



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
Second Day of September 2020

Appeal No. 05 of 2020-21

Preferred against Order dt.29.02.2020 of CGRF in
CG No. 578/2019-20 of Medchal Circle

Between

Sri.N.Ravi Babu, Plot No.771, Subhash Nagar, IDA, Jeedimetla, Pipeline Road,
Hyderabad - 500 055. Cell: 9963995563.

... Appellant

AND

1. The AE/OP/Jeedimetla(IDA)/TSSPDCL/Hyderabad.
2. The ADE/OP/Jeedimetla/TSSPDCL/Hyderabad.
3. The AAO/ERO/Jeedimetla/TSSPDCL/Hyderabad.
4. The DE/OP/Jeedimetla/TSSPDCL/Hyderabad.
5. The SE/OP/Medchal Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 18.06.2020 coming up for final hearing before the Vidyut Ombudsman, Telangana State on 12.08.2020 at Hyderabad in the presence of Sri. N. Ravi Babu - Appellant and Sri. M. Sairam - AAO/ERO/Jeedimetla for the Respondents and having considered the record and submissions of both parties, the Vidyut Ombudsman passed the following;

AWARD

M/s.Ravi Mirchi Flour Mill with SC.No.0125 04260 of category -3A Plot no 771, Subash Nagar, IDA,Jeedimetla Hyderabad -500055 established in 2006. The Appellant submitted that his unit has a contracted load of 35HP, using the power only for fabrication purposes, paying electricity bills for about Rs 27,000/- approximately for a month which is the maximum charge for 35 HP.

The Appellant further submitted the following:-

There was a surprise inspection conducted on my premises on 24.03.2012 at 13.00 Hrs, by the DE/DPE/RR north as the unit was having old machinery stored in the premises the inspecting authority had wrongfully added up the capacity of all the machines present and stated that we are having a connected load of 112 HP and had penalized to pay Rs 2,24,000/- (Rs 1,68,000/- development charges and Rs 56,000/- has security amount in protest for the first few months).

Since then we have been charged on the LT connection 35HP only and we have been paying all the bills at the same rate for the past 7-8 years.

In the period between March 1st 2012, when the power was disconnected to my unit and until the payment of Rs 2,24,000/- (Consumption Deposit and Development Charges) in the month of may 2014 was made. I was surprised to receive a notice on 20.01.2020 from the AAO/ERO/Jeedimetla/TSSPDCL/ asking me to pay fixed charges for Additional Load Contracted of 112HP against the actual contracted load of 35HP for the sum of Rs 4,46,460/-.

I was surprised to receive the notice. My unit being the small scale industry and since we belong to the Scheduled Caste category we don't have the financial capacity.

As is globally known, MSMEs play a very significant role in the economy by generating huge employment opportunities and social equity in india. MSMEs are present in almost all economic activities. MSMEs are, therefore, a very significant component of the large social and economic system.

I will not be in a position to pay the penalty amount. I also wish to inform you that I have already informed the various officers of the electricity board that 35HP power was sufficient for my unit. It is wrong on the part of the board to leave this amount due to no fault of mine. They should have taken action on my request to limit our contracted load to 35HP only which was not done.

On the above grievance complaint filed by us to the Honorable Chairperson (CGRF-2), requesting for relief and order was passed on 29th of February 2020 allowing a partial relief and asking us to pay fixed charges amount for 3 years on the service.

Connection for the period from December, 2016 to December, 2019 (36 months) for excess load of 112HP and to collect the same within 15 days from the date of receipt of this order(received by me on 13/03/2020).

I hereby plead and request your Honorable self to kindly look into the following points not considered by the Honorable Chairperson as under.

I have been issued bills under LT category (35 HP only) right from the time of reconnection i.e May 2014 till January,2020 which clearly showed that my connected load was 35HP only up to Jan,2020.

It has also been stated by the Honorable Chairperson(CGRF-2) in the last paragraph of points number 7 before the order. I Quote”In this case the licensee through respondents are claiming fixed charges for the period December,2016 to December,2019 i.e around 36 months but since there is a negligence on the part of R3(to regularize load 112 HP in the EBS).

2. Written statement of Respondent no 3, AAO/ERO/Jeedimetla

A case was booked against Sc No. 0125 04260 of M/s RAVI MIRCHI FLOUR MILLS, Plot no 771, Subhash Nagar, IDA Jeedimetla for unauthorised utilisation of additional load and a Provisional Assessment Order was issued for payment of development charges, Security Deposit and services line charges, and an amount of Rs 2,24,000/- for the regularization of the load from 35 HP to 147 HP and the payment was made by the consumer on 27/08/2014, but the load was not regularized.

Further instructions were issued to regularise the unauthorized load immediately where 100% payments are already received and to raise the shortfall demand towards fixed charges and energy charges KVAH units for the period billing from the date of inspection to date of regularization of unauthorised loads. Hence a notice was issued to the consumer for payments of fixed charges from the date of inspection to october 2019 for Rs.430780.00 and request to pay within 30 days from the date of receipt of the notice.

A Final Assessment Order was issued finalizing the Additional load as 112 HP i.e from 35 HP to 147 HP and the demand for fixed charges were raised for Rs 4,46,460/- on 09.01.2020 as per final Assessment order as for the same a notice was issued to the consumer for payment.

It is to submit that the consumer has initially complained before the Hon'ble CGRF(Consumer Grievances Redressal Forum vide C.G.NO 578/2019-20 Medchal Circle. The Hon'ble Consumer Grievances Redressal Forum of TSSPDCL, has disposed off the case, as “ the Respondents/Licensee are hereby directed to revise the fixed charges amount only for three years on the service connection of the consumer bearing S.C.No 0125 04260 i.e for the period from december 2016 to december 2019(36 months) for excess load of 112 HP and collect the same (after revision) from the consumer.”

Further it is to submit that a letter was submitted to the Chief General Manager(comm)/corporate Office/ TSSPDCL requested to arrange to issue necessary instruction for implementation of the Hon'ble Consumer Grievances Redressal Forum order and after receiving the instruction the Hon'ble Consumer Grievances Redressal Forum orders will be implemented.

Further it is to submit that the consumer of SC.NO 0125 04260 is due payment of Rs.7,84,163.00.00 as on 30.06.2020.

3. In addition to the main Appeal, the Appellant submitted further written arguments as following:-

This is an appeal filed by M/s RAVI MIRCHI FLOUR MILLS, represented by its proprietor N.Ravi Babu. The Appellant is an industrial unit with electricity SC No.012504260 of category 3A and situated at plot no 771, Jeedimetla hyderabad, established in 2006.

The unit of the consumer has a contracted load of only 35HP as power is being used for fabrication purpose, bills of about Rs 27,000/- were being demanded and paid regularly. An inspection was said to be conducted by a DE on 24-03-2012 and allegation was made that while the contracted load is 35 HP, the connected load was 112 HP and there was an excess load. Surprisingly, on the basis of idle machinery which was actually scrap lying in the premises, the wrong calculation of excess load of 112 HP was done and notice dated 03-03-2011 was issued by the ADE for payment of development charges Rs.1,68,000/- and security deposit of Rs 56,000/- , totally Rs 2,24,000/-.

As power was disconnected the consumer paid the amount by the may 2014 under protest. After sleeping over the matter for about 8 years after the inspection on 24-03-2012, on 20-01-2020 the AAO/ERO/Jeedimetla seems to have

passed and order regularising the additional load and levied charges of Rs 4,46,460/- for the period from April 2012 to December 2019.

Questioning the said demand the consumer approached the Consumer Grievances Redressal Forum and the said forum passed an order dated 29-02-2020 partly allowing the case of the consumer and made an award directing TSSPDCL to revise fixed charges and levy them only from december 2016 to december 2019 for a period of 3 years for excess load of 112 HP.

Aggrieved by the said orders dated 29-2-2020 of the Consumer Grievances Redressal Forum, the instant appeal is filled before the Hon'ble Ombudsman on the following grounds.

GROUND:

1. That the order of the Consumer Grievances Redressal Forum dated 29-2-2020 directing TSSPDCL to refix the fixed charges for three years for the excess load of 112 HP is not in accordance with law and the Consumer Grievances Redressal Forum ought to have allowed the case of the consumer completely and not partly and the demand of TSSPDCL ought to have been held to be illegal.
2. That the consumer unit was admittedly only consuming power at 35 HP as on the date of inspection and during the entire period from 2012 to 2020, the unit was demanded bills are per actual consumption which was only at 35 HP.
3. That the provisional assessment notice increasing the sanctioned load to 112 HP without actually regularising the sanctioned load and demanding a large amount was itself illegal as it was based on idling machinery lying in the premises but the consumer paid the amount under threat and coercion.
4. That the consumer on 4-10-2012 itself demanded for re-inspection and questioned provisional assessment and the said letter was acknowledged but no action was taken.
5. That the order dated 9-1-2020 demanding the consumer to pay fixed charges of an amount of 4,46,460/- is wholly illegal as the consumer was not consuming energy at 112HP during the period.
6. That the order dated 9-1-2020 demanding 4,46,460/- is barred by the law of limitation under the Electricity Act,2003 as the demand arose on 24-03-2012 and after March 2014, not a single Rupee can be collected.
7. That according to Section 56(2) of the Electricity Act, 2003 notwithstanding anything contained in any other law for the time being in force, no sum due from

any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

8. That the maximum time allowed for demanding payments due under the limitation Act,1963, under any article in the schedule is only 3 years from the date the amount becomes payable.
9. That even according to the consumption bills raised by TSSPDCL regularly during the period after inspection, there was no consumption of electricity at 112Hp by the machines.
10. That once a demand is barred by the law of limitation, the entire demand has to be declared as illegal and cannot be calculated for the last three years.
11. That the Hon'ble Ombudsman may permit the appellant to raise any other ground that may arise in the course of hearing.

For the said reasons and others to be urged at the time of hearing it is humbly prayed that this hon'ble Authority may be pleased to set aside order dated 29-02-2020 of the Consumer Grievance Redressal Forum, and pass such other orders or orders which are deemed fit in the facts and circumstances of the case.

Heard both sides.

Issues

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

1. Whether the back billing demand of Rs 4,46,460/- issued vide LR.No.AAO/ERO/JDML/JAO Billing/D.No.2516/2019-20 dt: 17.01.2020 is liable to be set aside? And

2. To what relief?

Issue No.1

5. The Appellant Sri. N.Ravi Babu, bearing the electricity connection 0125 04260 pleaded for withdrawal of back billed amount of Rs.4,46,460/- demanded vide Lr.No 2280 dt: 18.10.2019, levied in view of shortfall of Fixed Charges from 24.03.2012.

That the service connection S.C. No: 0125 04260, under Cat-III, was released on 15.03.2007. That on 24.03.2012, the ADE/DPE/R.R. North, inspected the Appellants Service and observed that an excess load of 112 HP over and above sanctioned load of 35 HP is connected. Accordingly the case was booked vide Case No: DPE/ RRN/SD01/4839/12, dt: 24.03.2012 and R2, (ADE/Op/Jeedimetla) issued Provisional Assessment Notice (PAO) vide Lr. No - ADE/Op/ JDML/F.No.8/D. No - 3463, dt: 26.03.2012, for payment of Development Charges of Rs. 1,68,000 + Rs. 56,000/- towards Security Deposit amount totaling to Rs. 2,24,000/- for regularizing the additional load against the service connection. The Appellant paid the amount on 27.08.2014, vide PR No. 1315232631.

But all of sudden the Respondents insisted on the payment of fixed charges of Rs. 4,46,460/- by passing JE. No: 9000000. Dt - 09-01-2020, without giving any Opportunity to the Appellant. Hence the Appellant approached the Forum contending that when the Respondents have not claimed and demanded in Provisional Assessment Notice by R2 nor there is any continued demand for the said fixed charges, how the Respondents are entitled to claim the said demand. The CGRF disposed of the appeal directing that the claim of the Respondents for the fixed charges more than (3) years is barred by limitation and the Licensee are not entitled for fixed charges beyond the (3) years as per general law of limitation under the Limitation Act,1963.

6. The Appellant pleaded to set aside the fixed charges on the grounds, that the excess load was not regularised and additional load detected is based on idle machinery and they have paid the amount under threat and coercion, though the Appellant claimed for re-inspection to that extent produced the letter dt.04.10.2012, there was no action. Further claimed that the Appellant is not consuming additional 112 HP during the period, that the demand is barred by the Law of Limitation under Limitation Act, 1963, also once the demand is barred by law of limitation the entire demand is declared as illegal. Based on Section 56(2) of the Electricity Act 2003 the demand arose on 24.08.2012 and after March'2014 is not liable to be paid.

7. Perusal of the dispute shows that the Respondents failed to do their duty to regularise the additional load of 112 HP soon after receiving payments on 27.08.2014. They came to know of the irregularity only after the circulars given by the higher management during the year 2019. This shows that there is clear negligence of duty. The grounds preferred by the Respondents are that the tariff

rates governed by the Tariff Orders, issued by the Hon'ble Commission from time to time. That the Fixed Charges are to be levied corresponding to the contracted demand of the service connection. Non regularisation of excess connected load of 112 HP in the billing data resulted in shortfall of fixed charges. Brief details of levy of fixed charges is given below:-

Tariff start date	Tariff end date	No.of months	Rate	Load	Charges
01.04.2012	31.03.2013	12	50	112	67200
01.04.2013	31.03.2015	24	37.5	112	100800
01.04.2015	30.06.2016	15	39.75	112	66780
01.07.2016	31.12.2019	42	45	112	211680
Total					446460

8. During the course of hearing in the CGRF, the present load of the premises of the Appellant connected to the subject service connection is submitted by the DE/OP/Jeedimetla vide Lr.No.3691/2019-20 dt.29.02.2020 is as follows:-

Sl.No.	Name of the Machinery	No. of Machinery	Load in HP	Total in HP
1.	Welding machine	4x6KW	24	32
2.	Compressor	1	2	2
3.	Drilling machine	1	0.5	1
4.	Rolling machine	1	2	2
5.	Punching machine	1	2	2
6.	Drilling machine	1	2	2
7.	Lathe machine	1	2	2
8.	Hand grinding	1	0.5	0.5
9.	Lighting load and AC	1 X 5 K Watts	5	6.7
Nature of work: Fabrication			Total	50.2

On contrary to the above, the DE/OP/Jeedimetla vide Order No.DE/OP/DIVISION/DAT/D.no.3015 dt.08.01.2020 issued Final Assessment Orders now, confirming the excess load detected 112 HP in the year 2012, on the grounds

that there is no Appeal/representation of the Appellant, quiet opposite to the claim of the Appellant's letter dt.04.10.2012, opposing the detection of excess load.

A perusal of the recorded maximum demands since March'2012 to Jan'2020 shows that the Appellant's recorded maximum demand was always below the contracted load of 35 HP. Only once recorded maximum demand was 43.80 in the month of Oct'2012.

9. It is found that there is a prominent lapse on the part of the Respondents in not giving opportunity to the Appellant to opt to remove the excess load claimed. The provisional assessment notice D.No.3463 dt.26.03.2012 issued by the ADE/OP/Jeedimetla is in violation of the following proceedings issued by the Hon'ble Commission.

The proceedings of the ERC vide Proceedings No. APERC/Secy/01/2012 Dt.07.03.2012 is reproduced here under:-

ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
4th Floor, Singareni Bhavan, Red Hills, Hyderabad – 500 004

Amendment of General Terms and Conditions of Supply – Approval - Issued.

Proceedings No. APERC/Secy/01/2012

Dated: 07-03-2012

Read the following:

1. JMD(D&H)ED/Plg,RAC/APERC/D, No 53/11 dt 23-05-2011
2. Secy/01/2006 Dated: 06-01-2006

During the review meeting held on 08-11-2011, the Discoms expressed difficulty in implementing the provisions of GTCS under clause 12.3.3 and requested the Commission to make certain relaxations. The Discoms stated that when an additional load is detected during inspection of an industrial service, the consumer should be given an opportunity to remove the additional connected load, if it is not required for him, as provided in clause 12.3.1 for HT services and in clause 12.3.3.3. The JMD (D&H)/APTRANSCO submitted a written representation to the Commission vide reference 1 cited.

The Commission considered the representation submitted by the Discoms and felt that the certain amendments are required for well being of the consumer and hereby approves the following amendments to the General Terms and Conditions of Supply issued vide proceedings No: Secy/01/2006 Dated: 06-01-2006.

- 1) The Distribution Licensees shall make available the copies of these GTCS (Amendment) - 3 /2011 at all their offices down to the Section Level for reference by any consumer who desires to refer to the same during working hours.
- 2) For clause 12.3.3.1, the following clause shall be substituted, namely:-

"12.3.3.1(i) One Month notice shall be given to regularise the additional Connected Load or part of additional load as per the requirement of the Consumer or to remove the additional connected load. If the consumer desires to continue with the additional connected load, he shall pay the required service line charges, development charges and consumption deposit, in accordance with the format prescribed in Appendix IX.



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However, if the consumer opts to remove the additional connected load and if the additional load is found connected during subsequent inspection, penal provisions shall be invoked as per the rules in vogue."

3) For clause 12.3.3.2(iii), the following clause shall be substituted, namely:-

"12.3.3.2(iii) One Month notice shall be given to regularise the additional Connected Load or part of additional load as per the requirement of the Consumer or to remove the additional connected load. If the consumer desires to continue with the additional connected load, he shall pay the required service line charges, development charges and consumption deposit required for conversion of LT service into LT 3(B) or HT service depending upon the connected load. However, if the consumer opts to remove the additional connected load and if the additional load is found connected during subsequent inspection, penal provisions shall be invoked as per the rules in vogue."

This Order is signed by the Andhra Pradesh Electricity Regulatory Commission on 07th March, 2012

(BY ORDER OF THE COMMISSION)



[Handwritten Signature]

SECRETARY

5/6

SECRETARY
A.P. Electricity Regulatory Commission
Hyderabad.

In addition to the above amendments, the Hon'ble Commission issued revised notices for regularisation of additional load detected under Appendix IX(A), which is reproduced here under:-

Appendix IX (A)

Notice for Regularization of Additional Load Detected

Lr. No. _____

Dated: _____

From

To

Sub: - Regularisation of Additional Load- SC No. _____ Category _____
of _____ (Dist)

1. Inspection undertaken

Your service connection, bearing No. _____ Category _____, Village/
Section _____ was inspected on _____ at _____ hours
by _____ designation _____.

2. Incriminating Points observed

The Contracted Load _____ HP/kW

The Connected Load as per the Inspection _____ HP/kW

Excess of Connected Load over the Contracted Load _____ HP/kW

The Additional Connected load is Un-authorized hence, in this connection you are directed to regularize the additional connected load, partly or fully or to remove the additional load as per your requirement within 30 days from the date of service of this notice as per the clause 12.3.3 of GTCS.

For regularization of the required additional load, you are requested to pay the following charges at the rates mentioned below.

- a) Development charges _____ per HP/KW
- b) Security Deposit _____ per HP/KW
- c) Service line Charges _____
- d) Supervision Charges _____

For the regularization of the above full additional load i.e. _____, you are requested to pay the following charges within 30 days.

Service Line charges	Development charges	Security Deposit
	2000.0	400.0

If you opt to remove the additional connected load or part of additional connected load, you may make a representation to the Divisional Engineer/Operation _____ within 15 days from the date of service of this notice. In case there is no representation, your service will be disconnected immediately on expiry of the notice period of 30 days from the date of service of this notice and your service will remain under disconnection until the payments are received and additional Connected Load is regularized

If any additional load is found connected during subsequent inspection penal provisions shall be invoked as per rules in vogue.

Signature of the Designated Officer

Copy to:

Designated officer for payment of assessed amount
Section officer

The above given amendments were accorded approval by the Hon'ble Commission based on the difficulty expressed by the DISCOMS in implementing the provisions of the GTCS under clause 12.3.3 and their request to make certain relaxations. The DISCOMs stated that when an additional load is detected during inspection of an industrial service, the consumer should be given an opportunity to remove the additional connected load, if it is not required for him, as provided in Clause 12.3.1 for HT services and in clause 12.3.3.3. The Hon'ble Commission considered the representation submitted by the DISCOM's and felt that the certain amendments are required for the well being of the consumers and approved the above given amendments.

The Provisional Assessment Notice issued by the ADE/OP/Jeedimetla dt.26.03.2012 is not in order with the above given notice prescribed under Appendix IX(A). At the time of issue of the PAO notice the amendments of the GTCS provisions under Clause 12.3.3 had already come into force as on 07.03.2012. This means the Respondents did not incorporate the changes prescribed by the Hon'ble Commission, and continued to issue the Provisional Assessment Notice against the said amendments.

10. It is clearly established that the PAO notice is against the proceeding No.APERC/Secy/01/2012 dt:07.03.2012. The Respondents ought to have followed the proceedings of the ERC. Had the opportunity been given to the Appellant, as per the provisions laid down, the Appellant could have availed the relaxations, resulting in a judiciously correct situation for levy of Fixed charges. The PAO notice issued is unwarranted, FAO Dt:08.01.2020 issued recently ignoring the objection of the Appellant vide letter dt.04.10.2012, against the detected excess load of 112 HP is not admissible and the utilisation of load much below the RMD of 35 HP all around

the period, also sums up the claim of the Appellant. Hence imposing the excess load, taking coercive action for payment and on the pretext of it, now claiming the fixed charges is not justified. In the face of it, the back-billing demand towards fixed charges relying on the PAO notice is not admissible and against the provisions of the Hon'ble Commission, hence imposing fixed charges on the questionable excess load of 112 HP is unjustified.

In regard to the present contracted load of 147HP, the Appellant is free to apply for the deration of CMD as per their requirement based on the procedures laid down, though he may have availed this option on regularisation of 112HP load. The Respondents are directed to take action accordingly on receiving the application.

In the end, the fixed charges back billed for an amount of Rs 4,46,460/- issued vide Lr.No.AAO/ERO/JDML/JAO Billing/D.No.2516/2019-20 dt: 17.01.2020, is liable to be withdrawn.

Issue No.2

11. In the result, the appeal is allowed and the back billing notice for payment of an amount of Rs 4,46,460/- is set aside.

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

Sd/-

Vidyut Ombudsman

1. Sri.N.Ravi Babu, Plot No.771, Subhash Nagar, IDA, Jeedimetla, Pipeline Road, Hyderabad - 500 055. Cell: 9963995563.
2. The AE/OP/Jeedimetla(IDA)/TSSPDCL/Hyderabad.
3. The ADE/OP/Jeedimetla/TSSPDCL/Hyderabad.
4. The AAO/ERO/Jeedimetla/TSSPDCL/Hyderabad.
5. The DE/OP/Jeedimetla/TSSPDCL/Hyderabad.
6. The SE/OP/Medchal Circle/TSSPDCL/Hyderabad.

Copy to :

7. The Chairperson, CGRF-GHA, TSSPDCL, GTS Colony, Vengal Rao Nagar, Hyd.
8. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul,Hyd.