



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA
First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: R. DAMODAR

Friday, the Twenty Seventh Day of January 2017

Appeal No. 63 of 2016

Preferred against Order Dt. 22-08-2016 of CGRF In

CG.No: 24/2016-17 of Medak Circle

Between

M/s. Sathavahana Alloys, represented by Sri. G. Samba Siva Rao (Managing Partner), Plot No. 43/B/1, Phase - 1, IDA, Patancheru, Medak District - 502319
Cell: 9391040256.

... Appellant

AND

1. The ADE/OP/Patancheru/TSSPDCL/Medak District.
2. The SAO/OP/Medak/TSSPDCL/Medak District.
3. The DE/OP/Sangareddy/TSSPDCL/Medak District.
4. The SE/OP/Medak Circle/TSSPDCL/Medak District.

... Respondents

The above appeal filed on 24.10.2016 coming up for hearing before the Vidyut Ombudsman, Telangana State on 15.12.2016 at Hyderabad in the presence of Sri. G. Samba Siva Rao - Appellant and Sri. CH. Amrutha Rao - ADE/OP/Patancheru, Sri. A. Chandra Shekar - JAO/HT/Sangareddy on behalf of SAO/OP/Medak and Sri. Karunakar Babu - DE/OP/Sangareddy for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant company is a consumer with SC No. MDK 824. The Appellant alleged that there was a faulty meter reading showing difference of 30 minutes and that on the ground that the faulty meter has shown difference of only 19 Minutes, the DISCOM resorted to levy of penalty. The Appellant sought revision of the penalty bills of 2012 imposed on the ground that there was less meter reading than the permitted time of consumption. The Appellant claimed that the officials noticed that the meter was defective and changed the meter. He claimed that the penalty levied by the

DISCOM is not correct. It is further alleged that the DISCOM has imposed penalty for the last 4 years and it has been implemented but not waived, in spite of the Appellant paying the bills regularly.

2. The 1st Respondent/ADE/O/Patancheru through letter dt.9.8.2016 stated that there was:

- i) faulty meter reading for the service.
- ii) the SE/OP/Medak/R4 issued a demand notice to the Appellant for Rs 14,96,928/- towards R&C shortfall amounts and CC dues from November,2015 to May,2016 to avoid disconnection.
- iii) the 2nd Respondent carried disconnection list which was issued by the SAO/O/Medak on 31.5.2016.
- iv) as per the instructions of the SAO/Medak/R2, the service was disconnected and later the power was restored on payment of regular monthly demand.

3. The 2nd Respondent/SAO/OP/Medak further stated that the R&C supplementary bills to the Appellant were issued under option 3 (continuous 4/3 days) for the months from 09/2012 to 06/2013. The 1st Respondent /ADE/O/Patancheru submitted a revision proposal for the months from 09/2012 to 06/2013 with a request to revise the bills with option -3(continuous 4/3 days) with time change of 0.19 minutes in the meter.

4. The 2nd Respondent SAO further stated that the supplementary bills from 09/2012 to 06/2013 were revised under option -3 as per the recommendation of ADE/OP/Patancheru/R1 with time change in the meter at 0.19 Minutes and served on the Appellant. The details of the revised bills are mentioned in the table below:

Sl. No	Month	Year	Old R&C Amount	Revised R&C bill amount	Difference already withdrawn/ raise	Amount already withdrawn towards 50% waiver	50% of penalties to be withdrawn on revised R&C Bills	Net amount withdrawn
1	9	2012	-93133	-8727	-84406	0	0	-84406
2	10	2012	228804	120682	108122	13625	90488	65985
3	11	2012	266334	292752	-26418	152625	179998	955

4.	12	2012	414462	559033	-144571	224435	310701	-58305
5	1	2013	484925	521784	-36859	260939	292303	-5495
6	2	2013	375405	350626	24779	204498	204982	25263
7	3	2013	221646	90403	131243	102958	63701	91986
8	4	2013	150137	169424	-19287	75569	96904	2048
9	5	2013	88772	43414	45358	46167	45049	44240
10	6	2013	658786	22432	636354	321711	37519	352162
Total				2161823	634315	1521527	1321645	434433

5. The 2nd Respondent further stated that towards withdrawal of 50% R&C penalties, an amount of Rs 24,39,829/- was withdrawn in the month of April,2014 and Rs 20,05,396/- was withdrawn in the month of June,2014 and further on the recommendation of ADE/O/Patancheru/R1 a further amount of Rs 4,34,433/- was withdrawn, leaving the balance to be paid and demand notice to be issued to the Appellant for Rs 12,85,676/- as follows:

The details of R&C demand raised and withdrawn was communicated to the Appellant vide Lr.No SE/OP/MDK/SAO/HT/ D.No. 280/2016 dt.19.7.2016, for the R&C period 09/2012 to 7/2013 in accordance with the continuous 4/3 days option with 0.19 minutes adv to IST, as following:

Total R&C demand from Sep,2012 to July,2013	37,25,505
R&C amount withdrawn towards 50% waiver	20,05,396
Amount withdrawn at the time of the revision	4,34,433
Balance payable by the Appellant	12,85,676

6. The Appellant stated before the CGRF that the company has been paying the bills regularly since 2003 and that on the allegation of false meter reading, confusion arose in the bills and that the faulty meter reading shown by the Respondents is 0.19 Minutes, while the Appellant's Managing Partner was told, at the time of change of meter, that **the meter was fast in time by 30 to 45 Minutes** and that when he demanded written information, the Respondents denied it and that

in spite of promising that the defect will be rectified, the defect was not rectified and at one time, the power was disconnected and that then the Appellant paid Rs 3,00,000/- and still, the arrears due to faulty meter reading was not rectified and that he was finally and falsely asked to pay Rs 12,85,626/- without explaining how the figure was arrived at.

7. The 1st Respondent/ADE/ stated that he addressed a letter dt.17.1.2014 to the 2nd Respondent/SAO to revise R&C CC bill and that the Appellant requested for HT test report and MRI dump for the R&C period and that he promised to give these reports to the Appellant, while JAO/HT/Medak representing the 2nd Respondent SAO stated that an amount of Rs 7,05,082/- was wrongly posted on another service and that it was rectified and that the surcharge amount accumulated was also withdrawn and that as directed, from the R&C penalties levied, 50% of penalty will be withdrawn within one week.

8. On consideration of the material on record and contentions of the parties, the CGRF upheld the permitted withdrawal of penalties and issue of demand notice for Rs 12,85,626/- to the Appellant, through the impugned orders.

9. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal stating that the 1st Respondent/ADE/OP/Patancheru finalised the bills 3 years after replacing the faulty meter with time change in meter by 0.19 Minutes and that the Appellant is doubting the time change in meter and that the meter was changed on their complaint and at that time, the Appellant was informed that the meter reading was fast about 30 to 45 minutes and that the DISCOM has not furnished him any proof of faulty meter reading at the time of replacement of the meter, questioning levying of six times penalty based on defective meter, questioning about adding of penal interest/late payment and how the demand for Rs 12,85,626/- has been finalised. The Appellant further questioned the court cases charges of Rs 10,679/- levied and only on threat of disconnection on the instructions of the 1st Respondent, the Appellant agreed to pay arrears amount finalised at Rs 12,85,626/- in five equal instalments, as he had no other option and that he was advised to pay two instalments immediately and hence the Appellant paid Rs 5,14,261/- on 20.10.2016 and that further he had not deviated from any permitted time for HT consumption.

10. The 2nd Respondent SAO/OP/Sangareddy through letter dt.18.11.2016 stated that R&C supplementary bills in respect of HT SC No. MDK 824 were issued

under option 3(continuous 4/3 days) for the months of 09/2012 to 06/2013 and the 1st Respondent ADE/OP/Patancheru submitted a revision proposal for the months of 09/2012 to 07/2013 with an option 3(continuous 4/3 days) with time change in the meter 0.19 Minutes. The 1st Respondent further stated that an amount of Rs 24,39,829/- was withdrawn from the account of the Appellant in the month of April,2014 towards 50% R&C penalties waiver (Rs 20,05,396/-) and in the month of June,2014 an amount of Rs 4,34,433/- was withdrawn towards R&C revision bills as recommended by the 1st Respondent/ADE/OP/Patancheru and about issue of demand notice towards 50% R&C penalties of Rs 12,85,626/-. The 2nd Respondent further stated that after receipt of the demand notice, the Appellant paid an amount of Rs 5,14,251/- towards part of R&C penalties seeking equal instalments on 20.11.2016,20.12.2016 and 20.01.2017.

11. The 1st Respondent ADE/OP/Patancheru filed written submission dt.21.11.2016 on similar lines and reiterating that the time delay in the meter reading was 0.19 minutes and not 0.30 to 0.45 as claimed by the Appellant and imposition of R&C bills on the basis of the accepted faulty meter reading based on test report issued on 2.5.2013. The Appellant was furnished with the copies of test report etc during the hearing.

A copy of letter dt.19.7.2016 of the 4th Respondent/SE/OP/medak addressed to the Appellant is filed issuing revised demand amounts from 09/2012 to 07/2013 as follows:

Total R&C demand from 09.2012 to 07.2013	- Rs 37,25,505/-
R&C amount waived towards 50%	- Rs 2005936/-
Amount withdrawn at the time of revision	- Rs 4,34,433/-
Balance payable	- Rs 12,85,676/-

The 4th Respondent further reported that the Appellant paid less than the amount shown in CC bills from Nov,2015 to May,2016 as follows:

Month	Bill Amount	Paid Amount	Less paid
Nov-15	618214	587807	30407
Dec-15	608413	578352	30061
Jan-16	676564	646141	30423
Feb-16	618022	588272	29750
Mar-16	644524	616375	28149

April-16	579061	549146	29915
May-16	568903	537390	31513
Total			210218

The 2nd Respondent SAO submitted a report dt.18.11.2016 in this Appeal regarding R&C supplementary bills which were issued under option 3(continuous 4/3 days) for the months from 09/2012 to 06/2013 with the request of the 1st Respondent ADE for revision of the bills in view of time change in the meter of 0.19 minutes from 09/2012 to 07/2013 and gave the details of already billed and revised bills as follows:

TABLE-1

Sl.No	Month	Year	Old R&C Amount	Revised R&C bill amount	Difference already withdrawn/raise	Amount already withdrawn towards 50% waiver	50% of penalties to be withdrawn on revised R&C BILLS	Net amount withdrawn
1	9	2012	-93133	-8727	-84406	0	0	-84406
2	10	2012	228804	120682	108122	13625	90488	65985
3	11	2012	266334	292752	-26418	152625	179998	955
4.	12	2012	414462	559033	-144571	224435	310701	-58305
5	1	2013	484925	521784	-36859	260939	292303	-5495
6	2	2013	375405	350626	24779	204498	204982	25263
7	3	2013	221646	90403	131243	102958	63701	91986
8	4	2013	150137	169424	-19287	75569	96904	2048
9	5	2013	88772	43414	45358	46167	45049	44240
10	6	2013	658786	22432	636354	321711	37519	352162
Total				2161823	634315	1521527	1321645	434433

Rest of the report supported the contents of letter dt.,19.7.2016 of the 4th Respondent/SE/OP/Medak.

12. The Appellant through his letter dt.15.12.2016 reiterated that the test report of HT faulty meter dt.2.5.2013 was not furnished, the report of MRI data of the faulty meter which was replaced 3 years back was not furnished and the report

furnished during Appeal appears to be not genuine and that only excess amount is being claimed by the DISCOM and sought total waiver of the demanded amount during faulty meter and R&C penalties and sought an order of refund of the excess amount paid by issuing a No Due Certificate. The Appellant submitted a copy of his representation dt.3.3.2013 mainly stating that the penalty bill for Rs 2,28,804/- was received in the month of March,2013 and the meter reading of 30 Minutes is different from the Actual standard time and that the six times penalty is not correct and sought waiver of the penalty and an order for payment of the bills at normal rate.

13. In view of the contentions and the record, there is no scope for success of mediation and therefore, the matter is being disposed of on merits.

14. On the basis of the material on record, the following issues arise for disposal:

1. Whether the basis for time delay of 0.19 minutes in HT test report is reliable and whether the meter is fast in time by 0.30 minutes to 0.45 minutes as claimed by the Appellant ?
2. What is the basis for imposing Court cases charges levied from 09/2013 to 05/2014?
3. Whether the impugned orders are liable to be set aside?

ISSUES 1 to 3:

15. The Appellant claimed faulty meter reading to question the difference alleged at 0.19 minutes delay as 0.30 to 0.40 minutes fast. This delay of 0.30 to 0.40 minutes is not supported by any material on record. There was excess consumption of power by the Appellant during the relevant period due to delayed recording by 0.19 minutes. The R&C bills were issued for the period from Sep,2012 to July,2013 for a total amount of Rs 37,25,505/- based on the MRI data reports including penal charges as per the proceedings of ERC on R&C measures regarding excess consumption during the currency of R&C measures. The MRI data reveals that the Appellant has utilised the supply in excess over the limitation fixed for continuous 4/3 days option, about which there is no material on record to deny its reliability.

16. The R&C bills were issued to the Appellant for the month of May,2013 based on the test report furnished by the ADE/HT/Meters who inspected the service on the complaint of ADE/OP/Patancheru and furnished the finding that the time in meter on 02.05.2013 was 10.11 and the IST time was 10.30 meaning thereby that there was delay of 0.19 minutes. This delay it is stated had allowed the Appellant to consume power for 19

minutes more on each day leading to the penalties imposed based on the readings furnished by the ADE/OP/Patancheru.

17. In the month Jan,2014 the ADE/OP/Patancheru(R1) vide Lr.No. 1740 Dt.17.1.2014 submitted a proposal for revision of HT supplementary bills on R&C to rectify the wrong bills consequent to defective meter, which was delayed by 19 minutes against IST under option 3 (continuous 4/3 days per week). Subsequently, the bills were revised on faulty timings and an amount of Rs 4,34,433/- was withdrawn in June,2014. In the meanwhile, during March,2014 50% of R&C penal charges were withdrawn for an amount of Rs 20,05,396/- as per the proceedings No. APERC/SECY/154/2013 dt.08.08.2013 of the ERC.

18. The Appellant stated that the penalty has been levied in 2012 saying that there was excess consumption than the permitted time of consumption. The DISCOM found that the meter was faulty and changed the meter, but the penalty levied was not waived since the last 4 years. He asserted that meter was fast in time to an extent of 0.30mnts to 0.45mnts and not delay of 0.19 minutes as claimed by the DISCOM.

19. The ADE/OP/Patancheru Vide Lr.No. 6211 dt.21.11.2016 reported that the material for 0.19 minutes delay is found in the report of ADE/HT/Meters on 20.5.2013. It is stated that the Appellant was explained about the consumption through the load survey report (MRI Data) and his acknowledgement was obtained on 30.8.2016. About the increase in consumption as shown in MRI data, it appears that there is no counter from the Appellant, which answers the claim of the Appellant that penalties were levied and if it so, there is no question of withdrawal of penalties.

20. The total R&C amount evaluated by the DISCOM is Rs 37,25,505/-. The amount towards 50% withdrawal of penal charges as per the proceedings No. APERC/SECY/154/2013 dt.08.08.2013 of ERC is Rs 20,05,396/-. The bill revision as per the ADE/OP/Proposal vide letter No. 1740 dt.17.1.2014 towards 0.19 minutes delay in meter arrived at is Rs 4,34,433/- and the balance payable by the Appellant came to Rs 12,85,676/-(as noted in para 5 supra).

21. The Appellant pleaded that it took 4 years for waiver of penalty and thereby, he was excessively penalised, which is found to be not correct as per the ledger details submitted by the Respondents, wherein an amount of Rs 4,34,433/- towards defective meter to an extent of 0.19 minutes delay was withdrawn in June,2014 along with consequent interest.

22. The second issue of change in time contradiction alleged by the Appellant appears to be based on misunderstanding over the remarks in the ADE/HT/Meter test report dt.28.5.2013 (for change of defective meter) wherein 30 minutes consumption was requested to be added in the next month bill, as the consumer was availing supply during the short meter change period. The test report dt.2.5.2013 of ADE/HT/Meters reveals that the time delay found is to an extent of 0.19 minutes. The Appellant claimed that this report was not communicated to him and this report dt.2.5.2013 does not disclose that it was communicated to the Appellant on the face of it. The Appellant, till this report was communicated to him, claimed that he was totally at sea about the time delay. On this aspect the stand taken by the Appellant that he was informed that the meter was 30 or 40 minutes fast implies that he was aware of the defect in the meter and there is no reason to assume that the officials of the DISCOM would inform him that instead of 0.19 minutes time delay there was fast reading by 30 or 40 minutes. Further the Appellant immediately had not demanded revision of bills for refund of consumption value based on 30 to 40 minutes excess recording by the meter. Thus the claim of the Appellant that he was not aware of the test report dt. 2.5.2013 cannot be accepted.

23. It is found that the Appellant, while relying on a report titled as Test Report of ADE/MRT/H.T/Meter dt.19.8.2013(periodical/check) showing replacement of CT PT on advise of ADE/OP/Patancheru and oral instructions bearing acknowledgement of the representative of the Appellant and another report titled as Test Report of ADE/HT/Meter dt.28.5.2013 noting the following:

- i. On complaint of ADE/OP/Patancheru and oral instruction of the ADE/DPE/HT-2/Hyderabad, the meter was replaced.
- ii. a) new meter make L&T and SI.No. 125557086 etc,
b) old meter make L&T SI.No. 02045527 etc.
- iii. The Multiplying Factor (MF) was changed from 2(two) to 1(One) for all.
- iv. ADE/OP/Patancheru is requested to **add 30 minutes** consumption in next bill as the consumer had availed supply during meter change period,

has claimed that the meter was running fast by 30 to 45 minutes and not with 0.19 minutes time delay as claimed by the DISCOM. If the meter was recording fast, then the Appellant has not claimed any waiver in the bill and penalties on that ground, which also shows that the defence of fast running meter has been taken only to counter the claim of time delay of 0.19 minutes taken by the DISCOM. Hence the stand of the DISCOM that there was time delay of 0.19 minutes is found to be correct and reliable.

24. COURT CASE CHARGES:

The Appellant vehemently contended that the Court Case charges of Rs 10,679/- is illegal and it has to be set aside. The Respondents termed the amount of Rs 10,679/- as Fuel Surcharge Adjustment, which is the subject matter of a WP filed in the Hon'ble High Court and an order of the Hon'ble Supreme Court. The amount of Rs 10,679/- shown as the Court Case amount in the every month bills pertains to FSA charges for the month of November, 2012. The above case is the subject matter of common order in WP No. 43770 of 2012 and this amount will abide by the final orders of the Hon'ble High Court.

Further vide Lr.No. APERC/Secy/FSA Proposals for FY 2012-13/7 Dt.9.5.2013, the ERC placing the detailed status on FSA in the website, has directed the DISCOMs to place the updated information in the respective DISCOMs websites wherein the above case on FSA WP No 43770/12 was referred as the "High Court Deferred the Collection". The Hon'ble Supreme Court also in SLP (Civil) No. 15245, 15270/2014 dt.23.6.2014 in a case relating to M/s Jeevaka Industries Vs Electricity Regulatory Commission directed "no coercive action for recovering the FSA charges for the term April, 2012 to June 2012 shall be taken" tag with SLP(C) No. 12398 of 2014 which is also the reason to term the FSA for the period April, 2010 to June, 2012 as Court Case amount, which answers the contention of the Appellant. Thus the claim of the Appellant that there is no case and there could be no Court Case amount is negated.

25. In the result, the Appeal is disposed of holding as follows:

- a. The claim of the DISCOM that there was time delay of 0.19 minutes in the meter and consequent billing is upheld.**
- b. The billing on the basis of Court Case charges is upheld.**
- c. The impugned orders are confirmed.**

26. The licensee shall comply with and implement this order within 15 days for the date of receipt of this order under clause 3.38 of the Regulation 3 of 2015 of TSERC.

TYPED BY CCO, Corrected, Signed and Pronounced by me on this the 27th day of January, 2017.

Sd/-

VIDYUT OMBUDSMAN

1. M/s. Sathavahana Alloys, represented by Sri. G. Samba Siva Rao (Managing Partner), Plot No. 43/B/1, Phase - 1, IDA, Patancheru, Medak District - 502319
Cell: 9391040256.
2. The ADE/OP/Patancheru/TSSPDCL/Medak District.
3. The SAO/OP/Medak/TSSPDCL/Medak District.
4. The DE/OP/Sangareddy/TSSPDCL/Medak District.
5. The SE/OP/Medak Circle/TSSPDCL/Medak District

Copy to:

6. The Chairperson, CGRF - 1, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda,
Hyderabad.
7. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad.