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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-110057
(Phone No. 32506011 Fax No. 26141205)

Appeal No. F. ELECT/ Ombudsman/2006/73

Appeal against Order dated 22.02.2006 passed by CGRF – NDPL on CG.No. 0586/12/05/MTN.

In the matter of

M/s Eastern Capsulation Pvt. Ltd.	-	Appellant
Versus		
North Delhi Power Ltd.	-	Respondent

Present:-

Appellant	Dr. S.M. Surana, Managing Director Shri R.L. Jhamb, General Manager Shri Rohit Jain, Advocate
Respondent	Shri Rajeev Kharyal, HOG (KCG) Shri Sanjeev Kr. Banga, Manager (KCG)

Date of Hearing : 21.06.2006 & 27.06.2006
Date of Order : 11.07.2006

ORDER NO. OMBUDSMAN/2006/73

The Appellant is a pharmaceutical company, manufacturing medicines. It has electrical connection K. No. 33100122803H for small Industries Power connection (SIP) with sanctioned load of 74.60 KW.

The Appellant received a Show Cause Notice on 10.2.2005 stating that its meter recorded maximum demand of 114.9 KW against the sanctioned load of 74.60 KW on 25.7.2004 and, therefore, (LIP) higher Tariff as per tariff schedule of 2004-05 was applicable on the higher consumption.

The Appellant filed reply to the show cause notice on 26.2.2005. Stating that if such an irregularity was noticed in July 2004 i.e. 8 months ago we should have been informed at that very time so that we could have got our testing done and submitted our test report. It also stated that some over current

may have passed while carrying out some repair of the machinery thereby giving a rise to jump in the meter and that such accidental jumping does not amount to over loading.

After giving due consideration to the Appellant's reply on 26.2.2005 to Show Cause notice, as well as the submissions made during personal hearing the Discom passed the speaking order on 23.08.05 stating that the recording of MDI of 114.9 KW was not accidental because the maximum demand indicator records only if a particular load is run on the system for a continuous period of 30 minutes.. It also stated that in case the MDI is found to be more than 100 KW, the bulk tariff (MLHT/LIP) under the relevant category on LT (400V) shall be charged for six months after the load is brought within the SIP/LIP. Accordingly a demand was raised for an amount of Rs. 1,69,346.96.

The Appellant filed a Writ Petition in the High Court of Delhi whence it was directed to approach the appropriate forum as per the Electricity Act, 2003.

The Appellant filed ~~the~~ complaint before CGRF against the bill of Rs. 1,69,346.96. The CGRF after hearing both the parties passed an order dated 24.6.2006 upholding the demand raised by the NDPL. The Appellant filed an appeal before the Ombudsman protesting that the fact of the Appellant crossing the limit of 100 KW was informed 8 months after the incident and this shows negligence on the part of the licensee. The Appellant also stated that had it been informed immediately it could have taken remedial measures promptly. He also stated that the meter installed at the premises of the Appellant does not contain any method or information by which the Appellant can ascertain the actual consumption of electricity in the form of KIWH and it can know on its own, that its consumption has gone beyond the sanctioned load.

The Appellant has also challenged Clause 8.2.1.1 of tariff schedule promulgated by the DERC of tariff 2004-05 holding it unreasonable and in violation of principles of natural justice because the penalty levied under this clause even for one violation in six months is too oppressive and against principles of natural justice.

In view of above, the Appellant prayed for setting aside the order of the CGRF dated 24.6.2006 and the penalty of Rs. 1,69,346.96 passed by the DISCOM under Clause 8.2.1.1 under tariff schedule of 2004-05.

The records from CGRF were called for. The contents of the appeal were examined and certain clarifications required in the context of issues raised by the Appellant were called for from the DISCOM. The case was fixed for hearing on 21.6.2006. Shri R.L.Jhamb, General Manager attended the hearing. The case was discussed. The provisions of tariff 8.2.1.1 were explained to the Appellant. It was admitted by the DISCOM officials that the Show Cause Notice was delayed and sent on 10.2.2005 even though the data of the meter was down loaded on

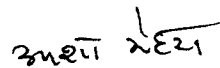
5.11.2004. The fact that the MDI has crossed 100 KW cannot be denied and the provisions of tariff clause 8.2.1.1 have to be invoked in such a case. The MDI shows that the Appellant has gone far beyond the sanctioned load of 74.6 KW and, therefore, the rate of tariff/penal provisions provided under the law can not be waived merely because of delay in informing the Appellant. The speaking order dated 23.8.2005 passed by the NDPL has met with all the objections raised by the Appellant.

In view of the above, the order of the CGRF is upheld in principle. However, on going through the calculations of Rs. 1,69,346.96 (the demand/penalty raised vide speaking order dated 23.8.2005) there appear to be some errors and the DISCOM officials were asked to correct the calculations and submit the same by 27.6.2006.

On 27.6.2006, Dr. S.M.Surana, Managing Director of the Appellant Company attended the hearing alongwith Shri R.L. Jhamb, General Manager. Shri Rohit Jain their advocate also attended the hearing. Shri Rajeev Kharyal, HOG (KCG) and Shri Sanjeev Kumar Banga, Manager (KCG) attending the hearing on behalf of NDPL.

The Officials of the DISCOM submitted the revised calculations which show a demand of Rs.1,02,057.16p payable by the Appellant. Copy of this revised calculation is given to the Appellant. The due date for this payment will be as per the due date on the next monthly/bi monthly bill raised by the DISCOM. The NDPL is advised to ensure proper implementation of DERC Regulations.

The order of the CGRF is modified to the extent above.


(Asha Mehra)
Ombudsman