



BEFORE THE VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

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

**PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDYUT OMBUDSMAN**

MONDAY THE NINETEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY TWO

Appeal No. 20 of 2021-22

Between

M/s. Shri Shakti Cylinders Pvt. Ltd., P.No.10 A&B, Phase-III, IDA Jeedimetla,
Medchal-Malkajgiri District - 500 055, represented by Sri D.V. Raja shekar,
Director. **.....Appellant**

AND

1. The Assistant Divisional Engineer / Operation / Shapur Nagar / TSSPDCL / Medchal-Malkajgiri District.
2. The Divisional Engineer / Operation / Shapur Nagar / TSSPDCL / Medchal-Malkajgiri District.
3. The Senior Accounts Officer / Operation / Medchal Circle / TSSPDCL / Medchal-Malkajgiri District.
4. The Superintending Engineer / Operation / Medchal Circle / TSSPDCL / Medchal-Malkajgiri District. **..... Respondents**

This appeal is coming on before me for final hearing on 25.08.2022 in the presence of Sri Vishwanatha Gupta, authorised representative of the appellant and Sri Madhusudhan Reddy - SAO/OP/Medchal Circle, Sri Ch. Amrutha Rao - ADE/OP/Shapur Nagar and Sri G. Sathish - ADE/DPE/HT-II representing 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 / Order passed by the Consumer Grievances Redressal Forum - Greater Hyderabad Area, Hyderabad - 45 (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') vide Lr.No.CP / CGRF-2/ Orders / C.G.No.29/2021-22/D.No.320/21 dt.13.09.2021, rejecting the complaint on the ground that it has no jurisdiction.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The appellant is having Service Connection No. MCL 278 of HT-IA Category at IDA Jeedimetla, Hyderabad released by the respondents. The appellant received electricity bill for the month of April 2021 on 01.05.2021 for an amount of Rs. 13,44,409/- which included Rs. 9,52,002.81, on the ground that Current Transformer and Potential Transformer (in short 'CT PT') meter was not functioning from 01.10.2020 to 12.04.2021 and the loss was @ 33.3%. The said claim of Rs. 9,52,002.81 is arbitrary. It is accordingly prayed to waive the said bill amount.

CASE OF THE RESPONDENTS BEFORE THE FORUM

3. In the written submissions filed by respondent No.4, before the Forum, it is, inter-alia, submitted that the Service Connection of the appellant was released with Contracted Maximum Demand (in short 'CMD') of 250 KVA under HT Category-I on 09.09.1983. The service was inspected by Assistant Divisional Engineer /DPE/HT-II on 07.04.2021 who noticed that 'B' phase

current was zero in the meter display due to missing of CTPT secondary current at test block in 'B' phase and declared the CTPT as defective and after analysing the Meter Reading Instrument (in short 'MRI') dump it was observed that the data was missing from 01.10.2020 to 12.04.2021 and proposed short billing for the said period and replaced the new CTPT on 12.04.2021. Respondent No.1 has issued the assessment notice to pay the short billing amount of Rs. 9,52,003/-. It was included in the C.C. bill of April 2021. The error was 33.33%. Hence the appellant is liable to pay the said bill amount.

AWARD OF THE FORUM

4. After considering the material on record filed by the parties and hearing the respondents, the Forum has rejected the complaint under Clause 2.37 of Regulation No. 3 of 2015 of the Hon'ble Telangana State Electricity Regulatory Commission (in short 'the Regulation') on the ground that the case is pending before respondent No.4.

5. Aggrieved by the Award passed by the Forum, the present appeal is preferred, contending among other things, that the learned Forum has returned the complaint without properly analysing the facts on record and without properly considering the relevant provisions.

GROUND OF THE APPEAL

6. In the grounds of appeal it is submitted that the provisions of General Terms and Conditions of Supply (in short 'GTCS') were not followed while claiming the amount in question. Without giving prior notice and even

before respondent No.4 passed Final Assessment Order the amount of Rs.9,52,002.81 was demanded in April 2021 bill illegally. No copy of inspection report was handed over to the appellant. The claim of the respondents is without any evidence. Therefore, it is prayed to set aside the claim of Rs. 9,52,002.81 of the respondents and also to set aside the notice dt.05.05.2021 of respondents.

WRITTEN SUBMISSION OF RESPONDENTS

7. In the written submission of respondent No.1, filed before this Authority it is submitted that on 07.04.2021 at about 12:32 PM, one Sri G.Sathish, Assistant Divisional Engineer /HT/DPE-II inspected the Service Connection of the appellant in the presence of one Sri Ch. Venkatesh, Electrician of the appellant-industry. At that time it was noted that 'B' phase current was zero. CTPT was defective. It was replaced. The inadequate consumption record is 33%. Accordingly, back billing of Rs.9,52,003/- was proposed. The new healthy CTPT was replaced on 12.04.2021.

8. In the written submission of respondent No.4 before this Authority he has reiterated the grounds for imposing the amount of Rs.9,52,003/- towards short billing. It is accordingly prayed to dismiss the appeal.

9. On behalf of the appellant, Ex. A1 to A4 documents were marked with consent. On behalf of the respondents, Ex. B1 to B4 documents were marked with consent.

ARGUMENTS

10. Sri K. Vishwanath Gupta, authorised representative of the appellant has submitted written arguments, contending among other things, that without notice to the appellant the respondents have claimed Rs.9,52,002.81; that the appellant received the letter fixing the personal hearing before respondent No.4 of 27.01.2022 after lapse of more than six months; that the inspection report was not handed over to the appellant or his representative; that claim of assessment is defective and without any evidence and that the Clauses of GTCS were not followed and hence it is prayed to set aside the notice issued by respondents and to withdraw the claim of Rs. 9,52,002.81 and other charges.

11. On the other hand, it is submitted by the respondents, that on 07.04.2021 at 12.30 PM, service of the appellant was inspected in the presence of representative of the appellant and it was found that the appellant was availing healthy (3) phase electricity supply; that 'B' phase current was "zero" in the meter display due to missing of CTPT secondary current at test block in 'B' phase and declared that the CTPT as defective from 01.10.2020 to 12.04.2021 with 33.33% error due to which low consumption was recorded and that in spite of giving notice the appellant did not appear for personal hearing before respondent No.4 and hence it is prayed to reject the appeal.

POINTS

12. The points that arise for consideration are:-
- i) Whether the claim of Rs.9,52,002.81 demanded by the respondents is correct?
 - ii) Whether the impugned Award / Order is liable to be set aside? and
 - iii) To what relief?

POINT No. (i) and (ii)

ADMITTED FACTS

13. It is an admitted fact that the respondents have released the HT Service Connection No. MCL278 to the appellant on 09.09.1983. There is also no dispute that the appellant has been using the energy supplied by the respondents and there are no dues payable by the appellant, except the present claim.

SETTLEMENT BY MUTUAL AGREEMENT

14. Both the parties have appeared before this Authority on 25.08.2022. 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

15. Since I took charge as Vidyut Ombudsman on 01.07.2022 and since there was no regular Vidyut Ombudsman earlier, the appeal was not disposed of within the prescribed period.

16. The Forum has rejected the complaint in terms of Clause 2.37 of the Regulation on the ground of pendency of the case before respondent No.4. Now it is necessary to refer to Clause 2.37 of the Regulation which reads as under:-

“The Forum may reject the grievance at any stage under the following circumstances:

a) Where proceedings in respect of the same matter or issue between the same Complainant and the Licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority as the case may be;

xxxxx

xxxxx

Provided that no grievance shall be rejected in writing unless the Complainant or Association of persons has been given an opportunity of being heard.”

As per Clause 2.37(a) of the Regulation, the Forum may reject the complaint if the proceedings in respect of the same matter or issue between the same parties is pending before any Court, Tribunal, Arbitrator and any other authority etc., Admittedly no proceedings is pending before any Court or Tribunal etc., except the proceedings before respondent No.4. Here it is necessary to

mention that a consumer of electricity has three options to redress his grievance, mentioned below:-

1. To approach mechanism available in the respondent-department.
2. To approach the general Consumer Forum.
3. To approach the Forum (Consumer Grievance Redressal Forum).

The pendency of grievance before respondent No.4, does not come under “or any authority” as mentioned in Clause 2.37(a) of the Regulation. Therefore the appellant has liberty to approach the Forum in spite of pendency of his grievance (proceedings) before respondent No.4. Thus Clause 2.37 of the Regulation has no application in this case.

17. According to the respondents, one Sri G. Sathish, Assistant Divisional Engineer/H.T./DPE-II conducted inspection of the Service Connection No. MCL278, Category HT-IA, SHRI SHAKTI CYLINDERS (appellant) on 07.04.2021 at 12.32 P.M, wherein the consumer was found availing three phase healthy supply, but the measures values of corresponding currents and voltages at Meter and TTB, it was observed that ‘B’ phase current was zero as mentioned in Ex.B1 inspection report. This factum goes to show that consumption under ‘B’ phase was not reflecting in the energy meter resulting in recording of less consumption to that extent. The defect was found in the CTPT. The secondary current of the CTPT was missing. The MRI dump retrieved from the energy meter Ex. B2 revealed that the phenomenon of the

missing 'B' phase current was first recorded on 01.10.2020 which continued until the replacement of the CTPT i.e. on 12.04.2021. Subsequently assessment was made of Rs. 9,52,003/- as shown in Ex.A1 as revenue loss sustained by the Licensee, thereby a Provisional Notice vide Lr.No. 250 dt.05.05.2021 under Ex. A2 (Ex. B4) was issued demanding the payment of the amount.

18. The appellant opposed the short billing stating that no notice was issued, no inspection was conducted and levy of the demanded amount directly in the April bill under Ex. A1 is in violation of the Clause 7.5.1.5.3 of GTCS. According to the appellant subsequently late payment charges were levied for an amount of Rs.1,45,545/- upto July 2022 which is against the law. The issue of notice Lr.No.250 dt.05.05.2021(Ex. A2) subsequent to the levy of the amount in the April 2021 month bill is not justified. The notice was received by the appellant on 06.05.2021. Then the appellant gave representation 07.05.2021 but they have not sought for any personal hearing.

19. It is alleged that no inspection note was handed over to the appellant as required under Clause 7.5.1.1 of GTCS, which is reproduced hereunder:-

"The authorised Inspecting Officer as per Designated Officers' Notification shall record the observations made at the time of inspection by preparing the Inspection Report as per the format prescribed in Appendix IV (Appendix IV A for LT consumers or Appendix IV B for HT consumers) and serve a copy of the same to the consumer at the end of the inspection. The authorised Inspecting Officer shall send a copy of such Inspection Report by the next

working day to the officer authorised for preparation of the assessment notice in case of defective meter.”

It is necessary to understand the following definitions:-

a. **CTPT** :- CT & PT both are types of measuring devices used to measure currents and voltages. CT and PT are used where large quantities of currents and voltages are used. The use of CT and PT is to reduce high current and high voltage to a parameter. With the help of this parameter, we can measure the current flowing at high volume and voltage.

b. **MRI**:- MRI is an instrument by which we can retrieve meter data of a particular makes meter for that MRI is suitable.

c. **Meter** :- Clause 2.2.37 : “meter” means an equipment used for measuring electrical quantities like energy in kWh, Maximum Demand in kW or kVA, reactive energy in kVAR hours etc. including accessories like Current Transformers (CT) and Potential Transformers (PT) where used in conjunction with such Meter and any enclosure used for housing or fixing such Meter or its accessories and any devices like switches or MCB or fuses used for protection and testing purposes.

20. In the present case it was claimed by the respondents that the CTPT is defective. The meter readings at the time of inspection recorded is as follows:-

IN METER				AT TTB					
V _{rn} (V)	61.2	I _r (A)	1.234	V _{RY} (V)	105	V _{RN} (V)	60	I _R (A)	1.22
V _{yn} (V)	60.9	I _y (A)	1.237	V _{yB} (V)	105	V _{YN} (V)	60	I _Y (A)	1.16
V _{bn} (V)	61.3	I _y (A)	0.00	V _{BR} (V)	105	V _{BN} (V)	60	I _B (A)	0.00

The 'B' phase current was missing and recorded zero, simultaneously the consumer was having healthy 3-phase supply.

21. The Annexure XII(VII)(C) of the GTCS provides guidelines for assessment of short billing cases which is reproduced here under:-

Clause (I) short billing arising out of defective meter:-

(I) Short-billing arising out of Defective Meter Meter is to be tested with Accucheck / Electronic Reference Standard (ERS) Meter at site and % Error is to be arrived at and billed for the period when the meter was defective. If the period of the defect can be established with the aid of production figures of consumer and MRI dumps (Meter Reading Instrument), the assessment is to be undertaken for the period when the meter was defective as per the formula.

	Unit of measurement	
Number of units recorded by the defective meter from to	Units	A
Number of units that would have been recorded if the meter had been working normally	Units	$B = A * 100 (100\% + \% \text{ error})$ where the % error is a negative value
Energy lost during the period	Units	$B - A = C$
Cost of energy	Rs per unit	D
Value of energy lost	Rs	$C * D = E$
Total Electricity charges payable	Rs	E

Here the energy meter is healthy, undisputed and CTPT was found defective. Hence testing of the meter with ERS kit does not yield results. The other instrument which can be relied on as per the above given Clause for the assessment is MRI. The data retrieved from the energy meter conforms that

B phase current was missing from 01.10.2020 to 12.04.2021. The aforementioned Clause makes it clear that the assessment can be made with the aid of MRI dumps(Ex.B2). The appellant has raised doubts over the % error adopted as 33.33% from where such percentage of error was evolved by the respondents. A simple mathematical calculation shows that if there are three phases existing the total sum of (3) phases will be 100% and each phase share goes to 33.33% i.e. $33.33 + 33.33 + 33.33 = 99.99$ or approximately 100%.

22. The other way to verify the assessment is shown under Clause (II) reproduced here under:-

Clause (II) Short-billing arising out of meter not working in one phase (LT services 3 phase with balanced load) due to external or internal defect (either potential or current)

	Unit of measurement	
Number of units recorded by the defective meter due to one phase defect from to	Units	A
Number of units that would have been recorded if the meter had been working normally in three phases	Units	$1.5 * A = B$
Energy lost during the period	Units	$1.5 * A = B$
Cost of energy	Rs	D
Value of energy lost	Rs	$C * D = E$
Total Electricity charges payable	Rs	E

The above Clause (II) is referred just for the verification purpose only.

23. The following is the calculation sheet produced by the respondents towards the assessment of short billing:-

MCL278- M/s.Shri Shakthi Cylinders (B Ph current missing from 01.10.2020 to 12.04.2021) Since current is missing in one phase %Error is 33.33%							
S.No	Description	MAIN	MORTOD	EVETOD	INCTOD1	INCTOD2	
1	Reading on 01.10.2020	18493.66	2127.30	1521.52	6460.09	459.44	A
2	Reading on 12.04.2021	18839.52	2177.81	1541.2	6468.98	461.45	B
3	Recorded Consumption with MF 800	276688	40408	15744	7112	1608	C=(A-B)* MF 800
4	To be recorded consumption	415032	60612	23616	10668	2412	D=C*100/(100-Error%)
5	Short fall Energy	138344	20204	7872	3556	804	E=D-C
6	Energy charges	6.71	1.00	1.00	-1.00	-1.00	F
7	Short fall Energy charges	928286.85	20203.97	7871.99	-3555.99	-804.00	G=E*F
8	Total Amount	952002.81					I

(Total Nine Lakhs Fifty Two Thousand Three Rupees only)

The recorded consumption with MF 800 (Main) is 276688 and to be recorded consumption works out to $276688 \times 1.5 = 415032$ which is the same units when calculated with the formula $(276688 \times 100) / (100 - 33.33) = 415032$. (as per the Clause (I) of Annexure XII(VII)(C) of the GTCS. Hence the assessment procedure is in line with the guidelines issued in the GTCS. The assessment is for recovery of the revenue lost by the Licensee. There is no additional penal charges imposed.

24. As per Clause 7.5.1.1 of GTCS the inspecting officer made the recordings as per the format prescribed in Appendix IVB i.e. H.T. inspection report vide Serial No. HT/8064, wherein the person present at the time of inspection was one Ch. Venkatesh, Electrician who subscribed his signature on Ex.B1. It appears that the copy of the inspection notes was not served to the appellant at the end of the inspection, which was later issued during the course

of hearing. The inspection was conducted on 07.04.2021 and the report was sent to ADE/Operation, authorised person for preparation of the Provisional Assessment Notice, the Provisional Assessment Notice (in short 'the PAO') Ex.A2(Ex.B4) was issued on 05.05.2021. Though all the requisites mentioned in the Clause have been obliged by the respondents, the copy of the inspection notes was not furnished at the end of inspection which was later submitted to the appellant. Further Ex.A4 (Ex.B3) also goes to show that the representative of the appellant was present when Ex.A4 was prepared.

25. Now it is necessary to refer to the relevant Clauses of GTCS. Clause 7.5.1.2 of GTCS is as follows:-

“The associated circuitry including CT/PT shall be tested at the premises of the consumer. In addition wherever the consumer disputes or otherwise considered necessary, the Inspecting Officer shall also ensure that the meter, which is found to be defective at the time of inspection, is sent to the MRT laboratory for testing after replacement with a correct meter. The testing at MRT shall be conducted by an officer notified by the company as per Designated Officers' Notification in the presence of the consumer (or his authorised representative) who should be given atleast two weeks advance notice by the company. He shall send the Meter Test Report to the Officer authorized as per Designated Officers' Notification to issue assessment notice, within 3 days from date of testing with copy to consumer and all other concerned.”

In the present case the energy meter is undisputed, as already stated, there is no need to test the meter in the MRT lab testing, since the defect was found in the CTPT.

26. **Clause 7.5.1.3 of GTCS**

“Such Designated Officer shall issue the Assessment Notice as per the format provided in Appendix VII, to the consumer within two days from the date of receipt of the Meter Testing Report from the MRT laboratory, wherever applicable.”

In the present case the energy meter is undisputed, there is no need to test the meter in the MRT lab testing, since the defect was found in the CTPT.

27. It is necessary to go through the following Clause Format of short billing notice:-

“Appendix VII - Assessment for short billing

Clause 5.3:-In case there is no representation from you within 15 days from the date of service of this notice, the electricity charges payable by you shall be included as arrears in your subsequent CC bill.”

The above Clause mandates for levying the short billing amount in the C.C. bill. Here in the present case the short billing amount was levied in the C.C. bill of April 2021, whereas the Provisional Assessment Notice was issued on 05.05.2021, which is in violation of the aforementioned Clause. The appellant had to be given an opportunity to submit its objections against the short billing amount before including in the C.C. bills. This is a violation committed by the respondents against the above given mandate. Hence, the Licensee is not entitled to claim the late payment surcharge upon the short billing amount. The short billing amount shall fall due from the date of issue of this Order.

28. The learned authorised representative has relied upon the judgement of the Hon'ble High Court of Andhra Pradesh in W.P.No.15293 of 2009 dt.31.07.2009 dt.31.07.2009 (M/s. Hari Om Concast and Steels Pvt.Ltd. v. The Central Power Distribution of A.P.Limited and anr) (Ex.A3) wherein it is held that unless notice is given to the consumer calling upon him to explain against the proposed levy, such levy is not sustainable. There is no dispute about the said proposition. But in the said case the amount claimed was in respect of shortfall on maximum demand, whereas in the present case it is in respect of failure of CTPT the claim was made. Therefore this judgement is not helpful to the appellant.

29. The authorised representative of the appellant has also relied upon the Award passed by this Authority in Appeal No. 43 of 2021 dt.31.08.2012. In the said case the Licensee claimed the amount without issuing notice to the consumer. The said case was in respect of reclassifying the Category. The present case is not in respect of change of Category. Therefore this Award is not useful to the appellant.

30. Ex.B1 goes to show that the inspection was conducted by the Assistant Divisional Engineer on 07.04.2021 at about 12.30 PM in the presence of the Electrician of the appellant. Further Ex.A2 (Ex.B4) goes to show that the appellant was informed about Ex.B1. Soon after service of Ex.A2, the appellant replied to the Licensee in a letter dt.07.05.2022. These

factors only indicate that the appellant knows about the inspection on 07.04.2022, in the presence of their Electrician. Ex. B2 clearly establishes that 'B' phase was showing zero from 01.10.2020 to 12.04.2021. It is not as if the appellant was not utilising the energy. However the respondents issued Ex.A1 by mentioning the loss of 33.33% due to 'B' phase showing zero as assessed vide Ex.B4. Ex. B3 shows that the meter was healthy. In view of the factors merely because of non following the Clause of GTCS, the amount lost cannot be waived altogether. No doubt there are certain defects and omissions in this case like non furnishing of copies of documents including the inspection report etc., on time to the consumer etc., Electricity is a crucial infrastructure on which the socio-economic development of the country depends. Therefore these defects and omissions etc. are not material. Accordingly, I hold that the claim of Rs.9,52,002.81 demanded by the respondents is correct and the impugned Award/Order is liable to be set aside to this extent. Hence these points are decided accordingly partly in favour of the appellant and partly in favour of the respondents.

POINT No. (iii)

31. In view of the findings of points (i) and (ii), the Award /Order of the Forum is liable to be set aside to the extent indicated above.

RESULT

32. In the result, the appeal is allowed in part. The Licensee-respondents are not allowed to impose late payment surcharge on the amount of short billing.

But the Provisional Assessed amount of Rs. 9,52,003/- holds good. Further the appellant is granted (12) monthly equal instalments to pay the said amount with interest @ 18% p.a., on the arrears amount for which instalments are allowed and the Licensee shall not impose additional charges for delayed payment on the outstanding amount for which the instalments are granted.

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 this the 19th day of September 2022.

Sd/-

Vidyut Ombudsman

APPENDIX OF EVIDENCE

DOCUMENTS MARKED WITH CONSENT

For appellant

Ex. A1 Copy of H.T. C.C. bill for April 2021 dt.26.04.2021.

Ex. A2 Copy of assessment notice dt.05.05.2021 (Ex. B4)

Ex. A3 Copy of order in W.P.No.15293 /2009 dt.31.07.2009

Ex. A4 Copy of Meter Test Report dt.12.04.2021(Ex.B3)

For Respondents

Ex. B1 Copy of H.T. inspection report dt.07.04.2021

Ex. B2 Copy of Meter Reading Instrument dump

Ex. B3 Copy of HT meter Test Report dt.12.04.2021(Ex.A4)

Ex. B4 Copy of assessment notice dt. 05.05.2021 (Ex.A2)

To,

1. M/s. Shri Shakti Cylinders Pvt. Ltd., P.No.10 A&B, Phase-III, IDA
Jeedimetla, Medchal-Malkajgiri District - 500 055, represented by Sri D.V.
Raja shekar, Director.
2. The Assistant Divisional Engineer / Operation / Shapur Nagar / TSSPDCL /
Medchal-Malkajgiri District.
3. The Divisional Engineer / Operation / Shapur Nagar / TSSPDCL /
Medchal-Malkajgiri District.
4. The Senior Accounts Officer / Operation / Medchal Circle / TSSPDCL /
Medchal-Malkajgiri District.
5. The Superintending Engineer / Operation / Medchal Circle /
TSSPDCL / Medchal-Malkajgiri District.

Copy to

6. The Chairperson, Consumer Grievances Redressal Forum- GHA,Erragadda,
Hyderabad.