



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

Wednesday the Twenty Sixth Day of September 2018

Appeal No. 12 of 2018

**Preferred against Order Dt.18.12.2017 of CGRF in
C.G.No.783/2017-18/Secunderabad Circle**

Between

M/s. Akruti Engineering Plastics, represented by Sri. R. Radha Krishnan,
Plot No. 47, SVCIE, Phase -III, Balanagar, Hyderabad - 500 037.
Cell: 9440053825, 9441118009..

... Appellant

AND

1. The ADE/OP/Balanagar/TSSPDCL/Hyderabad.
2. The DE/OP/Bowenpally/TSSPDCL/Hyderabad.
3. The SAO/OP/Secunderabad Circle/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 05.09.2018 at Hyderabad in the presence of Sri. Radha Krishnan on behalf of the Appellant Company and Sri. K. Raju - ADE/OP/Balanagar and Sri. P. Sudharshan - AAO/ERO/Bowenpally 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 against the orders of the CGRF Hyderabad Circle in CG No. 783 of 2017-18 dt.18.12.2017. The averments made in the Appeal by the Appellant is to the effect that they have lodged a complaint before the CGRF Hyderabad Circle seeking for the relief of withdrawal of the back billing notice issued by the Respondents for an amount of Rs 5,85,454/- levied for the period from 21.09.2016 to 21.09.2017 that is for a period of one year towards clubbing of service connections SZ026410, S6002698 & SZ032953 and that in spite of their representations and putting

forth the facts of the case the learned CGRF failed to appreciate the same and dismissed their complaint as such aggrieved by the same the present Appeal is filed.

2. The averments of the Appellant in person before this office is that they have paid half of the back billing amount and further requested to give some time for clubbing of other two services preferably for one month. Later the Appellant filed rejoinder through his counsel denying his earlier pleadings and stated that the M/s. Damodar Engineering, M/s. Akruthi Engineering and M/s. Hyderabad Dies are three different units and are involved in different activities and further that SC No. SZ026410 belongs to M/s. Damodar Engineering Bearings which is located in Plot No. 47, S.V.C.I.E., Balanagar while SC No. S6002698 belongs to M/s. Akruthi Engineering located on the ground floor of Plot No. 46, S.V.C.I.E., Balanagar, while SC No. SZ032953 belongs to Hyderabad Dies located on the 1st floor in Plot No.47 of S.V.C.I.E., Balanagar and pointed out while Damodar Engineering and Hyderabad dies are located in plot No. 47, while Akruthi Engineering is situated in Plot No. 46, and as such all the said three service connections are in different locations and hence the Respondents cannot issue notice for back billing by clubbing all the three individual institutions into a single unit. They further pointed out that the owners of the said three service connections are different and all the three service connections are having different activities as shown in the documents filed by them. The Appellant further pointed out that Akruthi Engineering is a separate entity by itself and the same is supported by the partnership deed dt. 31.11.2001.

3. The Appellant relied on the following clauses of Tariff Order and the GTCS:

a. As per Clause 8.16 (Page No. 108) of Tariff Order of FU 2017-18 of Terms and Conditions of Tariff where the contracted load is below 75 KW or 100 HP falls under LT Industrial Category III. In all the three connections the contracted load is 64 HP, 49 HP and 55 HP respectively. Hence conversion of HT category will not attract.

b. As per Clause 12.3.3.2(i) of GTCS the HT Tariff rates can be billed only from the consumption month in which the unauthorised additional load is detected. There will not be retrospective effect of HT Tariff rates. In our case no additional load is detected.

c. As per Clause 12.3.3.2(iii) of GTCS one month notice is to be given to the consumer for conversion of LT service into HT service if required but no one month prior notice is given to the Appellant before issue of

assessment notice, hence the assessment notice is in violation of this provision of GTCS and is liable to be set aside.

4. Written submissions of the Respondent No.1/ADE/OP/Balanagar, vide Ir.no 1976 Dt: 07.03.2018:

It was stated that the SC No SZ026410 was released in the name of M/s. Damodar Engineering Enterprises on 01.11.1983 under LT Category IIIA with a contracted load of 64 HP at Plot No. 47, SVICE, Balanagar, the SC No. S6002698 was released in the name of M/s. Akruthi Engineering Plastics on 20.11.2004 at Plot No. 46, SVICE, Balanagar under LT Category IIIA with a contracted load of 49 HP and the SC No. SZ032953 was released in the name of M/s. Hyderabad Dies Moulds on 15.02.2983 at Plot No. 47, CHS, Ferozguda, Balanagar under LT Category IIIA with a contracted load of 55 HP.

That the premises is having a double storied building and there are three service connections are existing. The power supply utilising for injection moulding for the same activity under the single management from three service connections.

Further, the Appellant relied on the following Clause of the GTCS:

3.5 Definition of Seperate Establishment

3.5.1 For the purpose of the GTCS, Separate establishments shall include the following type of establishments:

- 1. Having distinct set-up and staff*
- 2. Owned or leased by different persons*
- 3. Covered by different licenses or registrations under any law where such procedures are applicable annd*
- 4. For domestic category, the households having a separate kitchen.*

3.5.2 Each separate establishment will be given a separate point of supply

3.5.3 Notwithstanding the above provisions, the Company reserves the right, where it is reasonably established, that the consumers of the same group or family or firm or company who are availing supply under different service connections situated within a single premises by splitting the units, the Company may treat such multiple connections existing in the single premises as a single service connection and charge the total consumption of all the consumers at the appropriate tariffs applicable for

a single service connection. Any officer authorised by the Company shall issue notices to the concerned consumers asking them to furnish a single application for all such services and to pay required charges for merging the services into a single service.

That the consumer did not have

II) Distinct setup and staff separate for each service.

That the consumer violated the conditions of LT agreement for category III and as per Clause 3.5.1 and 3.5.3 of GTCS these two services should be clubbed into a single service.

That the AE/DPE/Hyderabad inspected the consumer premises on 21.09.2017 at 17.25 Hrs and booked a case under back billing for R 5,85,454/- under HT Category I for last one year as the consumer is being availing supply for INJECTION MOULDING purpose from three services for the same nature of activity which needs clubbing and billing into single service.

Provisional Assessment Notice was served to the consumer on 06.10.2017 vide Lr.No.ADE/OP/BLNG/D-XVI/C-VI/D.No.924/17 dt.03.10.2017 for back billing amount of Rs 5,85,454/-. As per Clause 3.54 of the GTCS a 60 days notice was given to the consumer on 10.10.20017 for switch over of supply from LT to HT supply through Lr.No.ADE/OP/BLNG/D-XVI/C-VI/D.No.984/17 dt.10.10.2017. On inspection of the premises the total connected load was found to be 144HP. The DE/Op/Bowenpally, has confirmed the liability for the amount of Rs.5,85,454/- Vide Order No DEE/OP/BWPY/D.No.3011 Dt 8.11.2017.

5. The Appellant upon his claim, further submitted the copy of the documents showing the Manufacturing activity of three service connections, details are hereunder :

Sl. No.	Name of the company	Details of document	Date of issue	Details of issuing authority	Details of manufacturing product
1	Akruti Engineering plastics	Acknowledgement of District Industries Centre, RR District, Balanagar, Hyderabad	19.08.2010	General Manager, District Industries Centre, RR District, Balanagar, Hyderabad	Plastic Working Machine

2	Damodar Engineering Enterprises	Acknowledgement of District Industries Centre, RR District, Balanagar, Hyderabad	19.08.2010	General Manager, District Industries Centre, RR District, Balanagar, Hyderabad	Tips
3	Hyderabad Dies and Moulds	SSI Certificate	20.03.1998	General Manager, District Industries Centre, RR District, Balanagar, Hyderabad	Dies Moulds & Tools

6. On the basis of the said averments by both sides the following issues are framed:-

Issues

1. Whether the Respondents have 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? And
3. To what relief?

Issue Nos. 1 & 2

7. A perusal of the contentions by both sides go to show that the Appellant though originally admitted that all the three service connections i.e. SZ026410, S6002698 & SZ032953 are being utilised for the same injection moulding work and that they are ready to pay the back billing amount yet sought for a waiver of the said amount has taken a u turn and came up with a contrary plea through his rejoinder claiming that the three enterprises i.e. Damodar Engineering bearings, Akruthi Engineering and Hyderabad Dies are three different entities with different activities. Since the Appellant has already admitted that all the three institutions are being utilised by him jointly for injection moulding works, he is not permitted to deny the same in the next breath as no one forced him to take such a plea while originally filing the Appeal or while filing the complaint before the CGRF. Hence his contentions, at a later stage that all the three units are having separate entities, separate activities and allocated a separate premises is rejected by this office.

8. A perusal of the assessment calculation as per Clause 3.54 of GTCS as prepared by the Respondents shows

ASSESSMENT CALCULATION

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

Sl.No.				
1	SC No.	SZ026410	S6 002698	SZ032953
2	PH	3	3	3
3	CATEGORY	III	III	III
4	CONTRACTED LOAD	64	49	55
5	EC	198621	464550	132577
6	CC	13500	3600	13500
7	FIXED	34560	26460	29700
8	OTHER	2078	4459	1487
9	BILL AMOUNT	248760	499070	177264
10	UNITS IN KVAH	29645	69336	19788
11	3% LOSS	889.35	2080	593.64
12	TOTAL ENERGY KVAH	30534	71416	20381

Sl.No.	80% CMD	134.4(80% of 168 HP)
1	EC	813508 (122332 x Rs 6.65)
2	CC	20220 (Rs 1685 x 12 months)
3	FIXED	628992 (134.4 x 12 x Rs 390)
4	TOD	39589
5	OTHERS	8026
6	TOTAL	1510335
7	DIFFERENCE	585240

Thus the Respondents billed the amount under HT Category I by clubbing the three services i.e. SC No. SZ026410 and SZ032953 with SC No. S6002698 and arrived at Rs 15,10,335/- and hence, since they have billed an amount of Rs 9,25,094/- under LT category III they have deducted the said amount from Rs 15,10,335/- and arrived at Rs 5,85,454/- (Rs 585240 + ED Rs 214).

9. 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 in 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			

But the said calculation by the Respondents while making the back billing charges as stated above goes to show that they have failed to take into consideration that during the Tariff Order for the FY 2016-17, the Hon'ble Commission has introduced a sub category with Contracted Maximum Demand upto 150 KVA under HT A(1) Category at 11 KV voltage only and made it an optional category which is reproduced as under:

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.

10. A perusal of the billing levied by the Respondents against the Appellant also shows that the Respondents have levied the Time of Day charges (TOD Charges) against the total units apportioned for 8 hours (i.e. morning 06.00 AM to 10.00 AM and evening 06.00 PM to 10.00 PM) $118769 \times 8/24$ thus arriving at 39589 units and levied TOD charges @ Rs 1/- per unit, but the liable reduction in tariff (incentive) of

Rs 1/- per unit applicable during the night time i.e. 10.00 PM to 06.00 AM was not taken into account by the Respondents. The Respondents have also not recorded the units during the TOD periods for LT Category III billing and the HT Category I(A) billing tariff attracts TOD charges/incentives as applicable. Thus in the said circumstances it would be more logical that the Appellant be presumed as a Small scale industry being a single management concern and the single shift of 8 hours is taken as working hours and the evening peak TOD Hours i.e. 06.00 PM to 10.00 PM can be charges at Rs 1/- KVAH units which will work out to $118769 \times 4/24$ totalling to 19795 units. Thus the revised assessment as per charges applicable under Clause 8.90 for HT I(A) Industry General / optional category is as follows:

Sl.No.	80% CMD	Contracted load 168 HP x 0.746 = 134.4 KW (1 KW = 1KVA) Billing Demand = 80% of the CMD = 107.52
1	EC	Rs.856324 (122332 x Rs 7.00)
2	CC	20220 (Rs 1685 x 12 months)
3	FIXED	103219 (107.52 x 12 x Rs 80)
4	TOD	19795 (118769/6)
5	OTHERS	8026
6	TOTAL	1007584
7	DIFFERENCE	82,490(1007584 - 925094)

Hence decides these issues in favor of the Appellant.

Issue No.3

11. In the result the Appeal is allowed and the Respondents are directed to revise the assessment amount of Rs 5,85,454/- to Rs 82,704/- (Rs 82,490/- + ED Rs 214/-) on condition of the Appellant undertaking the following before the DE/Operation:

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.

TYPED BY Office Executive cum Computer Operator, Corrected, Signed and Pronounced by me on this the 26th day of September, 2018.

Sd/-

Vidyut Ombudsman

1. M/s. Akruti Engineering Plastics, represented by Sri. R. Radha Krishnan, Plot No. 47, SVCIE, Phase -III, Balanagar, Hyderabad - 500 037.
Cell: 9440053825, 9441118009..
2. The ADE/OP/Balanagar/TSSPDCL/Hyderabad.
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4. The SAO/OP/Secunderabad Circle/TSSPDCL/Hyderabad.
5. The SE/OP/Secunderabad Circle/TSSPDCL/Hyderabad.

Copy to :

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