



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 SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE

Appeal No. 21 of 2022-23

Between

M/s. Binjusaria Ispat (P) Limited, C-1, Industrial Estate, Chandulal Baradari,
Hyderabad - 500 064, represented by Sri Hitesh Kumar Kedia,
Cell: 7036205211.

.....Appellant

AND

1. The Assistant Divisional Engineer / Operation / Kothur / TSSPDCL / Hyderabad.
2. The Divisional Engineer / Operation / Shadnagar/TSSPDCL/Hyderabad.
3. The Senior Accounts Officer / Operation /Rajendra Nagar Circle / TSSPDCL/ Hyderabad.
4. The Superintending Engineer / Operation / Rajendra Nagar Circle / TSSPDCL/ Hyderabad.

..... Respondents

This appeal is coming on before me for final hearing on 02.01.2023 in the presence of Miss Nishtha - authorised representative of the appellant and Sri D. Veera Swamy - SAO/OP/Rajendra Nagar Circle and Sri Chandramouli - JAO 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 passed by the Consumer Grievances Redressal Forum - Greater Hyderabad Area (in short

'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') in C.G.No.67/2022-23, Rajendra Nagar Circle dt.28.07.2022, rejecting the complaint filed by the appellant.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant is that the respondents have released H.T.Service Connection No. RJN 1910 for supply of 9800 KVA of Contracted Maximum Demand (in short 'CMD'). During December 2020 and January 2021 billing months the appellant obtained permission for availing 7225.22 KVA from Open Access for which the respondents are entitled to claim Rs.2,33,258/- i.e., @Rs. 32.27/- per KVA in their C.C. charges bill. The respondents were insisting the appellant to make payment of wheeling charges of Rs.2,33,158/- in advance without raising the bill in violation of the provisions of the law. The appellant paid the said amount on 10.11.2020. Respondent No.3, vide C.C. charges bill dt.26.12.2020 raised the bill for December 2020 billing month for Rs.2,41,88,017/- inclusive of Rs.2,30,985/- of wheeling charges and Rs.30,686/- of late payment charges. The appellant paid Rs.2,41,57,331/- by deducting Rs.30,686/- of late payment charges. The wheeling charges of December 2020 were paid twice i.e., Rs.2,33,158/- on 10.11.2020 and Rs.2,30,985/- on 11.01.2021 without adjusting advance amount of Rs.2,33,158/-.

3. Respondent No.3 raised the C.C. charges bill dt.26.01.2021 for January 2021 billing month of Rs.2,78,54,521/- which includes Rs 2,30,985/-

of wheeling charges and Rs.32,391/- of late payment charges. The appellant paid the amount after deducting Rs.32,391/- of late payment charges. It is accordingly prayed to direct the respondents to refund Rs.4,66,316/- along-with the applicable rate of interest or to adjust the same in future bills.

REPLY OF THE RESPONDENT BEFORE THE FORUM

4. In the written reply submitted by respondent No.4, it is stated that the subject Service Connection was released on 15.01.2001 in favour of the appellant. It is submitted that the Electricity Act 2003 introduced Open Access facility to the consumers whereby large consumers are allowed non discriminatory access to the T&D network for obtaining electricity from sources other than their local Distribution Companies (in short 'DISCOMs'). To obtain such facility the following conditions are required:-

- After verification of technical parameters required such as interface metering, meter data compatibility, feasibility w.r.t connected substation and feeder load, etc., the technical clearance is issued by DISCOM in the SLDC online portal.
- The Consumer/Generator availing power through open access by the use of Transmission and Distribution network has to pay various charges under the head such as Transmission charges and wheeling charges (if connected to 33kV /11KV), Cross subsidy surcharge, additional surcharge as fixed by state commission and UI charges as per CERC Deviation Settlement Regulations issued from time to time.
- After verification of payment of wheeling charges for availing open access, a No- due certificate is being issued by CGM/Revenue, which is being uploaded by the prospective OA Consumer/ Generator in the SLDC online portal.
- Based on the No-due certificate issued by CGM/revenue and online clearance issued by TSSPDCL in the online portal, the SLDC is

issuing the NOC to sell/purchase power under open access

- The Consumer/Generator energy schedules of drawl/injection will be informed by the Power Exchange to SLDC of Telangana. Operation of these schedules will be monitored by the SLDC for which they are collecting Rs.5000 per application per month as prescribed by the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008.
- Those schedules will be communicated to the EBC wing through mail by SLDC/Power exchange. Accordingly EBC wing will carry out the deviation settlement of these Energies and Demand as per the CERC Deviation settlement mechanism Regulations 2019 and its subsequent amendments and the reports will be communicated to the Revenue wing for generation of final bills duly considering the Open Access units.
- Finally Open Access consumer is paying for the net energy and demand utilised from DISCOM based on the final bills.

The wheeling charges are levied as per the terms and conditions approved by the Hon'ble Telangana State Electricity Regulatory Commission (in short 'Commission') from time to time and levy and collection of wheeling tariff as per the provisions of Regulation 2 of 2005 (terms and conditions of Open Access to Intra-state transmission and distribution) Regulation 2 of 2006. The wheeling charges will be calculated and collected on approved quantum only. The appellant has never cleared the total dues upto February 2021 since 2013. Earlier the appellant has filed C.G.No.544 of 2019-20 in the matter of Accumulated Surcharge on non-payment of dues. The learned Forum has passed the order on 31.01.2020 disallowing the prayer of the appellant. The wheeling charges paid twice by the appellant were adjusted from the available dues as per the procedure in vogue. He accordingly prayed to dismiss the

complaint.

REJOINDER FILED BY THE APPELLANT BEFORE THE FORUM

5. In the rejoinder filed by the appellant, it is submitted that the reference of C.G.No.544/2019-20 is not relevant to the present grievance i.e., excess payment of wheeling charges paid by the appellant in the C.C. charges bill of December 2020 and January 2021. The other averments made in the written submissions of respondent No.4 are denied.

6. In the further written reply to the rejoinder, it is submitted that the appellant was not paying the C.C. bills completely since 2014. Thus Delayed Payment Surcharge (DPS) was levied on pending dues in every month C.C. bills which were not paid by the appellant.

AWARD OF THE FORUM

7. After considering the material on record and after hearing both sides, the learned Forum has rejected the complaint as stated above.

8. Aggrieved by the Award passed by the learned Forum, the present appeal is preferred, contending among other things, that the learned Forum has rejected the complaint without considering the facts and grounds mentioned in the complaint.

GROUND OF THE APPEAL

9. In the grounds of appeal it is submitted that the learned Forum did not consider the facts filed by respondent No.4 in its counter dt.26.05.2022 in

respect of amount of Rs.64,196/- available with the respondents against the excess payment of Rs.4,66,316/-. It is accordingly prayed to set aside the impugned Award and to direct the respondents to refund the excess amount of Rs.4,66,316/- towards wheeling charges paid in December 2020 and January 2021 along-with interest @24% p.a. from the date of payment till the date of refund etc.,

WRITTEN SUBMISSIONS OF THE RESPONDENTS

10. In the written reply filed by respondent No.4, he has reiterated the contents of the earlier written reply filed before the Forum. It is also submitted that as per the orders of this Authority in M.P.No. 03 of 2021 in Appeal No. 02 of 2020-21, respondent No.4 has reconciled the service of the appellant duly considering the Court cases in the month of February 2021 and an amount of Rs.17,85,712/- wrongly showing in C.C. dues instead of Court case amount was rectified duly transferring the amount to Court dues. At that time the appellant has to pay Rs.3,97,894/- (after credit entry passed in February 2021 for Rs. 17,85,712/-). It is accordingly prayed to dismiss the appeal.

REJOINDER OF THE APPELLANT

11. In the rejoinder filed by the appellant, it is reiterated that the appellant is entitled for refund of an amount of Rs.1,68,962/- paid by it.

12. Heard both sides

POINTS

13. The points that arise for consideration are:-

- i) Whether the appellant is entitled for refund of the amount as prayed for?
- ii) Whether the impugned Award of the learned Forum is liable to be set aside? and
- iii) To what relief?

POINT No. (i) and (ii)

ADMITTED FACTS

14. It is an admitted fact that the respondents have released HT Service Connection No. RJN 1910 to the appellant on 15.01.2005. It is also an admitted fact that the dispute is in respect of wheeling charges.

SETTLEMENT BY MUTUAL AGREEMENT

15. 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

16. 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.

CRUX OF THE MATTER

17. M/s. Binjusaria Ispat (P) Ltd., bearing H.T. Service Connection RJN 1910 with a CMD of 9800 KVA under H.T. Category - I(A), released on 15.01.2005. The appellant is availing power supply through Open Access from the sources other than the local DISCOM. As per the prevailing Wheeling Tariff Order FY 2020-21 and terms and conditions stipulated in Regulation 2 of 2005 and 2 of 2006, an Open Access consumer is required to pay wheeling charges @ Rs. 32.27/- per KVA in lieu of usage of state/ distribution licensee network and operating charges for the State Load Despatch Centres (in short 'SLDC') which shall be directly settled by power exchange with DISCOM. The appellant's complaint is to refund of Wheeling Charges of Rs.4,66,316/- (along-with interest) claimed to have excess paid in December 2020 and January 2021 billing months CC charges. The appellant stated that they have obtained permission for availing 7225.22 KVA from Open Access. The relevant wheeling charges would arrive at $\text{Rs.}32.27\text{-} \times 7225.52 = \text{Rs. } 2,33,158\text{-}$. Accordingly they have paid Rs.2,33,158/- pertaining to December 2020 in advance on 10.11.2020. But in the subsequent C.C. bill for the month of December 2020 dt.12.11.2020, again the said amount of advance wheeling charges was reflected in the bill of total amount of Rs.2,41,88,017/- along-with late payment charges of Rs.30,686/-. Similarly in the next month also, they have paid advance wheeling charges of Rs.2,33,158/- on 10.11.2020 pertaining to the month of January 2021. In this month also the advance

wheeling charges were again reflected in the total bill of Rs.2,41,57,331/- along-with Rs.30,686/- Late Payment Charges. The appellant paid the total amount keeping aside the Late Payment Charges for both the months. In view of the above, the appellant argued that they had paid advance Wheeling Charges of Rs.2,33,158/- on 10.11.2020 and also on 10.12.2020 apart from paying the same amount during the payment of the total amount of regular C.C. bills for the months of December 2020 and January 2021 and have requested for refund of Rs.4,66,316/-.

18. The respondents placed their arguments against the dispute stating that actually the appellant has to pay the arrears of Rs. 3,97,894/- as on 23.02.2021, this was already admitted by the Hon'ble Vidyut Ombudsman in Appeal No. 02 of 2020-21 dt.18.08.2020. The appellant plea is to refund the excess paid amount against wheeling charges keeping aside the pending dues which attracts Delayed Payment Surcharges. The subject of pending dues reconciliation was already dealt with in the Hon'ble Ombudsman orders in M.P.No. 03 of 2021 in Appeal No. 02 of 2020-21. According to the respondents they have reconciled with the appellant duly considering the Court cases in the month of 02/2021 and an amount of Rs.17,85,712/-, which includes Delayed Payment Surcharges, was transferred from C.C. arrears to under the head of Court dues arrears. Finally the appellant has to pay an amount of Rs.3,97,894/- (after credit entry passed on the month of 02/2021 for Rs.17,85,712/-). The service is liable for disconnection in view of pending

dues. However the advance payment of wheeling charges paid in 02/2021 and 03/2021 was adjusted with the pending dues, subsequently there was a credit balance of Rs.64,196/-. The respondents showed the pending dues of Rs.3,75,329/- as on 30.08.2022. This time they have not adjusted the advance payment of wheeling charges pertaining to 09/2022 and 10/2022 against the pending dues, consequently the Service Connection is now liable for disconnection as per Sec. 56 of the Electricity Act.

19. The following statement shows the billing, payments and arrears pending:-

Bill issued in the month (1)	Opening Balance (Rs) (2)	Wheeling charges (Rs) (3)	Total demand (4)	Payment received		Total Shortfall during the month		Total (9)	Closing balance (10)
				Against CC (5)	Against wheeling (6)	Against CC (7)	Against wheeling (8)		
Mar 21	1,97,341	2,30,985	3,20,99,229	3,18,56,832	2,30,984	11,411	1	11,413	2,08,753
Feb 21	3,97,893	2,30,985	2,91,69,403	2,91,38,850	2,31,106	-2,00,432	-121	-200553	1,97,341
Jan-21	21,51,389	2,30,985	2,73,33,646	2,78,01,429	-	-1,98,769	2,30,985	32,217	3,97,893
Dec-20	23,51,524	2,30,985	2,41,69,890	2,41,39,213	2,30,812	-2,00,308	173	-2,00,135	21,51,389

The dispute raised in the learned Forum is in respect of double payment of advance wheeling charges for the month of December 2020 and January 2021. The appellant stated that they have withheld the late payment surcharges for the above said (2) months to the tune of Rs. 30,686/- for each month. A perusal of the above statement goes to show that at Column No. (7)

for the month of December 2020, an amount of Rs.2,00,308/- was shown as minus amount which is nothing but advance wheeling charges adjusted in the closing balance at Column No. (10). Similarly the excess amounts were adjusted for the month of January and February at Column (7) and which is reflected in the closing balance at Column (10). As the late payment surcharges for the (2) months were not paid, the said amount is not adjusted. It is pertinent to note that the Regulation No. 5 of 2004 envisages the Licensee to adjust the paid amount under Clause 4.5 which is reproduced here-under:-

“Adjustment of amount paid:- The amount paid by the consumer shall first be adjusted as per the priorities stated hereunder:-

- a. Arrears as on 31st March of the previous financial year.
- b. Arrears accrued from 1st April of the current financial year till the date of the bill.
- c. Current month Consumption Charges.”

In view of the above factors, though the appellant understood to have paid the amount twice, 1st as an advance wheeling charges and secondly under the regular CC bills, the consequent result is the advance wheeling charges paid in excess is being adjusted in the pending dues as per the above given Clause. Finally the amount of Rs. 4,66,316/- is being adjusted in the regular C.C. dues and there is no merit in the appeal of the appellant. In regard to the pending dues, it is already dealt with in the Appeal No.02 of 2020-21 and M.P.No. 03 of 2021 in Appeal No. 02 of 2020-21 disposed by this Authority. In the para No. 13 of the order in Appeal No. 02 of 2020-21 dt.18.08.2020, this Authority gave valid reasons for rejecting the appeal upon pending dues. Hence the appeal in regard to the claim of the appellant is liable to be rejected.

Accordingly, I hold that the appellant is not entitled for refund of the amount as prayed for and the Award of the learned Forum is not liable to be set aside. These points are accordingly decided against the appellant and in favour of the respondents.

POINT No. (iii)

20. In view of the findings on point No. (i) and (ii), the appeal is liable to be rejected.

RESULT

21. In the result, the appeal is rejected without costs, confirming the Award passed by the learned Forum.

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 7th day of February 2023.

Sd/-
Vidyut Ombudsman

1. M/s. Binjusaria Ispat (P) Limited, C-1, Industrial Estate, Chandulal Baradari, Hyderabad - 500 064, represented by Sri Hitesh Kumar Kedia, Cell: 7036205211.
2. The Assistant Divisional Engineer / Operation / Kothur / TSSPDCL /Hyderabad.
3. The Divisional Engineer / Operation / Shadnagar/TSSPDCL/Hyderabad.
4. The Senior Accounts Officer / Operation /Rajendra Nagar Circle / TSSPDCL/ Hyderabad.

5. The Superintending Engineer / Operation / Rajendra Nagar Circle / TSSPDCL/ Hyderabad.

Copy to

6. The Chairperson, Consumer Grievances Redressal Forum of TSSPDCL- Greater Hyderabad Area, Door No.8-3-167/E/1, Central Power Training Institute (CPTI) Premises, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad - 45.

