

OFFICE OF THE 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/2011/415

Appeal against Order dated 23.09.2010 passed by CGRF–BYPL in complaint No.128/07/2010.

In the matter of:

Smt. Alka Gupta

- Appellant

Versus

M/s BSES Yamuna Power Ltd.

- Respondent – 1

Shri Dinesh Gupta &

Respondent – 2

Shri Mukesh Gupta

Present:-

Appellant The Appellant Smt Alka Gupta was present alongwith her husband Shri Naresh Gupta

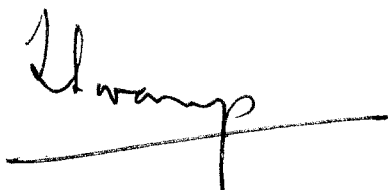
Respondent Smt. Yashika Tingal, Head CGC,
Shri N P Singh, BM – Division
Shri Ajay Das, S.O.
Shri Ravinder Singh Bisht, CGC-AG-III, attended on behalf of the BYPL, Respondent No. -1.
Shri Dinesh Gupta was present on behalf of the Respondent No. 2.

Dates of hearing : 05.04.2011, 30.06.2011, 20.07.2011

Date of Order : 29.07.2011

ORDER NO.: OMBUDSMAN/2011/415

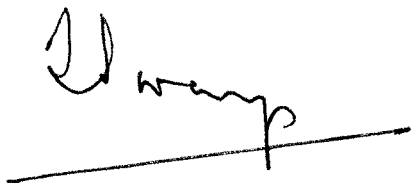
1.0 The Appellant, Smt. Alka Gupta, resident of DA-18, Vikas Marg, Shakar Pur Delhi-110092, has filed this appeal against the order of the CGRF No.128/07/2010 dated 23.09.2010,



regarding the bill of Rs.1,08,849/- for the period from 27.08.2002 to 22.05.2007 (initial Reading of R-23640 as on 27.08.2002, and R-43390 as on 22.05.2007) for units consumed during the period, which escaped the billing net.

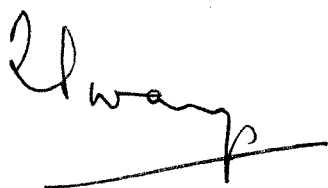
2.0 The brief background of the case as per the records and averments of the parties is as under:

- a. The Appellant, Smt. Alka Gupta, filed an appeal, through her husband Shri Naresh Kumar Gupta dated 22.02.2011, that her electricity connection no.1230-0215-1285 was disconnected on 09.03.2010 and the meter removed, from her shop No.DA-18, Vikas Marg, Shakarpur, Delhi – 110 092, and she has been unnecessarily harassed.
- b. The Appellant had earlier filed a complaint before the CGRF and requested that the Respondent company be directed to re-install her meter, and resume supply. The Respondent company in its reply before the CGRF-BYPL submitted as under:
 - That the supply of the appellant was disconnected on 09.03.2010 due to non-payment of dues amounting to Rs.94,617.41.
 - That the appellant had been not charged as per the actual reading recorded for consumption during the period 27.08.2002 to 22.05.2007, though the connection was alive. Provisional bills were being raised for the period September 2002 to March 2004,



and disconnection status was wrongly punched under 'P' code in the billing system, leading to non raising of bills for the period after March 2004.

- That the old meter of the Appellant bearing no.3010614D2 was replaced with a new meter bearing no.13672743 on 22.05.2007 at the final reading of R-43390.
 - That the bill of the Appellant was revised in August 2009 as per the actual consumption from R-23640 on 27.08.2002 to R-43990 on 22.05.2007, alongwith fixed charges from 05.02.2007 to 07.12.2007, wherein LPSC levied of Rs.4,310/- was refunded, and payments made amounting to Rs.12,694.74 during the period were refunded/adjusted. However, the actual final reading of the old meter on 22.05.2007 was 43390 instead of 43990, which was a bonafide clerical mistake.
- c. The Appellant in her rejoinder before the CGRF- BYPL submitted:-
- That the consumer could not be made to suffer for the errors committed by the Respondent company, and also the dues stood settled by the Respondent till the billing month of January 2006 under the LPSC Waiver Scheme, when the Appellant approached them in February 2006.
 - That the old disconnected meter had been removed from the site in December 2006, then how was the meter



reading stated to be taken on 22.05.2007, and why was no revision done when the supply was restored on 22.05.2007?


- d. After hearing the arguments of both the parties, the Forum directed the Discom to raise the final revised bill as per the final reading of 43390, without levying LPSC, and to accept the payment of the revised bill in 5 equal bimonthly installments. The CGRF directed re-connection of the supply on payment of the first installment and after completion of commercial formalities as per the DERC Regulations.

In pursuance of this decision of the CGRF, a bill of Rs.1,08,940/- was raised on the Appellant by the Respondent.

The Appellant, not satisfied with the above order of the CGRF-BYPL, has filed this appeal vide letter dated 22.02.2011.

- 3.0 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 05.04.2011.

On 05.04.2011, The Appellant Smt. Alka Gupta was present alongwith her husband Shri Naresh Gupta. The Respondent was represented by Smt. Yashika Tingal - Head-CGC, Shri N. P. Singh - B. M. Division, Shri Ajay Das - S. O. (A) and Shri

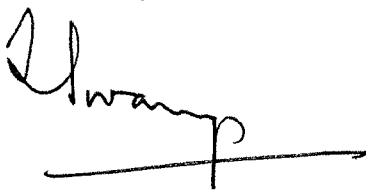


Ravinder Singh Bisht - A.G. (II), CGC. Both the parties were heard. The Appellant stated that he needed time to deposit 1/3rd of the amount of the bill of Rs.1,08,849/-, for meeting the mandatory requirement. Fifteen days time was given to the Appellant to deposit the amount. The Appellant was also asked to file an authority letter from all the co-owners, as the meter continued to be in the name of late Shri Chander Prakash Gupta. The case was fixed for further hearing on 30.06.2011.

- 3.1 On 30.06.2011, both the parties argued their case. The Appellant stated that her supply was disconnected in December, 2004 for non payment of dues of Rs.24,000/- approx.. Thereafter, it was restored in September 2007, and a new electronic meter was installed. Thereafter, again the supply was disconnected in March 2010, for non payment of arrears of Rs.98,000/- approximately.

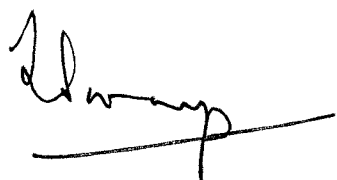
The Respondent stated that this was a case of escaped demand, as the supply continued to be in use after disconnection in 2004. The Respondent was advised to produce at the next hearing:-

- a. The meter disconnection and meter change protocols.
- b. Proof of unauthorized use of supply after disconnection.
- c. The Statement of Account from August 2002, duly authenticated by their internal Auditors.
- d. Downloaded readings of the electronic meter from September 2007 to March 2010.



Meanwhile, it was directed that the supply be restored as 1/3rd of the amount due had been deposited. The next hearing was fixed on 19.07.2011.

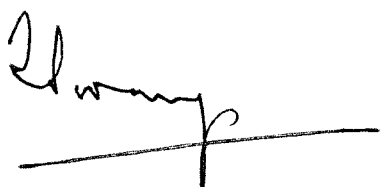
- 3.2 During the intervening period, miscellaneous complaints were received from Shri Mukesh Gupta and Shri Dinesh Gupta, brothers of Shri Naresh Gupta, in respect of the same premises, raising their objection regarding supply of electricity to Shop No.DA-18, Vikas Marg, Shakar Pur Delhi-110092. Accordingly, being interested parties, they were also impleaded in the case, and notices were issued to them to appear at the next date of hearing on 20.07.2011. However, Shri Mukesh Gupta expressed his inability to attend the hearing on 20.07.2011.
- 3.3 During the hearing on 20.07.2011, the Appellant Smt. Alka Gupta was represented by Shri Naresh Gupta (husband). Respondent No.2, Shri Dinesh Gupta was present in person. Respondent No.1 was represented by Shri Ajay Das, S.O. (A), Shri N.P. Singh, B.M. and Shri Ravinder Singh Bisht, AG (II). The Appellant produced the ownership documents, and stated that the supply to her shop remained disconnected between December 2004 to August 2007. Under the LPSC waiver Scheme announced by the Discom, she deposited all arrears reflected in the bill raised by the Respondent of Rs.24,460/-, in January 2006. The **Respondent No.1, reiterated that this was a case of 'escaped' demand. No bill was raised for**



consumption of electricity erroneously, as the supply was shown as disconnected in their billing system. However, actually the supply was in regular use upto December, 2005, and thereafter the consumption was negligible upto May 2007 when the meter was changed. There was however an error and the bill was raised only for the period June, 2002 to April, 2004, and no bills were raised for the remaining consumption upto December 2005. The meter disconnection and meter change protocols could not however be produced by the Discom, and the basis for recording the reading of '43990' could also not be explained. It was stated that the meter was changed in 2007 under the scheme of mass replacement of electro-mechanical meters by electronic meters, and no records are available. The electronic meter was installed on 22.05.2007. Shri Dinesh Gupta, Respondent No. 2, stated that he had no objection to transfer of the connection to Shri Naresh Gupta and for restoration of supply.

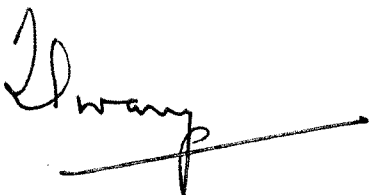
4.0 From perusal of the record, the following facts are relevant:

- a) The meter of the Appellant was not read regularly after August 2002 when the reading recorded was '23640'
- b) This reading of '23640' was fed into the billing system and only provisional bills were raised after September 2002 based on this reading upto March 2004.

A handwritten signature in black ink, appearing to be 'Shri Dinesh Gupta', with a horizontal line drawn underneath it.

- c) Thereafter the supply was shown as disconnected and arrears of Rs.24,743.61 were being shown in the billing system upto January 2006.
- d) The reading of '43379' appeared in the bill for the first time in January 2006 although no bill was raised for the units consumed between R-23640 to Rs.43379, i.e. for 19739 units.
- e) Similarly, the supply was shown as "disconnected" from March 2004 onwards upto July 2007.
- f) The meter was changed in August 2007, and the supply is shown to be in use thereafter between March 2008 onwards upto July 2009.

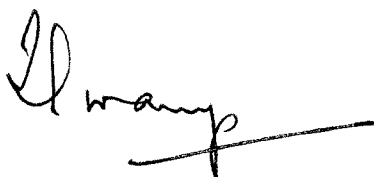
4.1 From the above facts, it can be inferred that the meter of the Appellant either was not read or was faulty between August 2002 and upto January 2006. The old meter was disconnected in May 2007, and cannot now be tested to confirm whether it was recording the current consumption after August 2002, nor are the meter removal/disconnection/change protocols available to confirm the reading of '43379'. This reading is an isolated one and there is no proof regarding its veracity. From the pattern of consumption prior to August 2002, and after installation of the new meter in August 2007, it appears that the reading '43379' cannot be relied upon. The provisional bills raised during the period February 2003 to March 2004 (i.e. one year prior to the disputed period) reflect the average consumption. In addition, in the absence of authentic readings



for the meter after August 2002, the provisional bills raised have been taken as final bills and the arrears of Rs.24,460/- were paid in January 2006 as final settlement of the arrears.

4.2 In view of the facts detailed above, and from perusal of the records, it is observed that the Respondent continued to raise provisional bills for the period February 2003 to March 2004, inter-alia implying that this consumption reflected the average consumption of the Appellant. Accordingly, it can be concluded that if for the unbilled period, the consumer is billed on this consumption base, it would be just and fair to both the parties. Accordingly, the consumer/Appellant be billed from April 2004 to December 2005. As per the reading chart submitted by the Discom, the reading for 06.12.2005, and at the time of removal/disconnection of the meter on 22.05.2007, is the same thereby confirming that the supply remained disconnected during this period. As such there is no reason to raise any bills for the period beyond December, 2005 upto May 2007. Further, during the hearing, the Respondent No. 1 confirmed that the supply was in use only until December 2005, and not till May 2007.

4.3 In view of the foregoing, it can be inferred that there has been escaped billing only for the period April 2004 to December 2005, and the most plausible consumption during this period could have been similar to the provision of bills raised on average consumption basis during the twelve month period

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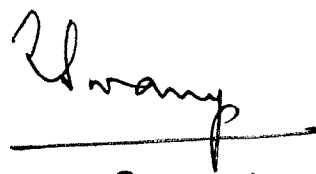
prior to this unbilled period, i.e. February 2003 to March 2004, as under:

S.No.	Reading Date	Consumption (KWH)
1.	01-Feb-2003	165
2.	01-Mar-2003	165
3.	29-Mar-2003	165
4.	25-Apr-2003	165
5.	02-Jun-2003	165
6.	04-Jul -2003	165
7.	04-Aug-2003	170
8.	02-Sep-2003	170
9.	03-Oct-2003	165
10.	03-Nov-2003	170
11.	03-Dec-2003	165
12.	03-Jan-2004	170
13.	03-Feb-2004	170
14.	01-Mar-2004	255

Accordingly, the Respondent No.1 is directed to revise the bills, without levy of LPSC, for the period of escaped billing i.e. April 2004 to December 2005, on the basis of the average bills raised for the period 01.02.2003 to 01.03.2004.

The appeal is disposed of accordingly. The order may be complied with within 21 days.

22nd July 2011


(Suman Swarup)
Ombudsman