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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 28<sup>th</sup> January, 2025*

+ W.P.(C) 6112/2018 and CM APPL. 23725/2018

SAURABH PRUTHI .....Petitioner

Through: Mr. B.P. Agarwal, Advocate.

versus

TATA POWER DELHI DISTRIBUTION LTD .....Respondent

Through: Mr. Manish Srivastava, Mr. Moksh Arora and Mr. Santosh Ramdurg, Advocates along with Mr. Amit Singh, AGM, Legal.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**JUDGEMENT**

**JYOTI SINGH, J. (ORAL)**

1. This writ petition is preferred on behalf of the Petitioner under Articles 226 and 227 of the Constitution of India laying a challenge to order dated 09.01.2018 passed in C.G.No.7625/04/17/NRL by Consumer Grievance Redressal Forum ('CGRF') and order dated 25.04.2018 passed by Electricity Ombudsman in Appeal No.05/2018 in respect of bill of Rs.20,92,320/- (including Assessment Bill of Rs.15,68,204.20 p.) raised against the Petitioner in connection with CA No.60017874730 installed at Plot No. G-978, DSIDC Narela Industrial Area, Delhi.

2. As per the case set out by the Petitioner in the writ petition, Petitioner along with his father is a tenant of the subject premises and is using electricity connection through his CA No.60017874730 having sanctioned load of 108 KW for industrial purposes, which was sanctioned in the name



of Sh. Darshan Kumar. The initial connection was sanctioned on 25.03.2014 with load of 80 KW and meter was installed on the same day with meter No.93403843. At the time of installation, accuracy of the meter was checked and reported to be +00.28%. Inspection was carried out by the Respondent on 09.11.2015 and at that time, all seals were found to be intact and 'OK'. Under the Head 'Observation', it was mentioned that meter data could not be downloaded due to communication failure between the meter and Common Meter Reading Instrument ('CMRI'). Voltage and current parameters were checked between the meter display and clamp meter.

3. It is averred that the meter was replaced by the Respondent on 23.11.2015 with a new meter and a bill of Rs.1,00,439/-, for the period 07.11.2015 to 23.11.2015 was raised under Clause 43(1) of DERC Regulations, 2007 ('2007 Regulations') and the amount was reflected in the bill for the month of December, 2015. Under threat of disconnection of electricity, Petitioner paid the bill. Petitioner applied for enhancement of the load on behalf of the registered consumer and thereafter a demand of Rs.42,000/- was raised on 15.07.2016 and this amount was also paid by the Petitioner, after which the load was increased to 108 KW. A bill of Rs.20,92,320/- was raised by the Respondent, which included an amount of Rs.15,68,204.20 p. on account of assessment under the head 'Adjustment'. The amount was added for the period 25.05.2015 to 24.11.2015 i.e. for six months, considering that the meter was found to be slow by 67% and two times bill was raised *albeit* the meter was never slow by 67% as alleged.

4. It is averred that the meter was tested by the Respondent in Electronics and Quality Development Centre ('EQDC') on 22.12.2015 and it was observed in the laboratory that CT pins were found loose on visual



observation but there were no physical abnormalities inside the meter. Data of the meter was analysed and it was observed as follows:-

“(a) .....

(b) *Events recorded in Meter date:*

**. Current Terminal Open Counts: 42 & Cumulative Duration: 009 days: 09m hours:29 minutes.**

**. Current Bypass Counts: 19 & Cumulative Duration:002 days:07 hours: 08 minutes.**

(c) *Under what conditions (mentioned herein below), events get recorded in Meter data:*

*. Current Terminal Open: When Meter senses less than the defined threshold value, then Meter records this particular event.*

*. Current Bypass: When Meter senses different current between 2/3 phases than the defined threshold value, then Meter records this particular event.”*

5. Petitioner filed a writ petition in this Court in 2017 but the same was withdrawn to approach the CGRF. The complaint filed before the CGRF was dismissed on 09.01.2018 against which the Petitioner filed an appeal bearing No.05/2018, which was dismissed by the Electricity Ombudsman on 25.04.2018, leading to the filing of the present writ petition, laying a siege to the two orders.

6. Learned counsel for the Petitioner submits that the old meter was tested by EQDC on 22.12.2015 and as per the report, CT pins were found loose on visual observation. Data of the meter was analysed in the laboratory and it was observed that the meter did not record the actual energy consumed for 09 days 09 hours and 29 minutes and yet a Bill reflecting arrears of six months has been raised illegally and arbitrarily. No show cause notice was issued and no opportunity of personal hearing was given to the Petitioner to put forth his case, against the arrears of six months. It is urged



that as per Regulation 43 of 2007 Regulations, if the meter is found to be defective then the Respondent is required to raise the bill for a maximum of six months on the basis of past consumption of one year, whereas Respondent has raised a bill of Rs.1,00,439/- for the period 07.11.2015 to 23.11.2015, erroneously taking the average consumption of one year but later reversing the amount and raising the bill two times the actual consumption recorded by the meter for the period 25.05.2015 to 14.11.2015.

7. Learned counsel for the Respondent, on the other hand, submits that Petitioner never challenged the findings of the report of EQDC and the impugned bill is based on the EQDC report. In terms of Regulation 38(f) of 2007 Regulations, Respondent was bound to raise a bill based on percentage error for a maximum period of six months upto the date when the meter was replaced, i.e. 24.11.2015 and the bill was raised for the period 25.05.2015 to 24.11.2015 which is a period of six months upto replacement. *Albeit* Petitioner was actually consuming electricity since 23.05.2014, however, in view of the restrictions in Regulation 38(f), the bill was restricted for six months.

8. It is further argued that the Petitioner is deliberately misreading EQDC's report to contend that meter was defective for a period of only 09 days 09 hours and 29 minutes, which contention was rejected by CGRF and Electricity Ombudsman. There is no finding that the meter was defective for the said period and all that the report brings out is that the meter was slow by 63.13%, a fact never disputed by the Petitioner. It is also strenuously argued that two expert bodies i.e. CGRF and Electricity Ombudsman have come to a finding of facts, which ought not to be disturbed by this Court in a writ jurisdiction.



9. Heard the learned counsels for the parties and examined their rival submissions.

10. Petitioner disputes the assessment amount of Rs.15,68,204.20 p. for the period 25.05.2015 to 24.11.2015 in connection with CA No.60017874730, which is registered in the name of Sh. Darshan Kumar and the connection was energised on 25.03.2014. Version of the Respondent is that the premises where the meter was installed were inspected on 09.11.2015, when it was found that meter data could not be downloaded due to communication failure between the meter and the CMRI. Meter was removed and a new meter was installed on 23.11.2015. Old meter was sent for testing as per testing protocol by an approved third party i.e. EQDC and Petitioner was provided full opportunity to witness the testing, which he did not avail of. The test report reflected that meter was running slow by 63.13% and the DISCOM carried out an assessment as per Regulation 38(f) and raised the impugned bill. Version of the Petitioner is that when the meter was tested, the seals were intact and at best going by the test report, as per which there was a defect for 09 days 09 hours and 29 minutes, Respondent was required to raise the bill for a maximum of six months on the basis of past consumption of one year and not charge the exorbitant amount as has been done in the impugned bill.

11. In my considered view, the contentions of the Petitioner merit rejection. The entire case of the Petitioner is predicated on the test report of EQDC, but as rightly pointed out by counsel for the Respondent, Petitioner is misreading and misconstruing the report. Both the CGRF and Electricity Ombudsman have come to a finding that the reading in the report does not connote that the meter was defective for 09 days 09 hours and 29 minutes as



alleged by the Petitioner. In the Appellate order, it is recorded that DISCOM's technical representative was asked during the hearing to explain and clarify the report and he explained that 'CT open' events did not and could not be taken as translating to a conclusion that this was the only duration for which the meter could be regarded as faulty and that the CGRF also examined the test report and found no reason to fault or doubt it. In view of these findings, the only conclusion that can be drawn from the test report of EQDC is that the meter was running slow by 63.13%.

12. Petitioner has not questioned the veracity of the test report either before the CGRF or in the appellate proceedings or even before this Court and instead heavily relies on the report to contend that he must be charged as per the finding in the test report. It is also recorded in the impugned orders that Respondent provided an opportunity to the Petitioner to witness the testing by EQDC on 22.12.2015, but he did not avail of this opportunity. In the absence of any challenge to the test report, in my view, both the CGRF and the Electricity Ombudsman have rightly relied on the finding and interpretation given by a technical expert produced by the DISCOM. The relevant finding is as follows:-

*“The meter found slow by 63.13 percent and thus the meter records 63.13 percent less energy in comparison to actual energy consumed due to loose CT pins.”*

13. From the report, it is clear that the meter was found slow by 63.13% and thus recorded less energy in comparison to actual energy consumed due to loose CT pins and this Court finds no reason to interfere in this finding accepted by the CGRF and Electricity Ombudsman. The only question that remains is with regard to the methodology for computing the bill



amount and as rightly held in the impugned orders, the applicable provision is Regulation 38(f), which is extracted hereunder for the ease of reference:-

**“38. Testing of meters**

...

*f. When the meter is found to be slow beyond the limits of accuracy, specified in the Regulations framed by the Authority and the consumer does not dispute the accuracy of the test, the Licensee/consumer, as the case may be, shall replace/rectify the defective meter within fifteen days of testing. The consumer shall pay the difference due to the defect in the meter at normal rates, based on percentage error, for a maximum period of not more than six months or less depending on period of installation of meter prior to date of test and up to the date on which defective meter is replaced/rectified.”*

14. CGRF and the Electricity Ombudsman have held in favour of the Respondent that applying Regulation 38(f), Respondent has rightly carried out the assessment for six months and no infirmity can be found with that procedure. I have perused the Regulation and find that the view taken in the impugned orders is correct. Regulation 38(f) provides that when the meter is found to be slow beyond the limits of accuracy specified in the Regulations and the consumer does not dispute the accuracy of the test, he shall replace/rectify the defective meter within 15 days and pay the difference due to the defect in the meter of normal rates based on percentage error, for a maximum period of not more than six months or less depending on period of installation of the meter prior to the date of test and upto the date on which defective meter is replaced. As per the finding of the test report, the meter was running slow and this based on the percentage error, Respondent computed the amount payable by the Petitioner. No interference is warranted in the impugned orders either on findings of fact or on the computation,



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which is based on Regulation 38(f), in the absence of any challenge to the test report rendered by a third and independent entity.

15. Writ petition is accordingly dismissed along with pending application.

**JYOTI SINGH, J**

**JANUARY 28, 2025/KA/shivam**