



BEFORE THE VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

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

**PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDYUT OMBUDSMAN**

TUESDAY THE FOURTH DAY OF JULY
TWO THOUSAND AND TWENTY THREE

Appeal No. 10 of 2023-24

Between

Sri Eshan Kumar Agarwal, s/o. Late Suresh Kumar Agarwal, H.No.6-4-36/A/11,
Bholakpur, Secunderabad - 500080. Cell: 9505507402 and 7036205211.

.....Appellant

AND

1. The Assistant Divisional Engineer / Operation / Habsiguda / TSSPDCL / Hyderabad.
2. The Divisional Engineer / Operation / Habsiguda / TSSPDCL / Hyderabad.
3. The Senior Accounts Officer / Operation / Habsiguda Circle / TSSPDCL / Hyderabad.
4. The Superintending Engineer / Operation / Habsiguda Circle / TSSPDCL / Hyderabad.
5. The Assistant Divisional Engineer / Operation / Padma Rao Nagar / TSSPDCL / Hyderabad.
6. The Divisional Engineer / Operation / Paradise / TSSPDCL / Hyderabad.

..... Respondents

This appeal is coming on before me for final hearing on 15.06.2023 in the presence of Sri Ravinder Prasad Srivastava, authorised representative of the appellant and Sri K. Hanuma - SAO/OP/Habsiguda - respondent No.3 for 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 (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') in C.G.No.371/2022-23, Habsiguda Circle dt.25.04.2023.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant is that the respondents have released Domestic Service Connection Nos. F4025676, PZ009295, PZ009296 to the appellant. The respondents have issued a notice to pay a sum of Rs. 1,03,97,287/- in respect of arrears of M/s.Haryana Steel Ltd., (in short 'the Centre') on the ground that the Service Connections of the appellant are the link services of the said Centre. The claim of the respondents is barred by limitation. The appellant is nothing to do with the said Centre. Therefore it was prayed to set-aside the said claim of the respondents.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

3. In the written reply submitted by respondent No.4, it is stated that the HT Service Connection No. RRE 937 (HBG-937) of the Centre, was released by the respondents. The said service was disconnected due to non payment of CC charges etc., and it was terminated on 29.11.2014, having arrears of Rs. 1,03,97,287/-, without surcharge and other charges. On

verification of records it is found that the address of the Director of the defaulted consumer of M/s. Haryana Steel Ltd., is H.No. 6-4-36/A/11, Bholakpur, Secunderabad. Therefore a notice was issued to the appellant demanding to pay the amount as his services are link services. Aggrieved by the notice issued by the respondents, the appellant approached the learned Forum. The learned Forum in C.G.No 242/2022-23 gave liberty to the respondents to issue (15) days' notice. Thereafter the said (15) days' notice was issued to the appellant. Therefore it was prayed to reject the appeal.

AWARD OF THE FORUM

4. After considering the material on record and after hearing both sides, the learned Forum has rejected the complaint.

5. Aggrieved by the Award passed by the learned Forum, the present appeal is preferred, contending among other things, that the learned Forum has not considered the material on record properly. The claim of the respondents is barred by the limitation. The appellant has no connection with the Centre in arrears. Therefore it is prayed to set-aside the Award of the learned Forum, to set-aside the claim of Rs.1,03,97,287/- and to direct the respondents not to disconnect the power supply of the appellant.

WRITTEN SUBMISSION OF RESPONDENTS

6. In the written reply submitted by respondent No.4, he has reiterated the contents made by him in his written reply filed before the learned Forum. It is accordingly prayed to reject the appeal.

ARGUMENTS

7. Heard both sides.

POINTS

8. The points that arise for consideration are:-
- i) Whether the impugned notice is liable to be set-aside?
 - ii) Whether the impugned Award passed by the learned Forum is liable to be set aside? and
 - iii) To what relief?

POINT No. (i) and (ii)

ADMITTED FACTS

9. It is an admitted fact that the respondents have released HT Service Connection No.RRE-937 (HBG-937) to M/s. Haryana Steel Ltd., It fell due to pay an amount of Rs. 1,03,97,287/- to the respondents. It is also an admitted fact that the respondents have released Domestic Service Connection Nos.F4025676,PZ009295 and PZ009296 to the appellant.

SETTLEMENT BY MUTUAL AGREEMENT

10. Both the parties have appeared before this Authority on different dates. 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

11. The present representation was filed on 19.05.2023. This appeal is being disposed of within the period of (60) days as required.

CRUX OF THE MATTER

12. The material on record goes to show that M/s. Haryana Steel Ltd., was existing with HT Service Connection No. RRE-937 (HBG-937) provided by the respondents. The said Centre was closed and now it is not existing. The said Centre fell due to pay an amount of Rs. 1,03,97,287/- to the respondents towards arrears of CC charges and other charges. The service of the said Centre was terminated by the respondents on 29.11.2014. Respondent No.4 issued a notice on 16.05.2023 demanding the appellant to pay Rs. 1,03,97,287/- on the ground that the Service Connections in premises

H.No. 6-4-36/A/11, Bholakpur, Secunderabad of the appellant are the link services. It is not clear as to how the respondents are connecting the appellant with the Centre and as to how the Service Connection of the appellant are link services. It is the argument of the respondents that the Directors of the Centre used the premises where the appellant is residing at present. At this stage it is necessary to refer to Clause 4.8.1 of Regulation 7 of 2013 which is as follows:-

“Disconnection due to non-payment: Where a consumer neglects to pay any consumption charge for electricity or any other sum due from him to a licensee, by the due date mentioned in the bill, in respect of supply of energy to him, the licensee may after giving not less than fifteen (15) clear days notice in writing to such person and without prejudice to his rights to recover such charge cut off supply of electricity and for that purpose disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity has been supplied, and may discontinue the supply until such, charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply are paid.

In cases of all supply connections, where the disconnection date for non-payment of electricity charges is mentioned in the bill, a separate disconnection notice is not required.

Where any consumer defaults in payments of charges for the supply of electricity and/or any other sums payable to the company under the contract of supply agreement the company, may, without prejudice to its other rights cause to disconnect all or any of the other services of the consumer within the area of supply of the licensee though such services be distinct and are governed by separate agreements and though no default occurred in respect thereof.”

As regards the disconnection of link service as per the above said provision is permissible if the proposed link service is connected to the Service Connection which fell due to pay arrears to the respondents. In other words, in

the present case since the Centre fell due to pay arrears to the respondents, the respondents have to disconnect the Service Connection which is connected to the Centre. Further the word 'consumer' referred to in Clause 4.8.1 stated above is the consumer connected to the Centre. The Centre is a company and the link service shall not be any individual consumer like the appellant in the present case.

13. The learned authorised representative of the appellant has relied upon a judgement of the Hon'ble High Court of Kerala in K.I.SULAIKHA v. KERALA STATE ELECTRICITY BOARD in W.P.(C). No.28705 of 2010 (K) dt. 03.07.2015. The relevant paragraphs of the said judgement are as under:-

7. The sole issue that arises for consideration in this writ petition is as to the legality or otherwise of the recovery proceedings initiated against the petitioners, pursuant to Ext.P1 demand notice, in their capacity as the legal heirs of late M.M.Abdul Kareem, who was the Managing Director of M/s.Galaxy Cements (P) Limited. A reading of the counter affidavit filed by the respondents 1 and 2 would make it explicitly clear that, it is for realizing the electricity dues of the aforesaid company, recovery proceedings are being initiated against the petitioner based on Ext.P1 demand notice. It is not in dispute that Sri M.M.Abdul Kareem died on 30.10.2004, who had executed an agreement with the 1 st respondent Board for availing electricity connection to the company, in his capacity as the Managing Director of that company. The said agreement executed by late M.M.Abdul Kareem for availing electricity connection to the industrial unit established by the company was not an agreement executed in his personal capacity, but one executed in his capacity as the Managing Director of the company. Therefore, if there is any arrears towards electricity charges due from that company under that agreement, it is for the 1 st respondent Board to proceed against the assets of the company.

8. In the case on hand, the 1 st respondent Board has no case that, late M.M.Abdul Kareem had executed any agreement by which he

can be personally proceeded against for recovering the electricity dues of the company in question. The 1st respondent Board have also no case that, the petitioners who are legal heirs of late M.M.Abdul Kareem were the Directors of that company. Since electricity connection to the industrial unit was availed on the strength of an agreement executed by late M.M.Abdul Kareem in his capacity as the Managing Director of the company, no recovery proceedings can be initiated against his personal assets for recovery and electricity dues of that company. If that be so, no recovery proceedings can also be initiated against the legal heirs of the deceased Managing Director of that company as against any property inherited by them. This view, which I have taken is supported by judgement of this Court in Joji Paul's case (supra) in which, interpreting the provisions under the Kerala General Sales Tax Act, 1963, this Court has held that, a company has a distinct entity from its share-holders and Directors and no recovery proceedings can be taken against Directors for recovery of any amount whatsoever due from the company.

9. If the principle laid down by this Court in Joji Paul's case (supra) is applied to the facts of the present case, the conclusion is irresistible that, merely for the reason that late M.M.Abdul Kareem had executed an agreement with the 1st respondent Board in his capacity as the Managing Director of the company, no recovery proceedings can be initiated against the petitioners or against any property inherited by the petitioners as the legal heirs of late M.M.Abdul Kareem. Therefore, the recovery sought to be made in Ext.P1 demand notice against the petitioners cannot be sustained.

14. In the above said judgement one M.M. Abdul Kareem was the Managing Director of M/s.Galaxy Cements (P) Limited. The said company was closed and fell due to pay Rs. 3,86,267/- towards arrears of electricity charges. A notice was issued to the legal representatives of the said Abdul Kareem (petitioners before the Hon'ble High Court) demanding to pay arrears stated above. The Hon'ble High Court has held that the arrears can be recovered from the assets of the company as Abdul Kareem executed the agreement in his capacity as Managing Director and the petitioners are not responsible for

payment of electricity dues as the agreement executed by Abdul Kareem is not in his individual capacity. In the instant case also the respondents can proceed against the assets of the Centre to recover the electricity dues. Therefore the Service Connections of the appellant are not link services and as such the respondents cannot disconnect the said Service Connections. Referring to the last paragraph of the judgement referred to above respondent No.3 has submitted that the licensee has a right to initiate recovery proceedings against the assets of the company for recovering the amount in question. Absolutely there is no dispute about the said recovery proceedings against the assets of the company but the respondents cannot disconnect the Service Connections of the appellant. The respondents can only proceed against the assets of the Centre to recover the arrears in question. In view of these factors, I hold that the impugned notice is liable to be set-aside and the Award of the learned Forum is also liable to be set-aside. Since the impugned notice itself is liable to be set-aside the question of disconnecting the Service Connection of the appellant and also considering the provisions of Sec. 56 (2) of the Electricity Act does not arise. These points are accordingly decided in favour of the appellant and against the respondents.

POINT No. (iii)

15. In view of the findings on point Nos. (i) and (ii), the appeal is liable to be allowed.

RESULT

16. In the result, the appeal is allowed and the Award of the learned Forum is set-aside.

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 the 4th day of July 2023.

**Sd/-
Vidyut Ombudsman**

1. Sri Eshan Kumar Agarwal, s/o. Late Suresh Kumar Agarwal, H.No.6-4-454/3, Bholakpur, Secunderabad - 500 080.Cell: 9505507402 and 7036205211.
2. The Assistant Divisional Engineer / Operation / Habsiguda / TSSPDCL / Hyderabad.
3. The Divisional Engineer / Operation / Habsiguda / TSSPDCL / Hyderabad.
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7. The Divisional Engineer / Operation / Paradise / TSSPDCL / Hyderabad.

Copy to

8. The Chairperson, Consumer Grievances Redressal Forum of TSSPDCL- Greater Hyderabad Area, Door No.8-3-167/E/1, Central Power Training Institute (CPTI) Premises, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad - 45.