

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/2014/586

Appeal against the Order dated 18.09.2013 passed by the CGRF-TPDDL in CG.No.5220/04/13/MTN.

In the matter of:

M/s Gayatri Cork Products - Appellant

Versus

M/s Tata Power Delhi Distribution Ltd. - Respondent

Present:-

Appellant: Shri Naveen Soni was present in person.

Respondent: Shri Vivek, Sr. Manager (Legal), Shri Anil Kumar Rana, Manager (RBG) and Shri Vishal Dutt, Officer (LSC) attended on behalf of the TPDDL.

Date of Hearing : 10.12.2013, 07.01.2014, 28.01.2014

Date of Order : 31.03.2014

FINAL ORDER NO. OMBUDSMAN/2014/586

This appeal has been preferred by M/s Gayatri Cork Products, through Shri Naveen Soni of 3 DLF Industrial Area, Moti Nagar, New Delhi – 110015, against the order of the Consumer Grievance Redressal Forum – Tata Power Delhi Distribution Ltd. (CGRF-TPDDL) in which its request for deleting the transferred amount from another disconnected connection was declined by the CGRF.

A case had been filed before the CGRF stating that the DISCOM had transferred an amount from one disconnected connection bearing K. No.33100124678, in the name of M/s Tara Bottle Bhandar to a live connection

K. No.33100123011, in the name of M/s Gayatri.Cork Products. According to the Complainant, this was wrong.

The DISCOM in its reply before the CGRF stated that the amount had been transferred under clause 49 (ii) of the DERC Supply Code and Performance Standards Regulations 2007 from a disconnected connection bearing K. No.33100124678 pertaining to one M/s Tara Bottle Bhandar. This disconnected connection was found on 28.04.2004, to be supplying electricity from the live connection K. No.33100123011 of the present Complainant.

The CGRF had found the DISCOM's contention correct and declined the request of the Complainant to invalidate the transfer of amount.

A hearing was held on 07.01.2014 and then on 28.01.2014 when both the parties were heard.

The CGRF's findings are misconceived as it has mixed up two issues which are different viz. "transfer of dues" and "dues on premises". The first issue is dealt with by Clause 49 (ii) and the second issue is dealt with by Clause 15 of the Regulations, 2007.

In the first case viz. Clause 49 (ii) relating to transfer of dues, there are three different firms involved namely i) Tara Bottle Bhandar ii) Tara Rajcor Kinds & iii) M/s Gayatri Cork Product, in that order, which had three different connections. As alleged in one inspection report (dated 27.08.2008), electricity was found being supplied to the disconnected connection of M/s Tara Bottle Bhandar from the live connection of M/s Tara Rajcor Kinds. The electricity supply was found stopped in the second alleged inspection report dated 28.04.2009. In the second alleged inspection report, the electricity was being supplied from the M/s Gayatri Cork Product. This could have been treated as first inspection report for the purpose of illegal supply by M/s Gayatri Cork Product. A reinspection report would also be required to



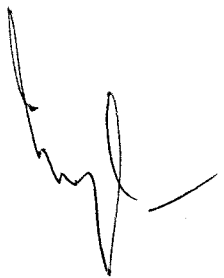
ascertain whether the supply was stopped or not after due notice specifying the time during which supply must stop. If supply was not stopped, only then the dues could have been transferred to M/s Gayatri Cork Product after passing proper internal orders to this effect. All this was never done by the DISCOM.

The procedure of the second alternative under Clause 15, for invoking "dues on premises", is totally different. This Clause cannot be simultaneously invoked alongwith Clause 49 (ii). The DISCOM has never issued any notice under this Clause to the Appellant herein. For the purpose of recovery on the ground of "dues on premise", it is necessary that there should be existing dues on the old premises. When the ownership is transferred to a fresh owner, a new connection can be denied to him unless the previous dues are cleared by the previous owner or by the new one. In the present case, when all the three electricity connections were existing simultaneously, there cannot be any inter change of dues on this ground.

There is yet another provision viz. Clause 20 in the Regulations, 2007 which deals with recovery of dues from the successor/occupier of the premises in cases where the fresh occupier wants to have a "change of name" of the old electricity connection (with dues pending) into his own, new, name. In present case, no name change of the consumer was sought. Therefore, this Clause is also not applicable in the present case.

Further for transferring of an amount under Clause 49 (ii) of the DERC Supply Code and Performance Standards Regulations, 2007, three, or four, conditions are required to be complied with before transfer of any dues. These are as under:

1. Inspection by the DISCOM showing supply of electricity from live connection to a dead connection, with a written report being available.



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- (4)
2. Show cause notice to the consumer and proper service of it to stop the supply, based upon the above report, in a specified period to be indicated.
 3. Re-inspection by the DISCOM, after the period allowed in the above notice, showing stoppage/non-stoppage of such supply, followed by a written report of this re-inspection.
 4. Issue of a written order, based on items 1 to 3 above, transferring the dues under Clause 49 (ii).

In the above case none of the conditions have been fulfilled. The alleged inspection report dated 28.04.2004 is only a printed proforma in which only some details are filled up. There is no name and address of the DISCOM on the report nor there is any name and designation of the person conducting the inspection. The column 'approved by' has been left blank. This type of inspection report does not inspire confidence in any adjudicating authority. Further, on the basis of this inspection report, some alleged notice dated 16.11.2008 was issued for payment of dues to M/s Tara Raj Cork Kinds and not to the Complainant herein. And alongwith alleged show cause notice dated 02.05.2009 to the Appellant herein no 'registered postal receipt' has been filed by the DISCOM. In the absence of a registered notice to the Complainant herein, the exercise becomes futile. Further, there is no re-inspection by the DISCOM to confirm whether the supply was stopped or not. This need for a re-inspection etc. was confirmed by the Hon'ble High Court as far back as in the year 2010 in Wirt Petition No.6812/2008 vide order dated 09.07.2010 in the matter of Harpal Singh vs. North Delhi Power Ltd. of Delhi High Court.

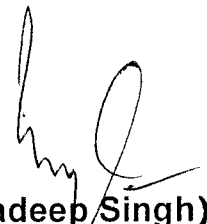
Therefore, no amount can be transferred under Clause 49 (ii) supra and the Complainant is entitled for a refund of the amount paid by it on this account. The DISCOM shall refund the amount paid by the Complainant

(40)

under this head immediately. The DISCOM shall not charge any LPSC, throughout.

The DISCOM shall be at liberty to recover its dues from the actual defaulter i.e. M/s Tara Bottle Bhandar or from its assets, as per Law, if so advised.

A Copy of this order be circulated to all the CGRFs for correct appraisal of the provisions.



(Pradeep Singh)
Ombudsman

21/3/14
March, 2014

