

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/2009/361

Appeal against Order dated 30.11.2009 passed by CGRF–NDPL in CG.No. 2475/10/09/BDL.

In the matter of: Shri Manmohan Singh - Appellant

Versus

M/s North Delhi Power Ltd. - Respondent

Present:-

Appellant The Appellant is present alongwith Shri Harish Jain, Advocate and Shri Manjeet Singh

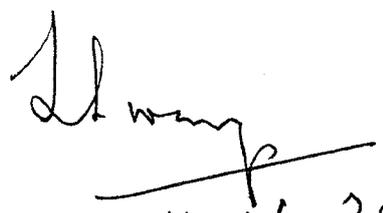
Respondent Shri Subrata Das, DGM (CEG)
Shri Ajay Kalsie, Company Secretary
Shri Jaspreet Singh, Chief Manager (HRB)
Shri Amit Singh, Executive and
Shri Vivek, Manager (Legal) attended on behalf of the NDPL

Date of Hearing : 18.02.2010, 17.03.2010, 11.05.2010, 08.06.2010

Date of Order : 11.06.2010

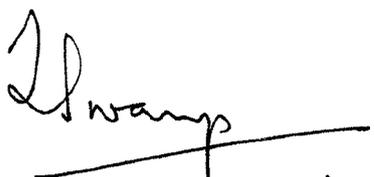
ORDER NO. OMBUDSMAN/2010/361

1.0 The Appellant Shri Manmohan Singh, has filed this appeal against the order dated 30.11.2009 passed by the CGRF-NRPL in the case CG No. 2475/10/09/BDL with the prayer that the CGRF's order may be set-aside, and direction issued to the Respondent to


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withdraw the assessment demand for the period 22.06.2006 to 08.12.2006.

- 1.1 The background of the case as per the contents of the appeal, the CGRF's orders and the submissions made by the parties is as under.
- a) The Appellant is the user of electricity connection vide K. No. 45401121032-IP installed at Khasra No. 13/22/6, Village Samaypur Badli, Delhi. The Appellant had a tenant in the said premises from 1984 who was using the supply for his unit named M/s A.K.Ploymers. The said tenant remained in the premises upto 30.07.2006, and, thereafter vacated the premises and handed over peaceful possession of the same to the Appellant. The bills for consumption of electricity recorded by the meter upto 30.07.2006 were paid by the tenant and there were no outstanding dues. After the tenant vacated the premises, the supply was not in use as per the Appellant. As such, there was no consumption recorded by the meter.
- b) On 08.12.2006, the Respondent replaced the meter no. 0700866 existing at site with a new meter bearing no. 470003332, and no problem of any kind was found against the old meter at the time of its replacement. The Appellant has stated that he himself started industrial activity at the said premises in December, 2006.


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c) The Appellant received in July, 2009 i.e. after almost three years, a bill for an amount of Rs.2,18,920/-, including Rs.1,60,649.97 mentioned against the column adjustment (CR/DR) without mentioning any details. This amount had been added in the bill without any show-cause notice, personal hearing and without giving any details. Thereafter, the Respondent issued a disconnection notice on 24.08.2009. To avoid disconnection of supply, the Appellant issued three cheques of Rs.48,472/- dated 20.09.2009, Rs.45,000/- dated 30.09.2009 and Rs.45,000/- dated 16.10.2009. Thereafter the Appellant was informed that the amount of Rs.1,60,649.97 pertained to some assessment in respect of the old meter for the period 22.06.2006 to 08.12.2006 and 20.03.2007 to 26.04.2007, presuming that the meter was defective but without any evidence to substantiate this fact.

d) The Respondent had been receiving bills regularly in respect of the old meter from July 2006 onwards without any indication/stipulation that the meter was defective in any way.

1.2 The Appellant filed a complaint before the CGRF against the said assessment bill. The Respondent stated before the CGRF that the reading of the old meter No. 070000866 was stuck at the reading 73020 from 20.08.2006 onwards till December 2006. This was however not substantiated by any adverse report regarding the meter. The Appellant stated before the CGRF that the factory remained closed during this period. The meter which was replaced


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in December 2006 but continues to remain at the site till date. The Respondent again tested the meter on 20.03.2009 and there was no report of any discrepancy 'or' defect being found in the meter.

The CGRF in its order held that the meter remained stuck at the reading 73020 after the meter had recorded the reading of '71148' on 20.07.2006, till it was replaced on 08.12.2006. Therefore for this period assessment should be made on the basis of the average consumption recorded during the period 08.12.2006 to 20.12.2007. However, the second assessment made for the period 20.03.2007 to 16.04.2007 was not held to be in order. The Respondent was directed to revise the assessment bill accordingly without levy of any LPSC.

Not satisfied with the order of the CGRF-NDPL, the Appellant has filed this appeal against the assessment for the period 22.06.2006 to 08.12.2008, stating that the Hon'ble Forum had presumed the meter to be defective, without any documentary evidence.

- 2.0 After scrutiny of the contents of the appeal, the CGRF's order and the submissions made by both the parties, the case was fixed for hearing on 18.02.2010.

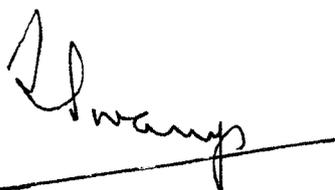
On 18.02.2010, the Appellant was present through Shri Harish Jain, Advocate. The Respondent was present through Shri Vivek, Manager (Legal).


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Both the parties argued their case at length. The Appellant reiterated the submissions already made in the appeal. The Appellant was directed to provide documentary proof of vacation of premises by the tenants. The Respondent stated that a DAE case was also being processed against the Respondent, based on the inspection dated 22.06.2006. The Respondent was directed to produce authentic documents to prove that the meter was defective. The file relating to DAE case was also to be produced. The case was fixed for further hearing 17.03.2010.

2.1 On 17.03.2010, the Appellant filed documents to prove that his tenants' unit had shifted out in July, 2006. The Appellant started his own unit in December, 2006 and stated that it is evident that there was no consumption between July 2006 to December, 2006.

The Respondent filed written arguments and copies of two inspection reports dated 22.06.2006 and 17.07.2006 and the data analysis report dated 21.07.2006. The Respondent did not produce the DAE case file and stated that the DAE case had not yet been finalized, and the file was under process. The meter is yet to be tested by a third party and their contention is that the meter was tampered with as per the data analysis report of July 2007. The meter became defective thereafter. The Respondent was directed to get the meter, which is still at site, tested through a third party laboratory within four weeks, and to report the status


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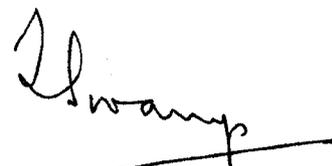
of the meter including consumption recorded upto December, 2006. The case was fixed for the next hearing on 23.04.2010.

2.2 On the request of the Respondent, the case was adjourned to 11th May 2010.

On 11.05.2010, the Respondent was present through Shri Ajay Kalsie, Company Secretary and Shri Vivek, Manager (Legal) and again requested for adjournment for one month as the meter testing had not been completed. The case was adjourned to 08.06.2010 on the request of the Respondent.

3.0 On 08.06.2010, the Appellant Shri Manmohan Singh was present, in person. The Respondent was present through Shri Subrata Das, DGM (CEG), Shri Ajay Kalsie, Company Secretary and Shri Vivek, Manager (Legal).

The Respondent again stated that the final report regarding third party testing of the meter is not yet ready. However, it is confirmed by the ERDA, the Third Party Testing Agency, that this is not a case of DAE, hence the DAE case is being closed. The Respondent stated that the old meter of the Appellant' at site was tested and checked in March, 2009, which showed that the meter was functioning and was not stuck or stopped. This report is taken on record. There is no documentary proof to establish that the meter was in fact defective between June, 2006 to December,


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2006. In fact even after almost 2 years, the meter on being tested was found to be working. The assumption of the Respondent that since no consumption was recorded after the reading of 73020 in July 2006, the meter had stopped is not borne out by the Test Report.

In view of the above, it can safely be concluded that the assessment made for the period 22.06.2006 to 08.12.2006 presuming the meter to be defective, is not in order. It is, therefore, directed that the Appellant be charged only for the actual units consumed during the said period.

The CGRF's order is accordingly set-aside.

11th June 2010


(SUMAN SWARUP)
OMBUDSMAN