

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu
Vidyut Ombudsman**

Dated: 03 -02-2011

Appeal No. 61 of 2010

Between

M/s. Dhana Laxmi Rice Mill
Mr.S.Ramesh, Proprietor
R/o. Pachalal Nadkuda – Village,
Vailpoor – Mandal
Nizamabad Dist.

... Appellant

And

1. Asst Divisional Engineer/Operation/Bheemgal
3. Asst. Accounts Officer/ERO/T /Bheemgal
4. Divisional Engineer/Operation/ Armour

....Respondents

The appeal / representation filed on 24.12.2010 of the appellant has come up for final hearing before the Vidyut Ombudsman on 28.01.2011 at Hyderabad in the presence of Sri S.Ramesh appellant present and Sri J.Sreenivasulu, ADE/O/Bheemgal and Sri M.Rajashekhar, AAO/ERO/T/Bheemgal for respondents present 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 stating that it is a non-trading Rice Mill running under Cat-III of Pachala Nadkuda-Village with a connected load of 73 HP and he has also mentioned in the complaint that in the month of

03/2010, the internal auditors during their audit reviewed and it was observed that the average adopted 1693 during the meter burnt period i.e, in the month of 06/2009 was low and a short fall was levied for 4512 units and shortfall amount was raised for Rs.17191/-; and that he requested that his non-trading rice mill was purely seasonal industry and the review of the consumption has to be made based on the peak season and slack season period. The consumption during the peak season period will be very high and the season month in respect of rice mill will be November to February and May. The remaining period will be the slack period.

2. The respondent No.2 filed his written submissions as hereunder:

(i) *the consumer ledgers were reviewed during internal audit in March 2010, made by Anil Raghava Associates and it was pointed out that during the month of 06/2009 the meter of Sc No.2509-01018 was burnt out and service was billed for average unit of 1693 unit.*

(ii) *actually, as per rules during the burnt out period the average must be adopted for the highest consumption made, hence the CA firms adopted average of the period 12/2008, 01/2009, 02/2009 which worked out to unit 6205, the average already adopted was deducted and service was billed for 4512 (6205-1693) units and amount was worked out for Rs.17191/-.*

(iii) *the short fall was included in the CC bill of 04/2010 vide JE No. 18 of 04/2010.*

(iv) *the AAE/Op/Velpoor, vide Lr.No. AAE/OP/Velpoor D.No.238/10, dt.02.07.10 submitted that the Sc No.2509-010108, Cat-III Pachala Nadukuda is non-trading rice mill with a connected load of 73HP and the average during the month of 06/2009 was worked out on the consumption pattern of slack season and submitted the statement from 11/2007 to 05/2010 and requested to review the average adopted. The same was also recommended by the ADE/O/Bheemgal.*

(v) *the report of the section officer was submitted to the CGM/Expenditure/NPDCL/Warangal through this office letter vide Lr.No.AAO/ERO /BGL/JAO/Billing/D.No.361/10, dt.14.07.2010.*

(vi) *the GM/audit/NPDCL/Warangal vide Memo No.GM(A)/AO(A-II)/ /NPDCL/Warangal/LDC(A)/D.No.2272/10, dt.31.07.2010 rejected the plea as slack season is not applicable in this case and requested to collect the audit short fall.*

3. The respondent No.1 filed his written submissions as hereunder

- (i) *the SC No.2509-0101, Cat-III of Pachala Nadukuda was reviewed by the internal auditors during the audit conducted from 03.03.2010 to 10.03.2010 and it was observed that the average adopted 1693 during the meter burnt period i.e, in the month of 06/2009 was low, and a short fall was levied for 4512 units and short fall amount was raised Rs.17191/-.*
- (ii) *the short fall was included in the CC bill of 05/2010 vide JE No. 18 of 04/2010.*
- (iii) *The point of objection is the SC No.2509-01018, Cat-III is a non-trading Rice Mill without connected load of 73HP and is purely a seasonal industry.*
- (iv) *The review of consumption has to be made based on the peak season and slack season period. The consumption during the peak season period will be very high and the seasonal month in respect of Rice mill will be from November to February and May and the remaining period will be slack season.*
- (v) *Here in this case the auditors have not observed the same and the consumption for the peak season i.e, 12/2008 to 02/2009 was adopted and short fall was raised for balance unit 4152 which is highly abnormal.*
- (vi) *The consumption during corresponding month may be taken, keeping in mind the average was adopted and the service was billed for 1693 units in 06/2009.*

4. After hearing both sides and after considering the material placed before the Forum, the Forum directed the appellant to pay Rs.17191/- for the short fall raised during the meter burnt period as per the revised bill issued by the respondents.

5. Aggrieved by the said order, the appellant preferred this appeal questioning the same, that the internal auditors during their audit reviewed and observed that the average adopted 1693 units during the meter burnt period i.e, in the month of 06/2009 was low and a short fall was levied for 4512 units and raised the bill for an amount of Rs.17191/-. They have ignored the fact that it is a seasonal industry. The review has been made basing on the reading of peak season, ignoring the fact it is during slack season period and the impugned order passed by the Forum is liable to be set aside.

6. Now, the point for consideration is, “whether the impugned order dt.30.11.2010 is liable to be set aside? If so, on what grounds?”

7. The appellant, Sri S.Ramesh present and submitted that the bills raised by the audit department is not only against to the principles of natural justice but also against to the provisions of law and the appeal preferred by him is to be allowed by setting aside the impugned order.

8. Whereas, the respondents are represented by Sri J.Sreenivasulu, ADE/O/Bheemgal and Sri M.Rajashekhar, AAO/ERO/T/Bheemgal submitted that they raised the bills correctly and the audit department raised an objection that it was not correctly made by taking the months from December to February as peak period and the appeal preferred by the appellant is liable to be dismissed.

9. The Forum has simply relied upon the following clauses of GTCS and they are extracted as hereunder :

7.5.1.4.1 The number of units to be billed during the period in which the meter ceased to function or became defective, shall be determined by taking the average of the electricity supplied during the preceding three billing cycles to the billing cycle in which the said meter ceased to function or became defective provided that the condition with regard to use of electricity during the said three billing cycles were not different from those which prevailed during the period in which the Meter ceased to function or became defective.

7.5.1.4.2 If the conditions with regard to use of electricity during the periods as mentioned above were different, assessment shall be made on the basis of any 3 (three) consecutive billing cycles during the preceding 12 Months when the conditions of working were not different.

10. It is clear from the record that the appellant has paid the bills raised by the department and questioned the bill raised on the audit objection; and that is the subject matter of the litigation raised by him before the Forum as well before this authority. It is also an admitted fact that the meter was burnt in the month of June 2009. It is also an admitted fact that the mill is a seasonal industry and the season is November to February and May and the remaining period is slack season. The rule does not specify that the average has to be taken during the peak season. It only says the preceding average three billing cycles have to be taken provided that

the condition with regard to usage of electricity during the said three billing cycles were not different from during that period in which the meter cease to function or become defective.

11. Even for the common man understanding when the meter is burnt during slack season, the average reading has to be taken during the un-season period but not the peak season period. The method adopted by the audit department is not only against to principles of law but also against to the principles of natural justice. The Forum has not rightly appreciated the above said clause and also failed to look into the equities in rendering natural justice.

12. Hence, I am of the opinion that the impugned order passed by the Forum is liable to be set aside, as it is not on sound lines.

13. In the result, the appeal is allowed and the respondents are directed to withdraw the bill raised on the audit objection.

14. The respondents are directed to comply the order 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 3rd February 2011

VIDYUT OMBUDSMAN