

BEFORE THE ELECTRICITY OMBUDSMAN, ASSAM STATE
Assam Electricity Regulatory Commission, A.S.E.B. Campus,
Dwarandhar, G. S. Road, Sixth Mile, Guwahati – 781 022

PETITION NO. : 2/2016
FILE NO. : EOM.30/2016

Name of Appellant : Shri Sanjib Goswami,
GNB Road,
Silpukhuri,
Next to Jungle Travels
Guwahati – 781003

Represented by : Shri Sanjib Goswami

Name of Respondents: Assam Power Distribution Company Ltd.,
Bijulee Bhawan, Paltan Bazar,
Guwahati – 781001

Represented by : Sub-Divisional Engineer,
Chandmari ESD
Assam Power Distribution Company Ltd.,
Guwahati

Date of receipt of Appeal petition : 11.07.2016

::: PROCEEDINGS :::

Petitioner Shri Sanjib Goswami submitted representation before the CGRF, Guwahati zone against the supplementary bill dated 25.04.2016 for the sum of Rs. 72,249.00 as arrear payment due to less claim of fixed charge for the period 11.04.2006 to 06.03.2013. CGRF on hearing the petitioner and the respondent decided that the respondent APDCL acted on the basis of audit report of the APDCL and the amount of less claim on fixed charge is recoverable as per clause 4.3.3 of the AERC (Electricity Supply Code & Related matters) Regulations, 2004. The petitioner is directed to pay the supplementary bill accordingly.

Not satisfied with the above order of CGRF, the petitioner prefers appeal before the Ombudsman and hence this appeal petition.

The appeal petition dated 17.06.2016 received on 11.07.2016 taken up for conciliation under clause 6(3) of the Guidelines for Redressal of Consumer Grievances on 22.07.2016.

The Petition is not settled through conciliation due to difference of opinion and as such proceeding restarted as per clause 8(1) of the Guidelines and hearing has been taken on 02.08.2016 and 10.08.2016 wherein the appellant and respondents are present.

The contention of the appellant is that the order dated 24.06.2016 of CGRF, Guwahati zone is not as per the legal provisions of the Electricity Act, 2003 and the appellant is not liable to pay the supplementary demand raised by bill dated 25.04.2016 as the claim has been made by the respondent after more than two years.

Appellant further submitted the details of the bills in respect of bill period from 11.04.2006 to 06.03.2013 along with payment receipts to support his claim that the bill dated 25.04.2016 is generated after two years from the bill dated 21.03.2013 for the bill period from 04.02.2013 to 06.03.2013. Therefore, the claim of the respondent is after two years period as stated at section 56(2) of the Electricity Act, 2003 and the bill is not enforceable.

It is also stated that the claimed amount of Rs. 72,249.00 has never been shown as arrear charge in any of the bill raised by APDCL starting from June, 2006 to the last bill dated 09.05.2016.

Respondent APDCL claim the amount of Rs. 72,249.00 on the ground that the audit report detected under billing during the period w.e.f. 11.04.2006 to 06.03.2013. Therefore, the bill dated 25.04.2016 has been raised to claim the amount. Respondent also states that a sum cannot be said to be due from the consumer unless a bill for the electricity charge is served upon the consumer. For the purpose of the sub-section (1) of the section 56 of the Electricity Act, 2003, a sum can be regarded as due from the consumer only after a bill is served. In this case as per the respondent, the bill is served on 25.04.2016 and therefore the provision section 56(2) of the Electricity Act, 2003 will not apply.

Respondent further said "First due" means not the date of consumption but the date when the bill is raised. In this case the liability might had been created in between 11.04.2006 and 06.03.2013 but the first due was created only on 25.04.2016 when a supplementary bill was prepared.

Findings and observation:

The above claim and counter claim of the appellant and the respondent leads to the fact that a sum can be claimed within two years from the date when such sum became first due as stated at Section 56(2) of the Electricity Act, 2003. Now the point of dispute is the "first due". It is a established fact that first due cannot be the data of consumption of electricity. There has to be calculation of the energy consumed in proper format and energy consumption must be quantified in terms of money to be realised from the consumer. Therefore, after calculation a bill has to be raised.

In the instant case, the energy consumed by the appellant during the period w.e.f. 11.04.2006 to 06.03.2013 had been calculated and bills also been raised and payment

made. There may be some mistake in calculating the energy consumption. But, the fact in the instant case is that calculation had been made and energy consumed had been quantified by raising monthly bill for the consumption period w.e.f. 11.04.2006 to 06.03.2013.

Therefore, the first due date shall be the date of bill raised during 12.05.2006 to 21.03.2013.

Respondent after dictation of wrong calculation of fixed charge by the audit party which is part of Respondent, APDCL, the supplementary bill dated 25.04.2016 has been raised by the Respondent, APDCL to claim less billed amount of Rs. 72,249.00.

It appears two types of bills has been raised for the same period. Hence, the first due shall be the bills dated in between 12.05.2006 to 21.03.2013 and not the date of the supplementary bill 25.04.2016. Therefore, the provision at section 56(2) is applicable in the present case.

Award:

In view of above discussion and observation, the following award is decided.

The supplementary bill dated 25.04.2016 is issued after two years from the first due date. Hence, the bill dated 25.04.2016 is not enforceable as per provision at clause 4.3.3 of Electricity Supply Code and Related matters Regulations, 2004.

Appeal petition dated 17.06.2016 is accordingly disposed of.

There shall be no cost to be born.

Sd/-
(R.L. Duarah)
Electricity Ombudsman

Memo No. EOM. 30/2016/26

Dated Guwahati the 31st August, 2016

Copy to:

1. **The Sub-Divisional Engineer**, Chandmari Electrical Sub-Division, APDCL (LAR), Guwahati.
2. **Shri Sanjib Goswami**, GNB Road, Silpukhuri, Next to Jungle Travels, Guwahati – 781003.

Secretary,
O/o the Electricity Ombudsman