



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

Tuesday the Eighteenth Day of August 2020

Appeal No. 02 of 2020-21

Preferred against Order dt.31.01.2020 of CGRF in
CG No. 544/2019-20 of Rajendra Nagar Circle

Between

M/s. Binjusaria Ispat Pvt. Ltd., C-1, Govt. Industrial Estate,
Chandulal Baradari, Hyderabad - 500 064. Cell: 9848563999, 7036205211.

... Appellant

AND

1. The DE/OP/Shadnagar/TSSPDCL/RR Dist.
2. The SAO/OP/Rajendra Nagar/TSSPDCL/RR Dist.
3. The SE/OP/Rajendra Nagar Circle/TSSPDCL/RR Dist.

... Respondents

The above appeal filed on 21.05.2020 coming up for final hearing before the Vidyut Ombudsman, Telangana State on 18.08.2020 at Hyderabad in the presence of Kum. Nishtha - on behalf of the Appellant and Sri. G. Lokeshwaraiiah - SAO/OP/Rajendra Nagar for the Respondents and having considered the record and submissions of both parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant submitted that the Respondent No. 3, vide its letter No. 338 dated 23.9.2017, informed to the appellant to visit the office of the Respondent No. 3 for reconciliation of less payments and clearing of the arrears along with the statement showing the Court Case balance of Rs. 4,65,43,465/- and closing balance of Rs. 12,60,726/- as on 31.8.2017.

In view of the above, the appellant filed its representation vide letter No. 241 dated 20.12.2018 before the Respondent No. 2 and 3 along with reconciliation statement as on 31.3.2018 along with complete details and documents for Court Case

amount of Rs. 4,65,43,465/- and other account of Rs. 13,80,382/- which are shown in the C.C. Bill dated 26.3.2018 by the Respondents.

That as on 25.11.2019 the Appellant has not received any reply or response from the Respondents hence, the appellant was not having any other option except to approach before the CGRF to resolve its grievances. Accordingly the Appellant filed the complaint which was registered as C.G. No. 544 of 2019 by the CGRF.

That the Court Case amount of Rs. 4,65,43,465/- as on 23.3.2018 is tallied with the statement furnished by the Respondent No. 3 before Hon'ble CGRF II along with letter No. 471 dated 22.1.2020 as the respective cases are pending before Hon'ble High Court and Hon'ble Supreme Court of India. Hence, the same is to be considered as subject to final outcome of order from the Hon'ble Courts.

That the CGRF vide its order dated 31.1.2020 of C.G. No. 544 of 2019-20 rejected the complaint without considering the grounds and facts placed by the Appellant on the issue of an amount of Rs. 13,80,382/- showing in other accounts and Rs. 15,80,483/- excess paid. Hence, this appeal in respect of H.T. No. RJN 1910 of appellant.

That the following grounds are to be considered among others:-

- a. The Respondent No. 3 in its counter vide letter No. 471 dated 22.1.2020 filed before Hon'ble CGRF II has not furnished any reply on the amount of Rs. 13,80,382/- shown in other column as on 23.3.2018 in the C.C. Bill dated 26.3.2018;
- b. The Respondent No. 3 has not furnished any reply on the excess amount paid by the appellant totalling to Rs. 15,80,483/- i.e., in the months of November, 2013 Rs. 9,08,921/-, in the month of August, 2016 Rs. 3,49,576/- and in the month of June, 2017 Rs. 1,31,275/-; and
- c. The Hon'ble CGRF II also has not given any finding on the above two issues in its order dated 31.1.2020 of C.G. No. 544 of 2019-20/Rajendra Nagar Circle before rejecting.

That in respect of Rs. 19,69,728/- shown in Court Case Account pertaining to the claim of back billing of April and May, 2012 Billing Months (Financial Year

2012-13) the C.G. No. 558 of 2019-20/Rajendra Nagar Circle is pending before Hon'ble CGRF II for issue of orders.

In view of the above said facts, the appellant pray to this Hon'ble Vidyut Ombudsman for the State of Telangana may be pleased to allow the present appeal directing the Respondents:

UNDER CLAUSE 3.35 OF REGULATION 3 OF 2015:

- a. To Set aside the order dated 31.1.2020 of C.G. No. 544/2019-20/Rajendra Nagar Circle passed by Respondent No. 4 to the extent of amounts excluding the Court Case amount of Rs. 4,65,43,465/-;
- b. To set aside the amount of Rs. 13,80,382/- shown in the C.C. Bill dated 26.3.2018 in other column as on 23.3.2018;
- c. To refund Rs. 15,80,483/- along with applicable rate of interest till the date of refund; and
- d. Any such other order or orders as may deem fit and proper by the Hon'ble Vidyut Ombudsman for the State of Telangana under the circumstances of the case, in the interest of justice and fair play.

2. Written submissions of the Respondents

The complainant is the HT Consumer of M/s. Binjusaria Ispat Pvt.Ltd. bearing SC No.RJN1910 released on 15.01.2005 under Category - I(A). The detailed statement of pending dues including the Court case amount is herewith enclosed for kind perusal and taking necessary action or pass such other suitable orders in the matter please.

3. REJOINDER FILED ON BEHALF OF APPELLANT

The Respondent No. 3 has filed the present counter for the period from May, 2010 to May, 2020 whereas the present issue in the appeal is upto March, 2018 only. Hence, the statement from April, 2018 to May, 2020 is irrelevant and need not be considered in the present appeal.

It is pertinent to note that as of March, 2018 the Respondent No. 3 has shown the closing balance of Rs. 13,68,859/-. The present two issues raised in the present appeal are:-

1. Rs. 13,80,382/ shown in the other column in the bill dated 26.3.2018 of March, 2018 bill is not correct and to be set aside and

2. Rs. 15,80,483/- excess paid i.e., Rs. 9,08,921/- in November, 2013 bill, Rs. 3,49,576/- in August, 2016 bill and Rs. 1,31,275/- in June, 2017 bill (November, 2013 bill amount claimed of Rs. 2,00,19,537/- and an amount of Rs. 2,06,27,366/- paid which is confirmed by the Respondent No. 3 and in present counter in December, 2013 month. August, 2016 bill amount claimed of Rs. 1,78,50,424/- against which Rs. 1,82,00,000/- is paid which is confirmed by the Respondent No. 3 and in present counter in September, 2016. showing the amount of Rs. 2,13,23,204/- of June, 2017 claimed against which Rs. 2,13,15,047/- and Rs. 1,31,275/- paid. Rs. 2,13,15,047/- confirmed by the Respondent No. 3 and in the counter in July, 2017. But the receipt of Rs. 1,31,275/- is not taken which is acknowledged by the Respondent on 29.5.2017).

In view of the above, it is pertinent to note that the Respondents have not furnished any details of Rs. 13,80,382/- shown in March, 2018 bill in other column and Rs. 15,80,483/- excess paid by the Appellant in their counter. Hence, this appellant pray to this Hon'ble Authority to allow the appeal as prayed for.

4. WRITTEN ARGUMENT FILED ON BEHALF OF APPEAL

The present appeal is filed aggrieved by the arrears of an amount of Rs. 13,80,382/- shown in other column in the March, 2018 bill dated 26.3.2018 and Rs. 15,80,483/- excess paid as on March, 2018.

The Respondents have not filed any specific reply in respect of the above said two issues. Hence, it is to be construed that the Respondents have no objection and are not denying about the claim of the Appellant.

In this regard the reconciliation statement of Appellant filed in the main appeal from page No. 14 to 291 is to be considered in which the details of amounts claimed by the Respondents in the C.C. Charges Bill and the amounts which are payable are paid by the Appellant before due dates are furnished. Accordingly there is no due amount payable as of March, 2018. Hence, Rs. 13,80,382/- shown in arrears other columns is not correct and liable to be set aside.

In respect of excess amount paid of Rs. 15,80,483/- i.e., Rs. 9,08,921/- in November, 2013, Rs. 3,49,576/- in August, 2016 and Rs. 1,31,275/- in June, 2017 this Appellant remind this Hon'ble Authority to consider Page No. 136 which is showing November, 2013 bill amount claimed of Rs. 2,00,19,537/- and Page No. 18 showing

the amount of Rs. 2,06,27,366/- paid which is confirmed by the Respondent No. 3 on page No. 302 and in present counter in December, 2013 month. Page No. 217 which is showing August, 2016 bill amount claimed of Rs. 1,78,50,424/- against which Rs. 1,82,00,000/- is paid which is confirmed by the Respondent No. 3 on page No. 303 and in present counter in September, 2016. Page No. 241 which is showing the amount of Rs. 2,13,23,204/- of June, 2017 claimed against which Rs. 2,13,15,047/- and Rs. 1,31,275/- paid. Rs. 2,13,15,047/- confirmed by the Respondent No. 3 on page No. 303 and in the counter in July, 2017. But the receipt of Rs. 1,31,275/- is not taken in the account which is acknowledged by the Respondent on 29.5.2017 at Page No. 243.

In this regard it is pertinent to note that the reconciliation statement prepared by the Appellant is based on the payment adjustment prescribed in the Clause 7 of Code of Practice on payment of bills by consumer passed by the then Hon'ble APERC on 16.10.2002. The procedure is extracted hereunder for kind ready reference of this Hon'ble Authority:-

7. Adjustment of Bill Amount:

The amount paid by the consumer shall first be adjusted as per the priorities stated hereunder:

1st Priority:

a) Arrears of C.C. charges.

b) Arrears of additional charges/surcharge (undisputed).

2nd Priority:

a) Current month CC charges

b) Current month additional charges/surcharge

The Clause 9 of Code of Practice on payment of bills by consumers is also relevant in the present appeal hence, same may be consider please which is extracted as follows:-

9. Erroneous / Disputed Bills

The consumer has to normally make the full payment of the amount even when he raises a dispute.

9.1. The Licensee shall normally resolve the dispute as indicated in para-9 of APERC Regulation No.6 (Standards of Performance). The procedures prescribed in the

general terms & conditions of supply of Licensee as approved by the Commission shall apply wherever the dispute attracts such procedures.

9.2. On examination of the complaint, if the Licensee finds the bill to be erroneous, a revised bill shall be given to the consumer indicating a revised due date of payment, which should be fixed not earlier than seven days from the date of delivery of the same to the consumer. If the consumer has paid any excess amount, it shall be refunded by way of adjustment in the subsequent bills. The licensee should pay to the Consumer interest changers at 24% per annum on the excess amount outstanding.

9.3. If the Licensee finds the bills to be correct, the consumer shall be intimated accordingly and notified to pay the amount with additional charges for belated payment from the due date.

A copy Code of Practice on payment of bills by consumer passed by the then Hon'ble APERC on 16.10.2002 is enclosed for kind ready reference of this Hon'ble Authority. In view of the above, this Appellant pray to this Hon'ble Authority to allow the appeal as prayed for.

Heard both sides.

Issues

5. In the face of the said contentions by both sides the following issues are framed:-

1. Whether the Appellant is entitled for withdrawal of Rs 3,84,63,945/- leaving only Rs 80,79,570/- under Court Case amounts?
2. Whether the Appellant is entitled for withdrawal of Rs 13,80,382/- shown under other's account in the bills?
3. Whether the Appellant is entitled for withdrawal of Rs 15,80,483/- claimed to be excess paid? and
4. To what relief?

Issues 1 to 3

6. M/s. Binjusaria Ispat (P) Ltd., preferred this Appeal to set aside an amount of Rs 4,65,43,465/- shown under Court Case amounts by the Respondents and also an amount of Rs 13,80,382/- shown under other column in the CC bill dt.26.03.2019.

TABLE -A

Date	Nature of the case	WP No	Status	Amount involved in Court case Column
31.08.2010	FSA charges for the month of 08/2010	18238/2010	SLP No.13785-13937 of 2012 - pending	3,94,401.00
31.08.2011	Voltage surcharge 03/2011 against appeal no.45/2011(new 19/2015)	37170/2017	Disposed WP filed by DE/OP	9,29,957.00
31.08.2012	FSA charges for the month of 04/2009	18238/2010	SLP No.13785-13937 of 2012 - pending	15,56,207.00
31.12.2012	FSA charges for the month of 05/2010	18238/2010	SLP No.13785-13937 of 2012 - pending	6,35,215.00
15.05.2015	Voltage surcharge for the month of 11/2014	40084/2014	Pending	27,61,875.00
15.05.2015	Voltage surcharge for the month of 01/2015	3488/2015	Pending	29,95,180.00
15.05.2015	Voltage surcharge for the month of 08/2014	35399/2014	Pending	26,86,700.00
18.11.2015	Interest on voltage surcharge for above cases trans to cour case GL		Pending	7,15,878.00
31.08.2015	Refund of Development charges	12834/2005	WA - 872/2011 -Pending	6,66,506.00
30.11.2015	Cross Subsidy charges for the month of 11/2015	29121/2015	SLP(C) No. 014047 - 014066 / 2019 -Pending	75,14,129.00
23.12.2015	Cross Subsidy charges for the month of 12/2015	29121/2015	SLP(C) No. 014047 - 014066 / 2019 -Pending	5,47,870.00
01.01.2016	Cross Subsidy charges for the month of 01/2016	29121/2015	SLP(C) No. 014047 - 014066 / 2019 -Pending	32,31,244.00
09.02.2016	Cross Subsidy charges for the month of 02/2016	29121/2015	SLP(C) No. 014047 - 014066 / 2019 -Pending	34,52,759.00
01.03.2016	Cross Subsidy charges for the month of 03/2016	29121/2015	SLP(C) No. 014047 - 014066 / 2019 -Pending	40,21,079.00
01.04.2016	Cross Subsidy charges for the month of 03/2016	29121/2015	SLP(C) No. 014047 - 014066 / 2019 -Pending	31,50,510.00
01.05.2016	Cross Subsidy charges for the month of 04/2016	29121/2015	SLP(C) No. 014047 - 014066 / 2019 -Pending	27,16,329.00
01.06.2016	Cross Subsidy charges for the month of 05/2016	29121/2015	SLP(C) No. 014047 - 014066 / 2019 -Pending	27,30,923.00
01.07.2016	Cross Subsidy charges for the month of 06/2016	29121/2015	SLP(C) No. 014047 - 014066 / 2019 -Pending	35,52,239.00
23.08.2016	Cross Subsidy charges for the month of 07/2016	29121/2015	SLP(C) No. 014047 - 014066 / 2019 -Pending	13,47,574.00
	Court case amount disputed by consumer			4,56,07,575.00
31.10.2018	Cross subsidy Surcharge Fy 13-14, Fy14-15	21936/2018	Pending	2,42,62,894.00
	TOTAL COURT CASE AMOUNT			6,98,70,469.00

8. In reply to the written submissions of the Respondents, the Appellant stated that the Respondents showed Rs 13,68,859/- as closing balance as on March'2018 which is stated to be not correct. Further in regard to the claim of Rs 15,80,483/- excess payment, the Appellant pointed towards the following payment details:-

Sl.No.	CC Bill Month/Year	Excess amount between demand and payment
1.	Nov'2013	9,08,921
2.	Aug'2016	3,49,576
3.	Jun'2017	1,31,275
Total		13,97,772

It is held that Rs 15,80,483/- was excess paid. But above payment details are tallying with the amount total paid Rs.13,97,772.

9. In addition the Appellant further added the following to this written arguments vide letter dt.16.06.2020, mostly reiterated the same submission as of the main written submissions mostly stressed on against the arrears amount of Rs 13,80,382/- as on March'2018 and Rs 15,80,483/- excess payment.

The Appellant relied on the Clause 7 of Code of practice passed by the Hon'ble Commission on 16.10.2012 which is reproduced here under:-

Clause 7. Adjustment of Bill Amount:

The amount paid by the consumer shall first be adjusted as per the priorities stated hereunder: 1st Priority: a) Arrears of C.C. charges.

b) Arrears of additional charges/surcharge (undisputed).

2nd Priority:

a) Current month CC charges

b) Current month additional charges/surcharge

9. Erroneous / Disputed Bills

The consumer has to normally make the full payment of the amount even when he raises a dispute.

9.1 The Licensee shall normally resolve the dispute as indicated in para-9 of APERC Regulation No.6 (Standards of Performance). The procedures prescribed in the general terms & conditions of supply of Licensee as approved by the Commission shall apply wherever the dispute attracts such procedures.

9.2 On examination of the complaint, if the Licensee finds the bill to be erroneous, a revised bill shall be given to the consumer indicating a revised due date of payment, which should be fixed not earlier than seven days from the date of delivery of the same to the consumer. If the consumer has paid any excess amount, it shall be refunded by way of adjustment in the subsequent bills. The licensee should pay to the Consumer interest changers at 24% per annum on the excess amount outstanding.

9.3 If the Licensee finds the bills to be correct, the consumer shall be intimated accordingly and notified to pay the amount with additional charges for belated payment from the due date.

10. That Rs 14,08,274/- against voltage surcharge claim is wrong which is pending in Hon'ble High Court vide WP No.40084/2015,3488/2015 and 35399/2014. Hence no DPS shall be levied on Court cases. Similarly it was claimed that DPS was

levied for the Court Case pending in the Hon'ble Supreme Court vide SLP(C) No.14049,14066 of 2019. In view of the above Rs 2,33,52,029/- was claimed to be withdrawn on the account of DPS charges against the Court cases.

11. The Respondent No.3, SE/OP/Rajendra Nagar relied on the Tariff Order approved by the Hon'ble TSERC from time to time and held that DPS is levied authentically at Corporate Office and submitted a statement of Delayed Payment Surcharge for the period from April'2014 to March'2017. Argued that the Appellant is paying the bills on his own calculation and deducting the amount on his own. That the Hon'ble Supreme Court of India has passed the orders in favour of the Respondents, accordingly the total FSA amount of Rs 49,07,372/- demand raised on the month of 11/2016.

12. A perusal of the rival contentions of Appellant and the Respondents shows that initially Appellant claimed that Rs 80,79,520/- (FSA of FY 2011-12 & 2012-13 + voltage surcharge) shall be under Court case amounts instead of Rs 4,65,43,645/- shown by the Respondents as on 23.03.2018 and Rs 15,80,483/- excess paid to be adjusted. Further sought reply from the Respondents over the amount shown as Rs 13,89,382/- under other's account. Whereas the Respondents submitted case wise breakup of the Court cases pending under various Courts as shown at Table-A above. Against the above said details given by the Respondents there was nothing specific remarks submitted by the Appellant, as to on what grounds that the Court cases amounts given at Table-A other than Rs 80,79,520/- shall be withdrawn.

13. In terms of claim towards excess demand paid, the Appellant pointed towards the stray amounts of excess paid against corresponding demands such as in the month of Nov'2013, Aug'2016 and Jan'2017. A perusal of the debit/credit statements submitted by the Respondents shows that there are numerous occasions where the Appellant reduced payments against the billed monthly demand.

It is not fair just to take into account only excess paid amounts, leaving the less paid amounts, the Respondents had submitted the billing records clearly showing the month wise billed demand and collection received and also shortfall amounts during various months, taking into account excess and less paid was overall accounted to Rs 27,94,745/-. There will be opening balance amounts if paid less in any month, which will be automatically added to the monthly bills. Hence, there is no

strength in the argument of the Appellant to set aside the excess paid amounts of Rs 15,80,483/-.

In regard to Rs 13,80,382/- shown under other's account, Appellant has not given any specific remarks to set aside, the only reason given was that the Respondents has not given any reply and they are paying the bills regularly. On scrutiny it is nothing but arrears pending as shown in the arrears column of the CC bill. As there was no error found the clause 7 of Code of Practice has no relevance.

In view of the discussion supra, the issues are decided against the Appellant as there are no favourable grounds submitted by the Appellant for withdrawal of the amounts reported in the Appeal.

Issue No.4

14. In the result, the Appeal is dismissed.

TYPED BY Office Executive cum Computer Operator, Corrected, Signed and Pronounced by me on this the 18th day of August, 2020.

Sd/-

Vidyut Ombudsman

1. M/s. Binjusaria Ispat Pvt. Ltd., C-1, Govt. Industrial Estate, Chandulal Baradari, Hyderabad - 500 064. Cell: 9848563999, 7036205211
 2. The DE/OP/Shadnagar/TSSPDCL/RR Dist.
 3. The SAO/OP/Rajendra Nagar/TSSPDCL/RR Dist.
 4. The SE/OP/Rajendra Nagar Circle/TSSPDCL/RR Dist.
- Copy to :
5. The Chairperson, CGRF-GHA, TSSPDCL, GTS Colony, Vengal Rao Nagar, Hyd.
 6. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul,Hyd.