



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

Wednesday the Twenty First Day of March 2018

Appeal No. 05 of 2018

Preferred against Order Dt.16.01.2018 of CGRF in
C.G.No.842/2017-18/Secunderabad Circle

Between

Sri.S. Sai Sudheer, Plot No. 88, Prashanth Nagar, Industrial Area,
Bala Nagar, Hyderabad - 500 072. Cell: 9581600600, 9666817346.

... Appellant

AND

1. The ADE/OP/R.R.Nagar/TSSPDCL/Hyderabad.
2. The AAO/ERO/Bowenpally/TSSPDCL/Hyderabad.
3. The DE/OP/Bowenpally/TSSPDCL/Hyderabad.
4. The SE/OP/Secunderabad Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 20.01.2018, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 22.02.2018 at Hyderabad in the presence of Sri. Sai Sudheer - Appellant and Sri. Ch. Rajalingam - ADE/OP/RR Nagar and Sri. P. Sudarshan - AAO/ERO/Bowenpally for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant is a beneficiary with consumer SC No. S6000100. Originally the owner of the premises had a unit M/s. Natural Granites in the premises and the service connection was issued for running the unit as an industry. The Appellant received a Preliminary Assessment Notice for Rs 2,02,230/- representing back billing to the service connection on the ground that the laundry business being run in the premises does not come under the industry category and it falls under the commercial category. The assessment was made for 28 months w.e.f. 07/2015 to 21/10/2017 (28 months). The Appellant claimed that he started the laundry

business from April,2016 and filed a copy of rental agreement along with his claim. He claimed that he is not in a position to pay the huge back billing amount and lodged a complaint with the CGRF.

2. The 1st Respondent filed a reply dt.13.12.2017 stating that AE/OP/IDPL re-inspected the premises and found it being used for bulk washing and ironing clothes, found the category of the activity as commercial one based on the Memo of the CGM(Commercial)/SE(C)/DE(C)/ADE-I/D.No.2128 dt.29.07.2017. In the meanwhile, DEE/OP/Bowenpally/R3 issued a final assessment order dt.12.12.2017 reducing the back billing amount to Rs 71,869/- for a period of 8 months only.

3. The Appellant, during the hearing before the CGRF, stated about the DISCOM officials issuing Assessment Order for the period from 7/2015 to 21.10.2017 for an amount of Rs 2,02,230/- towards back billing by changing the category of the service from Category III to II and sought withdrawal of the back billing amount.

4. On behalf of the DISCOM, the 1st Respondent/ADE/OP/RR Nagar stated about change of category from III to II in view of the activity of the Appellant and about DE/OP/Bowenpally/R3, after going through the EBS record and internal orders, issuing Final Assessment Order reducing the back billing amount to Rs 71,569/- for a period of 8 months,

5. After going through the material on record and rival contentions, the CGRF passed the impugned orders holding that the 3rd Respondent/DE/OP/Bowenpally had already considered the request of the Appellant and reduced the assessment period from 28 months to 8 months reducing the back billing amount from 2,02,230/- to Rs 71,569/- by giving an opportunity to the Appellant to prefer an appeal and thus confirmed the orders passed in the final assessment order.

6. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal stating that the power laundry falls under the industry category and that he gave such a representation to the 4th Respondent/SE/OP/Secunderabad Circle and that he started the business only a year ago and that he is not in a position to pay the assessed amount and sought the back billing restricted to a period of 3 months only.

7. The 1st Respondent/ADE/OP/RR Nagar filed a reply dt.21.2.2018 stating that on inspection, the Appellant was found using the premises for bulk washing and ironing clothes, which falls under the category II as per the orders of the CGM/Commercial and that after noting the departmental instructions, the consumer's previous payments and statements, the back billing amount was already reduced to a period of 8 months.

8. The efforts at mediation have not succeeded and therefore, the matter is being disposed of on merits.

9. Based on the material on record and rival contentions, the following issues arise for determination:

1. Whether the bulk washing and ironing falls under the category of industry or commercial activity?
2. Whether the Appellant is entitled to restriction of back billing for the period of only 3 months?
3. Whether the impugned orders are liable to be set aside?

Arguments heard.

Issues 1 to 3

10. The Appellant pleaded for reduction of the period of back billing from 8 months to 3 months, on the ground that he has just started the company a year ago and that he is not in a position to pay the amount of Rs 71,569/-. Further he pleaded that non consideration of his request may force closure of his business, as he cannot pay such a huge amount and stated that he is a fresher in the business with low encouragement from the Government and that he has to lose his job and his employees would also be losing their jobs.

11. The 1st Respondent ADE/OP/RR Nagar further stated that AE/OP/IDPL re-inspected the service and found that the supply is being used for bulky washing and ironing of clothes. According to the nature of the activity, the usage of supply falls under LT Category II with reference to the clarification on categorisation of washing, drying and ironing clothes in bulk (laundry workshop) given by the CGM/Commercial/Corporate Office. The DE/OP/Bowenpally considered the

SE/Assessments final orders, EBS record, departmental instructions, consumer's previous payments, consumer statement and reduced the provisionally assessed amount of Rs 2,02,230/- to Rs 71,569/- duly reducing the period of assessment to 8 months and the same was confirmed by the CGRF.

12. The following events disclose the details of cases booked against the Appellant:

a. Cases booked

| Date of inspection | Case booked under | Period of assessment | Provisionally assessed Amount | FAO/Date |
|--------------------|---|--------------------------|-------------------------------|----------------------------|
| 26.07.2016 | Sec 126 of Electricity Act,2003 (Usage of supply other than sanctioned purpose) | 07.07.2015 to 26.07.2016 | 3,79,474/- | Rs Zero dt. 17.10.2017 |
| 21.10.2017 | Back billing (wrong categorisation) | 07.07.2015 to 21.10.2017 | 2,02,230/- | Rs 71,569/- dt. 12.12.2017 |

b. Vide MEMO No. CGM(Comml)/SE(C)/DE(C)/ADE-I/D.No.2128/17 dt.29.07.2017 the CGM/Comml./Corporate Office has given clarification in a similar matter to the effect that :

“ Washing, Drying and Ironing clothes in bulk (i.e. Laundry Workshop using washing machines and dryer services will come under LT Cat-II as there is no manufacturing activity and SSI Registration certificate.”

c. During the tariff proposals for the FY 2017-18, the licensees proposed the following terms and conditions for applicability of LT IIA and LTII (B) consumer categories which is reproduced here:

6.1.2 Licensee's proposal: The DISCOMs have proposed the following terms and conditions for applicability of LT II(A) and LT II(B) consumer categories.

Consumers who undertake Non-Domestic activity.

Consumers who undertake Commercial activity.

Consumers who do not fall in any other LT category i.e., LT-I, LT-III to LT VIII categories.

Consumers who avail supply of energy for lighting, fans, heating, air conditioning and power appliances in Commercial or Non-Domestic premises such as shops, business houses, offices, public buildings, hospitals, hostels, hotels, choultries, restaurants, clubs, theatres, cinema halls, bus stations, railway stations, timber depots, photo studios, printing presses, all servicing & repairing centers, Bus Depots, **laundries, dry cleaning units**, gas/oil storage/transfer stations, warehouses, godowns, storage units (except for cold storages, which would be charged under LT III industries), etc.

The Commission, after consideration of the representations received and proposals of the DISCOMs, has determined the following on the said subject:

6.1.4 Commission approved the clause: The terms and conditions for applicability of LT II(A) and LT II(B) consumer categories approved by the Commission in this Order are as follows:

Consumers who undertake Non Domestic activity.

Consumers who undertake Commercial activity.

Consumers who do not fall in any other LT category i.e., LT-I, LT-III to LTV III categories.

Consumers who avail supply of energy for lighting, fans, heating, air conditioning and power appliances in Commercial or Non-Domestic premises. For example, shops, business houses, offices, public buildings, hospitals, hostels, hotels, choultries, restaurants, clubs, theatres, cinema halls, bus stands and attached offices, railway stations, timber depots, photo studios, printing presses, all servicing & repairing centres (other than that of TSRTC), bus depots (other than that of TSRTC), **laundries, dry cleaning units**, gas/oil storage/transfer stations, warehouses, godowns (other than cold storage godowns), storage units or of such similar nature.

13. In the present case initially, the premises was inspected on 26.07.2016 by the DE/DPE and he booked a case under Section 126 of the Electricity Act,2003 for usage of supply other than sanctioned purpose. It has been stated that the consumer was availing supply for commercial i.e dry cleaning and laundry purpose under the name M/s. Fastrack, which falls under the commercial category but the sanctioned category of the service initially was under the Industrial Category. An amount of Rs 3,79,299/- was provisionally assessed and the period of assessment was taken from 7.7.2015 to 26.7.2016. When the Appellant appealed to the designated officer for Appeals i.e. SE/Assessments on 11.08.2016, the plea for withdrawal of the assessed amount was considered and the total assessed amount of Rs 3,79,299/- was withdrawn vide Order no: SE/Assessments/F.no./SAH NO.12646/D.No.1051/16-17 Dt: 17-10-2016.

14. Consequent to the clarification over Categorisation of the services pertaining to Laundry Workshop under LT-II, by the CGM/Commercial Memo dt. 29.07.2017, the said service connection bills were back billed to an extent of difference of charges between LT-III category tariff to LT-II Category Tariff, with the period of assessment from 7.7.2015 to 21.10.2017(date of inspection) and assessed to Rs 2,02,230/-. On appeal, the designated Officer for appeals DE/Operation/Bowenpally, revised the provisionally assessed period to eight months i.e, from 11/2016 to 10/2017 revising the assessed amount from 2,02,130/- to 71,569/-.

15. The DE/OP/Bowenpally in the final assessment order dt 12.12.2017 based on the instructions/ clarifications of the CGM commercial in the memo dt 29.7.2017 opined that the category of the said service falls under LT-II category. Since the said service connection was already billed under LT-category II from 11/2016 to 02/2017, he restricted the assessment from 03/2017 to 10/2017 for the period of 8 months revising the assessed amount to Rs 71,569/-.

16. The Appellant has requested for reduction of the period of assessment to 3 months, instead of 8 months as reckoned by the Final Assessment Order of DE/OP/Bowenpally for an amount of Rs 71,569/-.

17. On the question of reclassification and back billing, guidance can be had from the amended Clause 3.4.1 of GTCS which is reproduced for clarity:

“Where a consumer has been classified under a particular category and is billed accordingly and it is subsequently found that the classification is not correct (subject to the condition that the consumer does not alter the category/purpose of usage of the premises without prior intimation to the Designated Officer of the Company), the consumer will be informed through a notice, of the proposed reclassification, duly giving him an opportunity to file any objection within a period of 15 days. The Company after due consideration of the consumer’s reply if any, may alter the classification and suitably revise the bills if necessary, even with retrospective effect, the assessment shall be made for the entire period during which such reclassification is needed, however, the period during which such reclassification is needed cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.”

18. The above amended Clause 3.4.1 mandates suitable revision of the bills even with retrospective effect. The assessment shall be made, as per the Clause, for the entire period during which such reclassification is needed or other wise limited for a period of twelve months. Therefore, the plea of the appellant to restrict the period of assessment to three months is found not tenable.

19. Keeping in view the plea of the Appellant that he may have to close his unit if he is directed to pay further amount of Rs 35,784/- (Rs 71,569/- - Rs 35,785/- already paid on 22.01.2018) and loss of jobs to his employees, it is found reasonable to grant 10 monthly instalments as per the amended /substituted Clause 9 of Regulation No. 7/2013, starting from the CC bill of April,2018 at the rate of Rs 3,582/- in the 1st month and Rs 3,578/- for the rest of 9 months. Failure to pay even one instalment renders the rest of the amount fall due with its consequences.

The issues are answered accordingly.

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

1. The bulk washing and ironing/laundry falls under the Commercial Category.
2. The Appellant is not entitled to back billing only for the period of 3 months.
3. The Appellant is granted 10 monthly instalments to pay Rs 35,784/- starting from the CC bill of April,2018 at Rs 3,582/- as 1st instalment and at Rs 3,578/- per month each as instalment for the rest of 9 months. Failure to pay even one instalment shall make the entire amount becoming due with its consequences.
4. The impugned orders are confirmed.

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

TYPED BY Clerk Computer Operator, Corrected, Signed and Pronounced by me on this the 21st day of March, 2018.

Sd/-

Vidyut Ombudsman

1. Sri.S. Sai Sudheer, Plot No. 88, Prashanth Nagar, Industrial Area, Bala Nagar, Hyderabad - 500 072. Cell: 9581600600, 9666817346.
2. The ADE/OP/R.R.Nagar/TSSPDCL/Hyderabad.
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4. The DE/OP/Bowenpally/TSSPDCL/Hyderabad.
5. The SE/OP/Secunderabad Circle/TSSPDCL/Hyderabad.

Copy to :

6. The Chairperson, Consumer Grievance Redressal Forum, Greater Hyderabad Area, TSSPDCL, Vengal Rao Nagar, Erragadda, Hyderabad - 500 045.
7. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul, Hyd.