



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

Friday the Twenty Ninth Day of November 2019

Appeal No. 24 of 2019-20

Preferred against Order dt:18.12.2017 of CGRF in
CG No.785/2017-18 of Secunderabad Circle

Between

Smt. K. Ranga Lakshmi, Plot No.113/A, Phase-3, SVCIE, Balanagar, Hyderabad.
Cell: 9848847808.

... Appellant

AND

1. The ADE/OP/Balanagar/TSSPDCL/Hyderabad.
2. The AAO/ERO/Bowenpally/TSSPDCL/Hyderabad.
3. The DE/OP/Bowenpally/TSSPDCL/Hyderabad.
4. The SE/OP/Secunderabad Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 05.10.2019, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 06.11.2019 at Hyderabad in the presence of Kum. Nishitha - On behalf of the Appellant Company and Sri. K. Raju - ADE/OP/Balanagar and Sri. K.S.Ramprasad - JAO Billing on behalf of AAO/ERO/Bowenpally for the Respondents and having considered the record and submissions of both parties, the Vidyut Ombudsman passed the following;

AWARD

This is an Appeal against the orders in CG No. 785/2017 on the file of the CGRF/Secunderabad Circle dt.18.12.2017.

2. The averments in the Appeal are as follows:-

The Appellant contended that she has filed a complaint before the CGRF for withdrawal of back billing notice issued for an amount of Rs 5,71,414/- on Service connection No. SZ 071540 of Category III by clubbing the service connection No.

S6000500 of Category IIIA. They contended that earlier they were using the power supply of M/s. Ganesh Fine Wire Industries in Jalpally under the Service Connection No. 344002368, but due to certain circumstances they had to shift their entire machinery to Balanagar premises in which Mr. K. Pramod was also running his industry styled as M/s. Swastik Wire Industries having Service Connection No. 344002061, which was also originally located in Jalpally and the ADE clubbed both the said services of the Appellant and K. Pramod into HT Category I with immediate effect and issued a Back billing demand though both the services are separate and have separate entities, but the learned CGRF failed to appreciate their contentions and rejected the said complaint. As such aggrieved by the same, the present Appeal is filed.

3. The Appellant contended in the Appeal that she is the Proprietor firm having an LT Service connection bearing No. SZO71540 with a contracted load of 74 HP. The Appellant approached before Hon'ble CGRF II vide CG.No 785/2017-18/Secunderabad circle in respect of back billing claim of Rs 5,71,414/- made by ADE/OP/Balanagar, Hyderabad-500018 duly changing the Category from LT III to HT I for the period, from October, 2016 to September , 2017. The Hon'ble CGRF II is pleased to reject the same vide its order dated 18.12.2017. A copy of order dated 18.12.2017 of CG.No 785/2017-18 secunderabad circle.

The Appellant vide its representation dated 2.2.2018 approached before respondents No 4 from waiver of the said claim of Rs 5,71,414/- after making payment of Rs. 2,85,707 towards 50% of dispute amount. The Respondent No. 4 vide its letter No SE/OP/SEC/COML/F.SC NO SZO71540/D.NO246/2019-20 dated 16.5.2019 reduced the claim to Rs 3,89,115/- for the period from october 2016 to september 2017 converting into optional I category from Rs,5,71,414/-.

Aggrieved by the same, the Appellant approached before Hon'ble CGRF II vide its complaint dated 31.5.2019 on the letter No. SE/OP/SEC/COML/F.SC NO SZO71540/D.NO246/2019-20 dated 16.5.2019. The Hon'ble CGRF II informed that they have rejected the complaint dated 31.5.2019 vide Ir.No CGRF II/Gr.Hyderabad/D.No 123/19 dated 1.6.2019 and handed over the original complaint dated 31.5.2019 with letter no CGRF II/Gr.Hyderabad /D.No 123/19 dated 1.6.2019 to the Appellant on 24.9.2019. The original complaint date 31.5.2019 with rejection no CGRF II/Gr.Hyderabad/D.No 123/19 dated 1.6.2019 received from Hon'ble GRF II on 24.9.2019.

The Respondent No. 2 threatened over phone for disconnection of power supply for making balance payment.

UNDER CLAUSE 3.41 OF REGULATION 3 OF 2015 DATED 3.10.2015:

Not to disconnect power supply to the complaint service connection No SZO 71540 pending final decision by the hon'ble authority.

UNDER CLAUSE 3.35 OF REGULATION 3 OF 2015 DATED 3.10.2015.

- a) To set aside the order dated 18.12.2017 of CG.No 785/2017-18/SC passed by the respondents No 1 consequently set aside final order passed by respondents No 4 vide letter no E/OP/SEC/Coml/F.SC NO SZO71540/D.NO246/2019-20 dated 16.5.2019 for Rs 3,,89,115/-.
- b) Refund Rs.2,85,707/- paid towards 50% amount of claimed amount of Rs 5,71,414/- along with interest @24% p.a as prescribed in clause 4.7.3 of regulation 5 of 2004 dated 17.3.2004.
- c) Any such other order or orders as may deem fit by this Hon'ble authority in the circumstances of the appeal in the interest of justice and fair play.

4. Reply of the Respondents

That the SC.No.SZO71540 was released in the name of M/s. ELECTRO WELD INDUSTRIES on 3.12.1994 under LT category-IIIA with a contracted load of 74HP at Plot.No 113/A, SVCIE, Balanagar and the SC.No S6000500 was released in the same name of M/s.SRINIVAS POLY FILMS on 24.12.1998 at Plot No. 113/A/1, SVCIE balanagar under LT category -IIIA with a contracted load of 70 HP.

That the owner of the premises had a rental agreement with Smt. K.RANGALAKSHMI and PROMOD for running their industry which was shifted from jalpally for carrying out wire drawing manufacturing at the premises without intimation to the TSSPDCL.

That neither the owner of the premises nor the tenant have given representation for premises for change of their manufacturing activity in the premises from TSSPDCL.

1. That the two tenants who have been utilizing the power supply for wire drawing purpose are in same activity, same group and family because there is

a family relation between K.PROMOD and K.RANGALAKSHMI .Sri K.PRAMD is son of K>RANGALAKSHMI.

2. That the premises is having three sheds.In that 2nd shed is having two services i.e SC.No SZO71540 of M/s ELECTRO WELD INDUSTRIES and SC.No S6000500 of M/S SRINIVASA POLY FILMS are existing and not having a separate wall between the two services. The movement of material flow from one service to another service in the same shed for manufacturing the wire drawing and it is clearly shows that the power supply utilizing from both services for the same activity.
3. That the consumer has violated the agreement for supply of Electricity at low tension for category-III A because without taking prior approval from the company for change of name of the industry, manufacturing activity.
4. It is to submit that as per LT agreement the consumer has indulged in Re-sale of electrical power to the tenants and violated the agreement.

3.5 Definition of separate establishment.

3.5.1 for the purpose of the GTCS, separate establishment shall include the following types of establishment:

- I. Having distinct set-up and staff;
- II.Owned or leased by different persons;
- III.Covered by different licenses or registration under any law where such procedures are applicable and;
- IV. 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 consumer of the group or family or firm or company who are availing supply under different service connection situated within a single premises by splitting the unite the company may treat such multiple connection existing in the single premises as a single service connection and charge the total consumption of all consumer at the appropriate tariffs applicable for a single service connection. Any officer authorized 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.

It is to submit that the consumer did not submit any supporting documents stating that:-

I. He has distinct setup and staff.

II. He has not produced any separate registration, SSL.

It is to submit that the consumer violated the constitution of LT Agreement for category-III and as per clause 3.5.1 and 3.5.3 of GTCS these two services should be club in to single services.

The AE/DPE/Hyderabad was inspected the consumer premises on 21.09.2017 at 15:20 hours and booked a case under Back Billing for Rs 5,71,414 under HT category-I for last one year as the consumer is being availing power supply for WIRE DRAWING INDUSTRY purpose from two services SC.No SZO71540 and SC.No S6000500 were found in a single premises for the same nature of activity which needs clubbing and billing into a single service.

That a provisional Assessment notice was served to the consumer on 6.10.2017 vide LR.NO ADE/OP/BLNG/D-XVI/C-VI/D.NO 922/17, Dt 03.10.2017 for back billing amount of Rs 5,71,414/-.

That as per clause 3.5.4 of GTCS a 60 days notice was given to the consumer on 10.10.2017 for switch over of supply from LT to HT supply through vide LR.NO ADE/OP/BLNG/D-XVI/C-VI/D.NO 983/17, 10.10.2017.

That I along with AAE/OP/BALANAGAR inspected the consumer premises on 8.11.2017. The services wise connected load and meter details are furnished below.

1. SC.NO SZO71540:

2. M/S:ELECTRO WELD INDUSTRIES, meter no 643182,mark:HPL reading:

KWH	KVAH
155210.6	164449.9

3.

SL.NO	NAME OF THE MACHINERY	NUMBER OF MACHINES WITH LOAD	TOTAL LOAD
1	Wiring drawing machine	25HPX2 20HPX3	110HP
2	POINTING MACHINE	3HPX1	3HP
3	GRINDING MACHINE	0.5 HPX1	0.5HP
4	CFL	60X1	60W
5	TUBE LIGHT	40X3	120W
TOTAL CONNECTED LOAD: 113.5 HP+ 180 WATTS.			

4. SC NO S6000500

M/S SRINIVASA POLY FILMS, metr no 256359, make HPL,

KWH	KVAH
11541.5	11734.7

SL.NO	NAME OF THE MACHINERY	NUMBER OF MACHINES WITH LOAD	TOTAL LOAD
1st floor SC.No S6000500			
1	Cutting machine	7.5HPX1 5HPX2	17.5HP
2	compressor	5HPX1	5HP
3	crane	5HPX1	5HP
4	Wiring machine	3HPX1	3W
5	led	36WX1	36W
6	fan	180WX1	180W
7	Tube light	40WX3	120W
TOTAL CONNECTED LOAD: 30.5 HP+ 336 WATS.			

5. The total gross connected load of both the service os 145HP.

It is to submit that the consumer has given an appeal to the DE/OP/Bowenpally on 20.10.2017 against the provisional assessment order.

6. That the DE/OP/Bowenpally has conformed the liability for payment of electricity charges at Rs 5,71,414/- and issued a final order on 8.11.2017 through or no DEE/OP/BWPY/D.No 3010 Dated 8.11.2017.

7. It is to submit that the SE/OP/Sec circle has confirmed the liability for payment of electricity charges at Rs 3,89,115/- and issued a final order on 16.05.2019 through LR.SE/OP/SEC/SAP.NO:17/D.NO 246/19 DATED 16.5.2019.

8. The consumer has paid Rs 1,00,000 vide PR No 1612625895 dt 25.1.2018 and Rs 1,85,707/- vide PR No 1612627168 dt 29.01.2018 respectively.

5. **REJOINDER OF THE APPELLANT:**

1. IN REPLY TP PARA NO 1: The respondents no 2 categorically admitted that they have issued 2 separate connections in the name of Electro weld industries and srinivasa poly films of LT category III industries connection.

2. IN REPLY TO PARA NO 2&3: The respondents no 2 categorically admitted that smt k. Rangalakshmi and sri promd are having rental agreement separately. Hence not denied.
3. Regarding intimation to TSSPDCL it is to be noted that existing two connections are of industrial category for manufacturing purposes. The appellant and another person promod who has taken premise on lease started industry. Manufacturing only hence the intimation was not required and not intimidated. It is pertinent to note that the meter reader who visit the factory every month for obtaining the meter use to note the manufacturing process of both the premises separately. Smt rangalakshmi manufacture Ms drawn wire and sri promod manufacture Ribbed wire. The said fact intimate to SE/Sce vide dt 2.2.2018
4. IN REPLY TO PARA 4: the statement of respondent no 2 denied. Categorically admitted that Smt k.Rangalakshmi and sri.promod are having 2 separate rental agreements. Both the parties are using their respective sheds separately for different products.
5. IN REPLY TO PARA 5: the statement of respondent no 2 denied. Categorically admitted that Smt k.Rangalakshmi and sri.promod are having 2 separate rental agreements. Both the parties are using their respective sheds separately for different products. There is existing wall between two sheds.
6. IN REPLY TO PARA 6:the statement of respondent no 2 denied. Appellant has not violated the agreement as the appellant is not having any agreement with the respondents.
7. IN REPLY TO PARA 7:the statement of respondent no 2 denied as there is no resale of electricity.
8. IN REPLY TO PARA 8: the clause 3.5.1 is complied in the present appeal as both the lease deeds are in different persons name. Regarding supporting documents please note that two separate rental agreements are submitted.
9. IN REPLY TO PARA 9:The appellant has not violated the constitution of LT agreement more specifically the appellant is not having agreement with respondents.
10. IN REPLY TO PARA 10:The appellant is drawing power of S.NO SZ071540 only for manufacturing MS drawn wire.The another SC.No S6000600 is in different premises.

11. IN REPLY TO PARA 11-12: Facts the provisional assessment notice is not maintainable.

12. IN REPLY TO PARA 13: Category admitted that the Electroweld industries is connected with main machinery. Wiring drawing machine and pointing machine and Srinivasa Poly films is connected with ain machinery. Cutting machine and wiring dressing machine. This fact itself is showing that the products of both the establishment are different.

Heard both sides.

Issues

6. In the face of the said contentions by both sides the following issues are framed:-

1. Whether the Appellant is entitled for setting aside the order demanding the back billing amount of Rs 3,89,115/- ?
2. Whether the Appellant is entitled for refund of Rs 2,85,707/- paid towards 50% of the original back billing amount to the Respondents ? and
3. To what relief?

Issues 1&2

7. A perusal of the evidence on record admittedly show that the Appellant i.e. Smt. Ranga Lakshmi who was running the firm styled as M/s. Ganesh Fine Wire Industries shifted her industry from Jalapally to the premises bearing Plot No. 113/A, Phase -III, Balanagar, Hyderabad and renamed it as M/s. Electro Weld Industries just as her son K. Pramod who was running an industry styled as M/s. Swastik Wire Industries at Jalpally shifted his firm to premises No. 113/A/1 and restyled his industry as M/s. Srinivas Poly Films.

The contention of the Appellant is that M/s. Electro Weld Industries belonging to her is a separate entity and has separate business from that of M/s. Srinivas Poly Films belonging to Mr. K. Pramod and that the ADE who inspected the premises has wrongly given a report stating that both the said firms are connected to each other and are carrying on the manufacturing of the same products and clubbed both the services and issued back billing of service into HT Category 1

and as such seeking for setting aside the said order and also for the refund of the 50% of the amount paid from the back billing amount of Rs 5,71,414/-.

8. The Respondents on the other hand contended that both the Appellant i.e. Smt. Ranga Lakshmi and Sri. K. Pramod are Mother and Son and have rented three Malgis in the same premises and are carrying on their manufacturing activity jointly having both their service connections fixed in the second Malgi among the said three Malgis and as such in view of the said connections in their activity the services of both the Appellant and Mr. K. Pramod have been categorised into HT Category I and as such provisional assessment was made towards back billing amounting to Rs 5,71,414/- of which 50% has been paid by the Appellant in view of the demand notice issued.

9. The Appellant Smt. Ranga Laxmi having a Industry M/s. Electro Weld Industries, Service Connection Number SZ 071540, at Plot No. 113/A, S.V.C.I.E, Balanagar, preferred this Appeal against the back billing case towards clubbing of 2 Nos. services alleged by the Respondents existing in single premises. There was an inspection carried out on 21.09.2017 by Sri. K. Prasad, AE, it was observed that the consumer is availing power supply for "WIRE DRAWING INDUSTRY" and 2 Nos service connections S6000500 and SZ071540 are existing in single premises for the same nature of activity and hence, the two service connections under LT Category III are to be billed into a single service connection under HT Category I. The provisional assessment towards back billing over wrong categorisation was done for an amount of Rs 5,71,414/-. Initially the CGRF in CG No. 785/2017-18 dt.18.12.2017 rejected the Appeal based on the Clause 2.38 of Regulation 3 of 2015, stating that they have no jurisdiction, the assessment is under Section 126 of the Electricity Act'2003. Such is not the case, since the back billing is towards wrong categorisation and the case was booked by the inspecting officer under back billing and not under Section 126, hence, the stand taken by the CGRF is not correct.

Thereafter the Appellant preferred to Appeal before SE/Operation/Secunderabad , where the SE/OP/Secunderabad heard the Appeal of the Appellant and disposed by revising the assessed amount from Rs 5,71,414/- to Rs 3,89,115/- vide Lr.No.SE/OP/Secunderabad/Coml/F.SC No. SZ071540/D.NO. 246/2019-20 dt.16.05.2019.

The Appellant again preferred to Appeal on the revised amount of Rs 3,89,115/- and withdrawal of the back billing case in the CGRF, where the Appeal

was rejected on the account that the case was already disposed in CG No. 785/2017-18/Secunderabad Circle. Notwithstanding the above, the Appellant preferred this Appeal to set aside the final order passed by the SE/OP/Secunderabad for Rs 3,89,115/- and refund Rs 2,85,707/- paid towards 50% amount of claimed amount of Rs 5,71,414/- along with interest @ 24% P.A. as prescribed in Clause 4.7.3 of Regulation 5 of 2004.

10. Hence it is to be ascertained that whether the two service connections S6000500 and SZ071540 released in the name of M/s. Srinivasa Poly Films and M/s. Electro Weld Industries respectively alleged to be existing in the same single premises are liable to be billed under single service in HT Category I. The Respondent No.1, ADE/OP/Balanagar claimed that the land owner of the premises has a rental agreement with K. Rangalakshmi and Pramod for running the industry for carrying out wire drawing manufacturing, neither the owner of the premises nor the tenant got permission/approval for change of their manufacturing activity in the premises from TSSPDCL. That the two tenants utilising the power supply for wire drawing purpose are in the same shed, same activity, same group and family as Sri. K. Pramod is Son of Smt. K. Rangalakshmi. That the total premises is having 3 sheds, the 2nd shed is having two services, SZ071540 of M/s. Electro Weld Industries and S6000500 of M/s. Srinivasa Poly Films, not having any formidable separate wall. The movement of material clearly shows that both the service connections are utilizing power for the same activity. Further relied on the Clause 3.5 - Definition of Separate Establishment of the GTCS, where it was claimed that the Appellant has not given any supporting documents of having distinct setup and staff and has not produced any separate registrations,SSI. A notice for 60 days vide Lr.No.ADE/OP/BLNG/D-XVI/C-VI/D.No.983/17 dt.10.10.2017 was issued to the Appellant to switchover the LT supply into HT supply. That the Appellant has paid Rs 1,00,000/- vide PR No.1612625895 dt.25.01.2018 and Rs 1,85,707/- vide Pr.No.1612627168 Dt. 29.01.2018.

11. The Appellant denied the claim of the Respondents and held that both the subject industries are not the same and are different, where Shed No.113/A, pertains to Smt. K. Rangalakshmi, M/s. Electro Weld Industries and Shed No.113/A/1 pertains to Sri. K. Pramod Anand. That a copy of rental agreement executed on 10.04.2015 showing as a neighbour and running the firm under the name and style of M/s. Srinivasa Poly as per the electricity bill and the product of the industry is ribbed

wire. Further relied on the Clause 3.4.1 of the GTCS where reclassification of the consumer category can be done only when the consumer alter the usage of purpose, but in the present case no reclassification order is passed by the competent authority. Towards their claim, the Appellant produced copy of Order of the Hon'ble High Court dt.29.02.2016 in W.P.No.6493 of 2016 in respect of change of category. Also relied on the Clause 3.5 of the GTCS where it was alleged that the Respondent No.3 has violated the clause. That there is no need of taking permission from the TSSPDCL where existing two connections are of Industrial category only i.e. for manufacturing purposes. There is no change in the category. That TSSPDCL has accepted that there are two separate rental agreements for their respective sheds. The Clause 3.5.1 (ii) is complied with the proofs of having two separate lease deeds. That M/s. Electro Weld Industries connected with main machinery i.e. wiring drawing machine and pointing machine and Srinivasa Poly Films is connected with main machinery. In support of their claim, the Appellant produced photographs of Smt. K. Rangalakshmi industry and Sri. K. Pramod Anand Industry.

Based on rival contentions and perusal of the written submissions it is observed that the Appellant claimed that there are two different sheds with shed No.113/A and shed No.113/A/1, to such effect has not given any documentary proof, instead submitted the lease agreements undergone by both the subject industries in the year 2015, which shows that the shed is on plot No.113 at Sri Venkateswara Cooperative Industrial Estate, Phase-III, Balanagar, Hyderabad. The Respondents on the other hand claimed that the premises is having three sheds, in that second shed the Appellant is having two subject service connections. There is continuity of movement of material flow from one service connection to another service connection in the same shed for manufacturing the wire drawing. The photographs enclosed by the Appellant of both the industries does not prove that the industries are formidably separate and also there is no enough evidence placed by the Appellant to prove that both the industries are producing two different products. The MS drawn wire can be further processed to manufacture ribbed wire, which means the end product of one industry may be used as input material for the second industry. The ribbed wire is nothing but striped wire to indicate ground/neutral wire. Hence, there is a possibility of continuation of process as a whole in one unit.

There is a clear mandate in the GTCS, how an establishment can be defined separate in clause 3.5. The prerequisites towards establishing two units as separate are :-

- I. Having distinct set-up and staff;
- II. Owned or leased by different persons;
- III. Covered by different licenses or registration under any law where such procedures are applicable and;

Of the above the Appellant could able to give two different lease agreements as claiming that the subject service connections are different, but has not complied by the first and third conditions.

The more specific clause on the present subject is 3.5.3, which is reproduced here under:-

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

12. The said averments of both sides show that the Appellant has not denied that the Appellant i.e. the owner of the premises styled as M/s. Electro Weld Industries and Mr. K. Pramod who is the owner of the premises styled as M/s. Srinivas Poly Films are none other than Mother and Son. They have also not adduced any evidence to show that the three Malgis rented by them are having separate entity and premises for M/s. Electro Weld Industries and for M/s. Srinivasa Poly Films without any inter connection. They further failed to support their denial that the service connections bearing Nos. SZO71540 belonging to the Appellant and SC No. S6000500 belonging to Mr. K. Pramod are located in the same Malgi nor they have adduced any evidence to show that the products produced by them are not connected. The provisions of Clause 3.5.3 of GTCS confers right to treat the multiple connections existing in the single premises as a single service connection. The evidence produced

by the Appellant such as photographs, lease agreements etc. to claim that the industries are separate and distinct are not sufficient to prove. Hence in the said circumstances discussed above it is found that the Appellant is not entitled for setting aside the demand for back billing amount of Rs 3,89,115/- .made by the Respondents and for refund of 50% of the said back billing amount alleged to be paid by the Appellant to the Respondents. Hence decides these issues against the Appellant.

Issue No.3

13. In the result the Appeal is dismissed.

TYPED BY Office Executive cum Computer Operator, Corrected, Signed and Pronounced by me on this the 29th day of November, 2019.

Sd/-

Vidyut Ombudsman

1. Smt. K. Ranga Lakshmi, Plot No.113/A, Phase-3, SVCIE, Balanagar, Hyderabad. Cell: 9848847808.

2. The ADE/OP/Balanagar/TSSPDCL/Hyderabad.

3. The AAO/ERO/Bowenpally/TSSPDCL/Hyderabad.

4. The DE/OP/Bowenpally/TSSPDCL/Hyderabad.

5. The SE/OP/Secunderabad Circle/TSSPDCL/Hyderabad.

Copy to :

6. The Chairperson, CGRF - GHA, Vengalrao Nagar, Erragadda, Hyderabad.

7. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul, Hyd.