

## THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Doiwala Sugar Company Ltd.  
Doiwala, Distt. Dehradun,  
Uttarakhand – 248140

Vs

The Executive Engineer,  
Electricity Distribution Division,  
Uttarakhand Power Corporation Ltd.  
Shail Vihar, Rishikesh,  
Distt. Dehradun, Uttarakhand

Representation No. 03/2013

### **Order**

The petitioner, M/s Doiwala Sugar Company Ltd. has filed a complaint against the order passed by the Consumer Grievance Redressal Forum, Garhwal Zone (hereinafter referred to as Forum) on 29.01.2013 rejecting his complaint against Uttarakhand Power Corporation Ltd. (hereinafter referred to as respondent) for raising a demand of Rs. 8,85,774.00. This demand was raised by the respondent on the ground that the amount charged in the earlier bills was for a consumption much less than the actual consumption. This had occurred as the billing was being done on MF 5 due to connection of different CT ratios i.e. 25/5A on B phase and 50/5A on R phase and the actual multiplying factor not being known. The petitioner has prayed that the order of the Forum may be set aside.

2. In his complaint the petitioner has stated that it is a company with registered office at Doiwala, engaged in manufacturing of white crystal sugar through vaccum pan process. The petitioner has two electricity connections at its unit situated in Doiwala, District Dehradun with sanctioned load of 300 KVA each. While one connection is for the Factory, the other connection is for the residential colony. The present case is regarding the billing for connection no. 7764 with meter no. UPC 02262 installed for the residential colony. The petitioner claims he was issued a letter dated 15.03.2011,

to deposit a sum of Rs. 8,85,774.00 towards arrears of electricity charges for this meter, by the respondent. It was also mentioned that if the amount was not deposited by 18.03.2011 the electricity supply of the petitioner would be disconnected. (however the respondent has denied sending a letter dated 15.03.2011. Neither has the petitioner made available a copy of the respondent's letter dated 15.03.2011). The petitioner further states that in response to this letter, he sent a letter to the respondent on 19.03.2011. Subsequent to this, the petitioner states that the respondent issued a letter dated 29.03.2011 wherein referring to a letter dated 25.10.2010 from the Test Division showing that the R phase CT was connected on 50/5A ratio and B phase CT was connected on 25/5A ratio on the petitioner's meter, the respondent had raised arrears of Rs. 8,85,774.00 against the petitioner. It was further mentioned that the MF on the bill was 5, because of which the meter was showing 25% less consumption than actual consumption. Further the respondent had threatened that in case the amount was not deposited by 30.03.2011 the supply of the petitioner would be disconnected.

3. The petitioner states that he was regularly depositing all bills raised by the respondent from October 2008 to September 2010. As far as the meter was concerned it was totally under the control of the respondent whose staff visited the factory and noted down the meter units consumed and thereafter on the basis of the said meter reading raised the electricity bill. The meter was locked by the respondent and keys were also lying with them. The petitioner had no control over the same. Now after a period of two years, the respondent had made an illegal and unwanted demand from the petitioner.
4. The petitioner mentions that the company has its own electric power turbine. During the crushing season the power is generated from this turbine and used for functioning of electrical motor and equipments and even sometimes providing power to the Mill colony from the extra electricity generated from the Mill Power Turbine. As such during crushing season the electricity demand of the petitioner remains on the lower side. The petitioner had mentioned that the respondent had earlier also made a demand for payment of Rs. 66,22,842.00 which was challenged by the petitioner. The Ombudsman had quashed the demand of the respondent vide order dated 07.06.2010.

5. In their statement the respondent claimed that notice dated 29.03.2011 was sent to the complainant on receipt of a report from Test Division. As per the Test Division report dated 25.10.2010 on the orders of Director (Project) regarding abnormalities observed in MRI Data during August and September 2010 of certain consumers including the petitioner, a check of the consumers had been carried out. In the case of the petitioner it was found that R phase CT was connected on 50/5A ratio and B phase CT was connected on 25/5A ratio. It was therefore found that the petitioner had been charged less for 3,36,755 units during two years October 2008 to September 2010. Hence, the petitioner was asked to pay for the same. The respondent claimed that the demand for payment of 3,36,755 units was correct and based upon MF of CT ratio of R phase which is 10 on account of CT ratio being 50/5A. The respondent claimed that there was no defect in the meter. The only mistake being that R phase CT should have been connected on the same ratio i.e. 25/5A instead of 50/5A. The respondent also claimed that the order of the Ombudsman of 2010 was not relevant in this case, moreover the judgment was considered erroneous and the respondent had filed Writ Petition against the same before the Hon'ble High Court of Uttarakhand.
6. The Forum asked the officials of the respondent to explain the technical aspects and after understanding the same decided that the petitioner had been charged less to the tune of Rs. 8,85,774.00 and thus the bill raised by the respondent was correct and payable by the petitioner. The Forum was supplied an assessment report by the respondent for the meter for the period 2005-2012. As per the report, there has been continuous unbalance since 2005 till the connection was corrected in October 2010. The Forum has accepted the demand for Rs. 8,85,774.00 raised by the respondent for a period of two years only (10/2008 to 09/2010). The Forum has mentioned that both parties have drawn attention to an earlier case involving the petitioner and the respondent and the judgment given in that case by the Ombudsman. The Forum has declared that the said judgment is not relevant in this case.
7. Brief facts of the case are that the petitioner is a consumer of the respondent and is in business of manufacturing sugar. Both parties are government owned companies. The petitioner has two connections of 300 KVA each, one for the Factory and one for the residential colony. The petitioner also has an electric turbine on his premises. The

unbalancing of current was noticed for the meter no. UPC 02262 installed for the residential colony connection hence demand for arrears was raised by the respondent, for consumption recorded on this meter, vide his letter dated 29.03.2011. As per the report dated 25.10.2010 of the Test Division of the respondent, there is a double ratio CT connection to the petitioner's meter. While one was connected on 25/5A ratio (which was correct), the other was connected on 50/5A ratio (this was not correct). Because of this anomaly the MF on the bill was 5 which gave the correct picture for the B phase CT (25/5A) but 25% less for the R phase CT (50/5A). The position had now been corrected. Subsequent to the report from the Test Division, the Distribution Division of the respondent worked out the assessment for less charge due to less consumption being shown in the bills of the petitioner, due to connection of CTs on different ratios. This assessment however was worked out for only two years by incorrectly applying section 56 (2) of the Electricity Act, 2003 (Act).

8. In his pleas before the Ombudsman, the petitioner has made reference to case laws reported in AIR 2007 Delhi 161 and AIR 2004 Supreme Court 3285. We may briefly touch on the cases cited by the petitioner. The first case before the Delhi High Court related to a Writ Petition to quash the electricity bill raised against a connection installed at an industry in Delhi. The respondent maintained that the dispute involved in the petition could be referred to the Forum, however the petitioner submitted that the meter installed at his premises was defective and hence the bills raised were erroneous. The petitioner further maintained that this kind of dispute was not within the scope of jurisdiction of the Forum but was a case under section 26 of the Indian Electricity Act, 2010. Hon'ble Delhi High Court has rejected the contention of the petitioner and held that the Forum had the authority to hear this matter. The second part of the case made out by the petitioner was that dues which are older than two years prior to the date of bill cannot be sought to be recovered in terms of section 56 of the Act. In this matter the Hon'ble Court did not give any ruling but ordered that all contentions of the petitioner could be raised before the Forum which would then deal with them in accordance with law.
9. The second case before the Supreme Court relates to demand of additional charge on account of short billing. In this case the matter related to the validity of a

communication sent by the petitioner to the respondent (Licensee) that their load may be reduced from 60 HP to 39 HP. While the Licensee had acquiesced to this request for 4 years, it reverted to billing for the higher load after 4 years and also raised a demand for deficit charges for the 4 years. The Supreme Court had ruled in favour of the petitioner. However neither of the two cases quoted by the petitioner apply in this particular matter as the first judgment deals wholly with the matter of the jurisdiction of the Forum and the second regarding receipt of communication from the petitioner for reducing his load.

10. In the present case, assessment of units consumed by the petitioner from the time of installation of meter no. UPC 02262 in 2003 has been incorrect because of connection of CTs on different ratios. While assessment of consumption on B phase CT (connected on 25/5A ratio) was correctly done as MF 5, assessment for R phase CT (connected on 50/5A ratio) was incorrectly done as MF 5 whereas it should have been at MF 10. The fact has been established as per the report of the Test Division dated 25.10.2010. The respondent has corrected the situation as far as the CT connections are concerned and has shown that subsequent to the correction, the current distribution for both phases is practically similar unlike earlier when the distribution for R phase was practically half of the B phase. As per the assessment report given by the respondent to the Forum, less recording was prevalent right from the time of the installation of the meter in 2003 and continued till 2010 when it was corrected. The respondent however taking the plea that section 56 (2) of the Act is attracted, drew up an assessment for only two years. This application of section 56 (2) in the present case is not correct. As per this section, the charges cannot be for a period more than two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges.
11. In this case it needs to be understood that the CT connection was made when the meter was installed in 2003 vide sealing certificate dated 02.05.2003. The sealing certificate indicates that CT ratio is 25/5A and MF 5. There is no mention that a double CT ratio had been installed. Due to this, the mistake of installing the two phases in different ratios B phase at 25/5A ratio and R phase at 50/5A ratio went undetected till 2010 when the Director (Project) observed vide his letter dated

29.09.2010 that abnormalities had been noticed in the MRI data of a number of consumers and therefore it needed to be checked. During checking the abnormality was located and recorded by the Executive Engineer, Test Division (Rural) Dehradun in his letter dated 25.10.2010. According to this report the abnormality detected was that the R phase CT had been wrongly connected and hence there was 25% less recording. It was reported that the same had been corrected vide sealing certificate dated 11.10.2010. Subsequently the respondent incorrectly applying section 56 of the Act worked out the charges, due from the petitioner due to less recording of R phase CT, for only two years from 10/2008 to 09/2010, giving the petitioner the benefit under section 56 of the Act.

Section 56 of the Electricity Act, 2003 provides as under “*Disconnection of supply in default of payment.*”

*Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, ... recover such charge or other sum ...*

*(2) Notwithstanding anything contained 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 supplied and the licensee shall not cut off the supply of the electricity:”*

12. In this case the less recording was from the beginning i.e. the time of installation of the meter (02.05.2003) till the date of correction (11.10.2010). Hence, it was an amount ‘continuously recoverable as arrears of charges for electricity supplied’. Because of this, section 56 would not apply
13. While deciding on the charges as above it would be remiss if mistakes made by the respondent in this matter are not pointed out. First of all the problem of unbalancing of current resulting in less recording of the energy would not have arisen after such a long period if the respondent had followed the Uttar Pradesh Electricity Supply Code 2002 (Distribution Code) which was applicable in the State of Uttarakhand also

during that period wherein it is provided under clause 5.17 (b) *“Licensee shall conduct periodical inspection/testing of the meters as per the following schedule:*

- (i) Single phase meters once every five year.*
- (ii) LT 3 phase meters once every three years.*
- (iii) HT meters including MDI yearly.*

*Wherever applicable, CT and PT shall also be tested with meters.”*

These instructions were reiterated by the Uttarakhand Electricity Regulatory Commission (The Electricity Supply Code) Regulations, 2007.

14. Moreover it is generally understood in the respondent’s organization that only single ratio CT should be used for metering purposes to avoid exactly the kind of problem which has arisen in this case. Uttarakhand Electricity Regulatory Commission (UERC) has taken cognizance of the matter and has laid down in the UERC (Release of new HT and EHT connections, enhance and reduction of loads) Regulations, 2008 that ‘single ratio CT shall be used’ as provided in – section 5 *“For all new connections at HT and EHT next higher standard single ratio Current Transformer (CT) of accuracy class as given in sub regulation (7) below shall be used. Under no circumstances multi ratio CT shall be used for metering purpose.”*
15. As this is not the first case of such negligence on the part of the staff of the respondent and a number of cases are still pending with the same problem, it seems that the staff of the respondent is continuing to make the same mistake again and again. It is necessary that some exemplary action be taken against the staff indulging in such negligence so that the message is sent to all the staff that such negligence will not be excused or condoned.
16. The demand of the respondent for arrears due to less charging is correct. This is also borne out by the ruling given by the Hon’ble High Court of Kerala in WA 2196 of 2009 wherein the matter related to wrong recording of one phase of the CT installed at the petitioner’s premises. The Hon’ble High Court upheld the Appellate order that arrear charges had been correctly made in the case of wrong recording of consumption due to fault in the CT ratio. Hence the demand raised by the respondent against the petitioner is correct, however the correct methodology for making the assessment was not applied as the respondent has applied section 56 of the Act. This

section would only be applicable in case the amount had become due subsequent to the installation of the meter and as already enumerated in para 12 above, section 56 will not apply in this case. The arrears must be charged from the date of installation till date of correction. The order of the Forum is set aside. The respondent is advised to reassess the charges due from the petitioner for the entire period from the time of installation of the meter (02.05.2003) till 11.10.2010, the time when the CT was corrected. The revised bill should be served to the petitioner within 30 days of this order.

Dated: 31.01.2014

(Renuka Muttoo)  
Ombudsman