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

% **Date of Decision: 02nd April, 2025**

+ **W.P.(C) 2271/2025**

CHANDER PRAKASH KAPURPetitioner

Through: Mr. Narendra Kalra, Adv. (Through
VC)

versus

**TATA POWER DELHI DISTRIBUTION LIMITED
& ANR.**Respondents

Through: Mr. Manish Srivastava and Mr. Yash
Srivastava, Adv. for R-1
M: 9572620480
Email: yash@kdatta.in
Ms. Urvi Mohan, Adv. for R-2
M: 7718992441
Email:
chambersurvimohan@gmail.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA
MINI PUSHKARNA, J (ORAL)

1. The present writ petition has been filed challenging the order dated 11th September, 2024 passed by the Appellate Authority, District West in *Appeal No. 01 & 02/ADM(W)/Elec./2024*, with further prayer to quash the order of assessment dated 20th March, 2023, issued by respondent no. 1.
2. Learned counsel appearing for the petitioner submits that the petitioner is a senior citizen of around 75 years of age and is the owner of



property bearing *no. C-86, Sudershan Park, Moti Nagar, New Delhi-110015.*

3. It is submitted that the petitioner had let out the aforesaid property to girls, who were pursuing higher studies, competitive exams or being employed temporarily, in Delhi. The said category of tenants, were inducted by the petitioner, with a view to safeguard the petitioner's interest, in his property, from tenants that would attempt to grab the property in view of the old age of the petitioner.

4. Thus, it is the case of the petitioner that since the property in question is being used only as a residence for girl students/professionals, no commercial activity can be said to be ongoing in the said property. He further submits that no commercial activity is being conducted by any of the petitioner's tenants, thus, the tenants who are young girls, are students/professionals, and using the property only for the purposes of studies.

5. Per contra, learned counsel appearing for the respondent-Tata Power Delhi Distribution Limited, submits that the premises in question is being used by the petitioner for running a girls Paying Guest ("PG"), which is a commercial activity. Thus, he submits that the electricity bill was rightly raised for non-domestic use, as use of a property for PG, cannot be considered as a domestic use.

6. He submits that two meters are installed in the aforesaid premises, wherein, for one meter bearing no. 11045247, the sanctioned load is 9 Kilo Watt ("KW"), however, during the course of inspection, the connected load of 13.940 KW, was discovered.

7. He further submits that for the second meter bearing no. 11045548,



the sanctioned load is 6 KW, however, during inspection, connected load of 39.905 KW, was discovered.

8. Having heard learned counsels appearing for the parties, this Court notes that *vide* order dated 11th September, 2024, the learned Appellate Authority, District West, in its order, whilst dealing with a challenge by the petitioner herein, to the Final Assessment Orders dated 20th March, 2023 and 24th March, 2023, has held as follows:

“xxx xxx xxx

16. It is an admitted fact that the said premises is used for the purpose of giving on rent and let out to individual girls as Paying Guest who come for higher studies and competitive examination from all over India and the electricity is being used in the premises provided by the respondent. During the inspection, it has been observed that the gym and common mess is also found running in the premises and electrical load sanctioned for the domestic category was found being unauthorizedly used for the non-domestic purposes. The said use of the premises comes under non-domestic category and is covered as unauthorized use of electricity u/s 126 of the Act, 2003 and DERC guidelines i.e., for the purpose other than for which the usage of electricity was authorized. Also, as per the terms and conditions of the prevailing Tariff Order of DERC, Paying Guests/Hostels/Schools/Colleges are given in the non-domestic category.

xxx xxx xxx

19. In this case, the premises in question is not rented to girls for bonafide residential purpose as domestic use rather they are residing as Paying Guest which comes under non-domestic category as per section 126 of the Act, 2003 and DERC guidelines. As per decision of the Hon'ble Supreme Court in Union of India v. Dudh Nath Prasadmere temporary residence or residence by compulsion at a place, however long, cannot be equated or treated as a place of ordinary residence. Hon'ble Supreme Court in NDMC v. Sohan Lal Sachdeva observed that "in the case of a "guest house" the building is used for providing accommodation to "guests" who may be travelers, passengers, or such persons who may use the premises temporarily for the purpose of their stay on payment of the charges. The use for which the building is put by the keeper of the guest house, in the context cannot be said to be for purely residential purpose."

20. **In my opinion, the guests who come to the premises in question**



cannot be said to be staying there for residential purpose and the electricity used for them is of domestic category. It would be a different matter if the appellant had given the premises on rent to girls for stay there for a long time along with their families for residential purpose. In that case, it could be said that the premises is being used for residential purpose and electricity is being used for domestic purposes. But that is not the case here.

xxx xxx xxx”

(Emphasis Supplied)

9. Perusal of the aforesaid order clearly shows that there is a categorical factual finding by the learned Appellate Authority with respect to a PG for girls, being run by the petitioner herein, in the premises in question.

10. This Court takes note of the Tariff Order for the Financial Year (“FY”) 2021-2022 as handed over by learned counsel appearing for the respondent no. 1, wherein, the domestic category as well as the non-domestic category, has been enumerated. Thus, as per the said Tariff Order for FY 2021-2022, the domestic category would include any PG, provided the premises in question have a sanctioned load up to 5 KW under the domestic category. However, as noted above, in the present case, the sanctioned load is more than 5 KW, as one meter has been sanctioned for 9 KW and the other has been sanctioned for 6 KW. Therefore, in case, there is a PG being run from the premises of the petitioner, the electricity cannot be stated to be within the domestic category in view of the said Tariff Order.

11. This Court further notes that the said Tariff Order for the FY 2021-2022, also records the non-domestic category, which clearly stipulates the PG other than covered under the domestic category. Therefore, it is evident that the usage of electricity by the petitioner in his premises would fall within the non-domestic use.

12. Further, this Court also takes note of the submissions made by the



petitioner in the present petition, wherein, the petitioner has stated as follows:

“xxx xxx xxx

5. After construction of the said property, the petitioner let out it to girls who came for higher studies, competitive exams or being employed temporarily in Delhi. With only to safeguard petitioner's interest to save his property from grabbing it by the tenants as the petitioner is a senior citizen having 75 years of age.

6. It is submitted that apart from the residence of the girls, there is no commercial activity is going on in the above said property. No commercial activity is being conducted by any petitioner's tenants as the petitioner strictly disallowed any action of activity by any of the tenants. The property, in question, was/is provided to the tenants only for studying in the property.

xxx xxx xxx”

(Emphasis Supplied)

13. Reading of the aforesaid averments in the petition itself clearly shows that the petitioner has categorically admitted that he has rented out the premises to girls, who have come for higher studies, competitive exams, or being employed temporarily in Delhi.

14. Thus, in view of the averments and the sanctioned load of the petitioner, it becomes apparent that a PG accommodation is being run by the petitioner from the premises in question.

15. This Court also takes note of the Inspection Report dated 11th January, 2023, filed by respondent no. 1, which with respect to the first meter bearing no. 11045247, categorically states that against the sanctioned load of 9 KW, the connected load is 13.940 KW. The relevant portion of the Inspection Report on record with respect to meter no. 1, is reproduced as under:



NDPL LOGO TATA POWER-DDL TATA POWER DELHI DISTRIBUTION LIMITED INSPECTION REPORT				Page 1 of 2 269949	
Under Section 126 & 135 of Electricity Act, 2003 Address for Correspondence: Enforcement Assessment Cell, TPDDL, EAC Building, Opposite Village Naharpur, Sector-3, Rohini, Delhi-110085 Phone : 011-66244453					
Date of Inspection DD MM YYYY	11	01	2023	K.No./C.A. No.	60026464275
Time of Inspection	13:04	AM/PM	Zone 103	District Moti Nagar	
Neighbouring K.No./CA No.	--			Pole No. 1303-45/5/1/1/2	
Inspection Agency	CEG	MMG	MMG	Zone	Others
Consumer/Owner					
(a) Name: Mr. Chander Prakash Kapoor			Father's/Husband's Name:		
(b) Present Address: H.No. C-86 Front Portion 1 st Floor Blk-C Sudarshan Park City Delhi-110015					
(d) Phone Number 8178492201			Mobile		
(e) Relation with RC/Owners: Self					
User [As stated by himself present at site]					
(a) Name Same as R/C			Father's/Husband's Name:		
(b) Present Address: Same as R/C Supply use 3rd Floor & Solar Panel Charges					
(d) Phone Number: 8178492201			Mobile:		E-mail:
(e) Relation with RC/Owners: Self 1 st Floor ????					
Load			Sanctioned Category (if any)		
(a) Sanctioned Load	9.00 (KW)		Agricultural	Domestic	
(b) Connected Load	13.940 (KW)		Industrial	Non Domestic	
Type of Irregularity []					
(a) Use for unauthorized category (S.126) []					
(b) Any other (Specify) []					
Meter No. 11045247	Meter Box Seal No. AA3503728, 29, 30, 31		Found Fixed Nut Removed	-	
Reading (KWH) 37185 (KWH)	Meter Terminal Seal No. U/C		U/C	-	
Reading (KVAH) 37187 (KVAH)	Half Seal No. U/C		U/C	-	
(Signature of Inspection Team Members)					
Regd. Off. Tata Power Delhi Distribution Limited, NDPL House, Hudson Lines, Kingsway Camp, Delhi-110009					

16. This Court further notes that the Inspection was conducted on 11th January, 2023, for both the meters in the petitioner's premises. However, the Inspection Report dated 11th January, 2023 with respect to the second meter only records the meter reading of 25624 KWH. Pursuant to the same, the respondent thereafter passed the Provisional Assessment Order dated 31st January, 2023, wherein, it is recorded that for the second meter bearing no.



11045548, against the sanctioned load of 6 KW, the connected load is 39.905 KW. The relevant portion of the Inspection Report along with the Provisional Assessment Order, is reproduced as under:

“xxx xxx xxx

Page 2 of 3					
I.R. No. U269949					
Nature of activity	Agricultural	Domestic	Industrial	Commercial	Any Other
Details of Business or Work noted above :					Girls PG
Materials used/processed/manufactured/sold at the site:					Girls PG
Whether the above activity was continuing at the time Inspection					Yes
Details of Connected Load: (Connected load of sanctioned category and unauthorized category and unauthorized category, to be separately mentioned)					
Outer meters at the locations (not necessarily having been inspected and without prejudice to TPDDL right under the Law)					
Sl. No.	K. No.	Meter No. (Dial)		Reading	
1	-	11045548	-	25624 (KWH)	
2	-	-	-		
In case of Unauthorized Use of Energy (Sec. 126)					
Nature of UUE:					
a)	Use through artificial or unauthorized means		b)	Use for category different from sanctioned category	
c)	Unauthorized Extension of supply		d)	By professionals exceeding the area of permissible use	
USE FOR CATEGORY DIFFERENT FROM SANCTIONED CATEGORY					
Actual Use of Supply			Agricultural:		
Commercial:			Domestic:		
Industrial:			Any Other		
Details of activity (e.g. Shop, Business, Industry etc. in which supply is used): Girls PG					
Nature of goods, raw material, finished goods, machines, tools present, used or sold: Girls PG					
Business/establishment name and sign board/Name plate, if any:				No Name Plate & Sign Board Found at Site	
IN CASE OF UNAUTHORIZED EXTENSION OF SUPPLY					
Address of the premises to which unauthorized supply is extended. //					
Whether both the premises are located in the same building			Yes	No	If yes, give following details
Part/Floor for which connection is sanction.					
Part/Floor to which unauthorized supply extended.					
(Signature of Inspection Team Members) Signed Signed					

xxx xxx xxx



2025:04C:2370



Annexure I

TATA POWER-DDL

TATA POWER DELHI DISTRIBUTION LIMITED
(A Tata Power and Delhi Government Joint Venture)Office of Assessing Officer Enforcement Assessment Cell
EAC NDPL Building Sector-03 Rohini, Delhi - 110085

INTERNAL Provisional Order of Assessment under section 126(1) of Electricity Act, 2003

1. Provisional Order No. 20030255511 Date of the order: 31.01.2023
2. Consumer number and name 60026464002 CHANDER PRAKASH KAPOOR
3. Name of Occupier/User & Address: CHANDER PRAKASH KAPOOR
House C-86 FRONT PORTION 2ND FLOOR BLK-C SUDARSHAN
PARK CITY DELHI 110015 LANDMARK NEAR BY J M
MEMORIAL SCHOOL
4. Pole No: 1303-45/5/1/1/2 Contact No: 8178492201
5. Particulars of electricity connection:
a) Meter No. 000000000011045548
c) Connected Load 39.905 b) Date of Inspection: 11.01.2023
e) Connected Category
6. Name and designation of the Inspecting Officer:- Naval Singh
7. Nature of unauthorized use of electricity - As per IR.
8. Names and addresses of the persons indulging in unauthorized use of electricity:
As per IR attached
9. Names and addresses of the persons who have benefited by such unauthorized use of electricity: As per IR attached
10. Electricity charges payable for such unauthorized use of electricity under the provisional assessment with the following details:-
a) Quantum of electricity being unauthorizedly used determined on best judgment basis along with detailed calculations: Details given in Provisional calculation sheet attached herewith.
11. Whether the period of Unauthorized Use is ascertainable, if so, the period and the basis thereof,
a) If not ascertainable the assessment period of twelve months
b) Rate of tariff prescribed per unit: Annexure
12. Reasons in support of the best judgment of unauthorized use of electricity (Give detailed reasons)
The irregularities noticed and mentioned in the inspection report if not contradicted, would amount to unauthorized use of electricity Act, 2003, and the amount of assessment shall be based on principles mentioned in subsection (5) and (6) of section 126 of electricity Act, 2003 and also mentioned in the foregoing paragraph of this order. Detailed calculations are given in the provisional calculation sheet attached with this order.
13. Documents relied on by the assessing officer in making the provisional assessment.
Inspection report and contract account statement

This provisional order is issued under Section 126 of the Electricity Act, 2003 and is based on report of inspection and other details mentioned above.
The amount of assessment payable for the aforesaid unauthorized use and the calculation thereof annexed herewith.

You may like to accept the aforesaid assessment and deposit the assessed amount with TATA POWER DELHI DISTRIBUTION LIMITED within seven days of receipt of this order. Bills for consumption electricity shall be raised at the rate of tariff mentioned above until the cause of such unauthorized is removed and the fact of such removal is ascertained to the satisfaction of the assessing officer. In case you do not accept the aforesaid assessment, you may file objections, if any, in writing, against this provisional assessment within seven days of receipt of this order and submit in the office of assessing Officer.

You are also informed that you may come and explain the matter personally on (date) at the above mentioned office of the assessing Officer.

Kindly take notice that in case you fail to deposit the amount of assessment or do not submit written objections within the aforesaid period or do not come for hearing on the aforesaid date and time, an order shall be passed in the absence of such reply or hearing and without any such further opportunity.

File No. 0000000306003

SEAL AND SIGNATURE OF 1

xxx xxx xxx"

17. This Court also takes note, that towards the said Inspection Report,



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respondent no. 1 passed Final Assessment Order dated 20th March, 2023 with respect to first meter bearing no. 11045247. The said Assessment Order is reproduced as under:

TATA POWER DELHI DISTRIBUTION LIMITED
(A Tata Power and Delhi Government Joint Venture)
Enforcement Assessment Cell (EAC), Sector-3, (Opp. Naharpur Village),
Rohini, Delhi-110085.

FINAL ASSESSMENT ORDER

Chander Prakash Kapoor (RC & User)

House No. C-86, Front Portion,
1st Floor, Near J M Memorial School,
BLK-C, Sudarshan Park, Delhi 110015

Contact No.: 8178492201

CA NO: 60026464275

Sir/Madam,

The following orders is a consequence of the inspection conducted at the above-mentioned address on 11.01.2023 vide inspection report no. U 269949. With reference to the said inspection carried out under section 126 of The Electricity Act, 2003 against electricity connection bearing CA no. 60026464275 & meter no. 11045247, the following observations were made:

1. A load of 13.940 KW was found connected against the sanctioned load of 9.00 KW for domestic purposes.
2. At the time of inspection, supply of active CA NO: 60026464275 sanctioned for DL purpose was found being used for Girls PG at III floor of the premises which is a commercial activity. No domestic activity found at site.

Considering the above observations and the irregularities found by the inspection team at the time of inspection in your connection at the above-mentioned address, proceeding under Section 126 of the Electricity Act, 2003 for unauthorized use of electricity was initiated against you.

It needs no mention here that you were served with the provisional order of assessment under Sec.126 (1) of the Electricity Act, 2003 dated 31.01.2023 which was signed and received by you/your representative.

Following the principle of natural justice, you were given due opportunity to present your defence on 21.02.2023 in personal hearing whereupon you turned up and submitted your representation. Your representation dated 21.02.2023 inter alia contained the following submissions:

- That you are 72 years old.

SP-9133
21/3/2023



- That you were advised to construct rooms with the purpose to rent out to girls who come for higher studies.
- That considering the fact that girls vacate the premises after their studies you heeded the advice of your friend.
- That you did nothing wrong to rent out your property to various girls.
- That the tenants were asked not to do any commercial activities while residing there.
- That how has it become commercial activity.
- That it is factually wrong that the premises was videographed and photographed.
- That upon your request and since it was a women accommodation the team leader was asked not to enter into premises and therefore, they sent a lady inside who was technically aware of the requirements.
- That signature of photographer is fake.
- That why your signatures were not obtained.
- That both the notices mentioned total connected load as 53.845. Is the cable sufficient to take this much load?
- That your internal wiring is not having that much capacity.
- That the person inspecting the premises could not differentiate between demand load and connected load. For example, if geysers are in use, then ACs and fans are not in use.
- That you have 10 kw of solar panels in the building which helps meet your energy requirements.
- That the lady or the photographer did not notice the solar panels.
- That the fact about the solar panel is known to NDPL.

Thereafter, you submitted another representation which was attached in the representation dated 21.02.2023 wherein you contended that you are owner of the entire building and that you have applied for another meter for third and fourth floor.

There is no gainsaying the fact that you again sent a representation which was received in Enforcement Assessment Cell on 27.02.2023. Among other assertions and allegations, you reiterated your contentions and contended that you were not allowed to enter into the office. However, you further conceded that the security guard was kind enough to acknowledge your submissions. You also informed that the security guard also informed about the next date of hearing. Through your submission dated 27.02.2023 you also wished the decision to be taken urgently.

Reply to your representations and submissions

The submission put forward by you at the personal hearings were given due consideration, but it is averred that you have failed to put forward any tangible and cogent reason which may convince that the case made out against you is not correct.

Your submissions that you are a senior citizen and that you heeded the advice of your friend needs no reply. Whether you were correct in your decision to rent out your property to various girls also is a matter of record and the licensee has no opinion to make on this fact.

Apropos your contention that the use of CA No. 60026464275 for commercial activity which was sanctioned for domestic purpose is fine and justified, it is affirmed that this wrongdoing means and implies unauthorized use of electricity under sec. 126 of the electricity act, 2003.



*With regard to your averment that it is factually wrong that the premises was videographed and photographed, it is submitted that the photographs taken during the inspection stand testimony of the fact that photographs were indeed captured during inspection.

Further, relying upon the observations of the inspection report it is emphasized that when an attempt to obtain your signature was made on the inspection report, it was rejected by you. Moreover, you have admitted that inspection was indeed conducted, and photographs taken during inspection corroborate the findings. Therefore, there is no ambiguity in this regard.

Furthermore, it is wrong to assume and surmise that the connected load during the inspection was calculated as 53.845 KW. The inspection report and the provisional assessment order explicitly mentions the connected load as 13.940 KW and not as being alleged by you. It is relevant and imperative to mention here that the bill is prepared by meticulously adhering to the DERC supply code and regulations, 2017 and other relevant provisions of law.

As regards your submission that you have 10 kw of solar panels in the building and that the fact about the solar panel is known but discarded by NDPI, it is asserted that even if your averment is regarded as correct it is unambiguously confirmed that the units consumed through solar unit are duly adjusted and appropriated.

A perusal of your representations and point wise reply to your contentions clearly establish that you have no substantial and tangible grievance from the licensee. You have feigned ignorance about the case which have been made out against you. During inspection it was observed that the supply of active CA No. 60026464275 which is sanctioned for DL purpose was found being used for Girls PG at III floor of the premises, which is a commercial activity. Therefore, the findings of the inspecting team revealed above is an abundant illustration of your inerrmination. In this context, it is imperative to mention here that through your representation you have admitted that CA No. 60026464275 was being used as rental accommodation for girls. Therefore, the supply was being used for commercial activity is not a matter of conjecture and surmises when it is adequately corroborated by inspection report and photographs.

Further, it is unequivocally affirmed that the contents of the inspection report and provisional assessment orders are correct in every aspect. It is submitted that the licensee took every step as per the provisions of law and meticulously adhered to the Electricity Act, 2003 and DERC guidelines. It is relevant to mention here that the case of unauthorized use of electricity has been booked as per the provisions laid down in the law and not on any false ground.

There is no gainsaying the fact that you are the registered consumer/user of the above-mentioned CA No. and therefore entirely answerable for the omission and commission. It is underlined that the findings of the inspection report are legitimate, tenable, reasonable and justified.

The submissions made by you during the personal hearings are extraneous to the subject matter being dealt with. You have preferred to remain silent on the findings of the inspection report. The findings in the inspection report are suggestive of ulterior action on your part.

In the paramount interest of natural justice, you were again given an opportunity of personal hearing vide show cause notice dated 28.02.2023 for 16.03.2023 but to no avail as you failed to turn up. In the given circumstances, the company is left with no option than to proceed ahead with your case. It is assumed that you have nothing to say in the matter besides the submissions you have already made.

It needs no mention that the inspection was carried out in the presence of your representative. Besides inspection report laid out some findings and made some observations which was refused to be signed by your representative. Therefore, there is no reason to disbelieve the inspection report and photographs.

The findings in the inspection report are suggestive of transgression on your part. Further, the observation of the inspecting team stand testimony of your wrongdoings.

Anshu
20/02/2023
Assessing Officer

(Enforcement Assessment Cell)

FOR INTERNAL REFERENCE AND PURPOSES: -

FILE NO: 306001

DISPATCH NO. & DATE:

NOTIFICATION NO.: 2032708754

POLE NO.: 1303-45/5/1/1/2

DISTRICT: MOTI NAGAR

Regd. Off: Tata Power Delhi Distribution Limited, NDPI, House, Hudson Lines, Kingsway Camp, Delhi-110009
Tel: 011-26122222 Fax: 011-26122222 Email: TDD@tata-power-delhi.com, CIN NO: 340109DH3003PLC115276
Website: www.tata-power-delhi.com



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18. Towards the second meter bearing no. 11045548, respondent no. 1 passed Final Assessment Order dated 24th March, 2023. The said Assessment Order is reproduced as under:

TATA POWER DELHI DISTRIBUTION LIMITED
Tata Power Delhi Distribution Limited, NDPL House, Hudson Lines, Kingsway Camp, Delhi-110009
Tel : 66112222 Fax : 27468042, Email: TPDOJ@tatapower-dcl.com, CIN NO: U40109DL2001PLC111526,
Website: www.tatapower-dcl.com

ENFORCEMENT ASSESSMENT CELL, EAC BUILDING, SECTOR-3,
ROHINI, DELHI-110085

SP- 9264
27/3/23

Final Assessment Order

DOI: 11.01.2023
C.A. No: 60026464002
NN: 2032709154
Meter No.: 11045548
EAC No.: 306003

R/C: Mr. Chander Prakash Kapoor

User: Mr. Chander Prakash Kapoor

Address: H.No. C-86, Front Portion, 2nd Floor, Blk-C, Sudarshan Park, Delhi

Mob No. 8178492201, Pole No.: 1303-45/5/1/1/2

Sir/Madam,

The following orders is a consequence of the inspection conducted at the above-mentioned address on 11.01.2023 vide inspection report no. 269950. With reference to the said inspection carried out under section 126 of The Electricity Act, 2003 against electricity connection bearing C.A no. 60026464002 & meter no. 11045548 the following observations were made:

1. At the time of inspection, supply sanctioned for Domestic purpose found illegally using for Commercial Purpose i.e. "Girls PG" at Ground, First and Second Floor.

Considering the above observations and the irregularities found by the inspection team at the time of inspection in your connection at the above-mentioned address, proceeding under Section 126 of the Electricity Act, 2003 for unauthorized use of electricity was initiated against you.

It needs no mention here that you were served with the provisional order of assessment under Sec.126 (1) of the Electricity Act, 2003 dated 31.01.2023 with an opportunity of personal hearing



on 21.02.2023, whereupon you turned up and submitted your representation. Your representation dated 21.02.2023 *inter alia* contained the following submissions:

- That you are 72 years old.
- That you were advised to construct rooms with the purpose to rent out to girls who come for higher studies.
- That considering the fact that girls vacate the premises after their studies you heeded the advice of your friend.
- That you did nothing wrong to rent out your property to various girls.
- That the tenants were asked not to do any commercial activities while residing there.
- That how has it become commercial activity.
- That it is factually wrong that the premises was videographed and photographed.
- That upon your request and since it was a women accommodation the team leader was asked not to enter into premises and therefore, they sent a lady inside who was technically aware of the requirements.
- That signature of photographer is fake.
- That why your signatures were not obtained.
- That both the notices mentioned total connected load as 53.845. Is the cable sufficient to take this much load?
- That your internal wiring is not having that much capacity.
- That the person inspecting the premises could not differentiate between demand load and connected load. For example, if geysers are in use, then ACs and fans are not in use.
- That you have 10 kw of solar panels in the building which helps meet your energy requirements.
- That the lady or the photographer did not notice the solar panels.
- That the fact about the solar panel is known to NDPL.

Thereafter, you submitted another representation which was attached in the representation dated 21.02.2023 wherein you contended that you are owner of the entire building and that you have applied for another meter for third and fourth floor.

There is no gainsaying the fact that you again sent a representation which was received in Enforcement Assessment Cell on 27.02.2023. Among other assertions and allegations, you reiterated your contentions and contended that you were not allowed to enter into the office. However, you further conceded that the security guard was kind enough to acknowledge your submissions. You also informed that the security guard also informed about the next date of hearing. Through your submission dated 27.02.2023 you also wished the decision to be taken urgently.

Reply to your representations and submissions

The submission put forward by you at the personal hearings were given due consideration, but it is averred that you have failed to put forward any tangible and cogent reason which may convince that the case made out against you is not correct.



Your submissions that you are a senior citizen and that you heeded the advice of your friend needs no reply. Whether you were correct in your decision to rent out your property to various girls also is a matter of record and the licensee has no opinion to make on this fact.

• Apropos your contention that the use of CA No. 60026464002 for commercial activity which was sanctioned for domestic purpose is fine and justified, it is affirmed that this wrongdoing means and implies unauthorized use of electricity under sec. 126 of the electricity act, 2003.

With regard to your averment that it is factually wrong that the premises was video graphed and photographed, it is submitted that the photographs taken during the inspection stand testimony of the fact that photographs were indeed captured during inspection.

Further, relying upon the observations of the inspection report it is emphasized that when an attempt to obtain your signature was made on the inspection report, it was rejected by you. Moreover, you have admitted that inspection was indeed conducted, and photographs taken during inspection corroborate the findings. Therefore, there is no ambiguity in this regard.

Furthermore, it is wrong to assume and surmise that the connected load during the inspection was calculated as 53.845 KW. The inspection report and the provisional assessment order explicitly mentions the connected load as 39.905 KW and not as being alleged by you. It is relevant and imperative to mention here that the bill is prepared by meticulously adhering to the DERC supply code and regulations, 2017 and other relevant provisions of law.

As regards your submission that you have 10-kw of solar panels in the building and that the fact about the solar panel is known but discarded by NDPL, it is asserted that even if your averment is regarded as correct it is unambiguously confirmed that the units consumed through solar unit are duly adjusted and appropriated.

A perusal of your representations and point wise reply to your contentions clearly establish that you have no substantial and tangible grievance from the licensee. You have feigned ignorance about the case which have been made out against you. During inspection it was observed that the supply of active CA No. 60026464002 which is sanctioned for DL purpose was found being used for Girls PG at Ground, First and Second floor of the premises, which is a commercial activity. Therefore, the findings of the inspecting team revealed above is an abundant illustration of your incrimination. In this context, it is imperative to mention here that through your representation you have admitted that CA No. 60026464002 was being used as rental accommodation for girls. Therefore, the supply was being used for commercial activity is not a matter of conjecture and surmises when it is adequately corroborated by inspection report and photographs.

Further, it is unequivocally affirmed that the contents of the inspection report and provisional assessment orders are correct in every aspect. It is submitted that the licensee took every step as per the provisions of law and meticulously adhered to the Electricity Act, 2003 and DERC guidelines. It is relevant to mention here that the case of unauthorized use of electricity has been booked as per the provisions laid down in the law and not on any false ground.



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There is no gainsaying the fact that you are the registered consumer/user of the above-mentioned CA No. and therefore entirely answerable for the omission and commission. It is underlined that the findings of the inspection report are legitimate, tenable, reasonable and justified.

The submissions made by you during the personal hearings are extraneous to the subject matter being dealt with. You have preferred to remain silent on the findings of the inspection report. The findings in the inspection report are suggestive of ulterior action on your part.

In the paramount interest of natural justice, you were again given an opportunity of personal hearing *vide* show cause notice dated 28.02.2023 for 16.03.2023 but to no avail as you failed to turn up. In the given circumstances, the company is left with no option than to proceed ahead with your case. It is assumed that you have nothing to say in the matter besides the submissions you have already made.

It needs no mention that the inspection was carried out in the presence of your representative. Besides, the inspection report laid out some findings and made some observations which was refused to be signed by your representative. Therefore, there is no reason to disbelieve the inspection report and photographs.

The findings in the inspection report are suggestive of transgression on your part. Further, the observations of the inspecting team stand testimony of your wrongdoings.

TPDDL/EAC: 306003
Dispatch Date _____

Enforcement Assessment Cell
Amulya
24/03/2023
Assessing officer

19. Thus, in view of the Inspection Report dated 11th January, 2023 and the Final Assessment Orders dated 20th March, 2023 and 24th March, 2023, it is manifest that when the premises of the petitioner is being used as PG, the same would fall within the non-domestic use, for which the respondent no.1 has rightly assessed the electricity as non-domestic use.

20. In view of the aforesaid, this Court is of the view that no interference is required in the factual findings as given by the Appellate Authority *vide* its order 11th September, 2024. The Appellate Authority has made due considerations to the contentions raised by the petitioner herein with respect to the Final Assessment Orders, and arrived at the conclusion with respect to the PG being run by the petitioner.

21. This Court further takes note of the submission made by learned



counsel appearing for the petitioner that petitioner has installed solar panels in the property in question and thus, the petitioner ought to be given benefit of the same.

22. However, responding to the same it is the case on behalf of respondent no. 1, that any electricity which is generated through the solar panels, is not included in the electricity meter installed by respondent no. 1. Thus, the aforesaid submission made by learned counsel appearing for the petitioner, is baseless.

23. Considering the detailed discussion hereinabove, the present writ petition is bereft of merit, and is accordingly, dismissed.

MINI PUSHKARNA, J

APRIL 2, 2025/kr