

OFFICE OF ELECTRICITY OMBUDSMAN

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)

B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057

(Phone-cum-Fax No.: 011-41009285)

Appeal No. 27/2023

(Against the CGRF-BRPL's order dated 18.05.2023 in Complaint No. 29/2023)

IN THE MATTER OF

Shri Surinder Kumar

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Shri Sushil Kumar, son of the Appellant

Respondent: Shri Ranjan Choudhary, DGM, Shri S Bhattacharjee, Senior Manager and Shri Arav Kapoor, Advocate, on behalf of BRPL

Date of Hearing: 12.09.2023

Date of Order: 13.09.2023

ORDER

1. Appeal No. 27/2023 has been filed by Shri Surinder Kumar, R/o WZ-48, Khyalya Village, New Delhi - 110018, through his son Shri Sushil Kumar, against the CGRF-BRPL's order dated 18.05.2023 passed in C.G. No. 29/2023.

2. The instant case is that Shri Surinder, the Appellant, received an assessment bill of Rs.62,000/- for 9800 units in the month of March, 2023, against the non-domestic electricity connection bearing CA No. 100143648 of 7 KW installed at premises No. N-229, Vishnu Garden, New Delhi - 110018. On receiving the said bill the Appellant approached the Discom with an application dated 07.02.2023 for rectification of high consumption bill for the period when the premises was vacant. The Appellant also mentioned that the last reading of the said connection was downloaded on 04.04.2022. On 26.04.2022, the Appellant applied for the category change from Non-Domestic to E-Rickshaw charging connection. In the meantime,



the meter got burnt on 29.04.2022, for which he filed a complaint. The meter was replaced on 05.05.2022. The tariff category was changed on 02.05.2022.

3. The Respondent submitted before the CGRF vide communication dated 03.04.2023 that the category of the said connection from non-domestic to E-Rickshaw was changed with effect from 05.04.2022. The sanctioned load of the connection earlier was 7 KW, and after change of the category, the Appellant is using more than 30 KW. Consequently, the meter got burnt on 04.05.2022 and the same was replaced with a new meter on 05.05.2022. Due to burning of meter, the assessment has been done for the period 05.04.2022 to 04.05.2022 for 30 (thirty) days by taking the base period of 05.05.2022 to 01.08.2022 as per the new meter. The base period of new meter was considered as E.Rickshaw category, as burnt period also pertains to the E. Rickshaw category. Accordingly, a bill of Rs.61,122.62 for 9847 units was raised. The Respondent also submitted that they had already discussed the matter with the Appellant twice and apprised him of all the facts and calculations.

4. The CGRF-BRPL in its order dated 18.05.2023 stated, "it is apparent that the sanctioned load was 7 KW and the MDI was 30 KW, with the result that the meter got burnt on 29.04.2022. The base period of new meter was considered under e-rickshaw category since the burnt period also belongs to the same category. The Respondent also apprised the Appellant twice through the calculation-sheet. With regard to the energy bill for Rs.61,122.62, the same was based on downloaded readings, and the calculation sheet appears to be in order, so the bill is payable." The Forum directed the Appellant to pay the bill raised by the Respondent.

5. Not satisfied with the order dated 18.05.2023 passed by the CGRF-BRPL, the Appellant preferred this appeal for rectification of the bill of Rs.61,122.62, on the ground that the meter was burnt on 29.04.2022 and the new meter was installed on 05.05.2022, and, therefore, he requested to calculate the base of the assessment period w.e.f. 02.05.2022, i.e, the date of category change from Non-Domestic to E.Rickshaw charging connection instead of 05.04.2022. The Appellant also submitted that the premises was vacant for 18 months and the Respondent did not consider this fact.



6. The Respondent in their reply dated 17.07.2023 to the appeal before this Court has submitted that the site was visited on 30.04.2022 and it was found that the Appellant was already using the non-domestic connection for E-Rickshaw charging. Thereafter, the Appellant's application was processed for the change of category.

7. The Respondent further stated that in April, 2022, the Appellant filed a complaint for a burnt meter, which was replaced by a new meter on 05.05.2022. Thereafter, a lab report dated 01.08.2022 was generated which reported "abnormally burnt & meter reading shown as RNV (Reading Not Visible)". A copy of the lab report has been placed along with their reply. The last reading was downloaded on 04.04.2022 having consumed 303 KWH units. It is further submitted that the reading of the meter for the period 05.04.2022 to 04.05.2022 could not be recovered as the meter was burnt, therefore, the Discom was unable to charge any amount for that period. They had the reading of the meter before it was burnt in the non-domestic category, and the meter got burnt after the change of category, i.e., E-Rickshaw charging. A copy of the bill dated 10.05.2022 has been enclosed with the reply.

Respondent further contended that Proviso to Regulation 40 (1) of the DERC (Supply Code and Performance Standards) Regulations, 2017, was followed, which provides that *in case the average data of electricity consumption for the past six months is not available or partially available, then the average consumption of the next three months excluding the provisional billing after the installation of a new meter shall be used for billing purposes*. The Discom calculated the bill amounting to Rs.61,122.62 for the period 05.04.2022 to 04.05.2022 i.e., for 30 (thirty) days, by taking the base period of 05.05.2022 to 01.08.2022, considering the E-Rickshaw Charging category. Accordingly, the calculation sheet was generated by the Discom, and the Appellant was asked to make payment accordingly. The calculation sheet and a copy of the bill were also submitted along with the reply. The Respondent also reiterated that the Appellant was explained multiple times that the calculations of assessment billings are done in accordance with the DERC's Supply Code, 2017.

Moreover, it was the Respondent who requested before the Forum that the matter be resolved amicably between the parties, and thereafter, as per the settlement, it was agreed that the Respondent will waive off the LPSC charges amounting to Rs.10,000/- and the Appellant will pay a full and final amount of Rs.1,25,120/-, thereby clearing all his dues. The Appellant has cleared all his previous dues by paying the full amount of Rs.1,25,120/-. Copy of receipt of



Rs.1,25,000/- placed with the reply. Also the Forum distinctly recorded in its order dated 18.05.2023 that *"on 02.05.2023, both parties were present and submitted that the matter had been resolved. Therefore, the case was disposed off."*

8. The appeal was admitted and taken up for hearing on 12.09.2023. During the hearing, the Appellant was represented by his son Shri Sushil Kumar and the Respondent was represented by their authorized representatives. An opportunity was given to both to plead their respective cases at length.

9. During the hearing, the Appellant reiterated the submissions made by him in his appeal. In addition, the Appellant stated that the premises, in subject, is 250 sq. yards, consisting of the ground floor plus first floor. A three phase NDLT category electricity connection has existed there for a long time because the premises earlier was used for factory purposes. The Appellant further stated that the said premises was vacant between 2018 and 2022. Therefore, the load was reduced from 11 KW to 7 KW. In this regard, 'zero' usage bills for this period were paid by the Appellant. Further, the category needed to be converted from NDLT to E-Rickshaw for rental purposes and the tenant specifically insisted for the change of category. Now, the said electricity connection is being used by the Appellant for charging of E-Rickshaw after change of category on 02.05.2022.

When the Appellant was asked whether there is any proof of a rent agreement or anything which can support his statement, the Appellant could not reply satisfactorily. Regarding reasons for damage (burning) of the meter, the Appellant admitted that the meter could have been burnt at the time of fitting of internal wiring in the premises by the electrician on 29.04.2022 and refused that any E-Rickshaw was charged on 30.04.2022. The Appellant further submitted that he had taken preparatory steps for infrastructure and electricity wiring etc. for functioning of E-Rickshaw Charging Station, which was in place on the date of inspection on 30.04.2022. On the question of mutual settlement between both the parties and subsequent payment of Rs.1,25,120/-, the Appellant replied that there was no settlement with the Discom. In fact, he was forced to deposit it to avoid disconnection. The Appellant also objected to the disparity in dates mentioned in the Discom's written submissions. He asserted that the manner of billing by the Discom was against the spirit of Regulation 40 of the DERC (Supply Code & Performance Standards), Regulations, 2017.



10. However, the Respondent reasserted its justification with regard to assessment for 30 days as per Regulation 40 of the DERC's Supply Code, 2017 and discussed at length. The Discom further stated that the 'site inspection report' dated 30.04.2022 and photographs of the premises clearly show that the premises was being used for charging E-Rickshaw. Regarding the exact date of burning of meter, the Respondent could not answer, whereas, the Appellant confirmed it was on 29.04.2022. Respondent further stated that in general practice the supply is bypassed, in case of damage to the meter. At present, the load of the connection, in subject, is consistently on higher side i.e 38 KW. When asked, whether any notice for load enhancement was served or not upon the Appellant, the Discom officer present stated that in August, 2023, a notice was served upon the Appellant. It was observed that there was one year delay on the part of the Discom for issuing notice.

11. Having taken all factors, written submissions and arguments into consideration, I am of considered opinion that the CGRF- BRPL erred in its order of dated 18.05.2023, and same is set aside.

12. In this matter DERC's Supply Code, 2017, Regulation 40 (1), regarding billing in case of burnt meter is applicable, which is produced below:

"40. Billing in case of burnt meter:-

- (1) *The electricity charges for the period for which meter was not read, shall be billed on the basis of actual average consumption recorded during the corresponding period in the preceding year, excluding the provisional billing:*

Provided that if actual consumption recorded during the corresponding period in the preceding year is either not available or partially available, the actual average consumption of past 6 (six) billing cycles immediately preceding the date of meter being detected or reported defective, excluding the provisional billing, shall be used for billing purpose.

Provided further that if the actual average consumption of past 6 (six) months is either not available or partially available, the average consumption for the next 3 (three) billing cycles excluding provisional billing after the installation of new meter shall be used for billing purpose."



It is apparent from the record that on account of non-usage of the premises, as per Regulation 40(1), the actual average consumption during the corresponding period of 2021 was not available. However, the actual consumption during past 6 (six) billing cycles immediately preceding the meter becoming defective (burnt) as contemplated in Proviso 1 to Regulation 40 (1) was available in the record and the Discom erred in ignoring the available data. There was no basis for the presumption that the Appellant was using the connection for E-Rickshaw charge from 05.04.2022 onwards, although he applied for change of category on 26.04.2022.

13. This Court accordingly directs as under:

- (a) The order of CGRF- BRPL is set-aside.
- (b) Bill for 1783 units should be raised for the period 05.04.2022 to 04.05.2022 for 30 days.
- (b) Out of which, 143 units under non-domestic category for first 25 (twenty five) days, as per proviso at (X) and 1640 units for later 5 (five) days, as per proviso at (Y) under tariff category of charging station for E-Rickshaw.
- (c) Revised bill should be sent and differential of excess amount paid be refunded/credited/adjusted in next billing cycle, of the Appellant.
- (d) Action taken report be submitted to this office within 30 days of this order

The appeal stands disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
13.09.2023