



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 Sixteenth Day of May 2018

Appeal No. 16 of 2018

Preferred against Order Dt.30.01.2018 of CGRF
in CG.No.661/2017-18

Between

M/s. Sri Poojitha Plastics, represented by Smt.K.V.V.N.M.Kumari,
W/o.Sri. K.V.S.Prasad, Prem Nagar, Azad Nagar, Amberpet,
Hyderabad - 500 013. Cell: 9391088744.

... Appellants

AND

1. The ADE/OP/Amberpet/TSSPDCL/Hyderabad.
2. The AAO/ERO/Azamabad/TSSPDCL/Hyderabad.
3. The DE/OP/Azamabad/TSSPDCL/Hyderabad.
4. The SE/OP/Hyd.Central Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 22.02.2018, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 08.05.2018 at Hyderabad in the presence of Sri. K.V.S.Prasad - on behalf of the Appellant and Sri. M.S.Srinivasan - AAO/ERO/Azamabad and Sri. S. Ganesh Shyam - ADE/OP/Amberpet for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant Smt. K.V.V.N.M. Kumari proprietor of M/s. Sri. Poojitha Plastics stated that she pleaded before the CGRF for waiver of outstanding arrears on 3 service connections viz. V2105091, V2095035 and VZ071913 duly dismantling the services

pertaining to previous owners and in addition requested for shifting of two services viz. V9079628 and V9066955 making the following averments.

2. The Appellant stated that she has purchased the premises H.No.3-2-643/B Azad Nagar, Prem Nagar, Amberpet, Hyderabad, having an old building, through online auction conducted by Union Bank of India on dt.17.02.2017. Due to non-realisation of a loan availed by M/s. Sri Krishna Prasad Graphics Pvt. Ltd. the said premises was placed for auction by the bank.

3. Prior to purchase of the said premises by the Appellant, she was running an industry at another place in Amberpet with two industrial services V9079628 and V9066955. In the name of M/s. Escot Indus, hence requested the Respondents to transfer these two services to their new premises purchased.

4. At the time of purchase of the said premises by the Appellant, there were three service connections existing at the premises SC Nos.V2105091(Category I) with arrears Rs 1045/-, V2095035 (Category II) with arrears Rs 49,552/- and VZ071913 (Category II) with arrears Rs 2,30,430/-. These services were under disconnection since long back for non payment of dues. The Appellant initially denied the payment of the dues pending on the acquired premises stating that he is not liable to pay the said arrears of the previous owners. Since the shifting of the two industrial services V9079628 and V9066955 was denied by the Respondents owing to payments of the arrears, the Appellant in turn revised his earlier request from dismantlement of the services to the restoration of power supply to existing 2 service connections i.e. V2095035 and V2109051 along with the change of title transfer in her name and dismantlement of 3rd commercial service connection VZ071913. Subsequently stating that with no other alternative she has paid an amount of Rs 1045/- for domestic connection and Rs 49,552/- for commercial connection on 30.03.2017 and obtained reconnection of the power supply with an understanding that the said amounts might be the final arrears to be paid. The name change of the said connections was also affected, though the actual arrears liable was not realised.

5. The AAO/ERO/Azamabad after getting the actual present readings from the AE/OP/Amberpet raised the revised bills of the 3 services as follows:

V2095305

1. Date of disconnection December - 2013		
2. Balance as on December - 2013 - Rs 49552.29		
3. Monthly minimum charges from 12/2013 to 08/2017 45 months load 48.69 KW	- Rs 1,31,922.27	
4. Difference of energy charges 44750.00		
ED charges 268.50	-	45,018.50
5. Surcharge on 49552/- @ 1.5% P.M for 40 months	-	29,731.00
		<hr/>
		2,56,224.06
6. Less consumer already paid during 03/2017	-	(-) 49552.00
7. Security deposit 48.69 KW X 800.00		38952.00
		<hr/>
		206672.06
8. Reconnection fee		75.00
		<hr/>
		245699.66
		Orsay Rs 245699/- only

It was stated that the Respondents raised the bill for the period from 30.3.2017 to 17.10.2017 at once for Rs 455353/- The Appellant paid 50% amount of Rs 227677/- in the month of October,2017

VZ071913

1. Date of disconnection December,2013		
2. Balance as on December,2013	-	115481.00
3. 4 months monthly minimum charges		
Energy charges 200/-		
Customer charges 45/-		
Fixed charges <u>2827/-</u>		
<u>3072.20 x 4</u>		
12288.80	-	12288.80
4. Surcharge @ 1.5% PM on Rs 115841/- for 45 months	-	77950.00
5. Fuel surcharge adjustment (FSA)	-	<u>51118.36</u>
	Total	256838.16
ISD & SD Adjusted to C.C. Charges		<u>(-)59403.74</u>
		197434.41
		Orsay Rs 197434/-

V2105091

For the SC No. V2105091 Cat-I of Sri. AVNV Prasad of Amberpet Section there were “No Dues” upto Feb-2018. The consumer paid all the dues upto 02/2018 with reading as 14321.

The following are the status of the existing 3 No.s Services of the said premises:

S.No	SC.No	Name of the consumer	Cat	Status at the time of purchase by the Appellant	Request made by the Appellant	Amounts due to be paid after deducting the payments made by the Appellant
1.	V2095035	M/s. Poojitha Plastics	II	The service was under OSL (Under disconnection from Dec,2013)	Restoration of power supply	1,64,116/- as arrears + 38,952/- as Security Deposit
2	VZ 071913	M/s. Om Sai Krishna Graphics	II	The service was under OSL (Under disconnection from Dec,2013)	Dismantlement of the service	1,97,434/-
3	V2105091	Sri. AVNV. Prasad	I	The service was under OSL (Under disconnection from Aug,2014)	Restoration of power supply	No dues

6. On the basis of the said averments by both sides the learned CGRF passed the orders vide CG No. 661 of 2017-18 dt.30.01.2018 rejecting the grievance of the Appellant for rectification of excess bill with regard to SC No. V2095035 and directed the Respondents to dismantlement the service connection of SC No VZ071913 without insisting on the arrears outstanding on this service apart from directing the Respondents to collect the arrears outstanding on the five services referred in the complaint and to transfer the same within 7 days from the date of receipt of the payment and to file the later compliance before the CGRF.

7. Aggrieved by the said order of the CGRF the Appellant filed the present Appeal on the said orders of the CGRF. Hence in the said circumstances the points in issue are as follows:

1. She is not liable to pay the previous arrears incurred by M/s. Sri Krishna Prasad Graphics private limited since she has purchased the premises in the auction of Union Bank of India, Assets Recovery Branch, Hyderabad.

2. The Appellant held that she has given application for change of Category from Commercial to Industrial on 30.06.2017 as well as title transfer from previous owner. Though the title transfer was effected in the month of July,2017, the change of category was not implemented and heavy tariff was levied for 42401 units for an amount of Rs 1,37,803/- because of which they have incurred serious losses. Hence requested for change of category from commercial to industrial as early as possible.

3. The Appellant questioned the bill issued on dt.07.10.2017 with 42401 KVH units and 29968 KWH units with power factor shown as 0.71, stated to be issued consolidated for 6 months. It was argued that, If it has been issued monthly, she would have maintained the power factor within the limits and the demand for 42401 KVAH units would not have arise.

8. Hence now let us consider the said issues mentioned above for deciding this Appeal.

Issue No.1

9. The Appellant contended that she is not the consumer under the definition of Section 2 of Clause 15 of Electricity Act,2003 and as such she is not liable to pay the arrears incurred by M/s. Sri Krishna Prasad Graphics Pvt. Ltd. i.e. her previous owner as she has purchased the premises in the auction of Union Bank of India, Assets recovery branch, Hyderabad. As such the provisions of Clause 15 of Section 2 of Electricity Act,2003 is perused and reproduced as under to consider whether the Appellant can be defined as a consumer under the said provisions:

"consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any

person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;

The said provisions as mentioned above clearly shows that the Appellant has wrongly interpreted the meaning of a consumer, as the said provisions clearly mentions “a consumer means also any person whose premises are for the time being connected for the purpose of receiving electricity being the beneficiary of usage of electricity” and hence concludes that the Appellant is the consumer as per the above provisions.

10. Now let us consider whether the Appellant is liable to pay the arrears of the previous owner?

The contention of the Appellant is that she is not liable to pay the arrears of the previous owner as it is the actual consumer who is liable to pay the arrears of consumption. She contended that the CGRF also failed to apply the judgement of Supreme Court in *Asha Marbles Vs Bihar State Electricity Board* wherein the factory premises was sold in the public auction by State Financial Corporation for which supply of electricity was disconnected for non-clearance of consumption charges by the previous consumer and held that auction purchaser of the premises would not be liable to meet the liability of the previous consumer in order to secure the connection.

A perusal of the said judgement as stated by the Appellant and as quoted by the CGRF shows that the Hon’ble Supreme Court held in the above said judgement at Para No. 61 as follows:

“No doubt, from the tabulated statement above set out, the auction purchasers came to purchase the property after disconnection but they cannot be “consumer or occupier” within the meaning of the above provisions till a contract is entered into.”

A perusal of the documentary evidence and the contentions of the Appellant in writing clearly shows that the Appellant has entered into an agreement with the Licensee on the basis of three documents which were notarised and they consists of:

1. Indemnity bond
2. Consumer self-declaration form and
3. Affidavit for title transfer

A perusal of the first document i.e. the indemnity bond executed between the Appellant i.e. M.s Poojitha Plastics and TSSPDCL shows that the Appellant has undertaken to make good any sum that may be found to be payable to TSSPDCL with regard to all liabilities and claims personally as well as the means of both movable and immovable properties and TSSPDCL is at liberty to disconnect the service connecting which is changed into her name which goes to show that the Appellant took the responsibility of all the arrears whatsoever of the said connections and abide by the conditions of the agreement for the requisition entered into by M/s. Sri Krishna Prasad Graphics and the same is reiterated in the 3rd document i.e. affidavit for title transfer. Hence the same goes to show that the CGRF has rightly interpreted the judgement of the Hon'ble Supreme Court, as admittedly the Appellant has entered into a contract with the licensee i.e. the Respondents herein as required in the judgement of the Hon'ble Supreme Court. As such the contentions of the Appellant is herewith rejected.

11. In the above mentioned circumstances Clause 8.4 of GTCS is perused and found that the same mentions:

“The seller of the property should clear all the dues to the company before selling such property. If the seller did not clear the dues as mentioned above, the Company may refuse to supply electricity to the premises through the already existing connection or refuse to give a new connection to the premises till all dues to the Company are cleared.”

Which goes to show that the Licensee may refuse to supply electricity to the premises or refuse to give a new connection till all the dues to the Company are cleared. Hence when the said provisions of Clause 8.4 of GTCS is read with the finding of the Hon'ble Supreme Court in Asha Marbles Vs Bihar state electricity board, it is very clear that when previous consumer has not paid the arrears the Appellant is liable to pay the arrears of the previous owner particularly in view of the documents executed by the Appellant i.e. the indemnity bond and the affidavit.

12. The Appellant further contended that CGRF has wrongly interpreted the name of her spouse as Sri. AVNV Prasad who is the owner of M/s. Sri. Krishna Prasad Graphics Pvt. Ltd. When in fact her spouse's name is KVS Prasad and hence contended that she is not liable to pay the previous owners dues.

In the above mentioned circumstances the point for consideration is whether the Appellant is liable to pay the dues of the previous owner but not who is the spouse of the Appellant and since the above discussions clearly shows that the Appellant is liable to pay the arrears of the previous owner, the said contentions of the Appellant that due to wrong interpretation of the name of her Spouse, she need not pay the dues is rejected. Hence concludes that the Appellant is liable to pay the arrears of the electricity consumption and liability by the previous owner.

Issue No.2

13. The Appellant contended that she has given an application for change of Category from Commercial to Industrial and to change the title into her name from the previous owner on 30.06.2017 and that though the title transfer was effected in the month of July,2017 the change of category was not implemented and heavy tariff was levied for 42401 units for an amount of Rs 1,37,803/- because of which they have suffered serious losses hence requested for change of category from Commercial to industrial as early as possible.

14. The documentary evidence on record clearly shows that the title of the consumer service though was transferred into the name of the Appellant the category has not been changed from commercial to industrial by the Respondents and the Respondents admitted the same.

Hence in view of the said admissions by the Respondents, the Respondents are directed to take the required steps under the provisions of the Tariff Orders issued by TSERC in a reasonable time and inform the compliance of the same to the office of Vidyut Ombudsman.

Issue No.3

15. The Appellant questioned the bill issued on 07.10.2017 with 42401 KVAH units and 29968 KVH units with power factor shown as 0.71, stated to be issued consolidated for 6 months and contended that if the said bill has been issued every month she would have maintained the power factor within the limits and demand for 42401 KVH units would not have arisen.

The said issue raised by the Appellant before the Ombudsman has not been raised before the CGRF and even otherwise it is not for the Respondents to regulate

the power factor used by the Respondent for running her business. Hence the said contentions of the Appellant is herewith rejected.

16. 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 Clerk Computer Operator, Corrected, Signed and Pronounced by me on this the 16th day of May, 2018.

Sd/-

Vidyut Ombudsman

1. M/s. Sri Poojitha Plastics, represented by Smt.K.V.V.N.M.Kumari,
W/o.Sri. K.V.S.Prasad, Prem Nagar, Azad Nagar, Amberpet,
Hyderabad - 500 013. Cell: 9391088744.
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5. The SE/OP/Hyd.Central Circle/TSSPDCL/Hyderabad.

Copy to :

6. The Chairperson, Consumer Grievance Redressal Forum, Greater Hyderabad Area, TSSPDCL, Vengal Rao Nagar, Erragadda, Hyderabad - 500 045.
7. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul, Hyd.