

BEFORE THE VIDYUT OMBUDSMAN

Present

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

Dated: 15 -02-2010

Appeal No. 25 of 2009

Between

Deputy Chief Electrical Engineer,
Carriage Workshop / Lallaguda,
Secunderabad – 500 017.

... Appellant

And

The Asst. Divisional Engineer / Operation / APCPDCL / Habsiguda/ Hyderabad
The Divisional Engineer / Operation / APCPDCL / Habsiguda / Hyderabad
The Senior Accounts Officer / Operation / Hyd (West) Circle / APCPDCL / Sec-bad
The Superintending Engineer / Operation / APCPDCL / Hyd (West) circle / Hyderabad
The General Manager / Customer Services / APCPDCL /Corp.Office / Hyderabad.

....Respondents

The appeal / representation dated 14.05.2009 received on 18.05.2009 of the appellant has come up for final hearing before the Vidyut Ombudsman on 29.01.2010. Sri T.V.Dikshitulu, ADE, Sri Ramanand Sagar, HC Budget for the appellant and Sri Sk.Anwar Basha, SAO, Sri T.Srinivas, and Sri A.Srinivas, ADE, Habsiguda, respondents are present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following:

AWARD

Aggrieved by the orders of the Forum in CG No. 40/2008-09 of Hyderabad (West) Circle dated 31.03.2009, the present appeal is filed on 18.05.2009.

2. The case of the appellant is, that Sri G.Chandra Mouli, Dy.Chief Electrical Engineer, SCR, Secunderabad has submitted a compliant to the Forum that HT S.C.No.RRN-073 was released on 22.08.1986 under HT Cat-II for 'Flash Butt Welding Plant and Lighting Load', Moulali and it may be re-categorised as HT

Cat-I as 'Flash Butt Welding' comes within the definition of industrial purpose as defined in Part 'A' HT Tariffs, HT Cat-I. It is also further represented that S.C.No. RRN-073 may be considered for re-categorisation under HT Cat-II at least from the date of making application for change of category i.e., from 27.10.2008 as per clause 3.4.2 of General Terms & Conditions of Supply approved by APERC on 06.01.2006.

3. The Superintending Engineer / Operation / Hyderabad (West) Circle has submitted in his written statement that the supply to HT S.C.No.RRN-073 was released on 22.08.1986 with CMD of 800 kVA under HT Cat-II tariff. As per the tariff conditions HT Cat-I tariff is applicable for supply to all HT industrial consumers i.e. consumers who are availing supply for the purpose of manufacturing, processing and preserving goods for sale, but shall not include shops, business house, offices, public buildings, hospitals, hotels, hostels, choultries, restaurants, clubs, theatres, cinemas, railway stations and other similar premises notwithstanding any manufacturing, processing or preserving goods for sale. The water works of Municipalities and Corporations and any other Government organizations come under this category. HT Cat-II tariff is applicable to all HT consumers other than those covered under HT Cat-I. As per the tariff order 2008-09, the flash butt welding plant falls under HT Cat-II only. The complainant approached the CGM (Comml) and requested to change the category, but the same was rejected by the APCPDCL on the ground, that the flash butt welding plant falls under HT Cat-II vide letter dated 28.11.2008. The billing is paid without any dispute from the beginning. But on 24.10.2008 and 24.11.2008, railways raised an objection with respect to the incorrect categorization of service under HT Cat-II. The complainant has executed HT Agreement on 29.03.1986 for supply of electricity for the purpose of 'Butt Welding Plant and Lighting Load'. Accordingly, APSEB has billed the service under HT Cat-II as per the Terms and Conditions of Power Supply. Hence, the complaint is liable to be dismissed.

4. The complainant has also filed rejoinder in which, it is clearly mentioned that they have represented for change of category from HT –II to HT –I on

27.10.2008 as per clause 3.4.2 of GTCS, as the cost of production has increased due to increase in energy cost. The Superintending Engineer, APCPDCL inspected and addressed a letter on 19.07.2008 that flash butt welding plant can be placed under HT Cat-I if AB Switch on Loco Shed is disconnected. All the activities are within the definition of manufacturing process. The Electric Loco sheds situated outside AP are also categorized as industrial establishment and availing the benefits applicable under HT Cat-I. Flash Butt Welding Plant workshops and DLS are undertaking production of Rails / maintenance of rolling stock. Hence, HT Cat-I is applicable.

5. The Forum has recorded the deposition of one G.Chandra Mouli and he categorically stated that the power is used for lighting, hoist motors for lifting of rails, minor works such as grinding, etc.

6. Sri A.Mahesh Kumar, Superintending Engineer, APCPDCL categorically stated that Flash Butt Welding Plant also comes under the commercial category since it involves of welding of rails and it comes under HT Cat-II only. The 2nd witness for the respondents is Sri T.Srinivas, ADE stated that he inspected and observed that main consumption is for lighting and hoists for lifting of rails only. Welding is carried out by mobile plant which is run by diesel oil. He also filed the particulars as hereunder:

The ADE (O), Habsiguda in his letter No. ADE/OP/HBG/F.No.CGRF/D.No.1663/09 dated 31.03.2009 has furnished the connected load particulars of Flash Butt Welding Plant, Moulali, RRN-073 as detailed below:

1. Hoist Motors	38 x 6 HP	228 HP
2. Hoist Motors	15 x 4 HP	60 HP
3. Roller Path Motors	20 x 3 HP	60 HP
4. Grinding Machine	1 x 3 HP	3 HP
5. Lighting load	132 x 250W 33KW
Total		----- 351 HP + 33 KW -----

After hearing both sides and considering the material placed before the Forum, he has opined the purpose of use of electricity under SC No. RRN-073 is now mainly for auxiliaries like hoists motors and roller path motors and ultimately rejected the request made by the appellant for change of category.

7. Aggrieved by this order, he preferred this appeal on the ground that the Forum has failed to consider the scope of the appeal and the nature of the work.

8. Now, the point for consideration is, whether the appellant is entitled for re-categorisation from HT Cat-II to HT Cat-I as claimed by setting aside the impugned order, if so, on what grounds?

9. It is clear from the record that the Divisional Engineer, DPE, HT has inspected the premises on 18.06.2008 and observed that the supply from Flash Butt Welding Plant is extended to the Diesel Loco shed existing beside Flash Butt Welding Plant through the A.B.Switch located near the compound wall of the plant. The A.B.Switch is kept in open condition. Power supply is being used to Diesel Loco shed which also comes under HT Cat-II, the S.C.No.RRN-073 cannot be re-categorised as HT Cat-I as the electricity consumer classification and categorization for the purpose of electricity charges are made on the basis of the purpose of use of electricity.

10. Apart from this, he categorically stated that Flash Butt Welding Plant Unit of Railways is mainly a process to weld rail joints to give joint-less rails for railway tracks. The present CMD has been reduced from 800 kVA to 250 kVA due to non-functional of Flash Butt Welding Plant on account of its obsolete design and uneconomical. The plant was replaced by a mobile plant which works on diesel fuel for welding purposes. When the Flash Butt Welding Plant is used on a mobile plant, the kVA is to be reduced and the burden is on the appellant to show that the electricity is being used for manufacturing, processing and preserving goods for sale. The present power is used mainly for lighting, hoists motors for lifting of rails and minor works such as grinding, do not come under the definition of either manufacturing, processing or preserving goods for sale. The connected

load particulars of Flash Butt Welding Plant, Moulali, SC No. RRN-073 as on 31.03.2009 as furnished by the 1st respondent are as follows:

1. Hoist Motors	38 x 6 HP	228 HP
2. Hoist Motors	15 x 4 HP	60 HP
3. Roller Path Motors	20 x 3 HP	60 HP
4. Grinding Machine	1 x 3 HP	3 HP
5. Lighting load	132 x 250W 33KW
Total		----- 351 HP + 33 KW -----

11. So, it is apparent, that the power now being used mainly for hoist motors and roller path motors which are auxiliaries but not for core activity i.e, to weld rail joints for which the supply is taken. In the absence of any one of the items of the above said items (3) such as manufacturing, processing and preserving goods for sale, the appellant is not entitled to the change of categorization unless it is established that the usage category comes within the said definition. Clause 3.4.1 of GTCS and clause 3.4.2 of GTCS have specifically stated that re-classification of service connection within the stipulated time frame specified in the APERC (Licensees Standards of Performance), Regulation No. 7 of 2004. The power supply has been used from SC No. RRN-073 to Diesel Loco Shed also comes under HT Cat-II but not HT Cat-I. The purpose and use of electricity supplied to the Diesel Loco Shed by extending the same from Flash Butt Welding Plant at Moulali does not come within the meaning of "Industrial Purpose" as specified under HT Cat-I Tariff.

12. The Forum has rightly considered the said aspects and the appeal preferred by the appellant is liable to be dismissed. However, this authority directs to all the respondents that in case of change of service the categorization may be changed when the complainant has fully followed the conditions required for HT Category I.

13. In the result, the appeal is dismissed, no order as to costs.

This order is corrected and signed on this day of 15th February 2010.

VIDYUT OMBUDSMAN

VIDYUT OMBUDSMAN

4th Floor, Singareni Bhavan, Red Hills, Hyderabad-500 004

From

K.Sanjeevarao Naidu,
Director(Law) and Vidyut Ombudsman,
'Singareni Bhavan' 4th Floor,
Red Hills, Lakdikapool, Hyderabad.

To

Deputy Chief Electrical Engineer,
Carriage Workshop / Lallaguda,
Secunderabad – 500 017.

Lr.No.VO/Appeal No.25 / 2009 dated 15.02.2010

Sir,

Sub: - Appeal No. 25 of 2009 – Appeal filed by Deputy Chief Electrical Engineer,
Carriage Workshop / Lallaguda, Secunderabad – 500 017.

A copy of the Order passed by Director(Law) and Vidyut Ombudsman, on
15.02.2010, in Appeal No.25 of 2009 is forwarded herewith.

Yours faithfully,

Director(Law) & Vidyut Ombudsman

Encl: as above

Copy to:

1. The Asst. Divisional Engineer / Operation / APCPDCL / Habsiguda/ Hyderabad
2. The Divisional Engineer / Operation / APCPDCL / Habsiguda / Hyderabad
3. The Senior Accounts Officer / Operation / Hyd (West) Circle / APCPDCL / Sec-bad
4. The Superintending Engineer / Operation / APCPDCL / Hyd (West) circle / Hyderabad
5. The General Manager / Customer Services / APCPDCL /Corp.Office / Hyderabad.
6. The Chairperson, Forum for Redressal of Consumer Grievances of APCPDCL,
Hyd
7. The Secretary, APERC, Hyderabad.
8. The JD/IT, APERC – with a request to keep this order in the Commission's
Website.