

Before the Electricity Ombudsman

(Appointed by the Joint Electricity Regulatory Commission
for the State of Goa and UTs, under Section 42 (6) of the Electricity Act, 2003)
Second Floor, HSIIDC Office Complex, Vanijya Nikunj, Udyog Vihar, Phase-V, Gurgaon (Haryana)
Ph: 0124-2340954, Telefax: 0124-2342853, E-mail: ombudsmanjerc@gmail.com

Appeal/ Representation No. 22/2013

Representation/ Appeal Before the Electricity Ombudsman for JERC for the State of Goa and UTs against the order dated 14th May, 2013 of CGRF, Chandigarh by Shri Satish Sharma of HDFC Standard Life Insurance Co. Ltd, SCO No. 119-120, Sector 43-B, Chandigarh regarding wrongly levied sundry charges and penalty for excess load.

Shri Satish Sharma
HDFC Standard Life Insurance Co. Ltd,
SCO No. 119-120,
Sector 43-B, Chandigarh.

Appellant

V/s

The Executive Engineer,
Electricity Department,
Operation Division No. 4,
Sector 34, UT Chandigarh

The Sub-Division Officer (SDO),
Electy. 'OP' Sub-Division No. 9,
UT Chandigarh

Respondent

Hearing on Friday, the 13th December, 2013

Present: Mr. R. K. Kaul, Electricity Ombudsman for JERC for Goa and UTS.

On behalf of the Appellant:

1. Shri Harmandeep Malra
Admin Assistant
HDFC Standard Life Insurance Co. Ltd,
SCO No. 119-120,
Sector 43-B, Chandigarh.
2. Shri Arvind Sharma
Ex. Admin Assistant
HDFC Standard Life Insurance Co. Ltd



Contd..

(2)

On behalf of the Respondent:

1. Er. Deepak Bansal
Executive Engineer,
OP Div No. 4, Electricity Department,
UT Chandigarh
2. Shri Jasvinder Singh
Sub-Division Officer (SDO),
Electricity Department
UT, Chandigarh
3. Shri Gurnaib Singh
Asstt. Revenue, Accountant
OP Sub Division No. 9
UT Chandigarh

Date : 19.12.2013

ORDER

1. The appeal/ representation cited above received in the Office of Electricity Ombudsman for the State of Goa and UTs was admitted on 11th November, 2013. A copy of the same as received was forwarded to the Respondent on the same day with the direction to submit their remarks/ counterstatement on each of the points relating to the matter of this representation supported by copies of relevant documents, latest by 21st November, 2013, with a copy to the Appellant. The point wise reply of the Respondent has been received in the Office of Ombudsman on 21st November, 2013. Hearing in the matter was held at 11:00 AM on 13.12.2013 in Chandigarh.

Brief Facts of the Case

2. The premises of HDFC Standard Life Insurance, SCO No. 119-20, Sector43-B, Chandigarh was checked by the Enforcement Wing of the electricity Department on 07.07.2012 vide ECR No. 42/589 and the Connected load of the Complainant was reported to be 58.520 KW against the Sanctioned load of 49.400 KW, 9.102 KW being the excess load. Also it was found that the CT multiplier factor "1" was being used instead of "2" while issuing the electricity bills.
3. The Complainant was issued a provisional assessment notice to deposit Rs. 592072/- (Rs. 500033/- on account of use of multiplying factor "1" instead of "2" for the period 02.08.2008 to 02.06.2012 and Rs. 92039/- on account of penalty for excess load) vide memo No. 4200-01 dated 30.07.2012. The final assessment notice was served on dated 14.09.2012.

WY

Contd..

(3)

4. These notices were sent to SCO No. 118, Sector 43-B, Chandigarh whereas the address of the consumer as mentioned in the complaint has been found to be SCO No. 119-20, Sector 43-B, Chandigarh.
5. The Appellant did not deposit the assessed amount with the electricity Department but filed a complaint in the Consumer Grievance Redressal Forum (CGRF), Chandigarh on dated 05.03.2013 against the assessed amount of Rs. 592072/-
6. The CGRF, Chandigarh vide its order dated 14.05.2013 directed as under:
 - a) No. Penalty for excess load become liable by the consumer without giving any opportunity to him to regularise the excess load.
 - b) To make payment of Rs. 277521/- towards cost of SOP +ED due to omission of Multiplying factor "2" to be applied to the meter reading for the period of 2 years prior to the date of checking.
7. After the order of CGRF Chandigarh the Appellant was informed, vide endorsement No. 4066 dated 10.07.2013, to deposit Rs. 277521/- only.
8. The Appellant did not deposit Rs. 277521/- with the Electricity Department and instead preferred an appeal / representation, received on 08.11.2013, before the Electricity Ombudsman for JERC for the State of Goa and UTs with the following prayer.

Prayer

- a) To allow the appeal
- b) To set aside the impugned order dated 14.05.2013 to the extent whereby the Id lower forum below had issued direction to the Appellant to make payment of a sum of Rs. 277521/- for the period of two years prior to the date of checking.
- c) For allowing the complaint of the Appellant company in Toto.

Settlement by Agreement

9. Both the parties under this appeal/ representation, were informed on 26.11.2013 to appear before the Ombudsman for the hearing on 13.12.2013 at 11:00 AM in the conference room of UT State Guest House, Chandigarh. It was indicated to them to put forth and explain their position in person or by an authorised representative and produce documentary evidence relating to all the points on the matter of this representation. It was also informed through the notice that the Ombudsman's efforts, in the first instance, during the hearing would be to facilitate settlement through mediation and conciliation.



Contd..

(4)

10. Both the parties appeared before the Ombudsman as scheduled and were heard. Efforts were made to reach an agreement between the parties through the process of conciliation and mediation. However, no settlement mutually agreeable could be reached. The hearing, therefore, continued to provide reasonable opportunity to both the parties to put forth their pleadings on the matter.

Pleading by the parties and Responses to the Issues

The Appellant

11. The Appellant reiterated the points as detailed in his representation (Point No. 1 to Point No. 7).
12. That as per the standing instructions of the Nigam, the Defendant/respondent cannot ask from a consumer an amount on account of multiplying factor beyond 6 months.
13. That as per the prevalent practice of the Defendant/Respondent, after every 3 months, M&P wing of the Defendants/respondents will conduct checking of the electric meter of the consumers, where the CT PT was installed and if any shortcoming be noticed, then immediately the short coming be noticed in the knowledge of the Defendant/respondent and after that the Defendant/respondent after adopting due procedure, can charge the so raised amount from the account of the consumer.
14. That vagueness of the checking conducted by Enforcement wing on dated 07.07.2012 can barely be deduced from the fact that the respondent/defendant that the respondent/defendant had shown the connected load found during checking was 58.502 K.W against the sanctioned load of 49.400 KW and on the basis of the same, the Appellant/petitioner company was being heavily penalized and it is only after being approached by the Appellant/petitioner before the Id lower forum, the connected load was corrected and was found within permissible limit.
15. That it is a settled principle of law that if the initial act be found wrong, then all the subsequent action taken on the basis of initial act, be declared wrong. That in the case before the Id lower forum, the checking report so conducted by the Enforcement wing was found wrong by the Id lower forum, then how the subsequent act of the defendant/respondent be justified by the Id lower forum partially and how the Id lower forum made



Contd..

(5)

free the defendant/respondent to recover the charges of Rs. 277521/- from the Appellant/petitioner.

The Respondent

16. Responding to the above, it was stated that that:

1(a) That the premise of the appellant i.e. SCO No.119-120, Sector 43B, Chandigarh was checked by the Enforcement Wing of the Electricity Department UT, Chandigarh on dated 07.07.12 vide ECR No.42/589 dated 07.07.2012 (R-I) and observed as under :-

- i) The meter multiplying factor is taken as "1" instead of "2" which results 50% less consumption is recorded by the energy meter.
- ii) The load detected is 58.502 KW against the sanction load of 49.400 KW which means a load of 9.102 KW excess than sanctioned load.

After checking a notice bill for provisional assessment on a/c of omission of wrong multiplying factor and unauthorized use of electricity under Section 126 of Electricity Act 2003 was served to the consumer vide this office Memo.No.4200 dated 30.07.2012 (R-II) amounting to Rs. 59,20,72/- out of which Rs. 92,039/- were on account of unauthorized use of load and Rs. 50,00,33/- were on account of omission of multiplying factor since the date of release of electricity connection till the date of checking of connection by the Enforcement Wing of Electricity Department.

1(b) The consumer neither appeared before the assessing officer on due date nor submitted any representation/objections against the provisional assessment notice within prescribed period. So final notice was issued to the consumer for the same amount vide Memo No. 7547 dated 14.09.12 (R-III). The consumer has not responded to final notice also, so the said amount was charged in the electricity bill of consumer vide sundry item No.202/3 dated 06.11.12. The Appellant did not deposit the assessed amount but filed a complaint in the Consumer Grievances Redressal Forum, Chandigarh on dated 05.03.13 against the assessed amount of Rs. 5,92,072/-

1(c) After passing of the order by CGRF, Chandigarh the assessment was revised and consumer was informed accordingly vide this office

Contd..

(6)

Endst.No. 4066 dated 10.0713 (R-IV) to deposit the revised assessment as per order of CGRF being the amount of Rs. 2,77,521/- charged is payable under the provision of Section 56 (2) of Electricity Act 2003 as per instructions of CGRF which is correct and justified.

2. That the amount was charged after following the due procedure as laid down under section 10.3 of Electricity Supply Code Regulation 2010 notified JERC.
3. That as per provision under Section 56 (2) of Electricity Act 2003 the Govt dues can be recovered for 2 years which is correct and not against the principle of natural justice.
4. That as per Clause 7.4 (1) (C) the licensee shall conduct checking / Testing of LT metering system at least once every two year but not after every 3 months as claimed by applicant.
5. That the plea taken by appellant is incorrect because there are two parts of checking by the Enforcement Wing which are as under:-
 - i) The meter multiplying factor is taken as "1" instead of "2" which results 50% less consumption recorded by the energy meter.
 - ii) The load detected is 58.502 KW against the sanction load of 49.400 KW means a load of 9.102 KW is excess than sanctioned load.

The CGRF; Chandigarh has give relief to the appellant in case of excess load but not on the part of omission of multiplying factor which means 50 % less recording of energy consumption and is liable to be payable by the appellant. So as per plea of appellant the over all checking is not treated as null and void and contents of this para are denied.

6. That the amount of Rs. 277521/- is payable by the appellant on account of recording less consumption by the energy meter due to omission of multiplying factor and is chargeable under the provision of Section 56 (2) of Electricity Act 2003.
7. That the order passed by the CGRF are on the facts and documentary evidence submitted by the respondent and the decision of the CGRF has been implemented by the respondent in toto.



Contd..

(7)

Findings

17. On the basis of the papers submitted by the parties and on the basis of pleading by the parties, the following emerges:


- a) The Respondent (the licensee) never bothered about the revenue receipt against the electrical connection bearing account no. 409/4344/701191A after sanctioning of load of 49.400 KW.
- b) There has been a calculation error on the part of licensee while calculating electricity bill of the consumer
- c) At the belated stage when the Enforcement Wing checked the premises on dated 07.07.2012, it was confirmed that C.T multiplying factor of (01) was being used instead of multiplying factor (02). Accordingly, the licensee raised a bill of Rs. 592072/- for the entire period from the date of installation of connection to the date of Enforcement Wing's raid on the premises
- d) As per Section 56(2) of Electricity Act, 2003

“ Notwithstanding anything containing in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplies and the licensee shall not cut off the supply of the electricity”.

The consumer cannot be charged the arrears of electricity charges for the period more than 2 years from the date of checking / when such sum became first due.

- e) The load checking of the premises was carried out on 07.07.2012 by the Enforcement wing of the Electricity Department but the formats of self declaration of connected load were supplied for the first time to the complainant with electricity bill dated 08.07.2012 payable on 24.07.2012. As such, the load checking was done prior to supply of voluntary declaration forms even once to the complainant, through mandated to be supplied once every six months as per provision 4.13 (2) of the Electricity Supply Code which was implemented in May, 2010. No penalty for excess load becomes leviable by the consumer without giving any opportunity to him to regularise the excess load.
- f) **As per Regulation 4.13 (2) of JERC (Electricity Supply Code) Regulations, 2010**

“The licensee shall send formats of ‘self declaration of connected load’ along with electricity bills to all consumers once in six months. The


Contd..

(8)

consumers may fill-up the form, if his actual current connected load is at a variance from the recorded connected load and submit to the licensee while making payment of the bill. The domestic consumers may also declare enhanced connected load of his premises, any time during the year, by completing the format given in Annexure- 2 and submitting the same to the licensee along with an application for change in connected load.

On receipt of application / declaration the licensee may arrange to conduct a survey of the premises of the consumer to determine the load of the premises. In case such a survey is not carried out within thirty days from the date of submission and the load applied for is higher than the recorded load of the consumer, the load declared by the consumer shall be deemed to have been accepted. The licensee shall issue the demand note for additional charges, if any, immediately”.

Directions to the Licensee

18. In this particular case, because of gross negligence on the part of Respondent (the licensee) the Electricity Department continued suffering huge revenue loss for a period of more than 3½ years because of non- incorporation of C.T multiplying factor (02) instead of (01) being used. There is every likelihood that there must be so many other similar cases prevailing in the Electricity Department leading to huge revenue loss to the Department. It also appears that the Department has not incorporated the return containing revenue receipt verses sanctioned load in the Department. Generally this type of return is submitted in all the distribution companies where the different level of officers are personally monitoring the revenue return against the sanctioned loads, which help in eliminating the huge losses to the Department. It is therefore directed that:

- a) The Chief Engineer should investigate this particular case and identify the officials responsible for such huge loss to the Electricity Department and take appropriate action, as per rules.
- b) To introduce the monthly return containing the revenue collection against the sanctioned load, if not already existing, and ensure the submission/checking of the same.
- c) To investigate all possible similar nature cases where the Department may be getting disproportionate revenue against the consumption of electricity (sanctioned loads), resulting into revenue losses to the Department.



Contd..

(9)

ORDER

19. Based on the above, the representation/ appeal of the Appellant is disposed off with the following orders:

1. The CGRF order dated 14.05.2013

- a) requiring the Appellant to pay the supplementary electricity bill for the period of two years prior to the checking of the electric connection by Enforcement Wing on 07.07.2012, when it was noticed that the Multiplying Factor of (01) was being used instead of (02), while working out the electricity bill and amounting to Rs. 2,77,521- is upheld.
- b) No penalty for excess load becomes leviable by the consumer without giving any opportunity to him to regularise the excess load is upheld.

Dated the 19th of December, 2013



(R. K. Kaul)

Electricity Ombudsman for JERC
for the State of Goa and UTS
Mob: 9871588333

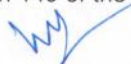
Ref. No. 1/31/2013-EO
Forwarded to:

1. Shri Satish Sharma
HDFC Standard Life Insurance Co. Ltd,
SCO No. 119-120,
Sector 43-B, Chandigarh.

They shall furnish to the Electricity Department, Chandigarh, within a period of one month from the date of issue of this order, a letter of acceptance that the award is in full and final settlement of their representation/ claim. If they do not intimate the acceptance, the order shall not be required to be implemented by the Respondent Department/ licensee.

2. Executive Engineer,
OP Div No. 4, Electricity Department,
UT Chandigarh

The Respondent shall comply with the award/ order within 15 days of its receipt. Non- compliance shall constitute violation of JERC Regulations and may attract remedial action under Sections 142 and 146 read with Section 149 of the Electricity Act, 2003.



Contd..

(10)

Copy to:

1. The Secretary, Joint Electricity Regulatory Commission for the State of Goa and UTs.
2. The Finance Secretary, 4th floor, UT Secretariat, Sector-9, Chandigarh-160009
3. The Chairman, CGRF, Room No. 530, 5th Floor, UT. Secretariat, Deluxe Building, Sector-9D, Chandigarh

Copy also to:

1. Sub-Division Officer (SDO), Electy. 'OP' Sub-Division No. 9, UT, Chandigarh.
2. Shri Harmandeep Malra, Admin Assistant, HDFC Standard Life Insurance Co. Ltd, SCO No. 119-120, Sector 43-B, Chandigarh.
3. Er. Deepak Bansal, Executive Engineer, OP Div No. 4, Electricity Department, UT Chandigarh

WY