



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**

Monday, the Seventeenth day of April 2017

Appeal No. 66 of 2016

Preferred against Order Dt. 12-09-2016 of CGRF In

CG.No: 135/2016-17 of Ranga Reddy East Circle

Between

M/s.Hyderabad Optical and Engineering Pvt.Ltd, represented by
Sri. K. Sambasiva Rao, Director, Plot No.158/E, I.D.A, Phase II, Cherlapally,
Hyderabad - 500 051. Cell No. 9949419499.

... Appellant

AND

1. The ADE/OP/Sainikpuri/TSSPDCL/RR District.
2. The AAO/ERO/Sainikpuri/TSSPDCL/RR District.
3. The DE/OP/Sainikpuri/TSSPDCL/RR District.
4. The SE/OP/RR East Circle/TSSPDCL/RR District.

... Respondents

The above appeal filed on 02.11.2016 coming up for final hearing before the Vidyut Ombudsman, Telangana State on 07.03.2017 at Hyderabad in the presence of Sri. K. Sambasiva Rao - On behalf of the Appellant Company and Sri. E.S.Suchendernath - DE/OP/Sainikpuri, Sri. E. Narasimha Reddy - AAO/ERO/Sainikpuri, Sri. B. Srinivas Reddy - ADE/OP/Sainikpuri, Sri. T. Rammohan - ADE/MRT/R.R. East Circle, Sri. P. Beesi Reddy - ADE/OP/Cherlapally 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. 09054100785. The Appellant claimed that the ADE/O/Sainikpuri/R1 on inspection of the Service Connection on 25.08.2015 at 4.10 PM observed that the meter was defective from 9.8.2014 to 26.8.2015 with R phase current missing in the meter display parameters under load condition. The Appellant claimed that the ADE in view of missing R phase current

proposed short billing based on MRT report and MRI dumps. The Appellant claimed that a provisional assessment notice for Rs 1,78,139/-, being the meter defective period from 9.8.2014 to 26.8.2015 has been issued.

2. The 1st Respondent/ADE/O/Sainikpuri through a letter dt.14.6.2016 stated that on inspection, R phase current was found missing and the meter got tested in the MRT lab. He specifically stated that R phase currents were found intermittently missing due to loose contact in the terminal block and it was rectified.

3. The 2nd Respondent/AAO/ERO/Sainikpuri through letter dt.21.7.2016 stated that a short billing case was booked for Rs 1,78,139/- based on inspection dt.25.8.2015 and further, final assessment order was passed by the DE/O/Sainikpuri for the same amount and that the consumer has paid 50% of the assessed amount in the month of March,2016.

4. Before the CGRF, the representative of the Appellant furnished details of energy consumed for three years 2013-14, 2014-15 and 2015-16 apart from audit report and balance sheet, to show that there were no drastic differences in the sales figures and based on this argument, the Appellant contended that the absence of voltage in one phase may be a temporary phenomenon/loose contact or any other possibility, indicating that the recording of the meter was normal.

5. Based on the material placed on record regarding missing R phase current, submissions, Clause 2.37 of Regulation 3 of 2015 and also the fact that the Respondent No.1 had inspected the service, found R phase current missing, the meter was tested in the MRT lab and as per MRI test report, R phase currents were found intermittently missing due to loose contact in the terminal block and it was rectified and that on the basis of the defect, a short billing case was booked for Rs 1,79,139/- and that the Appellant, having preferred an Appeal under Section 127 of the Electricity Act against the assessment order and having paid half of the assessment amount of Rs 89,070/-, the CGRF held that the grievance of the Appellant falls within the purview of Section 126 of the Electricity Act 2003 and therefore, under Clause 2.37 of Regulation 3 of 2015, the complaint is not maintainable and rejected the complaint through the impugned orders.

6. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal on the ground that the short billing proposal is not correct in view of the sales figures of the Appellant company which have been

constant, the audited balance sheet which also discloses the same figures and that the consumption of energy for the years 2014-15 in fact has been 25% higher than the previous years, while the sales figures in comparison with the previous years were reduced and that there is no possibility of consumption of 28442 units in the year 2014-15 as per MRT report and meter dump, which shows 51.48% increase in the consumption and that this meter dump report in one phase about intermittently in contact shows that the provisional assessment is not correct and the consumption figures shown by the Respondents is not correct.

7. The 1st Respondent/ADE/O/Sainikpuri submitted a reply dt.26.11.2016 stating that during the inspection, the Appellant was found utilising power supply for fabrication works, the meter seals were intact, R phase current was missing in the meter display parameters under load condition and therefore, the meter was referred to MRT lab. He claimed that on basis of MRT report and DPE report, a short billing/Provisional Assessment notice dt. 31.8.2015 was issued for Rs 1,78,139/- against which the Appellant paid 50% of the assessed amount Rs 89,070/- and later, the 3rd Respondent/DE/OP/Sainikpuri issued final assessment order dt.25.2.2016 confirming the Provisional Assessment order and that the Appellant, instead of approaching the Appellate authority/R4/SE/OP/RR East Circle, preferred a complaint before CGRF and that the Appellant is comparing his consumption with sales figures only, which does not reflect the correct position and that the Appellate authority/SE/OP/RR East/R4 issued orders dt.12.11.2016 reducing the provisional assessment order amount to Rs 1,44,769/- thereby reducing the figure by Rs 33,370/- . The Respondent No.4 claimed that on the basis of MRI data available from 25.6.2016 to 26.8.2016 (consumption for two months), he took average consumption per month and by calculating the consumption for 12 months, he has arrived at the % error of the meter at -33% and reduced the provisional assessment amount.

8. The 2nd Respondent AAO/ERO/Sainikpuri through letter dt.28.11.2016 submitted a reply regarding the Appeal filed by the Appellant before the 4th Respondent/SE/OP/RR East and about orders passed by him reducing the assessed amount to Rs 1,44,769/-.

9. The Appellant, through letter dt.2.3.2017, submitted a reply to the letters of the Respondents 1 and 2 stating that the current was found missing in R phase intermittently from 9.6.2015 to 26.8.2015 and therefore, the back billing could be assessed only for missing R phase current for these two months. He further claimed

through a letter dt.24.1.2017 that the meter developed internal problem and that there was no unauthorised use of power and that the meter was not only skipping R phase current, but it also developed erratic recording for other parameters. The Appellant through letter dt.8.3.2017 reiterated that the consumption during the meter defective period was much more than any other months consumption indicating that there was no current missing in R phase and that in view of the erratic recording of R phase current, the Appellant sought relief against the assessment.

10. In view of the nature of dispute, the mediation has not succeeded and the matter is therefore being disposed of on merits.

11. On the basis of the material on record and contentions, the following issues arise for determination:

1. Whether the Appellant is liable to pay the back billing amount based on erratic recording/missing of current in R phase?
2. Whether the matter in dispute falls within the purview of Section 126 of the Electricity Act,2003 and whether the dispute is barred to be taken cognizance of by the CGRF under Clause 2.37 of the Regulation 3 of 2015?
3. Whether the impugned orders are liable to be set aside?

Heard.

Issues 1 to 3

12. The Appellant preferred Appeal against the Provisional Assessment notice dt.31.8.2015 for payment of Rs 1,78,139/- towards short billing in view of the defective meter for the period from 9.8.2014 to 26.8.2015 on the basis of the inspection of the service by the ADE/DPE on dt.25.8.2015.

13. The inspecting official noted the following points:

“The service is inspected on current missing complaint. During the inspection, it is noticed that the beneficiary has been utilising the power supply for fabrication works. The meter seals are intact. R Phase current has been missing in the meter display parameters under load condition. In the result, the meter recorded less consumption than the actual consumption. The short billing has been proposed based on MRT report and meter dump.”

On the basis of the points noted, the Provisional Assessment was made and a notice dt.31.08.2015 was issued to the Appellant demanding payment of Rs 1,78,139/-.

14. The Appellant filed an Appeal against the provisional assessment orders before the DE/OP, the designated officer and paid 50% of the provisional assessment amount Rs 89,070/- on 28.09.2015. The DE/OP disposed of the Appeal confirming the liability for payment towards short billing amount of Rs 1,78,139/- .

15. Aggrieved by the orders of the DE/OP, the Appellant preferred an appeal before SE/OP/RR East, Appellate authority, who has disposed of the Appeal revising the provisional assessment amount from Rs 1,78,139/- to Rs 1,44,769/- .

16. Before the final orders of SE/OP/RR East, Appellate authority, the Appellant filed a complaint before the CGRF. The CGRF held that the Forum cannot give direction when the Appeal is pending before SE/OP/RR East under Section 127 of the Act, further adding that the subject matter of short billing clearly falls under section 126 of the Electricity Act and as per Clause 2.37 of Regulation 3 of 2015, where a case falls under Sections 126,127,135,139 and 161 of the Electricity Act, the forum may reject grievance at any stage, directed the Appellant to approach the Appellate authority i.e. SE/OP/RR East in the matter.

17. The Appellant mainly pleaded that :

- a. though the final assessment order was based on MRT report and meter dump, they are not convinced with the interpretation of the readings of the meter dump and subsequent assessment order.
- b. when their unit consumption in figures is considered since inception of the factory and of the following year i.e.2015-16 (short billing was proposed for the year 2014-15), the units lost 28442 was never reflected.
- c. it is alleged that there is no possibility of consuming another 28442 units in the year 2014-15 as per the MRT report and meter dump, which amounts to 51.48% increase in the consumption.

18. The Appellant gave the following comparative statement of No.of Units in KVAH against sales in Rupees :

	Year	No.of Units	Percentage Change	Sales	
Previous year	2013-14	44077		80,40,379	
Year under reference	2014-15	55241	25.3% Increase	76,52,698	4.82% Decrease in sales
Next year	2015-16	49494	12.2% increase		

19. The comparison of consumed units with yearly sales as above does not hold good, since sales does not represent the actual picture. The main activity of the fabrication industry involves TMT Bar shearing, bending machines etc. The consumed units is reflected by the load connected, its usage in hours and more importantly power factor. At the time of the inspection, the power factor recorded was 0.26, which is too low.

20. **Brief details of the short billing case:**

Period of assessment : 9.8.2014 to 26.8.2015
 Amount of assessment : Rs 1,78,139/-
 Payment made by the Appellant : Rs 89070/- (50% of the assessed amount)
 Revised assessment of Appellate authority (SE/OP/RR East) : Rs 1,44,769/-.

21. **The Basis for resorting to short billing by the Respondents :** R phase current is shown as missing in the meter display parameters under load condition and therefore, the meter recorded less consumption than the actual consumption. As per the test report of AE/LT CT meters, the missing R phase current is intermittent and this was reported as due to loose contact in the test block, which was rectified on 26.8.2015. The meter was not replaced at that time, since the fault was found in the circuit wiring connection in the test block. The ADE/DPE proposed short billing on the inspection of the meter for one year, taking the error percentage as -33%. The KVAH readings recorded are as follows:

Date	KVAH Readings
9.8.2014	135977
26.8.2015	193720.8
Difference of units	= 75544
Error percentage	= -33%
Units assessed	= $57744 \times \frac{100}{100-33}$ = 86166
Units lost	= 86186 - 57744
	= 28442 Units

Total amount assessed by the ADE/DPE for 28442 units has been Rs 1,78,139/-.

22. The Appellate authority, SE/OP/RR East revised the above assessment vide Lr.No..590 dt.12.11.2016 based on the MRI data of the meter No. 189723 taking two months data i.e. from 25.6.2016 to 25.8.2016. The 12 months assessment was arrived at on the basis of 2 months healthy consumption and $\frac{1}{4}$ percentage error of the meter i.e. -33% in the following manner:

Healthy period consumption	= 25.6.2015 to 25.8.2015 = 7470 units
Percentage error	= -33%
Consumption taking percentage error into account	= 7470 x 1.5 = 11205 units
Units lost during two months	= 11205-7470 = 3735 units
For 12 months	= 3735 x 6 = 22410 units
Lost revenue	= 22410 x 6.4 = Rs 1,43,424
ED	= Rs 22410 x 0.06 = Rs 1344.60
Total revised assessment	= Rs 1,44,769/-

The above short billing final assessment has been levied for 1 year based on two months healthy average consumption with percentage error at -33%.

23. The initial provisional assessment proposed by ADE/OP is based on the remarks of ADE/DPE that the CT current has been missing intermittently since a long time. Since the event is continuous, the short billing was proposed for one year.

24. The basis for taking short billing to an extent of one year was not mentioned exactly. In the written submission dt.2.3.2017, the Appellant opposed the period adopted for assessment i.e. 1 year and added to say that he came to know the following facts through MRT wing based on the MRI Dump report:

1. MRT engineers identified on 19.06.2015 that the meter bearing Sl.No. 189723 is defective.
2. MRT engineers rectified the above meter on 26.08.2015.

3. The Back billing has been assessed for the period from 09.06.2014 to 26.08.2015 and whereas, the meter dump recorded R- Phase current missing intermittently for the period from 09.06.2015 to 26.08.2015.

Therefore, the Appellant has requested for revision of the assessment period for R-Phase current missing only from 9.6.2015 to 26.08.2015.

25. The assessment for short billing/back billing arises out of defective meter (the definition of the meter is defined in Clause 2.2.37 i.e including accessories such as CT and PT and any enclosure used for honoring or fixing such meter) which is guided by the GTCS in Annexure XII(VII) which is reproduced below:

	Unit of measurement	Formula
Load misused	KW	A
Total connected load including misused load	KW	B
No. of units recorded during the supply extension period from.....	Units	C
Energy misused	Units	$D = C * (A/B)$
Normal tariff for the category under which energy misused	Rs Per Unit	E
Special rate applicable	Rs	$F=(1.5*E)$
Value of rate applicable	Rs	$G = F * D$
Supervision charges	Rs	H
Total Electricity charges payable	Rs	$I = G+H$

26. The available material i.e, MRI data discloses the period of 'R' phase current missing in first instance was captured on 19.6.2015 at 11.38. The defect was rectified on 26.8.2015 by the MRT wing. The total 'R' phase LT CT open tamper count recorded was 170, the tamper duration was 8449 Hrs and the same was recorded by the ADE/DPE in his inspection notes.

27. The amended Clause 7.5.1.4.4 of GTCS which has been applied by the DISCOM in the present case is reproduced for clarity:

“7.5.1.4.4: The assessment shall be made for the entire period during which the status of defective meter can be clearly established, however, the period during which such status of defective meter cannot be ascertained, such period shall

be limited to a period of twelve months immediately preceding the date of inspection.”

28. The clause 7.5.1.4.4 clearly mandates assessment period to be adopted when the defective meter status can be clearly established. Here, the MRI data is considered to be reliable source of information and the defective period is clearly established. If the period is ascertainable, then there is no point in assessing the loss for 12 months. Therefore, the period of the assessment shall be revised from 1 year to the period of ‘R’ phase current missing available in the MRI data i.e from 19.6.2015 to 26.8.2015.

29. The Appellant in his written submissions dt. 8.3.2017 raised the following points on the meter recording erratically which are answered under each point:

a. When CT secondary gets opened, there will be high voltage induced in the secondary of current transformer causing damage to the meter and neighbouring units.

On this point, it can be said that if the CT secondary is open during load, then the voltage across the secondary reaches to a high value i.e some kilowatts and the secondary current becomes zero and hence, reduces back emf.(electro magnetic force). The working flux increases and the core gets saturated. The secondary e.m.f increases due to increased flux. Due to this reason, the primary gets overheated and core also gets heated. It is dangerous then for a person working on the secondary. The phenomenon explained by the Appellant is true, but the damage referred by the Appellant is not so severe for this type of LT meters which are having solid core CT’s working under LT voltage.

b. It is quite possible there is current in R-Phase which is registering for energy and power factor, but unable to display R-Phase current on the relay.

This possibility cannot be accepted in view of the fact that the MRI data reveals all the data captured through the meter.

c. The Consumption against the period of defective meter is much more than any of the month’s consumption and hence the meter is erratic.

The above claim is not conclusive to admit that the meter is erratic.

30. The CGRF has wrongly quoted the irregularity as attracting the provisions of Section 126 of the Electricity Act,2003 and rejected the appeal based on Clause 2.37 of Regulation 3 of 2015. Section 126 applies to those consumers where the assessing officer comes to a conclusion that such consumer is indulging in unauthorized use of electricity.

The irregularity is R-Phase missing in the meter, which was identified and rectified by the MRT wing, based on a report. There is no role of the Appellant in the missing of R phase in the meter. The ADE/DPE booked the case under short billing (Defective Meter). No conclusion is arrived at by the inspecting officer that there is a case of unauthorized use of electricity. The assessment was only done with an intention to recover the revenue loss occurred to the DISCOM and no penal charges were levied. Thus it is clear that the CGRF has misinterpreted the controversy involved in the complaint before it, wrongly applied S.126 of the Electricity Act,2003, and rejected the complaint under Clause 2.37 of Regulation 3 of 2015 which is unsustainable and liable to be set aside. The issues are answered accordingly.

32. In the result, the Appeal is allowed partly as follows:

- a. the matter in dispute does not fall within the purview of S.126 of the Electricity Act,2003 and the complaint is not barred under Clause 2.37 of the Regulation No. 3 of 2015.
- b. the Appellant is liable to pay the amount relating to assessment period covering R-Phase missing only from 9.6.2015 to 26.8.2015 and the Assessment shall be revised accordingly.
- c. the impugned orders are set aside to the extent indicated.

33. 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 17th day of April, 2017.

Sd/-

VIDYUT OMBUDSMAN

1. M/s.Hyderabad Optical and Engineering Pvt.Ltd, represented by Sri. K. Sambasiva Rao, Director, Plot No.158/E, I.D.A, Phase II, Cherlapally, Hyderabad - 500 051. Cell No. 9949419499.
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5. The SE/OP/RR East Circle/TSSPDCL/RR District.

Copy to:

6. The CGRF, Greater Hyderabad Area, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad.
7. The Secretary, TSERC, Singareni Bhavan, Red Hills, Lakdikapool, Hyderabad.