



BEFORE THE VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV Substation, Hyderabad Boat Club Lane
Lumbini Park, Hyderabad - 500 063

**PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDYUT OMBUDSMAN**

THURSDAY THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY TWO

Appeal No. 05 of 2022-23

Between

M/s. Sai Ram Krishna Minerals & Projects, Jayyaram Village, Ramagundam
Mandal, Peddapalli District, represented by Sri. M. Venkataswamy (Managing
partner), Ph No. 9948339333 & 7036205211.**Appellant**

AND

1. The Assistant Divisional Engineer / Operation / Ramagundam - 8331034990.
2. The Divisional Engineer / Operation / Manthani - 9491045995.
3. The Senior Accounts Officer / Circle Office / Peddapalli - 7901092685.
4. The Superintending Engineer / Operation / Peddapalli - 7901093955.

..... **Respondents**

This appeal is coming on before me for final hearing on 21.09.2022
in the presence of Kumari Nishtha, authorised representative of the appellant
and Sri D. Raj Kumar - ADE/OP/Ramagundam and
Sri B. Gajanlal - JAO/Peddapalli representing the respondents and having
stood over for consideration till this day, this Vidyut Ombudsman passed the
following:-

AWARD

This appeal is preferred aggrieved by the Award passed by the Consumer Grievances Redressal Forum - Warangal (in short 'the Forum') of Telangana State Northern Power Distribution Company Limited (in short 'TSNPDCL') in C.G. No.261 / 2021-22/ Peddapalli Circle dt.31.03.2022, closing the appeal holding that the appellant has to pay Development Charges.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant is that the appellant has applied for revival of its Service Connection No. PDL-198, Category - HT(I) under Sick Industry Revival Scheme 2021-22, which was approved on 07.04.2021. While approving the revival the appellant was instructed to pay Rs. 22,56,249/- which included Development Charges of Rs. 4,95,600/- (350 x Rs 1200/- + Rs 75,600/- G.S.T @ 18%). The grievance of the appellant is that, since the appellant paid Development Charges initially, therefore the respondents cannot again direct it to pay the above said Development Charges while reviving the sick industry. Therefore, the appellant prayed the learned Forum to withdraw the claim of Development Charges of Rs. 4,95,600/-.

CASE OF THE RESPONDENTS BEFORE THE FORUM

3. In the written submissions of respondent No.4, it is inter-alia, submitted that the subject Service Connection was disconnected and kept

under 'Bill-stop' service for non-payment of C.C. charges. On the representation of the appellant, the sick industry of the appellant was revived subject to payment of Rs. 22,56,249/-, which included Development Charges of Rs. 4,95,000/-. The appellant is liable to pay the said Development Charges.

AWARD OF THE FORUM

4. The learned Forum, after considering material on record and after hearing both sides, has closed the complaint filed by the appellant holding that the appellant has to pay the Development Charges.

5. Aggrieved by the Award passed by the learned Forum, the present appeal is preferred, contending among other things, that the learned Forum has passed the Award without properly analysing the facts on record and without properly considering the relevant provisions.

GROUND OF THE APPEAL

6. In the grounds of the appeal, it is, inter-alia, submitted that as per Clause 8(6) of Regulation 4 of 2013 dt.29.07.2013 of the then Hon'ble Andhra Pradesh Regulatory Commission, the respondents are not entitled to collect Development Charges for restoring the de-rated capacity to the original level. It is also submitted that there is no provision of law in force for time being which allows the Licensee to claim Development Charges on two occasions even in Sick Unit Revival Scheme. Therefore it is prayed to set aside the impugned Award and declare the claim of Development Charges as illegal.

WRITTEN SUBMISSION OF THE RESPONDENTS

7. In the written submissions by respondent No.4, before this Authority, it is, inter-alia, submitted that the appellant has to pay Development Charges for the load required and the said charges cannot be waived.

8. In the rejoinder filed by the appellant it is submitted that the Development Charges claimed are in violation of the letter of then Hon'ble APERC approved vide Lr.No.APERC/Secy/DIR(Tariff) D.No.4966/2001 dt.05.11.2001. Accordingly it is prayed to allow the appeal by setting aside the impugned Award.

ARGUMENTS

9. The learned authorised representative of the appellant has submitted that the appellant industry was revived under Sick Industry Revival Scheme, in such event the appellant is not required to pay the Development Charges again and that the respondents have no power to demand Development Charges. Therefore it is prayed to allow the appeal and to set aside the impugned Award passed by the Forum.

10. On the other hand it is submitted on behalf of the respondents that even in the Sick Industry revival scheme, the appellant is liable to pay the Development Charges as required and as such it is prayed to reject the appeal.

POINTS

11. The points that arise for consideration are:-

- i) Whether the appellant is not liable to pay the Development Charges?
- ii) Whether the impugned Award of the learned Forum is liable to be set aside? and
- iii) To what relief?

POINT No. (i) and (ii)

SETTLEMENT BY MUTUAL AGREEMENT

12. Both the parties have appeared before this Authority on 21.09.2022. Efforts were made to reach a settlement between the parties through the process of conciliation and mediation. However, no settlement could be reached. The hearing, therefore, continued to provide reasonable opportunity to both the parties to put-forth their case and they were heard.

REASONS FOR DELAY IN DISPOSING OF THE APPEAL

13. Since I took charge as Vidyut Ombudsman on 01.07.2022 and since there was no regular Vidyut Ombudsman earlier, the appeal was not disposed of within the prescribed period.

ADMITTED FACTS

14. It is an admitted fact the respondents have released H.T. S.C.No. PDL-198, Category -I in favour of the appellant initially. There is no dispute that the appellant industry was revived under Sick Industries Revival Scheme for 2021-22.

CRUX OF THE MATTER

15. As already stated the dispute in the present appeal is in respect of payment of Development Charges. At this stage it is necessary to know the necessity and concept of Development Charges. It is the amount payable by the consumer towards release of new and additional loads under Low Tension and High Tension supply at the rates notified by the Licensee from time to time. These charges generally be paid by the consumers in advance and otherwise the works for extension of supply shall not be taken up. Normally these charges are not refundable. At this stage it is also necessary to refer to Clause 5.3.3.1 of General Terms and Conditions of Supply (in short 'GTCS') which reads as under:-

“The amounts payable by the consumer towards development charges of new connection/ additional load under LT and HT categories shall be at the rates notified by the Company with the approval of the Commission from time to time. The consumer shall pay these charges in advance, failing which the works for extension of supply shall not be taken up. These charges are non-refundable.”

16. The appellant has relied on the Regulation 4 of 2013 under Clause 8(6) and Scheme of Revival of Sick Industry. The Regulation 4 of 2013 Clause 8(6) restricts the Licensee to collect the Development Charges for the services which were derated previously and now restoring the derated CMD to the original level. Appellant claims that the same shall apply to the consumers disconnected long back seeking restoration of supply to the sick industries.

The basic difference between both the issues can be understood with Clause

5.9.6 of the GTCS:-

“Dismantlement of Service Line after Termination of Agreement: On the termination of the LT or HT Agreement, the company is entitled to dismantle the service line and remove the materials, Meter, cut out etc. After termination of the Agreement, the consumer shall be treated as a fresh applicant for the purpose of giving supply to the same premises when applied for by him provided there are no dues against the previous service connection.”

17. In case of restoration of derated CMD to the original capacity, the LT/HT agreement shall be enforced and live. In the other case where the Service Connection having power supply disconnected and LT/HT agreement is terminated long back, the Service Connection ceases to exist literally until the pending dues were paid and now seeking restoration of power supply under revival scheme, the consumer shall be treated as a fresh agreement as per the Clause 5.9.6. There is no comparison between both the cases, one is the running Service Connection, derated the CMD previously and restored it to the original CMD. The other is terminated Service Connection seeking to avail supply with fresh agreement. This shall be treated as new Service Connection, thereby requiring to pay the relevant Development Charges and Security Deposit as per the load.

18. In the Commission orders produced by the appellant towards revival scheme, nowhere it was stated that Development Charges are not required to be paid.

19. The Lr.No.E-273/JD(Engg)/2018 dt.29.11.2018 was issued by the Hon'ble APERC. The Hon'ble TSERC had not given any such directions over non-payment of Development Charges under the policy of Sick Unit Revival Scheme.

CONCEPT OF DEVELOPMENT CHARGES

20. The Hon'ble High Court of Andhra Pradesh in Hind Re-Rolling Industries v. APSEB and Ors.¹ more or less, in a similarly situated case regarding entitlement of the Licensee to collect the charges like Development Charges held as under:-

Thus, in my considered view the Board is entitled to collect from the consumers the pro rata capital cost incurred or proposed to be incurred for expanding its facilities from the prospective or existing consumers seeking loads and the same can neither be deemed as irrational nor arbitrary and it is neither conjiscatory nor penal. But on the other hand, it is an obligation cast on the consumers to contribute to the Board to enable it to discharge its statutory obligations with which it is charged. Thus viewed from this perspective the charges demanded by the respondent-Board under B.P. Ms. No. 1160, dated 3.11.1989, though styled as service line charges is nothing but collection of pro rata capital cost on the basis of demand requisitioned, which the Board is lawfully entitled to collect from its consumers in exercise of its power by framing terms and conditions of supply under Section 49 of the Act.

In the present appeal, the respondents have claimed Development Charges of Rs.4,95,600/- inclusive of G.S.T. legally. There is no reason to reject or waive the said claim either at the time of release of new connection or reconnection after dismantling the earlier connection or even in revival of Sick Industry as in

¹ 2004(6) ALD-722

the present case. Therefore, I hold that there are no sufficient grounds to waive the Development Charges as claimed by the appellant. Therefore the Award of the learned Forum is not liable to be set aside. These points are accordingly decided against the appellant and in favour of the respondents..

POINT No. (ii)

21. In view of the findings on point No. (i) and (ii) the appeal is liable to be rejected.

RESULT

22. In the result, the appeal is rejected, without costs, confirming the impugned Award passed by the learned Forum. The interim order passed by this Authority on 07.04.2022, not to disconnect the power supply to the appellant Service Connection pending disposal of appeal subject to payment of $\frac{1}{4}$ th of the amount of Rs. 4,95,600/- is vacated. Accordingly the appellant is liable to pay the balance amount.

A copy of this Award is made available at <https://vidyutombudsman-tserc.gov.in>.

Typed to my dictation by Office Executive-cum-Computer Operator, corrected and pronounced by me on this the 27th day of October 2022.

Sd/-

Vidyut Ombudsman

1. M/s. Sai Ram Krishna Minerals & Projects, Jayyaram Village, Ramagundam Mandal, Peddapalli District, represented by Sri. M. Venkataswamy (Managing partner), Ph No. 9948339333 & 7036205211.
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Copy to

6. The Chairperson, Consumer Grievances Redressal Forum-I, TSNPDCL, Warangal, H.No.2-5-58, Opp: Head Post Office, Nakkalagutta, Hanamkonda, Warangal District - 506 001.

APPEAL NO. 05 OF 2022-23