

(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 27.03.2009 passed by CGRF-BYPL in complaint No.16/01/09 (K.No. 21300132416E/1211 & Ref. No.1211 5000 3067).

Shri Ashok Kumar

- Appellant

M/s BSES Yamuna Power Ltd.

- Respondent

**Appellant** Shri S.K. Goel, Advocate attended on behalf of the Appellant

**Respondent** Shri Rajul Aggarwal, DGM  
Shri Rajeev Ranjan, Assistant Manager (Legal) and  
Shri Shantanu Sharma, Assistant Manager, attended on  
behalf of the BYPL

**Dates of Hearing:** 28.10.2009

**Date of Order** : 17.11.2009

1.0 The Appellant, Shri Ashok Kumar, had filed an appeal earlier against the CGRF-BYPL's order dated 29.01.2008 in the case CG No. 374/12/07, regarding the disputed bill of Rs.6,33,814/- raised in October 2007 for 138372 units, which was held to be payable by him by the CGRF. The Appellant had made 'on account' payment of Rs.1,00,000/- against the said bill. The Appellant had submitted on 05.05.2008 the details of payments

Page 1 of 7

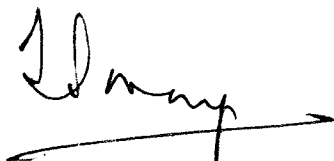
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made by him. Before admission of the appeal, the Appellant was required to deposit one third of the amount of the disputed bill. The appeal was not admitted as the Appellant did not provide the proof of having made the payment of one third of the disputed bill, in terms of Regulation 20 –Sub-section 3 (iii) of the Delhi Electricity Regulatory Commission (Guidelines for establishment of Forum for redressal of grievances of the consumers and Ombudsman) Regulations 2003.

1.1 The Appellant again filed a complaint before the CGRF for getting a certificate regarding receipt of one third of the payment deposited by him, against the disputed bill. As the issue could not be resolved to the satisfaction of the Appellant, he filed another appeal on 25.05.2009. Finally, the Appellant filed a letter dated 03.09.2009 along with copies of the paid bills for the months of March 2007, May 2007 (2 nos.) and October 2007 (2 nos.). These details indicate that the consumer has paid more than 1/3<sup>rd</sup> of the disputed bill. The appeal was therefore admitted.

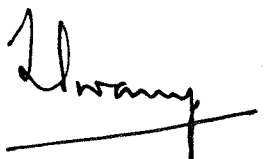
1.2 The background of the case as per the contents of the appeal, the CGRF's order and submissions of the parties is as under:

- i) The Appellant earlier had an electric connection K. No. 21300132416E/1211 for industrial purposes at B-11/4, Ground floor, Jhilmil Industrial Area, Shahdara, Delhi for a

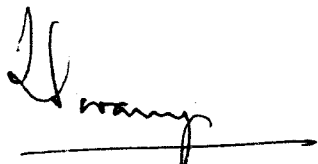
  
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36 KW load. The load was enhanced to 51 KW w.e.f. 24.09.2007 and a new meter was installed.

- ii) The meter no. 17040917 (under dispute) was installed earlier i.e. on 31.07.2006. The Respondent raised reading based bills upto 01.12.2006 (R-41209) and these were paid by the Appellant. After 01.12.2006, the meter stopped displaying the readings, and the Appellant vide letter dated 13.04.2007 informed the Respondent that the meter was not displaying the readings. Despite two complaints, the meter was not changed.
- iii) The Respondent inspected the meter on 17.04.2007 and the inspecting official recorded in the Inspection Report that the readings are not visible and the meter needs replacement. On 03.05.2007, the meter was changed and the old meter, not displaying the readings, was retained at site.
- iv) On 25.05.2007, the readings of the old meter could not be downloaded with the help of the manufacturer M/s. Secure Meter Ltd. by the Respondent, and the meter was handed over to the manufacturer for downloading the readings. The Respondent handed over six number LT electronic meters (including the Appellant's meter) to M/s. Secure Meter Ltd., on 25.05.2007, for data downloading, as their display was not working.

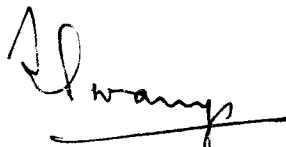
  
17.11.09

- v) The Respondent received an unsigned report of the downloaded readings from M/s Secure Meter Ltd. through e-mail which indicated that the Meter No. 21300132416E/1211 (Ref. No.1211/5000/3067) of the Appellant had a reading of '132571' as on 01.04.2007, and a reading of '55174' as on 01.12.2006 (this is different from R – 41209 recorded on 01.12.2006 before the display stopped working). It is seen that the downloaded readings do not tally with the readings recorded on 01.09.2006, 01.10.2006, 01.11.2006 and 01.12.2006. The calculations for working out the units chargeable are again found to be wrong and the tariff applied does not appear to be correct, as KVAH units have been calculated on 0.87 power factor, instead of 0.97 as indicated in the consumer's bill. No reason was given by M/s Secure Meters Ltd. to indicate why the meter display was not working, and why the readings could not be downloaded at site?
- vi) The grievance of the consumer before the CGRF was that he had received an illegal bill of Rs.6,33,814/- for '138372' units in the month of October 2007. He had deposited a sum of Rs.1.00 lakh on a promise from the Respondent for withdrawal of the bill showing the illegal demand. The demand was not withdrawn and no adjustment was given for the Rs.1.00 lakh deposited by the Appellant.

  
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- vii) The Respondent informed the CGRF that the bill was raised as per the reading data received from the manufacturer as on 01.04.2007, and the assessment had been done for the period 01.04.2007 to 03.05.2007 (date of meter change).
- viii) The Appellant stated before the CGRF that the bill dated 08.10.2007 for Rs.6,33,814/- was raised by the Respondent on the basis of the wrong reading of '138372' units. The charging for these units is wrong on the face of it, as the meter display was not functioning when the meter was lying at the premises of the complainant, and the reading was an after thought. The bill should have been raised for the period 01.12.2006 to 03.05.2007, on the basis of the average consumption for the past period, as per DERC's Regulations. The meter did not display any readings on 17.04.2007, 03.05.2007 and 25.05.2007. The readings provided by M/s. Secure Meter Ltd. are wrong and imaginary, and have been obtained by the Respondent to harass the Appellant.
- ix) The CGRF held that the bill raised on the basis of actual readings recorded between 01.12.2006 to 01.04.2007, and the assessment for the period 01.04.2007 to 03.05.2007, was in order.

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

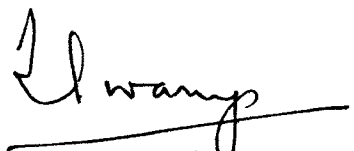
  
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2.0 After scrutiny of the contents of the appeal, the CGRF's order and the replies submitted by both the parties, the case was fixed for hearing on 28.10.2009.

On 28.10.2009, the Appellant was present through Shri S. B. Goel, Authorized Representative. The Respondent was present through Shri Rajul Aggarwal, DGM, Shri Shantanu Sharma, AM and Shri Rajeev Ranjan, AM (Legal).

Both the parties were heard. The Appellant re-iterated the submissions already made in the appeal. The Appellant stated that the meter had become defective as it was not displaying the readings. The Respondent had sent the meter to the manufacturer for downloading the readings, and not to an authorized lab, for testing the meter.

2.1 On comparing the down loaded readings w.e.f. 01.08.2006 to 01.12.2006 with the readings already recorded and billed when the meter was displaying the readings, it is observed that there is a vast difference between the two readings. In the report of M/s Secure Ltd., it has not been mentioned why the meter was not displaying the readings, and why it was not possible to down load the readings at site. As per DERC's guidelines, the meter should have been sealed in the presence and under the signatures of the Appellant, and sent to an authorized lab for testing the meter in the presence of the consumer. After arguments at length, both the parties agreed that the last

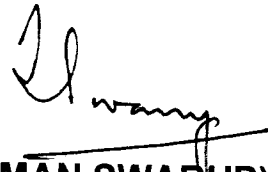
  
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authentic reading was taken on 01.12.2006 when the meter was displaying the readings. Thereafter, the meter did not display the readings and became defective. The defective meter was changed only on 03.05.2007.

- 2.2 It is evident that the meter remained defective during the period 01.12.2006 to 03.05.2007. It is therefore decided that this period be treated as 'meter defective period' and be assessed. The basis for assessment will be Base Period-I (01.06.2006 to 01.12.2006) and Base Period-II (03.05.2007 to 24.09.2007). It is noted that on 24.09.2007 another meter was installed when the load was also got enhanced from 36 KW to 51 KW. For calculating the amount due, the average consumption during these two Base Periods be taken as the basis. Any amount already paid by the consumer be also accounted for and adjusted against the dues so arrived at. The revised bill may be given to the consumer within 15 days of the date of this order.

The CGRF order is accordingly set aside.

17<sup>th</sup> November 2009

  
(SUMAN SWARUP)  
OMBUDSMAN