



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 EIGHTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY THREE

Appeal No. 12 of 2023-24

Between

M/s. Arco Rotopack LLP, #21-6-14 to 48/3, Ghansi Bazar, Lane opposite to the Post Office, High Court Road, Hyderabad - 500 002, represented by Sri Raghunandan Gupta, Managing Partner, Cell: 9000977000.

.....Appellant

AND

1. The Assistant Divisional Engineer/OP/Rajapur/TSSPDCL/Mahaboobnagar District.
2. The Divisional Engineer/OP/Jadcherla/TSSPDCL/Mahaboobnagar District.
3. The Senior Accounts Officer/OP/Mahaboobnagar/TSSPDCL/Mahaboobnagar District.
4. The Superintending Engineer/TSSPDCL/Mahaboobnagar District.
5. The Chief General Manager /Revenue/Corporate Office/Mint Compound / TSSPDCL / Hyderabad.
6. The Chief General Manager/Commercial/Corporate Office/Mint Compound TSSPDCL/Hyderabad.

..... Respondents

This appeal is coming on before me for final hearing on 22.06.2023 in the presence of Sri Raghunandan Gupta, Managing Partner of the appellant and Sri R. Krishna Murthy- DE/Op/Jadcherla and Sri G.Beechupally-SAO/Op/Mahaboobnagar 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 - I (Rural) (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') in C.G.No.529/2022-23, Mahaboobnagar Circle dt.19.04.2023, disposing of the complaint giving partial relief with specific directions to the parties.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant is that the respondents have released HT Service Connection No. MBN 1257 to the appellant on 03.12.2019. The power was to be released in (3) phases. The first phase of 70 KVA power was released immediately. Like-wise the second phase of 305 KVA was also released as scheduled. The third phase of power of 300 KVA was to be released in June 2021, after (18) months from the date of release of the second phase. This power supply was not released as scheduled.

3. The third phase of power supply was to be released on 30.06.2021. The appellant requested the respondents on 06.07.2021 not to release the third phase power supply. In spite of not releasing the third phase power supply to the appellant, respondent No.4 vide letter dated 23.12.2022 demanded the appellant to pay Rs. 8,31,717/- by including the same in the electricity bill of December 2022. Therefore it was prayed to direct the

respondents to drop the letter dated 23.12.2022 demanding the amount as stated above.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

4. In the written reply submitted by respondent No.4, it is stated that the power supply to the appellant was to be released in three phases. The first two phases of power supply was released without any dispute. The consumer (appellant) has to give three months' notice in advance for deferment or cancellation of power supply of any phase. The appellant gave the application on 06.07.2021 requesting not to release the third phase of power supply which was supposed to be released in June 2021. Further the appellant exceeded the load from April 2021 onwards continuously without notice to the respondents.

AWARD OF THE FORUM

5. After considering the material on record and after hearing both sides, the learned Forum has disposed of the complaint by giving partial relief to the appellant with specific directions to the parties.

6. 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; that the respondents ought to have released the third phase of power supply at least in July 2021 itself; that the appellant has lost the opportunity of applying for deration and

that the respondents have released the third phase of power supply after (18) months' of scheduled time and as such they are not authorised to demand the amount in question. Accordingly it is prayed to drop the notice demanding Rs. 8,31,717/-.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

7. In the written reply submitted by respondent No.4, he has reiterated the contents of his written reply filed before the learned Forum.

ARGUMENTS

8. Heard both sides.

POINTS

9. The points that arise for consideration are:-

- i) Whether the appellant is entitled for dropping of the notice demanding the entire amount of Rs. 8,31,717/- as prayed for?
- 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

10. It is an admitted fact that the respondents have released the subject Service Connection to the premises of the appellant on 03.12.2019. It is also an admitted fact that the respondents have not released the third phase of power supply to the appellant as scheduled in June 2021. Further there is no

dispute that the appellant did not give the representation for deferment or cancellation of the third phase of power supply within three months of the scheduled time.

SETTLEMENT BY MUTUAL AGREEMENT

11. 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

12. The present representation was filed on 02.06.2023. This appeal is being disposed of within the period of (60) days as required.

CRUX OF THE MATTER

13. Agreement was executed between the appellant - M/s. Arco Rotopack LLP and Southern Power Distribution Company of Telangana on Tuesday 03.12.2019 for a maximum load not exceeding 675 KVA. The 1st and 2nd phases of power supply 70 KVA + 305 KVA, making a Contracted Maximum Demand (in short 'CMD') of 375 KVA. Further the 3rd phase of another 300 KVA, making a total CMD of 675 KVA, was to be released as per

the scheduled period mentioned in the release order of the respondents. The schedule of release of HT supply of 675 KVA is as under:-

Sl.No.	CMD in KVA	Sanctioned Phased Manner
1.	70 KVA	1st phase immediately
2.	305 KVA	2nd phase after (12) months from the date of release of 1st phase released on 12/2019.
3.	300 KVA	3rd phase after (18) months from the date of release of 2nd phase to be release on June 2021
Total	675 KVA	

14. Accordingly the first two phases of power supply was released as scheduled.

15. The appellant vide letter dt.06.07.2021, duly acknowledged in the office of the Superintending Engineer/TSSPDCL/Mahabubnagar (respondent No.4), requested not to release 3rd phase of power supply to the appellant due to Covid-19 and market conditions. The department neither released the 3rd phase nor rejected its request. As there was no reply from the respondents, the appellant felt that its request was considered. When the appellant requested, the Chief General Manager(Commercial)/Corporate Office/TSSPDCL (respondent No.6) for release of CMD 100 KVA out of the 3rd phase of 300 KVA on 01/07/2022, respondent no. 4 issued a notice to the appellant initially demanding Rs. 7,10,354/- towards back billing charges for the period from June 2021 to July 2022 and later issued impugned notice

demanding Rs.8,31,717/- towards back billing from June 2021 to November 2022 for a period of (18) months though practically the third phase of power supply was not released. The appellant thereafter applied for deration from 675 KVA to 500 KVA on 02/01/2023.

16. The respondents have relied on Clause 5.9.4.3 of General Terms and Conditions of Supply (in short 'GTCS') which is reproduced here-under:-

“In the case of consumers who were sanctioned phased Contracted Demand and supply released for initial or intermediary phased demands, the consumer may seek deferment or cancellation of such of the phased demands which are scheduled beyond minimum period of Agreement, by giving three Months' notice in advance or in lieu thereof pay three months charges towards such deferment or cancellation of such phased demands.”

The respondents have claimed that the representation of the appellant has to be given in advance of (3) months i.e. 03/2021. But the appellant neither submitted his representation for cancellation nor deferment of 3rd phase load in advance. According to the respondents, the consumer service has exceeded the load from 04/2021 onwards continuously without notice to the respondents and the same was intimated to the appellant through bills regularly. Thus according to the respondents the consumer has violated the terms and conditions of agreement. The 3rd phase load comes into force from 06/2021 as per the agreement. Therefore according to the respondents in compliance with the agreement, a shortfall amount was raised.

17. The appellant relied on the following grounds towards its claim :-
- a. If the respondents were particular to release the 3rd phase, they ought to have released it in July 2021 itself.
 - b. As the 3rd phase of power supply was released in December 2022 i.e., after (18) months, appellant had no option/provision for deration retrospectively as it was updated /released at CSC in December 2022 only.
 - c. The appellant lost the opportunity for deration of CMD as per their requirement and applied now in January 2023 after release of the 3rd phase in December 2022.

18. At the cost of repetition there is no dispute raised upto the release of first and second phases of CMD. The sanctioned scheme of 675 KVA in a phased manner as stated in the aforementioned paras is basically on the request of the appellant only. Any deferment or cancellation of such a phased demands in the sanctioned scheme can only be made if the appellant requests for postponement which shall be in advance of not less than (3) months as per the Clause 5.9.4.3 of GTCS as stated supra.

19. Clause 5.9.4.3 of GTCS makes it crystal clear that the consumer has to avail the electricity supply as per the agreement upto the minimum period of one year. For any reason the consumer wants deferment or cancellation of any phase of power supply he (it) has to give (3) months' notice in advance or in lieu thereof pay (3) months charges. In the present case, admittedly, the appellant gave notice on 06.07.2021, clearly (3) months after the relevant date. That notice was acknowledged by respondent No.4. The appellant has to give its

request for cancellation or deferment in advance of (3) months i.e. 03/2021 but submitted its request on 06.07.2021.

20. It is pertinent to note that the respondents have failed to release the 3rd phase CMD as scheduled in the agreement i.e. in June 2021 and released it in the month of December 2022. The respondents clearly violated the guidelines issued for release of HT new services/additional loads in phased manner by the Chief General manager(Commercial & RAC) vide Memo No. CGM (Comm)/SE(C)/DE(C/ADE-I/DNo.1095/07,Dt 1-1-07. Hence the appellant has no option except to go for deration retrospectively.

21. When the appellant requested the Chief General Manager (Commercial) /Corporate office/TSSPDCL for release of CMD 100 KVA out of the 3rd phase of 300 KVA on 01/07/2022, respondent No. 4 issued a notice initially demanding Rs. 7,10,354/- towards back billing charges for the period from June 2021 to July 2022. Under the letter dt.08.07.2022 of respondent No.6 called for the report from respondent No.4 as to why phase three of power supply was not released to the appellant. This factum also shows that the respondents are not alert in releasing the third phase of power supply to the appellant as scheduled.

22. Now the appellant claimed that the demand was raised without releasing 3rd phase i.e. after (14) months and objected towards back billing charges without releasing 3rd phase on 31.08.2022. After (4) months,

respondent no. 4 again issued the impugned notice demanding Rs. 8,31,717/- for the period from June 2021 to November 2022 in the CC bill for December 2022 and the 3rd phase was released then only after (18) months. Immediately on release of 3rd phase in December 2022, the appellant applied for deration of load from 675 KVA to 500 KVA on 02/01/2023. No doubt the appellant exceeded CMD from April 2021 onwards, it paid for the energy consumed.

23. The appellant in its letter dt.06.07.2021 clearly mentioned that due to Covid-19 and other reasons they wanted deferment of release of power supply. That letter was also not promptly attended by the respondents. However under Clause 5.9.4.3 of the GTCS, since the appellant has not given (3) months advance notice, it is liable to pay the (3) months charges for deferment of third phase electricity from June 2021 to August 2021.

24. The appellant requested the Chief General Manager (Commercial) /Corporate office/TSSPDCL for release of CMD 100 KVA out of the 3rd phase of 300 KVA on 01/07/2022, as the third phase was not released by that time considering the appellants request of release of 100 KVA in addition to the released 2nd phase i.e., with a CMD of 475 KVA from July 2022.

25. In view of the above factors, I hold that the appellant is liable to pay the charges for CMD of 675 KVA from June 2021 to August 2021 for failure of giving (3) months notice in advance for deferment and it is not entitled for dropping of the notice demanding the entire amount of Rs.8,31,717/-. Hence,

the respondents are liable to revise demand notice by considering CMD of 675 KVA from June 2021 to August 2021 and further the respondents are directed to claim 375 KVA also adding 100 KVA from July 2022 to November 2022. These points are accordingly decided partly in favour of the appellant and partly in favour of the respondents.

POINT No. (iii)

26. In view of the findings on point No. (i) and (ii), the appeal is liable to be allowed in part.

RESULT

27. In the result, the appeal is allowed in part by setting aside the Award by the learned Forum in respect of calculation from June 2021 to November 2022. The respondents are directed to revise demand notice on CMD of 675 KVA from June 2021 to August 2021. The respondents are entitled to bill from September 2021 to June 2022 with CMD of already released 375 KVA. Further the respondents are directed to claim 475 KVA i.e. 375 KVA and also by adding 100 KVA from July 2022 to November 2022. The Award of the learned Forum in respect of deration of CMD as mentioned in para No.20 is confirmed. Further the respondents are directed not to add any surcharge etc., on the amount now calculated. The respondents shall comply with the Award of this Authority within (15) days from the date of receipt of the

copy of this Award as required under Clause 3.38 of Regulation 3 of 2015 of the Telangana State Electricity Regulatory Commission.

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 18th day of July 2023.

Sd/-

Vidyut Ombudsman

1. M/s. Arco Rotopack LLP, #21-6-14 to 48/3, Ghansi Bazar, Lane opp. to Post Office, High Court Road, Hyderabad - 500 002, represented by Sri Raghunandan Gupta, Cell: 9000977000.
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7. The CGM/Commercial/Corporate Office/Mint Compound/TSSPDCL/Hyderabad.

Copy to

8. The Chairperson, Consumer Grievances Redressal Forum -I(Rural)
TSSPDCL - H.No:8-03-167/14, GTS Colony, Yousufguda,Hyderabad-500045.