

BEFORE THE VIDYUT OMBUDSMAN

Present

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

Dated: 24-02-2010

Appeal No. 38 of 2009

Between

M/s. NGR Aqua Tech Limited,
Rajaiah Peta, Palmanpeta,
Payakarao Peta Mandal,
Visakhapatnam

... Appellant

And

The Asst. Engineer / Opt / APEPDCL / Payakarao Peta
The Asst. Divisional Engineer / Opt / APEPDCL / Yelamanchili
The Asst. Accounts Officer / ERO / APEPDCL / Anakapalli
The Divisional Electrical Engineer / Opt / APEPDCL / Anakapalli

....Respondents

The appeal / representation dated 26.10. 2009 received on 28.10.2009 of the appellant has come up for final hearing before the Vidyut Ombudsman on 01.02.2010 in the presence of Sri. Lakshmi Narayana Reddy and Sri.Krishna Reddy, Partners of the appellant and Sri. S. Janardhana Rao, DE (Operation) Anakapalli, Sri B. Simhachalam Naidu, ADE (Op), Yelanmanchili, Sri. S. Narasinga Rao, AAO (ERO), Anakapalli present for respondents and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

Aggrieved by the order passed by the Forum in C.G. No.45 / 2009-10 of Visakhapatnam dated 03.10.2009, the appellant herein preferred this appeal on 05.11.2009.

2. The appellant represented by Sri. K. Narayana Reddy has complained that the AAO / ERO, Anakapalli served a notice of short fall amount from 04/07 to 05/09 demanding to pay Rs. 1,48,805/- to their Service No. 12 Category - III B against the principles of natural justice. He contended before the Forum that certain equipments are to be considered as industrial load instead of lighting load and also requested to submit detailed objection after receiving incriminating points from the Inspecting Office. He has also filed a certificate issued by CE FE (Deemed University), Kakinada.

3. The AAO filed his written submissions as hereunder

The service billed under Category III B with connected plant load 149 HP and lighting load of 15.94 KW and bills were issued upto 05/09. The DE transmitted the revised test report against above service with the connected load of the plant 94.5 HP and lighting load 25.38 KW and recommended for revision. Hence the bills were revised from 04/07 to 05/09 and arrived short fall amount of Rs. 1,48,850/-

4. ADE / Op inspected the S.C. No. 12 on 31.08.2009 and found the following connected loads in the premises.

i)	Process not the loads	=	99.5 HP
ii)	In process lighting loads	=	19.2 KW
iii)	Normal lighting loads	=	6.74 KW

5. The Forum has conducted filed inspection of the premises of SC No. 12 Category III B on 08.09.2009. At that time the appellant produced a copy of representation dated 21.04.2009, along with the order of the Forum in C.G. No. 82 / 2008 with a request to apply the same analogy.

6. The Forum after hearing the respective arguments observed by looking into RTR dated 31.08.2009 motive load 99.5 HP lighting load (both process and normal) 25.94 and out of that lighting load was 16.22 KW only.

7. As per the term of the note III under LT Category III A lighting load shall not be more than 10% of connected load for which industrial tariff will be applicable and therefore consumer has to pay the said amount.

8. Aggrieved by the said order, the appellant preferred this appeal projecting mainly the following grounds.

- i) In Artamia Hatching room the ADE observed 24 tube light but in the order only two tube lights are shown.
- ii) The lighting shown in the larva rearing tanks are not shown in the processed load.
- iii) One AC in the feed and chemical room is not shown in the process load.

The said room is not used for office purpose.

- a) It has to be observed that one tube light on each larval rearing tank.
- b) Tube lights on drains
- c) Separate air conditioner rooms for feed and chemicals and live feed.

9. These aspects have to be included in the process load but not in the lighting load and the appeal is to be allowed by making necessary changes in the order by this authority.

10. The officials i.e., Sri. S. Janardhana Rao, DE (Op), Anakapalli Sri. B. Simhachalam Naidu, ADE (Op), Elamanchile Sri. S. Narayana Rao, AAo (ERO), AKP submitted a working sheet by concluding the process load as 12.720 and lighting load is 13.220 and requested that the order may be passed accordingly.

11. Now the point for consideration is whether the impugned order is liable to be set aside / modified ? If so on what grounds ?

12. The appellant is represented by Sri. K.L. Narayana Reddy and Sri. J.V. Krishna Reddy partner of the firm present and represented that the process load is wrongly calculated by converting process load in to lighting load to exaggerate the load and the appeal is to be allowed by setting aside the impugned order.

13. Where as the respondents present at time of hearing of appeal submitted a working sheet and the order may be modified if the authority comes to a conclusion that the inspection report of the Forum is not as correct lines.

14. The main and foremost contention of the appellant is that they provided lighting for larval rearing on each tank and this has to be included in the process load also the tube lights provided at the drains. In support of their contention they have submitted a report alleged to have been issued by S.S.H. Razvi officer incharge of Central Institute of Fisheries education (Deemed University – ICAR), Kakinada dated 12.08.2009 and 15.10.2009. How two reports have been issued at different dates by the same person. No body who is acquainted with the said signature or atleast an employee of the said institute, though not the officer incharge is examined to prove those documents. Mere filing of the report itself is not sufficient with out proving the same. At the same time, the exact, location of tanks, the nature of tanks and the rearing of the larva etc., are also to be observed and after observation of the said location and the location of the sheds for packing etc., the sanctity would be attached to the said certificate. In the absence of the same, it is not possible to accept the same.

15. The Forum has arrived to a conclusion that the lights would not be used during day time. What is the exact lighting that is required for hatching and whether the lighting of the tube light fixed is sufficient to meet the need etc., are silent. It is for the appellant to establish the same before the Forum having complained that the authorities have failed in assessing the lighting load. The burden is on him to establish the same. That burden, he has not discharged. Similarly, on the usage of the office building, packing sheds etc.

16. However, the complainant has submitted an application for conversion of the Category- III B. On that a special report was prepared and there was clear mentioning of the respective loads etc. Now the same can not be obliterated from the record by changing the nature of usage etc.

17. Furthermore, the official have also submitted the loading particulars at the time of hearing of the appeal it is extracted as hereunder.

Lighting load	-	13.220%		
Process load:-				
Ur Fitters	-	37 TLS X 40 W	=	1.480 KW
Algal Room	-	64 TLS X 40 W	=	2.560 KW
AC	-	2X 1.8 KW	=	3.600 KW
Fridge	-	1 X 200 W	=	0.20 W
Artima live field	-	1 X1.18 KW	=	1.80 KW
Artima hatching AC Room	-	24 X040 KW	}	1.28 KW
Artima Spinning Room	-	2 X 040 KW		
Artima Zoea Room	-	4 X 040 KW		
Artima Hatching Room TLS	-	2 X 040 KW		
Feed and Chemical room	-	1 X1.80 KW	=	1.80 KW
Total process load			=	12.720 KW
Total lighting load	-	13.220 + 12.720	=	25.940 KW

Total Connected load of the service

Motive load	-	74.227 KW	
Process lighting load	-	12.720 KW	
Normal lighting load	-	13.220 KW	= 100.167 KW
10% on the above load	-	10.017KW	
Connected lighting load	-	13.220 KW	

18. Hence, the complainant / appellant exceeded the stipulated 10% of the lighting. Therefore, the consumer has to pay. Accordingly, the department has to work out the demand and the appellant has to pay the same. The order of the Forum is modified as stated above.

19. In the result the appeal is allowed in part modifying the connected lighting load to 13.220 KW instead of 16.22 KW and the respondents have to work out the demand accordingly as the modified load has also exceeded 10%. No order as to costs.

This order is corrected and signed on this day of 24th February, 2010

VIDYUT OMBUDSMAN