

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 28 -04-2010

Appeal No. 27 of 2009

Between

Sri. K. R. Kamaraj Reddy,
S/o. K.M. Raghupathi Reddy,
D. No. 25-97, Kakathopu Line,
Palamaner, Chittoor Dist.

... Appellant

And

Divisional Engineer / Operation / APSPDCL / Tirupati
Asst. Divisional Engineer / Operation / APSPDCL / Palamaner / Chittoor Dist
Superintending Engineer / Operation / APSPDCL / Tirupati
Asst. Accounts Officer / ERO / APSPDCL / Palamaner / Chittoor Dist

....Respondents

The appeal / representation received on 29.05.2009 of the appellant has come for final hearing before the Vidyut Ombudsman at Tirupathi on 23.04.2010 in the presence of Sri K.R.Kamaraj Reddy, appellant, Sri C.Radha Krishna, SE/O/Tirupati, Sri G.Kakadula Rao, ADE/O/Palamaner and Sri N.D.V.Subba Rao, AAO/ERO/Palamaner present for respondents and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following:

AWARD

The appellant filed a complaint before the Forum that he has taken the lease of Agarabatti industry under the name and style of Srinivasa Industry Gangavaram village on 10.08.2007 from the sole proprietor of the said industry by name Sri K.Suresh Babu, S/o.Late K.Gopal Chetty. The appellant is utilizing

the service since then, under Cat-III who also applied for title transfer of the service duly producing the relevant documents and accordingly respondents ordered for title transfer by terminating the old agreement. He was paying the CC charges as demanded by the respondent from time to time. On the inspection made by ADE/O/Palamaner on 23.02.2008 issued a notice to the appellant stating that reading as on 01/04 was 104983 (with six digits) whereas up to 02/08 bills were issued with 5 digits and found that the reading as on 02/08 was 757423 thereby a bill was issued for short units for Rs.2206870.11 for the period from 01/04 to 23.02.2008 which is illegal as the complainant has taken the premises for lease only on 10.08.2007 and not earlier. The Divisional Engineer /O/Chittoor has confirmed the same that there are no arrears as on the date. He filed an appeal before SE/O/Tirupati who confirmed the notice issued by the ADE/O/Palamaner without considering the facts placed in the appeal that there is a threat of disconnection for non-payment of the shortfall of Rs.22.06 lakhs. He fled his complaint before the Forum to suspend or stay the operation of the order.

2. The DE/O/Chittoor submitted his written remarks as hereunder:

- (i) the averments made by the complainant in this complaint is not correct as per the agreements concluded with the property holder.
 - a. As per the agreement concluded with the proprietor the complainant originally had taken lease from 13.09.2002 to 13.08.2003
 - b. II agreement was concluded from 14.08.2003 to 30.06.2007
 - c. III agreement was from 30.06.2007 to 31.03.2008
- (ii) After running the industry for about 5 years the complainant applied for name transfer of the service and was effected on 10.08.2007.
- (iii) The Assistant Divisional Engineer/Operation/Palamaner inspected the service on 23.02.2008 and the bills were being issued for lesser consumption than the actual recorded consumption of the energy meter from 01/04 to 23.02.2008 and further noticed that about 579231

units was unbilled and a demand notice for Rs.22.06 lakhs towards the short billed units was issued by the ADE/O/Palamaner.

- (iv) The DE/O/Chittoor has confirmed the notice for short billing of Rs.22.06 lakhs issued by the ADE/O/Palamaner and also intimated to the complainant that the amount is not a penalty but it was related to the actual energy consumption charges.
- (v) The DE/O/Chittoor in view of the foregoing reason, has confirmed that the complainant is liable to pay the shortfall of Rs.22.06 lakhs as already demanded as the complainant was the enjoyer of the power to the industry through various lease agreements for the same premises from 13.09.2002 to 11.03.2008.

3. The remarks were forwarded to the complainant and the complainant submitted his remarks as hereunder:

- (i) the allegations mentioned in the counter filed by the DE/O/Chittoor is not correct the agreement concluded from 13.09.2002 to 13.08.2003 is not related to Door No. 6-29-6 and 6-29-7 but relating to Door No. 6-29-8 and there was no service connection in the above said door number.
- (ii) Absolutely there was no agreement between the owner and complainant from 14.08.2003 to 30.06.2007 the owner (i.e) K.Suresh Babu obtained the signature of the complainant on empty non-judicial stamp paper for the purpose of income tax.
- (iii) In view of the above, the respondents do not have any grounds to insist the short fall of Rs.22.06 lakhs from the complainant and the Agarbatti Industry was located in Door No. 6-29-8 and there was no service connection.

4. After personal inspection by the Forum Chairman and Members on 18.03.2009 and after hearing both sides and material placed before the Forum,

the Forum ordered that the complainant is liable to pay the short fall amount as demanded. Accordingly, the complaint is disallowed without costs.

5. Aggrieved by the said order, the appellant preferred this appeal questioning the same that the impugned order is illegal and void. The agreement dated 14.08.2003 was obtained taking the signatures of the appellant by Sri K.Suresh Babu on an empty non-judicial stamp paper. The AAO has not sent the copies of the agreement to the appellant. The copy of the alleged document is not supplied to the appellant by AAO and the complainant has paid electricity bills as charged and they are valid. In the order passed by the Forum and the document filed by the respondent No.1 are no way connected to the service connection and there is no service connection in the said Door No.6-29-8. There is no service connection to the Door No. 6-29-8 on the documents filed by the respondents relating to 13.09.2002. There are absolutely no valid grounds in the counter allegations and the appeal is to be allowed by setting aside the impugned order.

6. Now, the point for consideration is, “whether the impugned order dt.31.03.2009, is liable to be set aside? If so, on what grounds?”

7. It is mentioned in the grounds of the appeal, that Sri K.Suresh Babu, owner of the industry obtained the signatures of the appellant on an empty non-judicial stamp paper. It is not concern of the authority about the activities happened behind their back. If at all any grievance is there to the appellant, he can initiate action against Sri K.Suresh Babu for obtaining the signatures of the appellant on blank stamp papers, as it is not concern of the department. Furthermore, the documents filed before the authority have clearly established that the premises is in his possession and enjoyment since 13.09.2002 and the reading is coming with six digits, subsequently one digit is missing either at the instance of the appellant or due to the mistake of the meter reader. No doubt the shortfall ran to a length of four years and the appellant was enjoying the benefit

for the said shortfall, since appellant has never made any effort to inform the department about the missing of digit or less consumption. It supports the connivance on the part of the appellant with the spot meter reader. So, he cannot take advantage of his own fault by throwing the blame on the department. There are no grounds to interfere with the impugned order as the order itself is on correct lines and I do not find any merits in the appeal filed by the appellant.

8. At the time of hearing of the appeal, the appellant requested that the unit has become sick and the same is closed. He may be permitted to pay the amount by installments. It is not possible for a sufficient long time as requested but at the same time, I am of the opinion that he may given time for 4 years i.e 48 months @ 46,000 per month commencing from May 2010, if he fails to pay the same in any month, the department can initiate action for recovery of the entire amount by following the procedure contemplated under the Act and rules.

9. In the result, the appeal is dismissed, without costs, but the appellant is permitted to pay the arrears of the amount in 48 equal monthly installments @46000/- per month commencing from May 2010. If he fails to pay in any month the respondents are at liberty to initiate action for recovery of the entire amount in accordance with the Act and rules.

This order is corrected and signed on this day of 28th April 2010

VIDYUT OMBUDSMAN