



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**

Thursday the Nineteenth Day of July 2018

Appeal No. 25 of 2018

Preferred against Order Dt. 27.01.2018 of CGRF in
C.G.No.663/2017-18/Hyderabad Central Circle

Between

M/s. Jaya Diagnostic & Research Centre Ltd., Raghava Ratna Towers,
Chirag Ali Lane, Nampally, Hyderabad- 500 001. Cell:9391033606.

... Appellant

AND

1. The ADE/OP/Hyderguda/TSSPDCL/Hyderabad.
2. The DE/OP/Saifabad/TSSPDCL/Hyderabad.
3. The SAO/OP/Hyd. Central Circle/TSSPDCL/Hyderabad.
4. The SE/OP/Hyd. Central Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 19.04.2018, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 28.06.2018 at Hyderabad in the presence of Sri. K. Nataraj - on behalf of the Appellant Company and Sri. D. Rathnaiah - ADE/OP/Hyderguda and Sri. B. Venkataiah - DE/OP/Saifabad for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant contended that its a research center styled as M/s. Jaya Diagnostic Research center ltd, and that it has approached the CGRF vide CG No. 663 of 2017-18 seeking the revision of the CC bills and refund of excess amount of Rs 15,66,240/- along with applicable rate of interest on the application of deration of CMD from 650 KVA to 520 KVA from Nov,2015 to Feb,2016 and deration from 520 KVA to 70 KVA from June,2017 to Aug,2017 collected by the Respondents, but the said CGRF failed to appreciate its grievance and passed the orders “ the Respondents are directed to soon on receipt of payment of incidental charges and cleared the dues on the said service prior to consumer approaching TSSPDCL for revised deration of load to

70 KVA and shall file compliance report along with the satisfactory letter of the consumer company.” Hence aggrieved by the said order the present Appeal is filed.

2. A perusal of the averments made by the Appellant before the CGRF and before this Office shows that the Appellant contended as follows:

That the DE/OP/Saifabad vide MEMO No. DEE/OPN/Saifabad/Comml./D.No.2554/15-16 dt. 15.02.2016, has accorded release orders for deration of supply from 650 KVA to 520 KVA, based on the revised HT agreement concluded on 13.02.2016 vide Lr.No. DE/OPN/Saifabad/Hyd/Comml./F.HDC-404/D.no.2539/2015-16 dt.13.02.2016. It was claimed that as per the Clause No. 5.9.4.2 of proceeding No. APERC/Secy/96/2014 dt.13.05.2014, the deration of CMD from 650 KVA to 520 KVA ought to have effect on 15.10.2015, whereas effected on 13.02.2016 due to which there is a delay of 4 months from Nov,2015 to Feb,2016 billing months resulting in excess demand charges of Rs 7,51,920/-.

That the SE/OP/Central Circle accorded approval for further deration of CMD from 520 KVA to 70 KVA w.e.f. 20.05.2017, vide Lr.No. SE/OP/CC/Hyd/Comml./F.19/D.No.269/2017-18 dt.25.04.2017(As per the approval it is 650 KVA to 70 KVA not 520 KVA to 70 KVA as claimed by the Appellant). Subsequently they have approached DE/OP/Saifabad to enter into fresh HT agreement for derated CMD of 70 KVA but it was refused stating that the CC charges of March and April,2017 were not paid and hence it was directed to pay the arrears first and then only the effect of deration of CMD will be given, that the power was disconnected on 28.04.2017 without any notice in violation of provisions of Electricity, Act 2003.

That the Respondents without giving effect of deration of CMD claimed excess demand charges and energy charges of Rs 8,14,320/- during the period from June,2017 to August,2017. Thus totally to Rs 15,66,920/- during the period from November,2015 to August,2017. Hence, the Appellant submitted a representation dt.11.09.2017 to the Respondents with a request to revise the bills duly affecting deration of CMD as stated above and withdraw the excess amounts claimed, but the Respondents not responded nor revised the bills till date.

3. While the averments of the Respondents through the Respondent No.1 is as follows:

The HT service in name of M/s. Jaya Diagnostic & Research Centre, 10 Ragahvaratna, Chirag Ali Lane, Abids, SC No. HDC-404 is existing with CMD of 650 KVA. M/s. Jaya Diagnostic & Research Centre, had registered request for deration of load from 650 KVA to 520 KVA vide HT 132113 dt.18.09.2015 in Consumer Service Centre and the SE/OP/Central has approved the deration from 650 KVA to 520 KVA vide Lr.NO.SE/OP/Central/Hyd/Comml/D.No.2479 dt.24.09.2015, subject to the payment of total dues but consumer has concluded the revised agreement for deration of load from 650 KVA to 520 KVA without clearing the total dues vide Lr.No.DEE/OP/Saifabad/Comml/D.No.2554/15-16, dt.15.02.2016.

Subsequently the DE/OP/Saifabad issued notice for the payments of dues vide Lr.NO.ADE/OP/Dist-XXIII/Ci1/D.No.1646/15 dt.25.02.2016, but the consumer did not pay the dues as per the notice. That during the past 2 years i.e. from Oct,2015 the Contracted Maximum Demand was shown as 650 KVA of HT Service, M/s. Jaya Diagnostic & Research Centre and billing was done on 650 KVA only, consumer has never raised any objection or took any initiative to comply the conditions for process of deration and every month made payments of bills in parts amount.

On 20.04.2017 again registered vide HT 13216232 at Consumer Service Centre for deration of load from 650 KVA to 70 KVA and the SE/OP/Central has approved the deration from 650 KVA to 70 KVA vide Lr.No.SE/OP/Central/Hyd/Comml/D.No.269 dt.25.04.2017, subject to the payment of pending dues, also requested to pay an amount of Rs 5074/- and execute the work with a Licensed Contractor under the supervision of TSSPDCL. But M/s. Jaya Diagnostic & Research Centre have failed to furnish the licensed contractor particulars who will be executing the work apart from failing in payment of incidental charges proposed by TSSPDCL.

That M/s. Jaya Diagnostic and Research Centre, HDC-404 was disconnected on 28.04.2017 for non payment of CC dues and dues are accumulated month by month as per GTCS Clause 5.9.4.3 TSSPDCL has terminated the HT service with effect from 28.08.2017 M/s. Jaya Diagnostic & Research Centre has to pay the total dues Rs 29,38,320/- after adjusting the available security deposit

That M/s. Jaya Diagnostic & Research Centre filed complaint on 21.10.2017 in CGRF and forum ordered “the Respondents are directed to soon as receipt of payment of incidental charges and cleared the dues on the HT service prior to consumer approaching TSSPDCL for revised deration of load to 70 KVA and shal file compliance report along with the satisfactory letter of the consumer company.”

That M/s. Jaya Diagnostic & Research Centre is delaying the payment due Rs 29,38,320/- and causing loss of revenue of TSSPDCL.”

Issues

4. On the said averments of both sides the following issues are framed:
1. Whether there is any statute to deny the benefit of reduction of load request by the Appellant from 650 KVA to 520 KVA on the basis of pending dues on the Service Connection of the Appellant?
 2. Whether the request of deration of load from 650 KVA to 70 KVA by the Appellant was in proper order?
 3. Whether the Appellant is entitled for revision of the CC bills and consequently refund of excess amount of Rs 15,66,240/- paid to the Respondents along with applicable rate of interest?
 4. To what relief?

Issue No. 1

5. The said averments of the Appellant and the Respondents go to show that the Appellant has given request for reduction of load in the Customer Service Center on two accounts, first vide registration number HT 13211383 dt.18.09.2015 for deration of load from 650 KVA to 520 KVA and secondly vide registration number 13216232 Dt.20.04.2017 for deration of load from 650 KVA to 70 KVA. The initial request for deration of load from 650 KVA to 520 KVA was accorded approval and both parties entered into the agreement vide Lr.NO.DEE/OP/Saifabad/Hyd/Comml./F.HDC-404/D.No.2539/2015-16 dt.13.02.2016. The HT agreement is registered as DEE/OP/Saifabad /HYD/HT Agreement/27 of 2015-16. But the deration was not affected in the billing in view of non payment of arrears pending on the subject service connection. The HT billing continued to be billed for the CMD of 650 KVA denying the benefit of deration of load from 650 KVA to 520 KVA. However, the Appellant made second request to derate the load from existing 650 KVA to 70 KVA on 20.04.2017. The request was accorded approval vide

Lr.No.SE/OP/Central/HYD/Comml./D.No. 269 dt.25.04.2017 which was subject to payment of pending dues and entering into fresh agreement for the derated CMD.

6. In the said circumstances mentioned by both sides the Tariff Order for the FY 2016-17 was perused and found that One Sri. AVS Suresh from Kamineni Steel and Power India Pvt. Ltd. raised objections/suggestions on ARR items. The extracts of the reply from the Licensee and the views of the Commission is reproduced as follows:

Clause 2.33 Deration of contracted demand

SRI. A.V.S. Suresh from Kamineni Steel & Power India Pvt. Ltd. has requested to allow deration of contracted demand without any reference to clearance of pending bills or dues.

Further, it was also requested not to levy deemed consumption charges (minimum demand) during the disconnection period.

Reply from Licensees

Deration on CMD will be done without any reference to clearance of pending bills/dues.

However in case of restoration of disconnected supply, the supply will be restored only after clearing the dues. The deemed consumption charges, as per the terms and conditions of Supply agreement, have to be paid even if the electricity is not consumed. This is because supply has been disconnected by the Licensee due to non-payment of electricity charges, theft of electricity or unauthorized use or for any other valid reason.

Commission's view

As the Licensees have stated that they are not insisting on arrears payment at the time of deration of contracted demand, the Commission agrees with the view of the Licensees.

However, for the restoration of supply of a disconnected service after considering deration of CMD, the Licensee can do so after paying the pending bills. Regarding levying of minimum energy consumption charges for all categories except HT-I (B), the Licensees can charge the same as per the provisions of this Tariff Order.

7. The said views of the Commission and the reply of the Licensee confirms beyond doubt that the Respondents action of denial of deration of CMD subject to payment of the dues is highly unjustified and hence the Appellant is entitled for revision of the bills to the effect of reduction of load from 650 KVA to 520 KVA without

considering the fact that there are dues pending from the consumer i.e. the Appellant herein. Hence decides this issue in favor of the Appellant.

Issue No.2

8. The Appellant contended that it made the 2nd request for deration of load from 650 KVA to 70 KVA vide registration No. 13216232 dt.20.04.2017 and that the Respondent No.2 refused to enter into fresh agreement for the deration of CMD of 70 KVA over non payment of pending dues. The Respondents on the other hand admitted that they have refused to enter into fresh agreement in view of non payment of pending dues as is required under the provisions prescribed for such deration. They also contended that deration of CMD from 650 KVA to 70 KVA requires the changing in metering arrangements by replacing existing CTPT with appropriate rating of CTPT corresponding to 70 KVA CMD and in order to make the such changes the consumer i.e. the Appellant herein has to bear with the incidental charges and hence the Appellant was asked to pay Rs 5,074/- in the customer service center before conversion of the metering arrangements by the Respondents, but the Respondents did not comply with the same.

9. In the face of the said contentions by both sides the contents of the Clause 9.146 in Tariff Orders for FY 2016-17 are perused and found that the same mentions under the head of miscellaneous works in HT as follows:

“ The charges of any work which the Licensee may be required to undertake for the consumer and which is not included in the foregoing schedule, shall be the actual cost of labour and material plus 25% on cost of labour and material to cover overhead charges. The aforesaid charges shall be paid by the consumer in advance.”

10. A perusal of the above shows that the Appellant ought to have paid the amount demanded by the Respondents i.e. 5,074/- for meeting the labour, material and overhead charges but admittedly the Appellant has not made any such payments as no evidence is adduced to show that such an amount demanded by the Respondents has been paid by the Appellant. Hence concludes that the said request of the Appellant for deration of CMD from 650 KVA to 70 KVA was not in proper order as the required procedure is not followed by the Appellant. Hence decides this issue against the Appellant.

Issue No.3

11. The Appellant sought for the revision of bills towards deration of CMD from 650 KVA to 520 KVA from the date of expiry of one month notice period from the date of application dt. 18.09.2015 i.e. November,2015 in view of Clause 5.9.4.2 of GTCS and the same is resisted by the Respondents.

12. Hence the amended Clause 5.9.4.2 of GTCS vide proceedings No. APERC/Secy/96/2014 dt.31.05.2014 is perused and found that the same mentions that: "Deration of CMD or Termination of Agreement in respect of HT Supply: The consumer may seek reduction of contracted maximum demand or termination of the HT Agreement after the expiry of the minimum period of the Agreement by giving not less than one month notice in writing expressing his intention to do so. However, if for any reason the consumer chooses to derate the CMD or terminate the Agreement, before the expiry of the minimum 2 year period of the Agreement, the CMD will be derated or the Agreement will be terminated with effect from the date of expiry of the initial 2 year period of the Agreement or after expiry of one month notice period whichever is later. The Company can also terminate the HT Agreement, at any time giving one month notice if the consumer violates the terms of the HT Agreement, or the GTCS or the provision of any law touching the Agreement including the Act and rules made thereunder, and AP Electricity Reforms Act, 1998. On termination of the HT Agreement the consumer shall pay all sums due under the Agreement as on the date of its termination."

13. In view of the above the Appellant relied on the above said Clause to effect the deration from the date of expiry of one month notice period from November 2015, without treating the date of revised HT agreement dt.13.02.2016 for the deration. Admittedly there was a considerable delay of 142 days in concluding the revised HT agreement for derated CMD from 650 KVA to 520 KVA, but the said Clause narrated above is silent on the issue whether the period of one month for effecting the deration has to be taken from the date of the notice or from the date of revised agreement. The said confusion is cleared by the Hon'ble Commission through the Regulation No. 5 of 2016 which specifies the condition in Clause 7.3 as follows:

"Upon receipt of a request by a consumer for reduction of contract demand/contract load of such consumer after expiry of minimum period of Agreement entered by the consumer with the Licensee (indicated in GTCS), the Distribution Licensee shall reduce the contrat demand/contract load of such consumer before the expiry of the second billing cycle after

the receipt of such request, **Provided that consumer executes fresh agreement for such revised load before the second billing cycle.”**

14. Since in the present case, the Approval for deration of CMD from 650 KVA to 520 KVA was accorded on 24.09.2015 vide Lr.No. SE/OP/Central/Hyd/Comml./D.No.2479 dt.24.09.2015. The Appellant purchased the Rs 100 stamp paper for Agreement on 11.02.2016. The delay of 142 days in concluding revised agreement was occurred on the part of Appellant which was concluded on 13.02.2016 and the reasons for the delay was not explained by the appellant, hence, the consequence of such delay has to be borne by the Appellant. It is also important to note that till the revised agreement for derated CMD of 520 KVA came into effect, it is natural that the earlier agreement for 650 KVA would be active till such period and all consequences related to billing would follow till the date of revised agreement dt 13.02.2015 and as such is entitled for refund as prayed for. Hence decides this issue partially in favor of the Appellant.

Issue No.4

15. In the result, in view of the issue Nos. 1 and 3(partially) being decided in favor of the Appellant, the Respondent No.4 i.e. SE/OP/Hyderabad Central is directed to revise all the bills issued without considering the deration of CMD from 650 KVA to 520 KVA by affecting the revised CMD of 520 KVA as per the HT agreement concluded by the DE/OP/Saifabad vide Lr.No. DEE/OP/Saifabad/Hyd/Comml/F.HDC-404/D.No.2539/2015-16 dt. 13.02.2016 i.e. from the date of the revised agreement on 13.02.2016. Hence the Appeal is accordingly disposed.

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 Office Executive cum Computer Operator, Corrected, Signed and Pronounced by me on this the 19th day of July, 2018.

Sd/-

Vidyut Ombudsman

1. M/s. Jaya Diagnostic & Research Centre Ltd., Raghava Ratna Towers, Chirag Ali Lane, Nampally, Hyderabad- 500 001. Cell:9391033606.

2. The ADE/OP/Hyderguda/TSSPDCL/Hyderabad.
3. The DE/OP/Saifabad/TSSPDCL/Hyderabad.
4. The SAO/OP/Hyd. Central Circle/TSSPDCL/Hyderabad.
5. The SE/OP/Hyd. Central Circle/TSSPDCL/Hyderabad.

Copy to :

6. The Chairperson, CGRF, Greater Hyderabad Area, TSSPDCL, GTS Colony,
Vengal Rao Nagar, Erragadda, Hyderabad.
7. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul, Hyd.