

Office of 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/2010/349

Appeal against Order dated 12.11.2009 passed by CGRF-NDPL in CG.No. 1864/09/08/MTN.

In the matter of:

Sh. Sanjeev Preeya - Appellant

Versus

M/s North Delhi Power Ltd. - Respondent

Present:-

Appellant Shri Mukul Dhawan, Advocate and
Shri Rishi Tanwar, Authorised Representative attended
on behalf of the Appellant

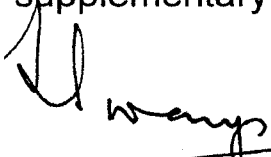
Respondent Shri Ajay Kalsi, Company Secretary,
Shri K.L. Bhayana, Consultant,
Shri A.K. Abhi, Senior Manager
Ms. Yamini Gogia, Commercial Manager and
Shri Vivek, Manager (Legal) attended on behalf of the
NDPL

Date of Hearing : 19.01.2010, 05.02.2010, 05.03.2010

Date of Order : 09.04.2010

ORDER NO. OMBUDSMAN/2010/349

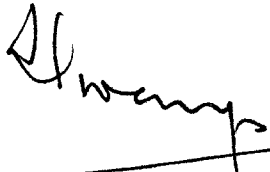
1.0 The Appellant Shri Sanjeev Preeya has filed this appeal against the order dated 12.11.2009 passed by the CGRF-NDPL in the case No. 1864/09/08/MTN. He has prayed: (a) to set aside the impugned order dated 12.11.2008 wherein the learned CGRF has directed that the supplementary demand raised on account of revision of bill on actual


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consumption for the period 12.01.2007 to 24.11.2007 be paid and the demand for the period 24.11.2007 to 24.12.2007 be paid for consumption of 919 units, (b) direct the Respondents to revise the bill on the basis of Regulation 43 of the DERC Supply Code, 2007, and (c) pass such further and/or other order, direction or grant relief which may be deemed fit and proper keeping in view the facts and circumstances of the case.

1.1 The background of the case as per the contents of the appeal, the CGRF's orders and the submissions made by both the parties is as under:

- i) As per the Appellant, Meter No. 0103266562 was installed at his premises in June, 2002 against the non-domestic connection K. No. 33300140681 sanctioned for 0.25 Kw. This meter recorded correct readings upto 12.01.2007, i.e. upto the reading 75340, and all the bills were paid accordingly. Thereafter, the Respondent did not take regular monthly readings nor were bills received. All of a sudden a supplementary bill for 26220 units was received for the billing month December 2007 for an amount of Rs.1,60,882/-.
- ii) As regular bills were not being received, the Appellant made a 'faulty meter' complaint to the Business Manager in October 2007. This meter was replaced on 24.12.2007 with 'meter faulty' remarks and the reading of 38862 was recorded in the meter change report. The Respondent raised an assessment bill in May 2008 for an amount of Rs.2,48,311.36 for the period 12.01.2007 to 25.12.2007.


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- iii) The Appellant filed a complaint before the CGRF-NDPL against this assessment bill. Before the CGRF the Respondent stated that the old meter was replaced on 24.12.2007 with 'meter faulty' remarks as the same had remained stopped from 12.01.2007 onwards and the period 12.01.2007 to 24.12.2007 had been assessed on the basis of the average consumption recorded during the period 17.01.2006 to 12.01.2007. The Respondent produced before the CGRF, a copy of the computerized downloaded data for the readings recorded between 14.03.2007 and 24.06.2008. The Respondent later took the stand that the assessment had been restricted to a one month period only i.e. from 24.11.2007 to 24.12.007 and the demand for the period 12.01.2007 to 24.11.2007 had been revised on actual consumption recorded by the meter.
- iv) The Appellant stated before the CGRF that the supply was not in use during the disputed period. He produced a copy of a certificate signed by six neighbours stating that the premises was lying vacant since November, 2006, a copy of the letter dated 11.10.2007 sent to the Commercial Officer, MTNL, requesting for disconnection of his telephone alongwith a copy of letter dated 04.10.2007 addressed to the Business Manager, indicating that the meter was faulty. The Appellant could not submit the production record of his unit, although copies of the income tax returns for the Assessment Year 2005-06, 2006-07 and 2007-08 were produced, as documentary proof to establish that the unit was closed.

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v) The CGRF observed as under:

"As per statement of K No. summary the reading 75340 was recorded on 12.01.2007 and final reading of old meter No. 0103266562 was 38862. The computerized downloaded data furnished by the Respondent indicated sequential reading from 14.03.2007 onwards till replacement of meter."

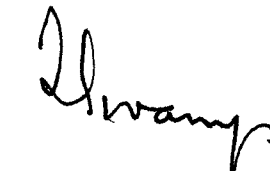
The CGRF, in its order held the supplementary demand raised by Respondent on account of revision of bill on actual consumption basis for 12.01.2007 to 24.11.2007 to be in order, and allowed the Appellant to make payment of the arrear in ten equal installments. Considering that no electricity bill was raised for almost eleven months, the CGRF awarded a compensation of Rs.3,000/- also.

Not satisfied with the above orders, the Appellant has filed this appeal.

2.0 After scrutiny of the contents of the appeal, the CGRF's order and the submissions made by both the parties, the case was fixed for hearing on 19.01.2010.

On 19.01.2010, the Appellant was present through Shri Mukul Dhawan, Advocate. The Respondent was present through Shri A.K. Abhi, Senior Manager, Ms. Yamini Gogia, Manager, Shri K. K. Bhayana, Consultant and Shri Vivek, Manager (Legal).

Both the parties were heard. The Appellant argued on the facts and reiterated that the meter was an electro mechanical meter and remained faulty from January, 2007 to December, 2007. The


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Respondent argued that the meter was recording progressive readings and was in order and that there was a dial over between March and May, 2007. The Respondent admitted that no bills were raised for almost one year and sought time to furnish clarifications on the following:


- a) source of reading data
- b) to check whether meter was electronic or electro mechanical
- c) to get the meter checked to see if it is functional and recording readings correctly
- d) to rectify the data regarding the computerized record furnished.

The K. No. file submitted indicates that name change and load enhancement to 6 Kw was done in July, 2002. As such, fixed charges are liable to be paid on 6 Kw.

The next hearing was fixed on 05.02.2010.

- 2.1 On 05.02.2010, the Appellant was present through Shri Mukul Dhawan, Advocate and Shri Rishi Tanwar, Authorised Representative. Respondent was present through Shri A. K. Abhi, Senior Manager, Ms. Yamini Gogia, Commercial Manager and Shri Vivek, Manager (Legal).

The Appellant again stated that the disputed meter No. 0103266562 was an electro mechanical meter and this is established from the fact that another meter of the same type is existing at his premises for another connection. The Respondent also stated that the disputed meter was an electronic counter type meter. After removal, the meter

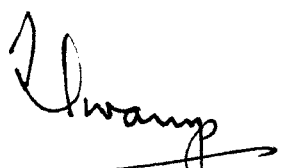

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is presently not traceable and the readings produced were manually recorded and not downloaded. To confirm the type of meter, the Respondent was directed to produce the meter change protocol of June, 2003 and also to verify the manual data from the back-up system. The case was fixed for final arguments on 19.02.2010, but re-scheduled to 05.03.2010, on the request of the Respondent.

- 2.2 On 05.03.2010, the Appellant was present through Shri Mukul Dhawan, Advocate and Shri Rishi Tanwar, Authorised Representative. Respondent was present through Shri Ajay Kalsi, Company Secretary, Shri A. K. Abhi, Senior Manager, Ms. Yamini Gogia, Commercial Manager and Shri Vivek, Manager (Legal).

Both the parties completed their arguments. It was agreed by both that the last undisputed reading was 75340. Both the parties also agreed that the meter was faulty but there was no evidence to establish the date from which it was not recording the correct readings. The Appellant contended that the meter stopped recording after January, 2007 and the Respondent stated that the last correct reading was taken in November, 2007. The reading recorded on the protocol sheet of December, 2007 was not disputed except that according to the Appellant the meter moved in the reverse direction, and as per the Respondent there was a dial over of the meter between March to May, 2007.

- 2.3 The Statement of Account indicates that the old meter No. 0103266562 recorded the last correct reading as 75340 on


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12.01.2007. Thereafter, no reading was recorded for the next eleven months and the next reading is recorded as R-1 of the new meter installed on 24.12.2007. A copy of the meter change report dated 24.12.2007 indicates the reading 38862 of the old meter with a few over-writings and cuttings. The meter change report bears the remarks 'old meter faulty and stopped'.

2.4 The Respondent treated the meter as faulty and earlier raised the assessment bill for the period 12.01.2007 to 24.12.2007 which was disputed before the CGRF. However, during the hearing before the CGRF, the Respondent stated that the meter was working upto 24.11.2007 and assessment had been restricted for the one month period only i.e. 24.11.2007 to 24.12.2007, and the demand for the period 12.01.2007 to 24.11.2007, had been revised on actual consumption basis. The Respondent furnished before the CGRF the computerized downloaded data for the readings recorded between 14.03.2007 to 24.06.2008. The Appellant stated that two electro mechanical meters were installed in his premises bearing meter No. 010-3266562 and 010-3266564. The meter No. 010-3266562 became faulty from 12.01.2007. Down loading of readings from an electro mechanical meter is not technically possible. In their reply, the Respondent had not given any convincing reason for not taking regular readings after 12.01.2007 and for not sending regular bills. In fact they admitted that the meter was read manually and data produced earlier was not downloaded.

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- 2.4 The meter was replaced on 24.12.2007 with "meter faulty/stopped" remarks. The Respondent could not produce the disputed meter as evidence nor could the report of checking/testing be provided for the disputed meter. The Respondent also could not produce the meter change report when this meter was installed in June, 2002 to establish that it was an electronic meter.

Under these circumstances, one cannot accept the Respondent's version that the meter had recorded correct readings upto 24.11.2007 and had remained faulty only for one month as there is not enough evidence to confirm this. The Respondent also failed to state the reasons for not taking regular readings after 12.01.2007 and for not sending bills regularly to the Appellant. They have also now confirmed that the readings were not actually downloaded, as stated before the CGRF.

- 3.0 From the above it can be concluded that the meter No. 010-3266562 remained faulty during the period 12.01.2007 and 24.12.2007, and necessary assessment for the defective period be made, for a period of six months based on the average consumption for the same period in the previous year i.e. between 12.01.2006 and 24.12.2006 when the meter was working satisfactorily. The payments made by the Appellant be adjusted accordingly.

The CGRF-NDPL's order is accordingly set-aside.

9th April 2010.


(SUMAN SWARUP)
OMBUDSMAN