

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu, Director (Law) and
Vidyut Ombudsman**

Dated: 20 -02-2010

Appeal No. 13 of 2009

Between

M/s. Synergies Castings Ltd
#3, Visakhapatnam Special Economic Zone (VSEZ),
Duvvada, Visakhapatnam -36.

... Appellant

And

The Asst. Engineer / Operation / APEPDCL / Wadlapudi/Visakhapatnam
The Asst. Divisional Engineer / Operation/ APEPDCL / Visakhapatnam
The Asst. Accounts Officer / ERO/ East /APEPDCL / Visakhapatnam
The Divisional Electrical Engineer / Operation / APEPDCL / Zone-II/VSP

....Respondents

The appeal / representation dated 05.03.2009 received on 06.03.2009 of the appellant has come up for final hearing before the Vidyut Ombudsman on 01.02.2010 in the presence of Sri B.S.S.V.Narayana, Assistant Manager (Accounts) for the appellant and Sri P.V.V.Satyanarayana, Divisional Engineer / Zone-II / Visakhapatnam, Sri G.Syambabu, ADE, Operation, Gajuwaka, Sri G.Prasad, ADE, Commercial, circle office, Visakhapatnam and Sri A.Appalraju, AE, Operation, Wadlapudi present for respondents and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following:

AWARD

Aggrieved by the order of the Forum in CG No. 293/2009 of Visakhapatnam District dated 30.01.2009, the present appeal is preferred on 05.03.2009 received on 06.03.2009.

2. The case of the appellant is that they have filed a petition before the Forum praying for temporary reduction of CMD from 4000KVA to 3000 KVA. Though the

respondents have not submitted their written arguments, the Forum observed that the licensees are working as per the guidelines provided in GTCS approved by APERC. Hence, rejection made by the licensee about the request of the petitioner to reduce the CMD from 4000 KVA to 3000 KVA is that in order and disposed the petition accordingly.

3. Aggrieved by that order, the present appeal is filed projecting mainly that they have approached APEPDCL for temporary de-rating of CMD from 4000 KVA to 3000 KVA for a period of 6 months but APEPDCL rejected the same on the ground that de-rating can be made only after completion of 2 years of agreement as per clause 4.9.4.2 of GTCS as approved by APERC. In fact they are well within the clause 5.9.3.2 of GTCS as they are asking for reduction of 1000 KVA only from the 3000 KVA for which two years contract period is over and which is in continuous use by them since 1996 i.e, more than 12 years. It is also mentioned in the grounds that when agreement is amended or latest agreement is executed pursuant to sanction of additional load / demand, the minimum period liability for the additional load shall commence from the date of commencement of supply for the additional load/ demand. As they are requesting to reduce 1000 KVA only from the old CMD of 3000 KVA they are entitled for the same and impugned order is liable to be set aside.

4. Now, the point for consideration is, "whether the impugned order dated 30.01.2009 is liable to be set aside? If so, on what grounds?"

5. As per the record, they have obtained HT service for a CMD of 4000 KVA in October 1996, as there was delay they were constrained to reduce the CMD from 4000 KVA to 3000 KVA in January 2001 and signed the agreement with APEPDCL authorities to that effect. Subsequently, the CMD was revised to 3500 KVA in January 2007 and to 4000 KVA in October 2007. As there is sudden recession in US economy, the car sales have come down significantly in USA and General Motors is closing many of its plants in USA. This resulted in export order in USA for Chrome Plated Wheels drastically coming down and the said plant has been shut down.

Clause 5.9.3.2 of GTCS which reads as follows:

“5.9.3.2 – Period of HT Agreement: The minimum period of HT Agreement or supply at High Tension normally be two years from the date of commencement of supply. The Agreement shall continue to be in force till it is terminated by the consumer or by the Company as provided in clause 5.9.4.2 hereof.

Provided that where an agreement is amended or a revised agreement executed pursuant to sanction of an additional load/demand, the minimum period liability for the additional load shall commence from the date of commencement of supply for the additional load / demand.”

6. Originally, HT service connection was given with 4000 KVA in October 1996 and it was reduced to 3000 KVA in January 2001. The agreement was signed with APEPDCL to that effect. According to the said provision and the clarification issued, it is clear that the de-ration sought by the petitioner from 4000 KVA to 3000 KVA is to be reckoned from 2001, but not from dates on which the amended additional load was taken. When he is having 3000 KVA from the year 2001 onwards till January 2007 that can be reduced by way of de-ration as the period of 2 years has already been expired long back.

7. At this juncture, the appellant has submitted a letter dated 02.02.2010 that the de-ration may be given from 10.12.2008 for a period of 6 months and to continue the same with 4000 KVA thereafter. Since the period of 6 months is closed by 09.06.2009, the authorities have to calculate the difference amount for this period depending upon the usage of CMD, etc. and the benefit, if any, given to the appellant and the same can be adjusted in the future bills if any amount is to be refunded.

8. In the result, the appeal is allowed and the authorities are directed to de-rate the KVA from 4000 KVA to 3000 KVA from 10.12.2008 to 09.06.2009 and thereafter from 4000 KVA to be continued. The difference amount, if any is to be paid to the appellant may be adjusted in the future bills depending upon the usage of CMD, etc. The compliance of this order may be informed to this Authority within 30 days from the date of receipt of this order. No order as to costs.

This order is corrected and signed on this day of 20th February 2010.

VIDYUT OMBUDSMAN