

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/2011/436

Appeal against Order dated 22.03.2011 passed by CGRF–BYPL in complaint No.13/01/11 (CRN No. 1260003288).

In the matter of:

Smt. Tara Devi

- Appellant

Versus

**M/s BSES Yamuna
Power Ltd.**

- Respondent

Present:-

**Appellant The Appellant was represented by
Shri Sanjay Prakash Agarwal**

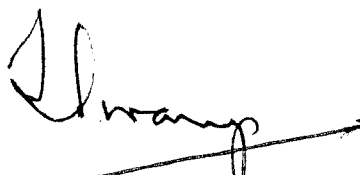
**Respondent Shri Ashish Sharma, Business
Manager, Shri Ravinder Singh Bisht
and Shri Davinder Singh – AG-II,
attended on behalf of Respondent**

Date of hearings : 22.09.2011, 05.10.2011

Date of Order : 20.10.2011

ORDER NO.: OMBUDSMAN/2011/436

1.0 The Appellant, Smt. Tara Devi w/o Shri Ram Singh, 45 B-1, Jagatpuri Mandoli Road, Shahdara, Delhi, has filed this appeal against the CGRF-BYPL's Order dated 22.03.2011 in Complaint No.13/01/11 (CRN No.1260003288, K. No.1260V1630107). She has prayed that her bill be revised on the basis of the sanctioned load of 0.25 KW, instead of on the basis of the load of 9.63 KW, under the scheme for


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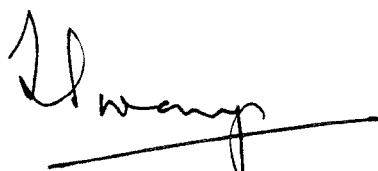
Voluntary Declaration of Tampered Meters, alongwith recovery of meter cost, as was done earlier in other cases.

2.0 The brief facts of the case as per the records are as under:-

2.1 The Appellant filed a complaint before the CGRF-BYPL against the bill prepared on the basis of the MDI readings of 9.63 KW as recorded on 19.12.2009. She had declared her meter to be tampered under the Regulation 55 of the Supply Code.

2.2 The Respondent submitted that the Appellant applied for relief under the scheme for Voluntary Declaration of Tampered Meters on 07.12.2010, accordingly a bill amounting to Rs.39,121/- was raised, in addition to the cost of the meter amounting to Rs.2,225/-.

2.3 The CGRF-BYPL vide their Order dated 22.03.2011 in Complaint No.12/01/11 directed the Respondent company to revise the bill of the Appellant as per the LDHF formula by adopting the value of 'L' (which is either the connected load or sanctioned load, which ever is higher) by determining the sanctioned load as per the order of the DERC dated 01.02.2011, and the connected load by taking the highest MDI in the last six months as the basis, as per earlier orders dated 22.06.2010 of the Forum in the matters of Shri Prabhash Jain Vs. BYPL, C.G. No.77/05/10 and Shri Moien Vs. BYPL, C.G. No.68/05/10. The Discom accordingly raised a bill for a 8 KW load amounting to Rs.29,913/-, on the basis of the average of the three highest MDI in the last financial year 2009-10

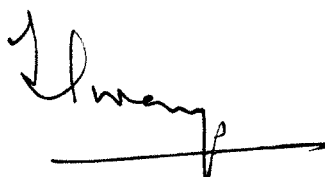

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against the bill amounting to Rs.39,121/- plus cost of meter Rs.2,225/-, raised earlier.

- 2.4 The Appellant, not satisfied with the above order of the CGRF-BYPL, has filed this appeal on 07.07.2011. She has submitted that the declaration that the meter was tampered was made in December 2010, and at that time the sanctioned load was 0.25 KW, today the increased load is 4 KW, which was enhanced as per her request in April, 2011. She has also prayed that her bill should be revised on the basis of the sanctioned load as existing on 07.12.2010 i.e. 0.25 KW, as she had intimated herself about the meter being tampered.

The case was fixed for personal hearing on 22.09.2011.

- 3.0 On 22.09.2011, the Appellant, Smt. Tara Devi, was represented by Shri Suraj Prakash Aggarwal, Authorized Representative of the Appellant. The Respondent was represented by Shri Ashish Sharma – Business Manager (Nand Nagri), Shri Ravinder Singh Bisht – AG II (C.G.C). Both the parties argued their case. The Respondent was asked to produce the record of consumption of the tampered meter and the consumption as per the new meter, installed on 22nd December, 2010. The Appellant argued that the orders of the DERC regarding load enhancement could not be applied retrospectively. The Appellant had also sought load enhancement herself in April, 2011 to 4 KW. The Respondent was also asked to produce details of other voluntary declaration cases where the MDI, and not the sanctioned load or connection load, had been adopted as the basis for

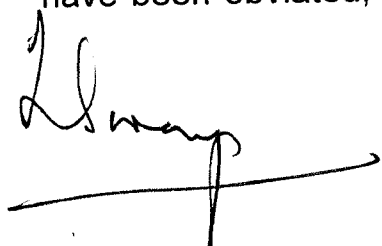

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assessment. The case was fixed for further hearing on 05.10.2011.

3.1 During the second hearing on 05.10.2011, the Respondent produced a few cases where the MDI was taken as the basis for raising of bills for tampered meters. It was argued by the Appellant that the Code was silent on whether the highest MDI in the previous twelve months should be the basis for raising the bills for tampered meters. The Appellant stated that in several cases the CGRF had ordered that the highest MDI in the last six months should be the basis for raising the bills. Some Orders were cited in support of his contention. The Respondent accepted that their software had been modified to reflect the highest MDI in six months, as a result of the orders of the CGRF in several cases. However, it was logical to take twelve months consumption/MDI as the basis, keeping in view seasonal variations.

4.0 After considering the facts on record, the provisions of the Code and the precedents cited by the parties, it would be reasonable and fair to raise the assessment bill on the basis of the highest MDI reading in the last six months, preceding the date of voluntary declaration of tampering of the meter. The orders of the DERC regarding load enhancement were issued in February 2011, i.e. after the declaration made by the Appellant of her meter being tampered, and can not be given retrospective effect.

It is also pertinent to bring on record that the dispute would have been obviated, had the Discom not failed in its duties to


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get the connected load of the Appellant checked when she had applied to them under the Voluntary Declaration of Tampered Meter Scheme in December 2010, to clearly determine whether the connected load was higher. Further, the initial assessment bill of Rs.39,121/- raised by the Discom on the basis of 9.63 KW, the highest MDI recorded on 19.12.2009, is not in conformity with the DERC's instructions or the Rules & Regulations, applicable to tampered meters.

- 4.1 The Respondent should ensure that the assessment bill of the Appellant is raised for a period of six months on the basis of the highest MDI recorded during the last six months preceding the date of her declaration of voluntarily tampering with the meter. The cost of the meter is also payable by the Appellant.

The appeal is disposed off accordingly. This order should be complied with within a period of 21 days from the date of issue.

20th October 2011


(Suman Swarup)
Ombudsman