



C A No. 150024883
Complaint No. 02/2020

In the matter of:

Sudhish TyagiComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. Arun P Singh (Chairman)
2. Mrs. Vinay Singh, Member (Legal)
3. Dr. Harshali Kaur, Member (CRM)

Appearance:

1. Mr. Sudhish Tyagi, complainant
2. Mr. Imran Siddiqi, Mr. Prashant Tikadar & Mr. B.B. Sharma, On behalf of BYPL

ORDER

Date of Hearing: 04th February, 2019

Date of Order: 05th February, 2019

Order Pronounced by:- Mrs. Vinay Singh, Member (Legal)

Briefly stated facts of this case are that the complainant sought withdrawal of illegal dues amounting to Rs. 1, 63,000/- transferred by the respondent to his CA No. 150024883.

It is his submission that in the year 2010 a new meter was installed at his premises vide CA No. 101011238. The meter against the said CA No. got burnt and he restored the supply through three phase meter having C A No. 150024883. Later on in May 2012 the respondent issued him a bill for Rs.

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50,000/- which he paid after that his meter was removed. He approached the respondent for refund of security amount but the respondent did not pay any heed to his complaint.

The complainant states that now after a span of six years the respondent levied Rs. 1, 63,000/- as other charges in the bill against CA No. 150024883. He requested the Forum to direct the respondent company for withdrawal of the illegal transfer dues.

Notice was issued to both the parties to appear before the Forum on 15.01.2020.

The respondent company submitted their reply stating therein that the present complain is in regard to C A No. 101011238 of Non-Domestic category in name of Sudhish Tyagi, installed at 220, GF, Patparganj Industrial Area, Near Mandir, Delhi-51. The said connection was disconnected on 12.09.2014, outstanding dues against the said connection at that time was Rs. 1, 60,477/-.

It was also their submission that the complainant is raising an issue which is time barred as the bill which is being challenged by the complainant was raised in the year 2011 and subsequently on non-payment the connection was disconnected on 12.09.14. The complainant is raising the issue after more than 8 years and same is barred by limitation and the complainant is liable to be dismissed.

Respondent also submitted details of the CA No. 101011238 as follow:-

- Connection energized on 04.11.2010 on 5 KV commercial category.
- 4747 units recorded on downloaded pattern in the period 24.11.10 to 24.01.11. Bill for Rs. 27419/- was raised.
- 4986 units recorded on downloaded pattern during the period 25.01.11 to 18.03.11. Bill amounting to Rs. 28770/- raised.

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- Meter changed under burnt category on 28.08.11. As per system record order for burnt category raised against 1001216477 dated 25.08.11.
- Provisional bills rose for the period March 2011 to August 2011. After meter change, system assessed for the period 19.03.11 to 28.08.11.
- 13795 units assessed for the period 19.03.2011 to 28.08.2011.
- 1656 units recorded for the period 29.08.11 to 14.09.11 with new meter and the bill for the period 19.03.11 to 14.09.11 was raised for Rs. 89688/-.
- 1091 units recorded on downloaded pattern for the period 29.11.12 to 24.01.13. Bill for the period rose to Rs. 10379/-.
- Connection disconnected against non-payment of outstanding dues of Rs. 153610/-.

The said amount was transferred to live connection having CA No. 150024883.

It is pertinent to mention here that during the hearing dated 15.01.2020 the complainant submitted that his three phase connection bearing CA No. 150024883 was also disconnected due to transferred dues of CA No. 101011238 and moved an application for restoration of the supply of CA No. 150024883. The Forum ordered that the transferred dues of Rs. 1,63,059/- be kept in abeyance till further orders and the complainant was directed to pay the dues of CA No. 150024883 amounting to Rs. 2,27,815/- without LPSC. Forum also directed the respondent to accept current charges of this connection every month.

Further, during the pendency of this case, both the parties were also directed by this Forum to try for amicable settlement in this particular complaint. Ample opportunities were given by the Forum but both the parties did not reach to any solution. Arguments were heard and matter was reserved for orders.

During the final arguments the respondent company submitted that they are ready to settle the bill of the complainant by assessing the defective period from 19.03.2011 to 28.08.2011 on the basis of new base period from 04.09.12 to 05.10.13. Hence, the disputed amount of Rs. 1, 63,059/- reduced to Rs. 47,811/-.

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The detail of the bill revised by the respondent is as under:-

1. Charging defective period	19.03.2011 to 28.08.2011
2. Defective days	163 days
3. Defective period units	13795 units
4. Base period	04.09.2012 to 05.10.2013
5. Base period units	2897
6. Base period days	395
7. Revised defective period units	1196
8. Demand of 1196 units	17705 -
9. Net credit units	12599
10. Bill amount	163059/-
11. LPSC	(-) 52543/-
12. Revised units credit	(-) 62705/-
13. Net credit	115248/-
14. Net Payable	47811/-

Now the main issue in the complainant is whether the amount of Rs. 47,811/- is recoverable or not.

We have gone through the submissions made by both the parties from the narration of facts and material placed before us we find that as per Section **39. Billing in case of defective or damaged meter:- (1) The consumer 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.**

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We also find in few judgments of Hon'ble Supreme Court of India, in the matter Sisodia Marbles and Granites Pvt, Ltd., Vs. Ajmer Vidyut Vitran Nigam Limited, where it has been held that consumer is liable to pay actual consumption of units.

Hon'ble Supreme Court in another matter of Isha Marbles has been corrected in the reform at empowering the distribution licensee in the NCT of Delhi to recover arrears of the Electricity charges from the owner/new occupant.

Writ Petition (c) no. 3532/2003, Madhu Garg vs. North Delhi Power Limited, by directing her to pay the dues for the electricity.

The complainant also objected that the respondent cannot ask for dues after such a long time. To this the respondent submitted that during the course of arguments that CA NO. 101011238 was disconnected on non-payment of dues in the year 2014, after that the connection became permanently disconnected. Respondent further stated that it came into their knowledge that the CA No. 150024883 under industrial category is feeding the same premises where CA No. 101011238 in the name of same person and for same premises is lying disconnected since long. Therefore, the respondent transferred the dues of the disconnected connection to the live connection of the complainant having CA No. 150024883.

The contention of the complainant that dues are not recoverable after a long gap does not seems appropriate, as energy charges are always recoverable (actual consumed units). The respondent also assessed the bill on the lower side and after assessment the net payable amount comes to the tune of Rs. 47,811/-. Thus the energy charges cannot be waived off.

After going through all the facts and the circumstances, we find that the bill of the complainant against CA No. 101011238 has been reduced by the respondent for Rs. 47,811/- against earlier raised demand of Rs. 1,63,059/-.

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The said bill is for the defective period when the respondent raised the provisional bills for the period 19.03.2011 to 28.08.2011. The respondent revised the said bill by considering consumption for the period 04.09.2012 to 05.10.2013 as base period and reducing the bill to Rs. 47,811/- after waiving off entire LPSC of Rs. 52,543/-.

As per the above deliberations, the Forum is of the opinion that the bill is further revised by the respondent and the revised bill amounting to Rs. 47,811/- is payable by the complainant. As the energy charges cannot be waived off and if the complainant wishes to make the payment in installments the respondent is directed to accept the bill in two or three instalments.

The matter is disposed off as above.

No order as to the cost. A copy of this order be sent to both the parties and file be consigned to record room thereafter.

The order is issued under the seal of CGRF.


(HARSHALI KAUR)
MEMBER (CRM)


(ARUN P SINGH)
CHAIRMAN


(VINAY SINGH)
MEMBER (LEGAL)