



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

**:: Present:: Smt. UDAYA GOURI**

Friday the Eighteenth Day of May 2018

Appeal No. 01 of 2018

Preferred against Order Dt.24.11.2017 of CGRF  
in CG.No.39/2016

Between

M/s. Jagdish Cotton Industries Pvt. Ltd., Sy.No.24/3/2, Rampur Road,  
Adilabad, Adilabad District - 504 001.Cell: 9866671081.

**... Appellants**

**AND**

1. The ADE/OP/Town/Adilabad - 9440811684.
2. The SAO/OP/Adilabad - 9440811726.
3. The DE/OP/Adilabad - 9440811672.

**... Respondents**

The above appeal filed on 04.01.2018, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 09.05.2018 at Hyderabad in the presence of Sri. Pankaj Agarwal - on behalf of the Appellant Company and Sri. B. Srinivas - SAO/OP/Adilabad for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

**AWARD**

This is an Appeal filed by M/s Jagdish Cotton industries Pvt. Ltd. against the orders of the CGRF in CG No. 39 of 2016 dismissing their complaint against the Respondents herein.

2. The Appellant contended before the CGRF that they are running the Jagdish Cotton Industries Pvt. Ltd at Adilabad under the seasonal period for their industry is from Nov to March and off seasonal period is April to October and that the Respondents have disallowed the seasonal benefit for an amount of Rs 2,53,315/- as

shortfall and included the same in the bill of May,2015 without giving any notice. In spite of the fact that during the month of October, 2015 the Appellant undertook the work of the overhauling of the machinery and repairs to the factory shed etc. and as such used welding machine etc. resulting in the increase of RMD a little though they have not consumed any supply for the main plant and not used the said supply for production purpose as such contended that they are entitled for seasonal benefit and as such the shortfall of Rs 2,53,315/- is to be withdrawn and the energy charges for the months of 5/15,6/15 and 10/15 is also incorrect and hence is liable to be withdrawn. They further claimed before the CGRF that they have filed an application for termination of HT agreement and for dismantling of the service on 29.02.2016 and that as per the existing and revised GTCS minimum charges of one month are to be levied but the Respondents have levied 3 months minimum charges and as such contended that they are entitled for refund of 2 months monthly minimum charges and in spite of their adducing sufficient supportive evidence the learned CGRF dismissed their application as such they have filed the present Appeal seeking for the reliefs sought by them and prayed that their appeal be allowed.

3. A perusal of the documentary evidence and the representations made by the Appellant and the Respondents give rise to the following issues to be settled:

1. Whether the Appellant is entitled for the withdrawal of the demand notice issued by SE/OP/Adilabad vide D.No. 186 dt.19.05.2016 for payment of amount of Rs 2,53,315/- based on the internal audit shortfall?
2. Whether the Appellant is entitled for revision of the bills for the month of April,2015?
3. And whether the Respondents charged excess monthly minimum bills for termination of HT agreement and if so whether the Appellant is entitled for refund of the same?

**Issue No. 1.**

4. The submissions of the Respondents shows that while attending the specific remarks of the internal audit team against SC No. ADB-239 M/s. Jagdish Cotton Industries, the ADE/OP/Rural/Adilabad vide Lr.No.46, Dt:24-05-2016, arrived at the conclusion that the Appellant may be utilizing the supply for his Main Plant and proposed for the cancellation of seasonal tariffs benefits, based on the following

observations:

- a. Any consumer who after declaring the period of season, consumes power for his main plant during the off season period shall not be entitled to the concessions during that year. The said consumer is eligible for utilization of 30% CMD i.e.  $70 \text{ KVA} \times 30/100 = 21 \text{ KVA}$  in the off seasonal period.
- b. The MD and the consumption values from 04/15 to 10/15 utilized by the consumer were excess against the permissible limits during the off seasonal period.

He has also submitted the following data in support of his claim i.e. periodical consumption in KWH and KVAH, Recorded Maximum Demand from the month of April, 2015 to October, 2015.

Reading date	Contracted Maximum Demand	KWH Consumption	KVAH Consumption	Recorded Maximum Demand	MF
22.04.15	70 KVA	3000	3000	22.5	750
22.05.15		3975	3975	22.5	750
24.06.15		3900	3900	22.5	750
26.07.15		2475	2475	22.5	750
22.08.15		2100	2100	15	750
22.09.15		2100	2175	15	750
22.10.15		3075	3975	30	750

The SE/OP/Adilabad vide lr.no.186 dt.19.05.2016 referring to the internal audit remarks vide AO/IA/WGL/Para No.1B/16 dt.07.05.16, issued a demand notice towards payment of Rs 2,53,315/- stating that the Appellant's service has crossed 30% MD in off seasonal period from April to October,2015.

5. The Appellant opposed to the above said demand notice for payment of Rs 2,53,315/- based on the following claims:
  - a. There is no such rules existing wherein the seasonal benefits is to be

disallowed if the MD crosses 30% of the CMD.

- b. As per the tariff orders the billing demand = RMD or 30% of the contracted demand whichever is higher which means if the RMD is less than 30% of CMD, the billing demand shall be 30% of CMD and if the RMD is more than 30% of the CMD, the RMD is the billing demand.
- c. During 10/2015 certain capacitors installed were failed and not functioning due to which the power factor was fallen down to 0.77. If the capacitors were used to function the RMD could have been 22.31 KVA instead of 30 KVA.
- d. The consumption during off season is very less and the production activity cannot be performed with such a meager consumption. If the power would have been actually used for production purpose to the main plant, the consumption and RMD would have boosted. Hence the recorded and consumption RMD itself are evidence that the power is not utilised for functioning of the main plant for production purpose.
- e. In support of his claim the Appellant produced the Vidyut Ombudsman orders passed in the Appeal No. 103/2013 dt.13.09.2014.

*Para No. 13 as “what this says that the demand charges during off season period shall be taken as 30% of the Contracted Demand or recorded maximum demand whichever is higher. There is no ceiling of 30% of the CMD for consumption during off season period. Hence, the order of the CGRF is set aside”.*

Hence stated that the seasonal benefit cannot be disallowed even the RMD in off seasons exceeds 30% of contracted demand and further stated that during the off season they used to avail supply for factory lighting, office lighting, borewell and fans etc. He added that he also used power supply for welding and cutting machines for repairing of factory shed. In view of the above requested to withdraw the shortfall amount of Rs 2,53,315/-.

6. The relevant provisions of Tariff Order 2015-16, relating to seasonal industries is reproduced here under:

**Clause 5.1.4: Rates for Seasonal Industries coming under HT-I (A):-** Where a consumer avails supply of energy for manufacture of sugar or ice or salt, decorticating, ginning and pressing, cotton seed oil mills, seed processing, fruit processing, tobacco processing and re-drying and for such other

industries or processes as may be approved by the Commission from time to time principally during certain seasons or limited periods in the tariff year and his main plant is regularly closed down during certain months, he shall be charged for the months during which the plant is shut down (which period shall be referred to as the off-season period) as follows under H.T. Category-II rates.

<b>DEMAND CHARGES &amp; ENERGY CHARGES FOR OFF SEASON TARIFF</b>		
Voltage of supply	Demand charges Rs/KVA/Month of Billing demand	Energy charges Rs /kVAh
132 kV and above	370	6.40
33 kV	370	6.60
11 kV	370	7.30
Based on the Recorded Maximum Demand or 30% of the Contracted Demand whichever is higher.		

**(7) H.T. SUPPLY SPECIFIC CONDITIONS:-**

**(3) H.T INDUSTRY: SEASONAL INDUSTRIES:-**

viii. Any consumer who after declaring the period of season consumes power for his main plant during the off-season period, shall not be entitled to this concession during that year.

The Recorded Maximum Demand or 30% of the Contracted Demand whichever is higher shall be the billing demand. Here the limitation for Billing Demand is 30% of the CMD not below, rather than the upper limit.

7. The conclusion of the Respondents towards withdrawal of the concessions given to the Appellant owing to seasonal industries citing that they have crossed 21 KVA (30% of the CMD 70KVA) during the months of off season period is not in line with the conditions of the Tariff Orders.

This can be ratified through following:

During the introduction of extending of benefits of the off seasonal tariffs to seasonal industries under LT IIIB category in line with HT I category, seasonal industries, during the proposal of Tariff Order of 2003-04, the Hon'ble Commission has mandated that

*“the demand charges during the off-season will be on the basis of the recorded maximum demand or 30% of the contracted demand whichever is higher if it is optional category; **otherwise, fixed charges shall be payable at 30% of the contracted load**”.*

8. Hence, as per the above, the demand charges payable are 30% of the Contracted Demand even if the Recorded Maximum Demand is below the 30% of the Contracted Demand, and the Appellant has rightly argued this point. The Conclusions of the Respondents are based on the misconception that if the RMD is recorded more than 30% of CMD, the benefits of seasonal industries category is not entitled by the Appellant. There is no such limitation for the consumers to restrict their MD below 30% of CMD. The only condition for withdrawal of the benefits is that the power supply shall not be utilised for main plant. The Respondents further has not given any other evidence to prove that the power supply used during the off season is for main plant. They relied on the misinterpretation of the Tariff Order. Hence, there shall be a direction to withdraw the demand raised by audit shortfall for Rs 2,53,315/- and accordingly this issue is decided in favor of the Appellant.

#### **Issue No.2**

9. The contention of the Appellant is that during the month of April,2015 the bill issued for the entire month involves the demand charges for 450 KVA, whereas the date of effect of deration from 450 KVA to 70 KVA was accorded w.e.f. 16.04.2015, vide memo No. 2108 dt.19.03.2015 by SE/OP/Adilabad. He is liable for C.C. bill revision with demand charges up to 16.04.2016 for 450 KVA and remaining period for 70 KVA.

10. The Respondent SAO/Adilabad in his written submission on the above said issue has stated the following:

The HT SC No. ADB-239 M/s. Jagdish Cotton Industry Pvt. Ltd., CMD 450 KVA has been derated to 70 KVA vide SE Lr.No.SE/OP/ADB/Comml/D.No.2106/14 dt.19.03.2015, w.e.f. 16.04.2015 as per the computer program the bill for the

month of 04/2015 has been issued for 30% in CMD 450 kVA in 04/2015 which is the off season period.

11. The SAO/Adilabad has stated that the bill for the month of 04/2015 was issued for 30% of CMD 450 KVA since the period is off season. But he has not clarified that the date of effect of deration from 450 KVA to 70 KVA was affected in the bill and 30% of 70 KVA from 16.04.2015 was billed or not. Hence, there shall be a direction to the Respondents to revise the bill for the month of 04/2015 duly affecting the date of effect of deration i.e, 16.04.2015, as per the approval orders given by the SE/OP/Adilabad SE Lr.No.SE/OP/ADB/Comml/D.No.2106/14 dt.19.03.2015. Thus this issue is decided in favor of the Appellant.

### **Issue No.3**

12. The Appellant pleaded that he had applied for the conversion of the HT agreement and dismantlement of their service on 29.02.2016. Hence, claimed that he is liable to be charged monthly minimum charges for one month and not 3 months which was levied by the Respondents.

The Respondent SAO/Adilabad referred to the Clause 5.9.4.3 of the GTCS - Termination of HT agreement and LT agreement on account of Disconnection and reiterated that the Appellant is liable to be paid 4 months monthly minimum charges and claimed that the bill issued is holds good.

It is to be understood that the GTCS Clause 5.9.4.3 refers to the consumers where the HT/LT agreement terminates on account of disconnection. Whereas the GTCS Clause 5.9.4.2 refers to the consumers seeking deration of CMD/ termination of agreement in respect of HT supply. This Clause 5.9.4.2 was amended by the ERC vide proceeding No. APERC/Secy/96/2014 dt.31.05.2014 reducing the notice period from 3 months to 1 month for HT agreement termination. The amended Clause is reproduced here under:

***For clause 5.9.4.2, the following clause shall be substituted, namely:-***

***“5.9.4.2 Deration of CMD or Termination of Agreement in respect of HT Supply: The consumer may seek reduction of contracted maximum demand or termination of the HT Agreement after the expiry of the minimum period of the Agreement by giving not less than one month notice in***

*writing expressing his intention to do so. However, if for any reason the consumer chooses to derate the CMD or terminate the Agreement, before the expiry of the minimum 2 year period of the Agreement, the CMD will be derated or the Agreement will be terminated with effect from the date of expiry of the initial 2 year period of the Agreement or after expiry of one month notice period whichever is later. The Company can also terminate the HT Agreement, at any time giving one month notice if the consumer violates the terms of the HT Agreement, or the GTCS or the provision of any law touching the Agreement including the Act and rules made thereunder, and AP Electricity Reforms Act, 1998. On termination of the HT Agreement the consumer shall pay all sums due under the Agreement as on the date of its termination.”*

13. The Respondents claimed that the Appellant service was under disconnection and wanted to terminate the agreement hence he is liable to pay 4 months monthly minimum charges. Here the Respondents has not denied that they have issued notice for termination after completion of 3 months from the date of disconnection against the required time provided under the Clause 5.9.4.3 of the GTCS. As such Clause 5.9.4.3 makes the Appellant entitled for a claim of refund of excess billed monthly minimum charges for one month towards the termination of HT agreement and dismantlement of the service as per the amended Clause 5.9.4.2 of the GTCS from the date of acknowledgement of his application for such request. Since the Appellant claimed that he has given the Application on 29.02.2016, the Respondents are required to verify the same and grant the refund accordingly. Hence decides this issue accordingly.

14. 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 18th day of May, 2018.

Sd/-

**Vidyut Ombudsman**

1. M/s. Jagadish Cotton Industries Pvt. Ltd., Sy.No.24/3/2, Rampur Road, Adilabad, Adilabad District - 504 001.Cell: 9866671081.
2. The ADE/OP/Town/Adilabad - 9440811684.
3. The SAO/OP/Adilabad - 9440811726.
4. The DE/OP/Adilabad - 9440811672.

**Copy to :**

5. The Chairperson, CGRF, Nirmal, TSNPDCL,Adilabad.
6. The Secretary, TSERC, 5<sup>th</sup> Floor Singareni Bhavan, Red Hills, Lakdikapul,Hyd.