

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/2010/404

Appeal against Order dated 13.10.2010 passed by CGRF–NDPL in CG.No. 2891/07/10/KPM.

In the matter of:

Sh. Ramchander - Appellants

Versus

M/s North Delhi Power Ltd. - Respondent

Present:-

Appellant Shri Harish Jain, Advocate was attended on behalf of the Appellant

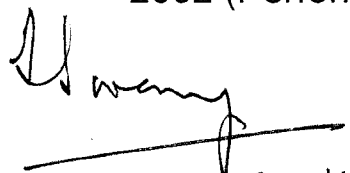
Respondent Shri K.L. Bhayana, Adviser,
Shri Vishal Mittal, Client Manager (HRB),
Shri Praveen Chawla, Officer (HRB) and
Shri Vivek, Manager (Legal) attended on behalf of the NDPL

Date of Hearing : 22.03.2011

Date of Order : 25.03.2011

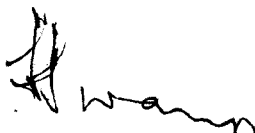
ORDER NO. OMBUDSMAN/2011/404

1.0 The Appellant, Shri Ramchander, has filed this appeal dated 18.11.2010 against the order dated 13.10.2010 passed by CGRF-NDPL in CG.No.2891/07/10/KPM stating that the said order is against the provisions of the DERC's Supply Code, 2002 (Performance & Standards – Metering & Billing).


25.03.2011


2.0 The brief facts of the case as per the appeal, the records and the submissions of the parties are as under:

- a) The Appellant has an electricity connection K.No. 32200126846 for a load of 12 KW of industrial power at J-11/48, Sanjay Market, J.J. Colony, Wazirpur, Delhi. The matter pertains to the assessment of electricity consumption of a stopped meter due to tampering by the consumer, after it had been paper sealed at site to maintain status-quo, pending evaluation/finalization of a DAE case based on an inspection on 07.09.2006. The meter was however replaced after a period of five months (i.e. 07.09.2006 to 07.02.2007) and the consumer continued to use electricity from the tampered meter for this period of five months.
- b) The Appellant filed a complaint before the CGRF against the bill of Rs. 2,38,739.62 for the month of May 2008, including the assessment amount of Rs.1,11,182/-. The main contention of the Appellant is that it is a case of a tampered meter, and the Performance and Standards – Metering & Billing, Regulations, 2002 are silent about assessment in cases related to tampered meters. The meter, as per Clause 20(ii) of these Regulations, is to be replaced within 30 days from the date of the detection of the meter being defective, but the same was replaced


25.03.2011

after 5 months which is not as per the DERC's Regulations 2002.

- c) The Respondent pleaded before the CGRF that the meter was tampered and there was no display so the meter was defective and is covered for assessment under Regulation 20(i) C of DERC (performance Standards – Metering & Billing) Regulations 2002. Since the consumer had consumed electricity during the period 07.09.2006 to 07.02.2007, he was liable to pay the charges for the energy consumed by him.
- d) The CGRF vide its order dated 13.10.2010 held that the meter which was declared defective (on account of tampering by the consumer) on 07.09.2006 was to be replaced within one month i.e. upto 07.10.2006 but the same was replaced on 07.02.2007. Hence re-assessment be carried out for the period 07.09.2006 to 07.10.2006 on the basis of the consumption recorded during the base period 07.02.2007 to 20.02.2008, as the consumption prior to 07.09.2006, being the DAE period, could not be relied upon. The CGRF held that assessment bill for the period 07.10.2006 to 07.02.2007 was not chargeable, as the meter was replaced late by the Respondent. Hence it ordered that the amount already assessed and adjusted in the account of the consumer, be revised. The LPSC was also waived off.

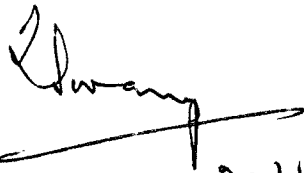

28.03.2011

e) Aggrieved by this order of the CGRF, the Appellant has filed this appeal contending that a tampered meter cannot be treated as a defective meter, and there is no provision in the DERC Regulations 2002 for assessment of electricity consumption drawn through the tampered meter, for the period it remained at site.

3.0 After scrutiny of the appeal, the records of the CGRF and the reply/comments submitted by the Respondent, the case was fixed for hearing on 22.03.2011

On 22.03.2011, the Appellant was present through Shri Harish Jain, Advocate. The Respondent was present through Shri Vishal Mittal, Client Manager (HRB), Shri Praveen Chawla, Officer (HRB), Shri K L Bhayana, Advisor and Shri Vivek, Manager (Legal).

Both the parties argued their case. During the hearing, the Appellant confirmed that during the period i.e. from 07.09.2006 to 07.02.2007, when the tampered meter remained at site and was not recording consumption, the supply was being used by him, but he contended that as per rules, no assessment can be done for this period. He also confirmed that no bills were raised nor any payment made by him for this disputed period of five months.


25.03.2011

The Respondent agreed during the hearing that there had been a delay in replacing of the tampered meter by five months, but, they were very much within their right to claim the assessment charges for the energy consumed by the Appellant during that period.

3.1 From the facts on record, it is clear that the Appellant had tampered with the meter and the meter became defective due to tampering. The consumer has already been assessed for DAE, upto the date of Inspection i.e. 7.09.2006. Thereafter assessment on normal tariff on the basis of average consumption is justified, as the meter was rendered defective/stopped due to tampering of the meter by the consumer. Although there is no specific provision in the Performance Standards-Metering & Billing Regulations, 2002, for assessment in such cases and only restoration of supply through a new meter is envisaged, it would be logical and fair to charge him for the electricity consumed. No doubt there has been a delay by the DISCOM in restoring the supply through a correct new meter, within a reasonable period of time for recording the actual consumption, but, the fact remains that the consumer was availing of the supply through a stopped meter upto 07.02.2007 i.e. the date of installation of the new meter.

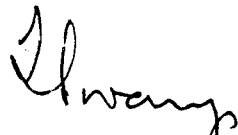
3.2 Further the Performance Standards - Metering and Billing Regulations 2002 clause 29(b) under the Head 'voluntary

declaration of tampered meters stipulates that the energy bill for the period the meter is not replaced shall be sent as per the procedure laid down for defective meters. From the above provision, it can be easily construed that tampered meters can also be assessed for the period the meters are not replaced, as per the procedure laid down for defective meters.

- 4.0 Further the principles of natural justice demand that the consumer should pay for the electricity he has consumed. Accordingly, the consumption has been correctly assessed by the Respondent for the period the tampered meter remained at the site and was used by the consumer. The CGRF's order stands modified accordingly.

The compliance report be submitted by the Respondent within a period of 21 days of this order.

25th March 2011


(SUMAN SWARUP)
OMBUDSMAN