal, the CGRF's order and records, the case was fixed for hearing on 23.06.2009.

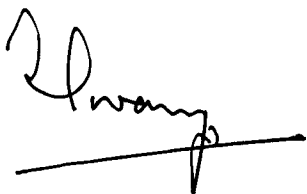


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On 23.06.2009, the Appellant was present through his advocate Shri Tarun Ahuja. The Respondent was present through S/Shri H.C. Verma, HOG (Comml. Mgmt.), Praveen Chawla, Associate (HRB), Gagan Sharma, Assistant Officer, Vivek, Manager (Legal).


Both the parties argued their case at length. The Appellant stated that he has been harassed by issuing a show-cause notice for thefting under section 135 of Electricity Act, 2003, and, thereafter, by raising a bill of a huge amount of Rs.4,78,502.54. The Appellant stated that he has been making regular payments of all the bills raised from time to time. After examining the meter change report dated 21.05.2005, inspection report/show-cause notice dated 03.11.2006 and meter change report dated 08.05.2007, the Respondent officials agreed that there have been some errors in recording the protocols for change of meter in 2005 and 2007, and the inspection by the Enforcement Cell in 2006. The Respondent officials stated that the DAE case has been closed and a letter of apology has been sent to the consumer. As regards the mismatch between the meter and C.T. ratio, the Respondent officials were directed to produce the meter bearing no. 020 81954 alongwith a detailed report on this aspect on the next date of hearing i.e. 08.07.2009.

The Appellant also brought to notice that his supply was disconnected on 25.03.2008 for non payment of the disputed bill



while his case was pending before the CGRF. The Respondent was directed to restore the supply immediately pending a decision on the disputed bill.

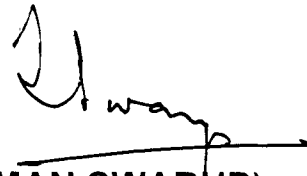
4. The hearing was re-scheduled for 04.08.2009. On 04.08.2009, the Appellant was present through his advocate Shri Tarun Ahuja. The Respondent was present through S/Shri R.C. Kher, HOD (HRB&M), Manoj Kharbhandha, AM (EAC), H.C. Verma, HOG (Comml. Mgmt.), Praveen Chawla, Associate (HRB), Gagan Sharma, Asst. Officer and Vivek, Manager (Legal). The Respondent officials produced the meter No. 020 81954 removed on 08.05.2007, alongwith the Material Seizure Memo. The meter C.T. ratio 60/5 was found printed on the name plate of the meter. The Appellant's advocate was satisfied by the details of the C.T. ratio available on the meter name plate. He, however, stated that he has been harassed by way of show-cause notice issued to him for theft and by disconnection of his supply on 25.05.2008 (supply was reconnected on 08.07.2009) and fixed charges have been levied for the period when the supply remained disconnected, for no fault on his part. Also no relief by way of payment of the escaped demand in installments was given to him. The Appellant's advocate stated that he is prepared to pay for the actual energy consumed. The Respondent officials stated that after disconnection, fixed charges for six months are leviable.



5. After considering all the facts and arguments, it is decided that the consumer should pay for the actual energy consumption, based on the correct multiplying factor for the period 21.05.2005 to 08.05.2007, as this is not a case of a defective meter but where the meter installation particulars were not fed correctly into the system and the Appellant continued to be billed for lesser units than he had actually consumed. **A revised bill be issued, after excluding fixed charges for the period of disconnection of supply and LPSC. The revised amount so calculated be paid in four equal installments. A compensation of Rs.5,000/- (Rupees Five Thousand only) for undue harassment, caused due to errors/mistakes of the Respondent is also awarded to the Appellant.**

The CGRF order is modified to the extent above. The above order may be implemented within a maximum period of 21 days by the Respondent.

17th August 2009.


(SUMAN SWARUP)
OMBUDSMAN