

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
(Telephone No.011-26144979)

Appeal No. 04/2019

(Against the CGRF-TPDDL's order dated 20.12.2018 in C.G. No. 7826/12/17/BDL)

IN THE MATTER OF

M/S PODDAR POLYMERS

Vs.

TATA POWER DELHI DISTRIBUTION LTD.

Present:

Appellant: Shri Naved Azam, Advocate, on behalf of M/s Poddar Polymers, the Appellant.

Respondent: Shri Harshendu Kumar, Sr. Manager (Legal) and
Shri Chiranji Taneja, Manager, on behalf of TPDDL.

Dates of Hearing: 07.05.2019

Date of Order: 10.05.2019

ORDER

1. The Appeal No. 4/2019 has been filed by M/s Poddar Polymers through its sole proprietor Shri Anil Poddar against the CGRF-TPDDL's order dated 20.12.2018 passed in C.G. No. 7826/12/17/BDL. The issue concerned in the Appellant's grievance is regarding the billing dispute against electricity connection bearing CA No. 60000020416.

2. The Appellant has filed the instant appeal against the CGRF's order as above, vide which his plea was dismissed and decided ex-parte, merely on account of the Appellant being not present on the last few hearings, although he had attended the earlier hearings. The Appellant has stated that he or his representative could not attend the last few hearings, as the date and time of the hearings were changed frequently by the Forum at the last moment, which created lot of confusion and hence a negative inference was derived out of that by the Forum.

The brief background of the case is that an electricity connection vide CA No. 60000020416 is registered in the name of M/s Poddar Polymers at Plot No. 69, Badli Industrial Area, Delhi for a sanctioned load of 127 KW-Industrial Light purpose. The Appellant received a demand notice for an amount of Rs.19,20,307/- to be paid by 02.11.2004 and being aggrieved against the impugned demand he filed a suit with the Court of ADJ, Delhi, which was finally settled by the Hon'ble Court on 21.04.2007 and he deposited the entire settled amount and complied with the order of the Hon'ble Court. He further stated that although he has been paying regular bills earlier also and even after complying with the orders of the Hon'ble Court, yet he



received subsequent bills raised by the Discom (Respondent) in which arrears were still being shown as payable by him. The arrears were also seen to be fluctuating in every or the other subsequent bills and such type of discrepancies were occurring in each and every bill raised by the Discom. This fact was duly brought by him into the notice of the officials of the Discom number of times but on every occasion the officials of the Discom assured him that this discrepancy in the bills is occurring due to some technical faults in the billing system and the same will be rectified in the future bills but the discrepancies in the bills continued and are still subsisting.

3. Further, in the year 2014, the Appellant received a billing demand of Rs.19,13,408/- as arrears and he requested the Discom for the rectification of the same since he had already paid the bills for the period pertaining to which the arrears were being shown in the electricity bills. In the month of November, 2014, the officials of the Discom forced him to pay the entire sum of arrears along with the current demand otherwise his connection would be disconnected and in order to avoid disconnection he deposited an amount of Rs.5,15,000/- against the arrears and the then current demand of Rs.3,15,606/-. He made several requests for rectification of the defects and discrepancies in the bills but the bills were not rectified and aggrieved by the illegal and unauthorized acts of the Discom he filed a suit in the Court of ADJ on 26.12.2014 for declaration of mandatory and permanent injunction. The suit was decided by the Court on 15.07.2017, as not being maintainable and was dismissed with the liberty to the Appellant to approach the Forum u/s 42(5) of the Electricity Act, 2003.

Accordingly, the Appellant approached the CGRF for withdrawal of the unjustified demand by the Discom and issue of revised rectified bill, in accordance with the details of payments made by him and submitted to the Discom through his various communications in the past from time to time. He also challenged the demand of Rs.1,55,189/- pertaining to the unbilled units charged as per the readings for the period 07.05.2013 to 23.05.2013 and Rs.35,669/- pertaining to the bill revision on account of tariff revision for the period 07.08.2011 to 31.08.2011 and further pleaded that impugned demand is barred under Section 56(2) of the Electricity Act and hence the same is illegal and not maintainable under the law. The Appellant also submitted the copies of bills of various months in proof of the payments made by him during the year 2003, 2004 and further in the year 2014 etc.

During the proceedings in the Forum, the CGRF accepted his request to reconcile and verify the accounts of his connection in respect of accrual of LPSC and Principal amount with the Discom, but he was not satisfied with the calculations made by the Discom relating to accrual of LPSC as well as Principal. Thereafter, since the Appellant failed to appear on subsequent dates, his plea was dismissed by the CGRF on the context that the continuous absence indicates that he is not interested to take follow-up action in the matter and hence the submissions made by the Discom are hereby treated as correct and lawful.



4. The Appellant has preferred this appeal against the order of CGRF on the grounds that the Forum has failed to take the cognizance of the fact that the arrears were settled before the Hon'ble Court of ADJ, Delhi in the year 2007 and he had paid the entire settled amount of the impugned bill and since then he has been making regular payments of the current bills. Secondly, the CGRF also overlooked the fact that the arrears being raised by the Discom were fluctuating in each and every subsequent bills and the Discom did not rectify the discrepancies even after constant follow-up by him. In view of the above background, the Appellant prayed as under:

- a) This Hon'ble Forum may kindly be pleased to call the CGRF trial record for adjudication of appeal of the Appellant.
- b) This Hon'ble Forum may kindly be pleased to stay the operation of impugned order dated 20.12.2018 passed by the CGRF till the final disposal of the appeal.
- c) This Hon'ble Forum may kindly be pleased to set-aside the impugned order dated 20.12.2018 passed by the CGRF and allow the appeal of the Appellant by passing an order thereby declaring the illegal unauthorized and arbitrary demand of amount Rs.19,13,408.05 raised in the electricity bill number 10015361359 as arrears against the CA No. 60000020416 installed in plot no. 69, Badli Industrial Area, New Delhi by the respondent company, as null and void and also quash the same.
- d) This Hon'ble Forum may kindly be pleased to restrain the employees/agents officials attorneys etc. of the respondent company from disconnection of illegal, unauthorized and arbitrary demand of Rs.19,13,408.05 as arrears in electricity bill number 10015361359.
- e) This Hon'ble Forum may kindly be pleased to direct the respondent company either to return the amount of Rs.5,15,000/- taken by the officials of the respondent company on 19.12.2014 under the threat of disconnection of electricity through CA No. 60000020416, to the complainant or adjust the same against the legitimate demand by the respondent company against the consumption of electricity through CA No. 60000020416 in future by the complainant and pass cost of present case in favour of the complainant and against the respondent company.
- f) Any other order/relief/direction may also kindly be passed in favour of the complainant and against the respondent company as this Hon'ble Forum may kindly deem fit, just and proper according to the facts and circumstances of the present case.

5. The Discom's version of the events is that pursuant to enforcement inspection dated 24.03.2004 against the electricity connection bearing CA No. 60000020416 of the Appellant, a bill of Rs.19.20 lakhs was raised by the Enforcement Assessment Cell of the Discom, which stands settled as per the order of the Hon'ble Court. Further, it is pertinent to mention here that the



theft bill of Rs.19,20,307/- which was settled in the year 2007 is separate from the bill of Rs.19,13,408/- which was raised for the electricity consumed but the Appellant has refused to pay the same on the plea that he had already settled all the previous dues as per the orders of the Court . The Discom has also submitted the copy of the court order in support of their claim and asserted that the above contention of the Appellant is completely incorrect. In view of the above, the Discom submitted that the present matter is only related to billing dispute against the said connection, in which the Appellant is contesting against the billing demand of Rs.19,13,408/- and has prayed for the rectification of the same. It has nothing to do with the earlier demand by the Enforcement Cell which stands settled as per the directions of the Court.

Discom has also submitted that other than the aforementioned assessment they have raised the demand of Rs.1,55,189/- pertaining to unbilled units charged as per the reading for the period 07.05.2013 to 27.05.2013 and Rs.35,669/- which pertains to bill revision on account of tariff revision for the period 07.08.2011 to 31.08.2011 as LIP 400V tariff charged only for the month of violation in August, 2011, since the MDI was greater than 100 KW and hence it is evidently clear that the amount of Rs.19,13,408/- raised by them had no discrepancy and the contention of the Appellant with regards to excess billing is not tenable at all. The Discom has also submitted the break-up of the amount demanded as above along with the copies of the theft bill, load survey chart reflecting MDI crossing beyond 100 KW and other copies of the relevant documents in support of their claim. As per the Discom there were some dues lying pending on this account, for the DVB period, which they have waived off themselves while reconciling the account of the Appellant.

The Discom further submitted that the bill in question is not barred by limitation under section 56 (2) of the Act as the arrears have been continuously shown in the bills since the beginning viz from the year 2003 onwards. In response to the argument by the Appellant that the amount of arrears is varying in the consecutive bills, the Discom submitted that whenever a payment is made, the same ought to change the status of the arrears. Further, the Appellant was also provided with the details of outstanding amount of the arrears and LPSC accumulated during reconciliation of accounts, as per the direction of the Forum, but he chose not to appear before the Forum after that so that he may be proceeded ex-parte and thus evaded adjudication by the Forum. The amount paid by the Appellant from month to month stands adjusted against his CA No. 60000020416 and hence submitted that the demand is in accordance with the provisions of law and he is under obligation to pay the consumption bills for the electricity he has consumed along with late payment surcharge etc..

In the light of submission made herein above the Discom pleaded that the present appeal is liable to be dismissed and decided in favour of the Discom and the Appellant is neither entitled for any relief nor any compensation on any account whatsoever.



6. After hearing both the parties and carefully going through the material on record, it is observed that the basic issue pertains to the arrears bill of Rs.19,13,408/- raised by the Discom and disputed by the Appellant after he has cleared all the dues as per the orders of the Civil Court in a theft case in the year 2007.

In view of the reasons explained by the Appellant the delay in filing the appeal is condoned and the amount of Rs.5,15,000/- already deposited is considered as one third amount required under the act for the consideration of his plea by this Forum.

It is evidently clear from the records that the demand raised by the Discom in the year 2004 for Rs. 19,20,307/- against the said connection was duly settled by the order of the civil court in 2007 and was accordingly duly paid by the Appellant. The gist of the case of the Appellant is that the present demand of Rs.19,13,408/- is in respect of the earlier theft case registered against the Appellant and the said demand has already been decided/settled so the Discom cannot raise such a demand again. On the other hand the case of the Discom is that the present demand has nothing to do with the theft case and it is merely a billing dispute in respect of the connection installed at the premises of the Appellant. There is nothing on record to show that the present demand is in respect of the earlier theft case and all the documents filed by the parties suggest that the said demand is in respect of arrears of the present connection bearing CA No.60000020416 only. The ADJ Court in its judgement vide order dated 15.07.2017 has also concluded the same thing that the present demand has nothing to do with the demand raised earlier in the theft case which stands settled. Hence, the plea of the Appellant that this present demand of Rs.19,13,408/- is in respect of earlier theft case which stands settled is not in order and cannot be considered.

Further, during the hearing, the Discom submitted the copies of the ledgers and a summary of the account of the Appellant since the year 2003 onwards to substantiate that the arrears are being continuously shown in the bills of the consumer. On the other hand, the representative of the Appellant had nothing much to say during the hearing but for the same argument as submitted in his written submission that once he has cleared the theft bill there is no question of any pending arrears and the bill raised by the Discom is not in order and there are lots of discrepancies in the bills.

From the perusal of the records submitted by the Appellant and the Discom in CGRF and also before this office, it is quite evident that the Discom has been continuously showing the arrears in the bills of the Appellant since the beginning but the Appellant has been making part payment of the current bills leave aside the arrears in most of the months in the previous years and thus the arrears were getting accumulated along with LPSC. The same is also evidently clear from the bills pertaining to the years of 2003, 2004 and 2013-14, as submitted by the Appellant himself along with his written submission, that the arrears have been reflecting continuously in all his bills raised by the Discom. In view of the above, the contention of the Appellant that the demand is barred by limitation under section 56(2) of the Act is not sustainable.




The contention of the Appellant with regards to the discrepancies in various bills, on account of fluctuating amount of arrears, is misconceived since the Appellant has not been paying the full amount of the current bills in most of the months which is bound to have the effect on the arrears of the forthcoming bills. In some of the months although the Appellant has paid the full current bill amount but has never paid the arrears reflected in the bills and hence never settled the bills fully which ought to change the amount of arrears in the subsequent bills. It is also a matter of record that the Discom has also given the benefit of pending dues of the DVB period to the Appellant while reconciling his account. Hence, the plea regarding discrepancies in the bills is not correct. Further, as per the records submitted by the Discom, the demand raised by them for Rs.1,55,189/- pertaining to the unbilled units charged as per the readings for the period 07.05.2013 to 27.05.2013 and Rs.35,669/- pertaining to bill revision on account of tariff revision for the period 07.08.2011 to 31.08.2011 is also in order and the contention of the Appellant with regards to excess billing is not tenable.

The Appellant has neither mentioned any reason nor submitted any documents to substantiate his plea that the demand of Rs.19,13,408/- is wrong or illegal and hence the demand raised as above by the Discom has no discrepancy but on the other hand it is also evident from the records that the Appellant has been continuously requesting the Discom to resolve the discrepancies in the bills and to rectify the same, after he has cleared all the dues pertaining to the theft case as per the order of the Civil Court. The Discom could however reconcile the account of the Appellant and rectify the bills and came to a final figure payable by the Appellant only in the year 2011. In view of the same, the LPSC accrued during the period up to the year 2011, when the account of the Appellant was finally reconciled by the Discom, is waived off as a measure of relief to the Appellant. However, the Appellant in any case has to pay for the consumption charges during the said period.

In view of above, the Discom is directed to issue revised/corrected bill to the Appellant keeping in view as per the observations made here in above and submit compliance report within 15 days.

In summary, no substantive case is made out for any interference with the verdict of the CGRF except to the extent that LPSC accrued during the period up to the year 2011 may be waived.

This appeal is disposed off accordingly.


(S.C. Vashishta)
Electricity Ombudsman
10.05.2019