

**OFFICE OF THE ELECTRICITY OMBUDSMAN**  
(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)  
**B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057**  
(Phone-cum-Fax No.: 011-41009285)

**Appeal No. 34/2022**

(Against the CGRF-TPDDL's order dated 03.11.2022 in C.G No. 25/2022)

**IN THE MATTER OF**

Shri Rakesh Aggarwal

Vs.

Tata Power Delhi Distribution Limited

**Present:**

Appellant: Shri Rakesh Aggarwal alongwith Shri B.P. Agarwal,  
Advocate

Respondent: Shri Ajay Joshi and Shri Sunil Kumar, Sr. Managers on  
behalf of the TPDDL

Date of Hearing: 25.01.2023

Date of Order: 30.01.2023

**ORDER**

1. Appeal No. 34/2022 has been filed by Shri Rakesh Aggarwal, Proprietor of M/s Footwear (India), through his Advocate, Shri B.P. Agarwal, against the order of the Forum (CGRF-TPDDL) dated 03.11.2022 passed in C.G. No. 25/2022.

2. The instant case is that the Appellant is a tenant in the premises bearing No. A-21/15, Naraina Industrial Area, Phase-2, New Delhi-110028 and running a footwear business. Initially, the Appellant had obtained the industrial electricity connection (SIP) through C.A. No.60007952363 with a load of 85 KW which was subsequently reduced to 11 KW on his request in October, 2021. As per the Appellant, there is no production in the factory after 2019 due to some dispute with the landlord, hence, there has been no consumption of energy. He supported his stand by submitting copies of GST records of the factory before the CGRF.



3. On 08.02.2019, the Appellant made a request with the Respondent to shift the meter to some other suitable place. Subsequently, on the basis of his request, the Inspection Team of the Respondent visited the site on 14.02.2019. The Inspection Team downloaded the data of the meter (reading at 856664 kVAh) but data was not provided to the Appellant. The Inspection Team also found that the meter had stopped working, hence defective, as no reading was visible at the time of inspection. However, the meter was not replaced immediately. Thereafter, the Respondent started sending the bills based on fixed charges. All these bills were paid by the Appellant. The Respondent replaced the old meter with a new meter with final reading of 925810 kVAh on 20.07.2021. Later, the Appellant received a bill of Rs.7,32,137.65 (including adjustment of Rs.7,27,922.34) for the period 11.01.2019 to 19.07.2021 for 73853 units (due date 19.03.2022). In this regard, the Appellant made a complaint to the Respondent on 19.03.2022 and received a reply on 25.03.2022 mentioning therein that the bill raised by them was correct. Subsequently, he challenged the bill before the CGRF in April, 2022 for redressal on the grounds that (a) he made a request for shifting the meter, the Respondent declared it defective, (b) instead of changing the defective meter within fifteen days of declaring it defective on 14.02.2019, the Respondent started sending the bills based on fixed charges till it was changed on 20.07.2021, (c) after replacement of the meter the consumption of energy was less than 300/400 units per month, (d) Respondent was required to take the meter reading in view of Regulations 30 - "Reading of Meters" and 31 - "Consequences of making the meter inaccessible for reading" of DERC Supply Code, 2017.

4. After hearing both the parties, the CGRF considered that the meter reading could not be done due to dispute between landlord and tenant (complainant) and meter readings on 14.02.2019 and 20.07.2021 were available. Hence, the meter readings and unit consumptions calculated by the Respondent are correct, and do not find any lacuna in the assessment bill and directed that the complainant shall pay Rs.7,27,922.34 in four monthly installments without any LPSC. First installment be paid on or before 30 November, 2022 and remaining three installments be paid subsequently on 30<sup>th</sup> of each month.

5. Aggrieved from the CGRF-TPDDL's order dated 03.11.2022, the Appellant filed the appeal on the following grounds:

- (a) The Forum failed to consider the provision of Section 56(2) of the Electricity Act, 2003 and quoted the judgement passed by the Supreme Court of India in the matter of Assistant Engineer (D1) Ajmer vs.



Rahamatullah Khan in Civil Appeal No. 1672 of 2020 decided on 18.02.2020.

- (b) The Forum considered the submissions of the Respondent only while passing the final order and the submissions of the Appellant were not considered.
- (c) To consider the fact that the Billing Parameter Report was received after downloading the Data, which is most scientific and reliable reading in comparison to the reading which was manually taken by the Respondent.
- (d) To consider the fact that the Appellant has neither claimed that the meter as defective nor claimed any relief on this point, hence, the observations of the Forum was unjustified and against the pleading of the parties. It was the Respondent who claimed the meter to be defective.
- (e) The Forum wrongly observed that there was no access to the Respondent to take the reading because the reading was taken through AMR, for which it was not required to enter the premises. No notice was ever served to him under Regulation 31 of DERC's Supply Code, 2017.
- (f) Signing the Report dated 20.07.2021 only amounts to acknowledgement of the report and nothing more. The Forum has not considered that the Appellant has challenged the reading by way of filing the complaint before the Respondent as well as the CGRF.
- (g) The Forum wrongly observed that since the Appellant has not produced any cogent documents to prove that he sold entire machine while it has not considered the GST record for the entire three years which showed 'Nil' return.

And prayed that:

- (i) To set-aside the order dated 03.11.2022 passed by the CGRF-TPDDL.
- (ii) To restrain the Respondent from disconnection of the supply on the basis of non-payment of the impugned demand of Rs.7,27,922.34.



- (iii) To pass any other order which may deem fit and proper in the facts and circumstances of the case in the interest of justice.

6. The appeal was admitted on the basis of documents provided by the Appellant and date of hearing was fixed for 25.01.2023. On the date of hearing, both the parties were present through their counsels. Opportunity was given to both the parties to put up their contentions and the replies thereon.

7. The Counsel of the Appellant reiterated the same justification as before the CGRF. On being asked (a) when did he close his factory and the reasons?, (b) if the production in factory was stopped in June, 2019 then why he had not applied for reduction of load at that time and why the exorbitant bills of fixed charges were being paid?. The Appellant responded that (a) he had closed his factory in June, 2019 and after selling machines, all work was wound up completely by September, 2019, due to dispute with landlord and (b) Due to Covid-19, he could not apply for reduction of load. After replacing the meter in July, 2021, he had applied for reduction of load. Further, last paid bill was required to apply for the load reduction and also the load is reduced on the basis of average of last 12 months MDI readings.

The Appellant also contested that there was mismatch in cumulative readings as shown in Billing Parameter Report of the Respondent received after downloading the data. However, the Appellant further stated that being interested party, the report of the meter manufacturer company is not reliable. On the question of signing the Inspection Report, the Appellant stated that the report amounts to acknowledgement only as he has challenged the reading before the CGRF. It was explained to him that signing of Inspection Report authenticates that the person not only received the document but also acknowledged the contents of this documents. Regarding disconnection, he has been clarified that his electricity was not disconnected.

8. In rebuttal, the Respondent submitted that Automated Meter Reading (AMR) was not working in the meter and also the fact that the meter was inaccessible owing to the dispute between Appellant and landlord. These two reasons were responsible for non-issuing of energy based bills. This dispute is also evident from an application dated 09.05.2019 filed by the Appellant in Suit No. 57301/2016 in the Civil Courts, Patiala House, New Delhi. The Respondent submitted that it was also apprised to the CGRF that the electricity connection was disconnected on 25.01.2019, and the supply was restored on the directions of the



concerned Court on 11.03.2019. The Respondent further submitted that the load had been reduced from 85 KW to 11 KW on 12.10.2021 on the request of the Appellant. Regarding authentication of manual download reading, the Respondent submitted that L & T is the manufacturer of the meter and download data is correct and authentic. The Respondent further stated that the Appellant had not produced any cogent document to prove that there is no production in the factory and had sold all the machines.

9. During the course of hearing, attention of the advocate for the Respondent invited to the express and binding provisions Regulations 30, 34 and 39 of DERC (Supply Code and Performance Standards) Regulations, 2017. It was pointed out that the record produced by the Respondent indicated that the meter in question was stagnant at 8519757 kVAh from 12.01.2019 till 31.05.2020 but no process was initiated for its replacement. No bills with readings were sent and no disconnection process initiated, after issue of notices contemplated under the law. The meter was only declared defective and replaced on 20.07.2021, although there were readings from 01.08.2020 till 01.07.2021, as per the record produced by the Respondent. The procedure for issue of bills on average consumptions contemplated by Regulation 39 was completely flouted. The Counsel of the Respondent has no answer. This caused unexplained harassment to the Appellant.

10. I have gone through the Appeal, written statement of the Respondent very minutely. I have heard the arguments of the contending parties. Relevant questions were asked and queries were raised by the Ombudsman, Advisor (Engineering) and Advisor (Law) on various issues to elicit more information for clarity.

11. The sheet anchor of the case of the Appellant is Section 56(2) of the Electricity Act, 2003 and exposition of law made by the Hon'ble Supreme Court in the decision of Assistant Engineer (DI), Ajmer Vidyut Vitran Nigam Ltd. and Anr. vs. Rahamatullah Khan in Civil Appeal No. 1672 of 2022 which the Appellant has relied upon. It is pertinent to mention here that judgement dated 05 October, 2021 in the case of M/s Prem Cottex vs. Uttar Haryana Bijli Vitran Nigam Ltd, the Supreme Court ( Civil Appeal No.7235 of 2009) held that *"therefore, if the licensee has not raised any bill, there can be no negligence on the part of the consumer to pay the bill and consequently the period of limitation prescribed under Sub-section (2) will not start running. So long as limitation has not started running, the bar for recovery and disconnection will not come into effect. Hence, the*



*decision in Rahmatullah Khan and Section 56(2) will not go to the rescue of the appellant."*

12. With regards to disconnection, this Forum had already granted stay as asked by the Appellant subject to payment of current demands of regular bills, while accepting the appeal.

13. At the same time, I find that there is a clear deficiency on part of the Respondent by not complying with Regulations 31 (1), (2), (3) & (4) of DERC's Supply Code and Performance Standards Regulations, 2017, which are reproduced below, on consequences of making the meter inaccessible for reading:

***"31 - Consequences of making the meter inaccessible for reading:-***

*(1) If the meter is rendered inaccessible on any meter reading date, the Licensee shall issue a 7 (seven) days prior notice to the consumer, specifying the date and time of the meter reading for the next billing cycle, to keep the meter accessible on such date and time:*

*Provided that the consumer may request the Licensee to fix another date and time for such meter reading.*

*(2) If meter is not made accessible even on the date specified in the notice or as mutually agreed, the Licensee shall issue a second 7(seven) days prior notice to the consumer, specifying the date and time of the meter reading for the next billing cycle, to keep the meter accessible on such date and the time.*

*(3) If meter is not made accessible even on the date specified in the notice or as mutually agreed, the Licensee shall serve 15 (fifteen) days clear disconnection notice to the consumer:*

*Provided that the consumer may send the picture of the meter indicating the meter reading and date of meter reading through registered mobile or through e-mail.*

*(4) If the consumer fails to provide access for the meter reading even during such notice period, the Licensee may disconnect the supply after expiry of the notice period and reconnection of supply shall be*



*effected only after taking the reading and payment of all the dues by the consumer."*

14. The Respondent neither served any notice to the Appellant nor disconnected the supply. Also, there was inordinate delay of approx. 29 (twenty nine) months in replacing the meter. Even, the disputed bill was raised after the gap of more than six months after replacement of the meter. At the same time, I find that responsibility is cast on the consumer also vide Regulation 30 (13) & (14), of DERC, Supply Code, 2017, reproduced below, wherein the consumer is also duty bound to ask for the bill if the Respondent has failed to send it in time.

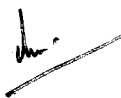
***"30 - Reading of meters:-***

*(13) If the consumer furnishes the meter reading(s) himself, the billing for that billing cycles(s) shall be done based on that/those reading(s) subject to adjustment in next billing cycle:*

*Provided that the consumer shall send the picture of the meter indicating the meter reading through registered mobile or through e-mail.*

*(14) The consumer, if so desire, may request the Licensee to take a special reading, and the Licensee shall arrange the same on chargeable basis, as per the rates prescribed in the Commission's order. The charges for such special reading shall be included in the consumer's bill."*

15. Respondent in their reply has also submitted the down loaded data by the manufacturer of the meter. While taking the data so provided by the Respondent as logical as the meter was defective and subsequently replaced. This court has gone through the readings very minutely and finds that the reading corresponds to the contentions made by the Appellant. The Appellant had claimed that owing to the dispute with the landlord, it was becoming increasingly difficult to continue production. The Appellant claimed that he stopped production in the month of June, 2019 and sold the machines also. He supported his contention by submitting the GST returns. He further claimed that the entire operations in the unit were stopped in September, 2019. Downloaded data also show a consumption of around 69146 units for the period, i.e. 14.02.2019 to 20.07.2021. Subsequently, the defective meter was changed. In view of the foregoing, this Court is inclined to order the following:



(i) The court tends to agree with the decision of CGRF so far as final bill is concerned. Appellant to pay the bill (outstanding amount) in four monthly installments (without LPSC) w.e.f. 15.03.2023.

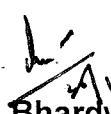
(ii) A compensation of Rs.45,900/- is granted to the Appellant for non-compliance of Regulations 31, 34 and 39 of the DERC(Supply Code and Performance Standards) Regulations, 2017 by the Respondent in the light of provisions under Regulation 76 read with entry No. 11 of Schedule - I.

(iii) In the interest of natural justice, the Respondent is also required to compensate the Appellant to the tune of Rs. 25,000.00 for the mental agony and harassment caused to him. Another Rs. 25,000/- is also given to the Appellant for the legal fee and other expenses incurred by the Appellant.

(iv) The above amount at (ii) & (iii) above may be credited to the account in the next bill.

(v) The above action be completed in next 15 days of the receipt of order and compliance report sent to this office.

In view of the above, the appeal stands disposed off.

  
(P. K. Bhardwaj)  
Electricity Ombudsman  
30.01.2023