

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/2011/439

Appeal against Order dated 25.04.2011 passed by the CGRF–NDPL
in CG.No. 3208/01/11/SKN.

In the matter of:

Shri Kashif Rehman Appellant

Versus

M/s North Delhi Power Ltd. Respondent

Present:-

Appellant The Appellant, Shri Kashif Rehman was presented
alongwith Shri Jagat Singh, Advocate.

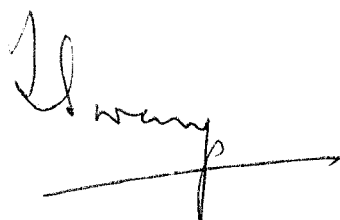
Respondent Shri K.L. Bhayana, Adviser,
Shri Ajay Kalsi, Company Secretary,
Shri Vivek, Sr. Manager (Legal)
Shri Kapil Sardana, Ex. (EAC), and
Shri Praveen Chawla, Officer (HRB) attended on
behalf of the Respondent.

Date of Hearing : 15.11.2011, 24.11.2011. 15.12.2011 &
22.12.2011

Date of Order : 29.12.2011

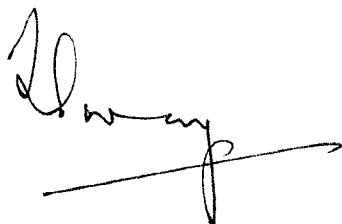
ORDER NO. OMBUDSMAN/2011/439

1.0 The Appellant, Shri Kashif Rehman, Proprietor of M/s R.K.
Industries Ltd., Plot No.187, Phase-II, Shahzada Bagh, Delhi-
110035, and the registered consumer, has filed this appeal
against the order of the CGRF-NDPL dated 25.04.2011 in CG



No.:3208/01/11/SKN regarding the alleged wrong bill raised for an amount of Rs.1,16,730/-. The bill has been raised by the Enforcement Assessment Cell – NDPL on 27.09.2010 after inspection on 06.11.2004, for the period from 06.05.2004 to 06.11.2004 (base period from 13.10.2005 to 20.10.2006), against M/s R.K. Industries having electricity connection bearing K. No.35301136090 (C.A. No.60004840447), with a sanctioned load of 40 KW for industrial purposes.

- 2.0 The brief facts of the case as per the records and averment made by the parties are as under:
- 2.1 The Appellant, being the proprietor and the registered consumer, filed a complaint before the CGRF-NDPL on 24.12.2010 against the bill raised for an amount of Rs.1,16,730/-, as per the orders of the Apex/ESC Committee of NDPL. He contended that the bill has been wrongly raised for his electricity connection bearing K. No.35301136090 for the meter defective period from 06.05.2004 to 06.11.2004, whereas he has already deposited the finally settled bill of Rs.7.10 lakhs on 31.10.2010 against the dues of Rs.9,83,137/-, pursuant to the Final Settlement dated 18.03.2010, arrived at with NDPL.
- 2.2 According to the Discom, the premises of the Appellant were inspected on 06.11.2004 and he was booked by the Enforcement Team for Dishonest Abstraction of Energy (DAE). The supply of the electricity connection bearing K. No.35301136090 was disconnected on 27.11.2008 on account



of accumulated unpaid bills amounting to Rs.9,83,137/- (excluding the Dishonest Abstraction of Energy (DAE) bill for an amount of Rs.14,76,759/-). On the request of the Appellant, a settlement bill was arrived at and he paid the bill of Rs.7.10 lakhs on 31.10.2010 to the NDPL, against the outstanding dues of Rs.9,83,137/-, which did not include the amount as per the enforcement bill, vide Final Settlement dated 18.03.2010. Thereafter, the connection was restored on 28.04.2010. As recommended by the Enforcement Settlement Committee, the Apex Review Committee of the NDPL decided to drop the case for DAE, and approved simple assessment for six months towards energy loss for the period prior to the date of inspection, till the date of replacement of the meter vide NDPL letter No.NDPL/APC/2009-10/4369 dated 22.07.2010, as per provisions of Clause – 43 of the DERC Regulations, 2007.

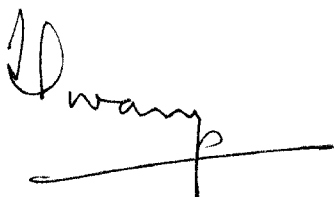
- 2.3 In view of the approval of the Apex Review Committee, a net amount of Rs.1,16,730/- as assessment bill for six months has been adjusted in the consumer's electricity account for the assessment period from 06.05.2004 to 06.11.2004 (Base Period from 13.10.2005 to 20.10.2006) for 45423 units.
- 2.4 The CGRF-NDPL after hearing both the parties, vide its Order dated 25.04.2011 in CG No.:3208/01/11/SKN, decided that the premises was inspected on 06.11.2004 by the Enforcement Team. It was decided on 22.07.2010 by the NDPL Apex Committee that the theft case is dropped and also that assessment for six months period prior to the date of inspection



till the date of replacement of meter, was to be carried out. The amount of Rs.1,16,730/- was assessed for the period from 06.05.2004 to 06.11.2004, which is wrong. The meter was replaced on 13.10.2005 so the assessment be carried out for the period 13.04.2005 to 13.10.2005 on the basis of the consumption recorded during the period 13.10.2005 to 20.10.2006. The bill was to be revised accordingly. The LPSC was waived off and the revised correct bill was to be delivered to the consumer.

3.0 The Appellant, not satisfied with the above order of the CGRF-NDPL, has filed this appeal on 08.08.2011 and has prayed:

- a) To accept the appeal and to set-aside the order dated 25.04.2011, passed by the CGRF-NDPL.
- b) To declare the revised demand of Rs.88,320/- raised by the Respondent pursuant to the CGRF-NDPL's Order dated 25.04.2011 in respect of his electricity connection through K. No.35301136090 installed at premises No.187, Phase-II, Shahzada Bagh, Delhi, as wrong, illegal, arbitrary, null & void and to quash it.
- c) To restrain the Respondent, its officials etc. from disconnecting the electricity supply without insisting upon the payment of the impugned bill of Rs.88,320/-.
- d) To direct the Respondent to remove the meter installed in the premises with immediate effect.

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- e) To direct the Respondent to pay a compensation of Rs.50,000/- on account of mental agony, pain and for the cost of the litigation, and
- f) To pass any other or further order deemed fit and proper in the facts and circumstances of the case in favour of the Appellant, in the interest of justice.

4.0 After receipt of the CGRF-NDPL's records and the para-wise comments from the Discom, the case was fixed for hearing on 15.11.2011.

On 15.11.2011, the Appellant, Shri Kashif Rehman, was not present. The Respondent was represented by Shri K. L. Bhayana – Advisor, Shri Vivek – Sr. Manager (Legal), Shri Kapil Sardana – Executive (EAC). The Respondent argued that in the settlement arrived at, assessment bills were excluded and agreed to be paid by the consumer. After hearing the Respondent, they were asked to produce the following documents:

- a) The Protocol Sheet for testing of the old meter to prove that it was defective.
- b) Documents to prove that the period of assessment was not included in the settlement amount of Rs.7.10 lakhs. This was to be confirmed from the Statement of Account.
- c) The details of readings of old defective meter.
- d) The Enforcement Action file.

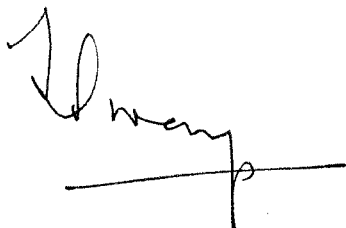
The case was fixed for further hearing on 24.11.2011

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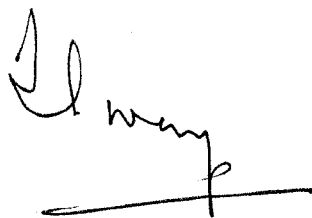
4.1 On 24.11.2011, the Appellant was present alongwith Shri Jagat Singh, advocate. The Respondent was represented by Shri K. L. Bhayana – Advisor, Shri Ajay Kalsie – Company Secretary, Shri Praveen Chawla – Officer (HRB) & Shri Vivek – Sr. Manager (Legal). Both the parties were heard. The Respondent stated that the old meter was faulty from a period prior to March, 2004, and the last provisional bill was paid in March, 2004 by the Appellant. Thereafter, the meter continued to remain faulty till it was changed on 13.10.2005. During the meter faulty period, provisional bills were raised for 19 months and part payment of about Rs.2.42 lakhs was received. For the new meter installed on 13.10.2005 upto 20.11.2008, the consumption based bills for about Rs.9.83 lakhs were raised. This amount was settled for Rs.7.10 lakhs and credit for part payment made during this period for bills raised as per the new meter, was given. The six months' assessment bill for the period prior to the date of inspection was raised which is disputed by the Appellant. The Respondent was asked to provide a clear statement of dues and payments for the following periods:

- i) March, 2004 to October, 2005 (for old meter).
- ii) October, 2005 to November, 2008, as per actual readings of new meter.
- iii) Basis for calculating the disputed bills.

The case was fixed for further hearing on 15.12.2011.

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- 4.2 On 15.12.2011, the Appellant was represented by Shri Jagat Singh, advocate. The Respondent was represented by Shri K. L. Bhayana – Advisor, Shri Vivek – Sr. Manager (Legal), Shri Praveen Chawla – Officer (HRB) & Shri Kapil Sardana – Executive (EAC). During the hearing, the Respondent filed a detailed statement of dues and payments for the old and new meters. A copy was given to the Appellant. The case was fixed for further hearing on 22.12.2011.
- 4.3 On 22.12.2011, both the parties were present. The Respondent stated that as per the mutual settlement arrived at on 18.03.2010, and signed by the Appellant – all dues upto November, 2008 were settled for a sum Rs.7.10 lakhs, which was paid by the Appellant, against the payable amount of Rs.9,83,184/-. The payable amount included the following:
- a) The provisional bills for the period from March, 2004 to October, 2004.
 - b) The Assessment bill for the period from November, 2004 to October, 2005 based on one year consumption recorded by the new meter (The period March, 2004 to October, 2005 was the period during which the meter remained defective, and the meter was replaced on 13.10.2005).
 - c) Reading based bills for the new meter from October, 2005 to November, 2008 (upto 20.11.2008).

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The Appellant also produced on 22.12.2011, the report of the mediator dated 14.09.2007 appointed by the Civil Judge, Tis Hazari, New Delhi which was taken on record.

5.0 From the above, it is quite clear that in the Settlement Amount of Rs.7.10 lakhs as already deposited by the consumer, vide Final Settlement dated 18.03.2010, against the payable amount of Rs.9,83,137/-, also included the payment towards:

- a) The provisional bills raised for the period from March, 2004 to October, 2004.
- b) The Assessment bill raised for the period from November, 2004 to October, 2005 based on one year's consumption of the new meter (The period March, 2004 to October, 2005 was the period during which the meter remained defective and was replaced on 13.10.2005).
- c) The reading based consumption bills from 13.10.2005 when the new meter was installed upto 20.11.2008 at R-218501, when the supply was disconnected.

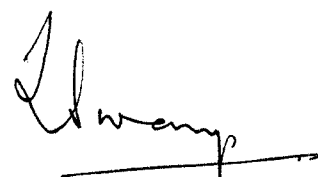
From the above, it is clear that there are no cogent reasons warranting raising of any further bill for the meter defective period. The decision of the Apex Committee is therefore not in order, and no further assessment bill is to be raised against the Appellant for the period upto 20.11.2008.

6.0 It is evident from the record and the statements of the NDPL that no further amount is payable for the period from March, 2004 to 20.11.2008 by the Appellant, as all dues stand settled

for an amount of Rs.7.10 lakhs against the payable amount of Rs.9,83,137/-, as per the mutual settlement of 18.03.2010. All dues/payments made earlier by the Appellant have also been taken into account while arriving at the figure of Rs.9,83,137/-. The Appellant has already been charged/ assessed for the entire period the old meter remained defective, and also for all dues of the new meter installed, upto 20.11.2008.

7.0 The appeal is disposed of accordingly, The Compliance Report of this order may be submitted within 21 days from the date of receipt.

29th December 2011


(SUMAN SWARUP)
OMBUDSMAN