



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

Monday the Sixteenth Day of July 2018

Appeal No. 11 of 2018

**Preferred against Order Dt. 18.12.2017 of CGRF in
C.G.No.773/2017-18/Secunderabad Circle**

Between

M/s. S.P.Enterprises, represented by Sri. D. Prasad, Plot No.83/A,
SVCIE, Phase -III, Balanagar, Hyderabad - 500 037. Cell: 9866309304.

... Appellant

AND

1. The ADE/OP/Balanagar/TSSPDCL/Hyderabad.
2. The AAO/ERO/Bowenpally/TSSPDCL/Hyderabad.
3. The DE/OP/Bowenpally/TSSPDCL/Hyderabad.
4. The SE/OP/Secunderabad Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 31.01.2018, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 14.06.2018 at Hyderabad in the presence of Sri. K. Natarak - on behalf of the Appellant Company and Sri. G. Gopi - ADE/OP/Balanagar 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. S.P.Enterprises against the orders of the CGRF in CG No. 773 of 2017-18 Secunderabad Circle.

2. The Appellant contended that they deal with fabrication works under the name and style of M/s. S.P.Enterprises and that since the Respondents have issued a back billing notice to pay an amount of Rs 4,84,216/- for the period from 21.09.2016 to 21.09.2017 with regarding to SC No. SZ069783 of Category IIIA issued in the name of M/s. S.P.Enterprises and SC No. SZ069784 of Category IIIA claiming that both the said service connections are in the same premises though obtained in different names i.e. M/s. S.P.Enterprises and M/s. Multifabs, and are using the said service connections for

the same activity i.e. fabrication works under the single management and since they are running in losses since two years and as such wanted time of one month i.e. upto 1st March to pay the said amount and also sought for waiver of the said back billing charges and hence approached the CGRF for the said relief but the CGRF dismissed their complaint and hence aggrieved by the same the present appeal is filed.

3. The Respondents through ADE/OP/Bala Nagar i.e. Respondent No.1 filed their written submissions vide Lr.No.1977 dt.07.03.2018 stating that the SC No. Z069783 was released in the name of M/s. S.P.Enterprises on 31.03.1994 under LT Category IIIA with a contracted load of 74 HP at Plot No. 83/A of Phase III Balanagar, while the SC No. SZ069784 was released in the name of M/s. Multifabs on 31.03.1994 under LT Category III with a contracted load of 74 HP at Plot No. 82 at Phase III, Balanagar and claimed that the said two service connections are located in one shed which has two shutters with a connection between the two shutters to enable the material to flow from one service connection to another utilising the power under the two service connections and carrying on with the same activity i.e. fabrication works in the said premises under a single management and as such the ADE/DPE/Hyderabad who visited the above premises on 21.09.2017 at 16.15 Hrs booked a case under back billing for Rs 4,85,216/- under HT Category I for a period of one year as the Appellant is availing power supply for the said fabrication works on the said two service since one year, by clubbing the power supply and a provisional assessment notice was served in the consumer i.e. the Appellant herein on 05.10.2017 vide Lr.No. ADE/OP/BLNG/D-XVI/C-VI/D.No.981/17 dt.10.10.2017 for back billing amount of Rs 4,85,216/- and 60 days time was given under Clause 3.5.4 of GTCS to the consumer for conversion of the supply from LT to HT.

4. The Respondent No.1 further contended that he along with AE/OP/Balanagar inspected the Appellant's premises on 08.11.2017 and noted the connected load and the details of the meter of the Appellant as follows:

SC.No.SZ069783

M/s. S.P.Enterprises, Meter No. 181359, Make HPL

KWH	KVAH
111923.8	126347.3
Total connected load:	32.5HP + 9.73 HP (7260 Watts)

SC.No.SZ069784

M/s. MULTI FABS, Meter No. 643200, Make HPL

KWH	KVAH
14153.3	14915.5
Total connected load:	65 HP + 24 HP (18020 Watts)

The total gross connected load of both the services is 131 HP.

That the DE/OP/Bowenpally confirmed the liability for payment of electricity charges at Rs 4,85,216/- vide order No. DEE/OP/BWPY/D.No.3009 dt.08.11.2017.

5. The Appellant through their rejoinder took a contrary plea stating that the M/s. S.P.Enterprises and M/s. Multifab enterprises are two different units and are involved in different activities and as such the Respondents cannot issue a notice for back billing by clubbing the service connections of the said enterprises.

6. A perusal of the said contentions of the Appellant and the Respondents go to show that the Appellant though originally admitted that both the said two service connections i.e. SZ069783 and SZ069784 are being utilised for the same fabrication works and that they are ready to pay the back billing amount yet sought for waiver of the said amount on a ground that they are running in losses since two years, has now come up before this Office with a contrary plea through his rejoinder claiming that the two enterprises are different entities with different activities.

7. Since the Appellant who appeared before this Office and also before the CGRF has himself admitted that M/s. S.P.Enterprises and M/s. Multifab are connected to each other and that they are carrying on with the same work of fabrication though obtained two different service connections in different names cannot now take a contrary plea that the said two concerns are different, independent and are having different activity for the simple reason that no person can be allowed to blow hot and cold at his whims and fancies and create a story that does not exist, particularly without any supportive evidence. Hence rejects the said contention of the Appellant to the extent of its contention that the Service connections allotted to M/s. S.P.Enterprises and the service connection allotted to M/s. Multifabs are having two different entities with independent nature of work and as such this Office is not inclined to consider the evidence adduced by the Appellant on the said aspect also.

8. Hence in the above mentioned circumstances the issues that are required to be decided are :

Issues

1. Whether the Respondents has followed the correct procedure in issuing the back billing notice?
2. Whether the Appellant is liable to pay the amount demanded by the Respondents in their back billing notice dt. 03.10.2017 ? and
3. To what relief?

Issue No. 1 & 2

9. Admittedly though M/s. S.P.Enterprises and M/s. Multifabs are allotted two service connections vide SC No. SZ069783 and SZ069784 respectively they are located in the same premises having two shutters and carrying on one activity i.e. fabrication works in the said premises and that the contracted load allotted to both the said service connections is 74 HP each.

10. The contention of the Respondents is that :

The Tariff Order categorises the consumers based on the contracted/connected load wherein, as per the Clause 9.18 of the Tariff Order 2016-17, the consumers with a contracted load of 75KW/100HP are applicable for supply of electricity under LT-III Industry category and as per Clause 9.85 consumers having contracted demand of 70 KVA and above and /or having contracted load exceeding 56 KW/75 HP falls under HT-I Industry category. Consequent to the above said criteria for categorisation of the consumers, the Respondents held that the appellants services was wrongly categorised under LT-III Industrial category instead of HT-I(A) Industry category and issued back billing notice, by way of clubbing of both the services on the basis of the assessment, the gist of which is reproduced as follows:

ASSESSMENT CALCULATION

DIFFERENCE OF AMOUNT FOR 1 YEAR BETWEEN HT CAT 1 AND LT CAT IIIA BILLING

Sl.No.				
1	SC No.	SZ069783	SZ069784	TOTAL
2	PH	3	3	
3	CATEGORY	III	III	
4	CONTRACTED LOAD	74	74	148
5	EC	118201	127972	246173
6	CC	13500	13500	27000

7	FIXED	39960	39960	79920
8	OTHER	1508	1508	3105
9	BILL AMOUNT	173169	183028	356198
10	UNITS IN KVAH	17642	19100	36742
11	3% LOSS	529.26	573	1102
12	TOTAL ENERGY KVAH	18171	19673	37844

Sl.No.	80% CMD	118.4(80% of 148 HP)
1	EC	251664 (37844 x Rs 6.65)
2	CC	20220 (Rs 1685 x 12 months)
3	FIXED	554112 (118.4 x 12 x Rs 390)
4	TOD	12247 (36742/3)
5	OTHERS	3105
6	TOTAL	841348
7	DIFFERENCE	485149 (841348 - 356198)

The total billed amount under HT-Cat-1, by way of clubbing of the two said services works out to 8,41,348/- and the already billed amount under LT Category III was 3,56,198/-. Hence, the difference of the above said amounts demanded to be paid is Rs 4,85,216/-(4,84,149 + ED Rs 67/-).

11. The Respondents thus levied the back billing charges under the tariff applicable to HT Category I(A) Industry, the rates applicable for such category is placed the table below:

Category	Demand charge * (INR/Month)		Energy charge (INR/KVAH)
	Unit	Rate	
HT I(A): Industry General			
11kV	kVA	390	6.65
33kV	kVA	390	6.15
132 kV and above	kVA	390	5.65
* Demand charge is calculated at INR/kVA/month of the Billing Demand			

The Respondents while back billing the charges as stated above failed to take into consideration that during the Tariff Order FY 2016-17, the Hon'ble Commission has introduced a Sub Category with Contracted Maximum Demand upto 150 KVA under HT I(A) Category at 11kV voltage only and made it an optional category, the relevant Clause is reproduced hereunder:

Clause 7.14. *“Based on the above representations the Commission has introduced a sub-category with contract maximum demand up to 150 kVA under HT-1(A) category at 11kV voltage only and made it an Optional category. The consumers who qualify under this category are at liberty to opt to remain under HT-1(A) or choose the Optional sub-category for which the tariff rates are determined (compared to HT-I (A) General the demand charges are lower and energy charges are higher).”*

Table 57: HT-I (A) introduction of sub-slab by the Commission for FY 2016-17

Existing Tariff Sub-Category	Revised Tariff Sub-Category
No existing sub category called optional category (with contract maximum demand up to 150 KVA)	HT-I(A) General (11kV)
	Optional category (with contract maximum demand up to 150 KVA)

Clause 8.89. This Optional category is applicable to HT-I- Industry- general consumers whose contracted maximum demand is upto 150 kVA and availing supply at 11 kV only. The consumers who qualify under this category are free to opt to remain under HT-I(A) or choose this Optional sub category.

Clause 8.90. The charges applicable are as follows:

Category	Demand charge * (INR/Month)		Energy charge (INR/KVAH)
	Unit	Rate	
HT I(A): Industry General - Optional Category for contract maximum demand upto 150 kVA			
11kV	kVA	80	7.00
* Demand charge is calculated at INR/kVA/month of the Billing Demand			

In view of the imposed 11KV Tariff billing as per the rates prescribed for HT-1(A) category in the Tariff Order and adding 3% of recorded energy, the condition of availing Optional Category at 11KV only is fulfilled. Hence, the above said clause 7.14

enables the Appellant (being a Small Scale Industry, below 150 kVA CMD) to opt for HT I (A) Industry General - optional Category and the above given tariff rates shall be applicable.

TOD CHARGES: The Time of Day charges were levied against the total units apportioned for 8 hrs (i.e. morning 06.00 Am to 10.00 AM and Evening 06.00 PM to 10.00 PM) $36742 \times 8/24 = 12247$ Units. The TOD charges were levied @ Rs 1 per unit, whereas liable reduction in tariff (incentive) of @Rs 1/- per unit, applicable during night time i.e. 10.00 PM to 06.00 AM was not taken into account. The units recorded during the TOD periods are not available (such information was not recorded for LT Category III billing) and the HT Category 1(A) billing tariff attracts TOD Charges/ Incentive as applicable. To end the issue more logically, it is presumed that being a Small Scale Industry under single management (Categorised as TINY INDUSTRY by industries department), the single shift of 8 hrs is taken as working hours, their by the evening peak TOD hours 06.00 PM to 10.00 PM shall be charged @ Rs 1/KVAH units. This will works out to $36747 \times 4/24 = 6123$ units.

REVISED ASSESSMENT AS PER CHARGES APPLICABLE UNDER CLAUSE 8.90 for HT I (A) Industry General - optional Category

Sl.No.	80% CMD	Contracted load 148 HP x 0.746 = 110.4 KW(1 KW = 1 KVA) Billing demand = 80% of the CMD = $110.4 \times 80\% = 88.32$ KVA
1	EC	264908 (37844 x Rs 7.00)
2	CC	20220 (Rs 1685 x 12 months)
3	FIXED	84864 (88.4 x 12 x Rs 80)
4	TOD	6123 (36742/6)
5	OTHERS	3105
6	TOTAL	379220
7	DIFFERENCE	23,022 (379220 - 356198)

As such this Office concludes that the Respondents have to assess their charges as applicable under Clause 8.90 for HT I A i.e. Industry General and Optional Category as shown above. Hence decides these issues against the Respondents.

Issue No.3

12. In the result the Appeal is allowed and the Respondents are directed to revise the assessment amount of Rs 4,85,216/- to Rs 23,089/- (Rs 23,022/- + ED Rs 67/-) on condition of the Appellant undertaking the following before the DE/Operations:

i. Opting HT IA Industry General - Optional Category

ii. To convert distinct LT metering setup into single HT Metering setup within a period of not more than 3 months.

Until the compliance of the above undertakings within the stipulated period Clause 9.53 (V) of the Tariff Order 2016-17 shall prevail i.e. 3% of the recorded energy during the month shall be added to arrive at the consumption on High Tension side of the transformer. However, the Appellant is free to opt to remain under HT IA Category or to choose the Optional Sub Category subsequent to which the relevant assessment amount shall be imposed.

13. 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 Office Executive cum Computer Operator, Corrected, Signed and Pronounced by me on this the 16th day of July, 2018.

Sd/-

Vidyut Ombudsman

1. M/s. S.P.Enterprises, represented by Sri. D. Prasad, Plot No.83/A, SVCIE, Phase -III, Balanagar, Hyderabad - 500 037. Cell: 9866309304
2. The ADE/OP/Balanagar/TSSPDCL/Hyderabad.
3. The AAO/ERO/Bowenpally/TSSPDCL/Hyderabad.
4. The DE/OP/Bowenpally/TSSPDCL/Hyderabad.
5. The SE/OP/Secunderabad Circle/TSSPDCL/Hyderabad.

Copy to :

6. The Chairperson, CGRF, Greater Hyderabad Area, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad.
7. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul, Hyd.