



BEFORE THE VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

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

**PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDYUT OMBUDSMAN**

WEDNESDAY THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND TWENTY TWO

Appeal No. 27 of 2020-21

Between

M/s. Golden Adhesives & Chemicals, represented by Mr. Mohammed Abdul
Sattar, #19-5-80/42, A/74-75&2, N.M.Guda, Attapur, Hyderabad - 500 048
Cell: 8978647786, 7036205211. **.....Appellant**

AND

1. The Assistant Engineer / Operation / Attapur / TSSPDCL / Hyderabad.
2. The Assistant Divisional Engineer / Operation / Miralam / TSSPDCL / Hyderabad.
3. The Assistant Accounts Officer / ERO / Salarjung / TSSPDCL / Hyderabad.
4. The Divisional Engineer / Operation / Charminar / TSSPDCL / Hyderabad.
5. The Superintending Engineer / Operation / Hyderabad South Circle / TSSPDCL / Hyderabad. **..... Respondents**

This appeal is coming on before me for final hearing on 19.07.2022 in the presence of Kumari Nishtha, authorised representative of the appellant and Sri T. Narsing Rao - AAE /OP/Attapur, Sri Venkatesh - ADE/OP/Miralam, Sri M. Ramana Murthy - AAO/ERO/Salarjung and Sri T. Lingaiah - DE/OP/Charminar representing the other respondents also and having stood over for consideration till this day, the Vidyut Ombudsman passed the following:-

AWARD

This appeal is preferred aggrieved by the Award passed by the Consumer Grievances Redressal Forum (Greater Hyderabad Area), Hyderabad - 45 (in short 'the Forum') in C.G.No.59/2020-21/Hyderabad South Circle

dt.24.11.2020 of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL').

CASE OF THE APPELLANT

2. The appellant is a Low Tension (in short 'LT') consumer of Category - III of the respondents vide Service Connection No. V3007552 with a Contracted Maximum Demand {in short 'CMD'} of 90 Horse Power (in short 'HP'). Respondent No.1 has been issuing the Current Consumption (in short 'C.C') charges bill every month in favour of the appellant for the consumption of energy. Upto November 2019 billing month, respondent No.3 has issued the C.C. charges bill under category of LT-III with Contracted Load of 90 HP. From December 2019 respondent No.3 changed the Contracted Load from 90 HP to 110 HP and has been issuing the C.C. charges bill with tariff rates of Category High Tension (in short H.T) - I, without any intimation and without showing any reason to the appellant.

3. The appellant has also submitted that the appellant gave representation vide Lr. Dated 19.02.2020 to respondent No.5 stating that the appellant did not know about any Assessment Notice and the payment of Rs. 80,000/- made by the appellant was on the request of staff of TSSPDCL against the pending arrears, more specifically, to avoid disconnection of power only. Respondents claimed Rs. 2,73,156/- excess amount i.e. difference between HT tariff rate and LT -III tariff rate during the period from December 2019 to August 2020 billing months. In view of the above, the appellant has requested the Forum to consider the following grounds:-

(i) The Category of the Service Connection of the appellant is LT-III (A)-I Industry. Hence, the tariff rates are to be applied for billing purpose of LT-III Industry category as per Tariff Order passed by Hon'ble Telangana State Electricity Regulatory Commission (in short 'TSERC').

(ii) If the Contracted Load of the appellant is established up to 150 KVA as prescribed in Clause 7.89 of Tariff Order of FY: 2018-19, dt 27.03.2018 the HT 1 (A) Optional Category will apply but not the HT-1(A) Category. However, the Clause HT-1(A) optional category will not apply in the present case as the Contracted Load is 90 HP only.

(iii).The Contracted Load of the appellant is 90 HP only. Hence the appellant is liable to pay only LT-III tariff rates for its power consumption and

(iv) If the category of a consumer is required to be changed, the respondents have to comply with the procedure laid down in Clause 3.4.1 of General Terms and Conditions of Supply (in short 'GTCS'). The respondents unilaterally cannot take a decision to change the Category violating the procedure laid down in Clause 3.4 1 of GTCS.

The appellant accordingly requested the Forum to direct the respondents to set aside unilateral decision in changing the Category of the appellant from LT-III to HT-I(A) with effect from December 2019 billing month and to revise the bills from December 2019 to August 2020 billing months treating the Contracted Load of 90 HP, consequently to refund the amount of Rs. 2,73,156/- paid along-with interest @ 24% per annum as per Clause 4.7.3 of Regulation No. 5 of 2004, from the date of payment till the date of refund.

CASE OF THE RESPONDENTS

4. Respondent No.2 has filed written submissions stating that S.C.No. V3007552 was released in the name of the appellant on 28.08.1996 as per Energy Billing System (in short 'E.B.S') record for a sanctioned load of 40 HP under LT-Category-III (A) for the purpose of the plastic industry. During

inspection made by the Detection of Pilferage of Energy (in short 'DPE') wing, it was found that the appellant was utilising more than the sanctioned load i.e. 31 HP in addition to the sanctioned load.

5. As per Clause 1.1.2 of the Retail Supply Tariff Order - category wise specific tariff of (3) LT III-Industry metering and load condition, if the recorded demand of any service connection under this category exceeds the 75 KVA (1 KVA = 1K1/1), such excess demand shall be billed at the demand charge prescribed under HT- I (11 KV supply). As per this tariff Clause and Conditions if the Connected Load is below 100 HP it falls under LT-Cat-III (A). But in this case the Connected Load exceeded 100 HP. Hence the C.C. bills are billed under HT-I as per the Tariff Order. Since the appellant has already paid additional load regularisation charges and the appellant knew that the load is more than 100 HP, the bills have been raised for 110 HP under HT Cat-I. The fixed charges were also revised for the existing load of 110 HP.

6. There is no need to change the HT Cat-I to LT Cat-IIIA until the consumer registers an application in Customer Service Centre (in short 'CSC') for deration of Connected Load from 110 HP to required HP or below 100 HP which will be considered. The amount of Rs: 2,73,156/- is pertaining to regular CC Charges amounts for the months from March 2020 to June 2020, which cannot be refunded.

7. Respondent No.3 has also filed written submissions stating that three cases were booked for S.C. No. V3007552 for utilising additional load and development charges were demanded as under:-

S.No	Case No.	Date	Actual Load	Contracted load	Excess load	Development charges amount
1.	DPE/HYS/SD01/197/07	30.11.2007	40 HP	71 HP	31 HP	Rs 62,000/-
2.	DPE/HYS/SD01/5114/12	17.12.2012	70 HP	90 HP	20 HP	Rs 40,000/-
3.	DPE/HYS/SD01/5804/13	25.06.2013	70 HP	110 HP	40 HP	Rs 80,000/-

Load changes effected were as shown below:-

40 HP 70 HP -- 10/2009

70 HP to 90 HP — 02/2014

90 H P to 110 H P — 11/2019

The appellant has paid the amount stated above in the first case. In October 2019, Final Assessment Order was issued vide Order No. DE/Op/Division/Charminar//DAT/D.No.Camp Dated 30.10.2019 for Rs.0. Hence, the amount of Rs.40,000/- was credited to C.C. vide JE No.1316 Dt. 31.10.2019. The appellant paid the amount of Rs 80,000/- on 31.05.2014 and load has been enhanced from 90 HP to 110 HP.

8. Respondent No.3 has further submitted that in April 2014, Rs. 40,000/- was credited to C.C. vide JE No. 33004, dt: 25.04.2014 by over-sight. Hence, the same was rectified and Rs. 40,000/- was debited to C.C. After payment of development charges, auto generated fixed charges of Rs. 63,413/- have been raised by the Corporate office in November 2019. In March 2020, the appellant has approached the CSC and registered for load deration from 110 HP

to 90 HP vide reference no, CC904201957390, dt: 07.03.2020 and the same is pending with CSC. Respondent No.3 has also submitted that the appellant has not paid the regular CC charges amounts from March 2020 to June 2020. The amount of Rs, 2,73,156/- cannot be refunded as it is regular CC charges payable by the appellant.

9. The other respondents have not filed any written submissions.

10. After considering the material on record and after hearing both sides the Forum has rejected the claim of the appellant. Aggrieved by the said Award of the Forum the present appeal was preferred.

11. The appellant has filed a rejoinder dated 25.01.2021 stating that the Sanctioned Load of the appellant is 40 K.W. The Consumer Connected Load in the existing premises is 71 HP. Hence, the Development Charges may be proposed for 31 HP from 04.04.2016 onwards. Even as per order of DE/Op/Divisional/DAT.D.NO. Camp dated 18.11.2019, if the additional load of 20 HP is added the total connected load will become 91 HP only and not 110 HP. It is pertinent to note that the existing connected load of the subject service connection is 90 HP below the threshold level of 100 HP. In view of the above, the addition of 20 HP to 90 HP with effect from December 2019 unilaterally and claiming the HT Tariff Rates in LT bills is not correct. The appellant has registered in CSC for deration of load from 110 HP to 90 HP vide CC 904201957390 Dated. 07.03.2020. The case is pending with CSC.

ARGUMENTS

12. The learned counsel for the appellant has submitted written arguments, contending among other things, that the respondents, without giving the mandatory notice under Clause 3.4.1 of GTCS, changed the Category of the appellant to H.T. and claimed the tariff applicable to H.T. Category due to which the appellant has paid Rs 2,73,156/- excess amount; that in spite of applying for deration it was not effected and, therefore, it is prayed to allow the appeal and order for refund of the excess amount paid, order for deration of 20 HP and also to award compensation.

13. On the other hand, it is argued by the respondents that, in fact, there is no change of Category of the appellant to H.T. and due to unauthorised usage of excess connected load, the tariff was collected accordingly and the present case does not fall under Clause 3.4.1 of GTCS and hence it is prayed to dismiss the appeal.

POINTS

14. The points that arise for consideration are:-

- i) Whether there is change of Category of the appellant to H.T. supply to attract Clause 3.4.1 of GTCS and as such the appellant is entitled for refund of excess amount paid?
- ii) Whether the appellant is entitled for deration of 20 HP as prayed for ?
- iii) Whether the Award passed by the Forum is liable to be set aside?
and
- iv) To what relief?

SETTLEMENT BY MUTUAL AGREEMENT

15. Both the parties have appeared before this authority on 19.07.2022. 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

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.

POINT NOs. (i) to (iii)

ADMITTED FACTS

17. The Service Connection No:V3007552 was released in the name of M/s.Golden Adhesives & Chemicals,D.No: 19-5-80/42/A/74-75 & 2, N.M.Guda Attapur (appellant) on 28.08.1996 for a sanctioned load of 40 HP under LT Cat-IIIA (Industrial Category) for the purpose of Plastic Industry. During the inspection of the Detection of Pilferage of Energy (DPE) wing it was found that the consumer was utilising 31 HP in addition to the sanctioned load of 70 HP. A Case of Development Charges was booked. Accordingly provisional assessment notice has been issued by the ADE/Op/Miralam and requested to pay an amount of Rs 62,000/- towards Development Charges and Security Deposit Charges for regularisation of additional load of 31 HP. The consumer had paid the said amount of Rs 62,000/- Vide DD.No:680291 and 680292 Dated 14.05.2009 and the DE/Op/C-III/Charminar has issued a Final

Assessment Order for the said amount. On 30.11.2012 the DPE wing booked a case of additional load of 20 HP on the same service. Accordingly the ADE/Op/Miralam has issued a Provisional Assessment Notice to the consumer to pay an amount of Rs.40,000/- for regularisation of additional load towards Development Charges and Security Deposit. The DE/Op/C-III/Charminar has issued a Final Assessment Order for 'Nil' additional connected load and 'Nil' Final assessment amount. The consumer has not paid any amount as per the order.

18. The appellant has registered for deration of load from 110 HP to 90 HP in CSC vide CC 904201957390 dated 07.03.2020. The case is pending with CSC.

19. Broadly there are two issues to examine in this case. First one is whether the change of category from LT -III to HT-I consequent of payment of charges towards detected excess connected load of 40 HP over the existing contracted load of 70 HP, thereby refund of Rs 2,73,156/- as per the revision of bills from December 2019 to August 2020. The second one is the effect of load deration from 110 HP to 90 HP registered in the CSC vide reference No. CC 904201957390 dated.07.03.2020.

CRUX OF THE MATTER

20. Out of the (3) cases, the appellant had no objection to agree the contracted load upto 90 HP. The appellant has denied that he has excess load above 100 HP but contradicting this, he has paid an amount of Rs 80,000/- (Rs 60,000/- towards development charges and Rs 20,000/- towards security

deposit) on dated 31.05.2014 vide PR No. 548685 charges towards excess connected load of 40 HP over existing contracted load of 70 HP. He has pleaded innocence regarding such payment stating that he was not aware of the provisional assessment notice issued vide Lr.No. ADE/OP/Miralam/D.No.354 dated 25.06.2013 wherein one Sri G. Mohan, Assistant Divisional Engineer / Detection of Pilferage of Energy / Hyderabad North, inspected the service connection on 13.06.2013 at 20.30 hrs and found that there was excess connected load of 40 HP over contracted load of 70 HP, subsequently requested to regularise the additional connected load partly or fully or to remove the additional load as per the requirement as per the Clause 12.3.3 of the GTCS. The payment of charges towards 40 HP excess load resulted in regularisation of load to 110 HP which is above the threshold limit of 100 HP qualifying to bill at respective tariff rates i.e. HT tariff rates as per the GTCS Clause 12.3.3.2(i), consequently the respondents initiated HT billing tariff rates from December 2019 which the appellant has objected stating that there was no notice issued for such change in billing category which is mandatory as per the GTCS Clause 3.4.1 which is reproduced here under:-

Clause 3.4.1 :- Where a consumer has been classified under a particular category and is billed accordingly and it is subsequently found that the classification is not correct (subject to the condition that the consumer does not alter the category/purpose of usage of the premises without prior intimation to the Designated Officer of the Company), the consumer will be informed through a notice, of the proposed reclassification, duly giving him an opportunity to file any objection within a period of 15 days. The company after due consideration of the consumer's reply if any, may alter the classification and suitably revise the bills if necessary even with retrospective effect, the assessment shall be made for the entire period during which such reclassification is needed, however, the period during which such reclassification is needed cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.

21. The respondents claimed that the contracted load of the subject service connection was enhanced only after the payment made towards excess connected load of 40 HP acquiring a total load of 110 HP and the tariff order envisages HT tariff rates for the consumers having connected of more than 100 HP. It is clear from the records available that the appellant opposed the billing of HT tariff during the month of February 2020 addressing a letter to SE/OP/Hyd south on dated 19.02.2020 and subsequently registered a request for deration of CMD from 110 HP to 90 HP vide registration No. CC904201957390 dated 07.03.2020.

22. The energy billing system record shows that the development charges of Rs.80,000/- towards excess connected load of 40 HP over existing load of 70 HP making total load of 110 HP was first added in the bill during the month of January 2014, which was continuously shown as arrears in bills from January 2014 to April 2014, until the payment was made by the appellant during the month of May-2014. Here the point is the appellant had the option to withdraw the excess load detected as whole / partly or regularise the total load as per Clause 12.3.3 and there was no question of not getting the intimation, when such amount was shown in the bill regularly. The appellant was well versed about the excess connected load of 40 HP which he cannot plead innocence of not being aware of the inspection of excess load of 40 HP. The Clause 3.4.1 of the GTCS refers to the cases which are initially wrongly classified under a particular Category, subsequently if found is not correct can be re-classified subject to giving prior notice for doing so. In the present case, the initial category LT III is undisputed. In the event of crossing the threshold load of 110 HP, the

Category of the service connection qualifies under HT category as per the GTCS Clause 12.3.3.2(i). The issue does not fall under the ambit of clause 3.4.1 of the GTCS. Hence, the appellant is liable to pay the HT tariff rates from the date of regularisation of load of 40 HP over existing 70 HP making total load of 110 HP from December 2019.

23. As regards not giving effect of deration of CMD from 110 HP to 90 HP, certainly there is lapse on the part of the respondents for not giving the effect of deration. Moreover, there was a physical inspection carried out by the ADE/OP/Miralam on dated 29.09.2020 revealing that the total connected load of the subject service connection is 94.3 HP well below the threshold load of 100 HP qualifying to be billed under LT Category -III.

24. The GTCS Clause 12.3 provides the guidelines towards the cases exceeding contracted load / demand. The procedure set out as per the above Clause is to issue notice if the consumer exceeds CMD. In the instant case 40 HP load was exceeded over existing 70 HP. It appears notice was issued vide Lr.No.ADE/OP/Miralam D.No.354 Dated. 25.06.2013. Since, the exceeded load crossed the threshold CMD of 100HP as per Clause 12.3.3.2(i) of GTCS the service has to be billed at **respective** HT tariff rates. "Respective" means the existing category of the subject Service Connection, whether it is domestic, commercial or industrial. Here in this case the classified category is 'industrial' in LT Tariffs. The respective industrial category is HT Category-I. The category is not re-classified or changed. It remained under industrial category, only the level of voltage was changed as per the GTCS Clause 12.3.3.2(i). The appellant's

plea is that change in LT-III tariff to HT-I tariff qualifies under change in category which envisages procedure laid down in Clause 3.4.1.

25. A plain reading of Clause 3.4.1 it is clear that in case if there is reclassification of the consumer of a particular category notice is required. In this case classification of the category is undisputed which is industrial. There is a provision to reclassify the Category subject to giving prior notice. The appellant relied on the above Clause 3.4.1 and sought refund of Rs 2,73,156/- stating that the required mandatory notice is not given. A notice was issued consequent to detected excess load of 40 HP on 25.06.2013. However, as already stated, there is no reclassification under Industrial Category, it is only by virtue of crossing the threshold limit of 100 HP, the billing of the service connection qualifies for respective HT tariff rates as governed by the GTCS Clause 12.3.3.2(i). The present appeal is in respect of unauthorised usage of excess load and not towards Category conversion which remained unaltered under industrial Category. By virtue of Clause 12.3.3.2(i) the billing qualifies at HT tariff rates from the consumption month in which unauthorised additional load is detected by billing 80% of connected load as billing demand and 3% extra units of total consumption is to be billed. This special provision towards such billing is provided in view of the existing LT metering setup. Since the voltage level of the service connection is under LT supply which subsequently is to be converted under HT supply, if the consumer is willing to continue above 100 HP load.

26. The charges towards detected excess load of Rs 80,000/- was shown as arrears subsequent to the notice dated 25.06.2013 from the month of

January 2014 and was continuously shown as arrears in the subsequent bills till the date of payment i.e. 31.05.2014. The appellant preferred to pay only the current consumption charges leaving the demanded amount towards excess load of Rs 80,000/- which goes to show that the appellant willingly kept aside the arrears. Apart from the above, it appears that opportunity of hearing was given while issuing the Final Assessment Order by the DE/OP vide Order No. DE/OP/Division/DAT.D.No.Camp Dated 18.11.2019 allowing the appellant to file his objections.

27. The addition of excess load is a deliberate act which amounts to unauthorised usage of excess load breaching the LT agreement, Clause (2) of which is reproduced here under:

Clause 2:-Load/Maximum Demand I/We agree to take from the Company, electric power for a connected load not exceeding _____ HP/kW subject to a contracted Maximum Load not exceeding _____ HP/kW for our exclusive use for the purposes above mentioned, at our Mills/Factory/Premises situated at _____. I/We shall not effect any change in the contracted demand without prior intimation to the Company.

The above irregularity envisages the licensee to follow the procedure laid down under GTCS 12.3.3 and the appellant now pleading innocence about the above is not tenable.

28. No doubt in the judgements of the Hon'ble High Court in Hindustan Petroleum Corporation Ltd., v. The Eastern Power Distribution Company and others (W.P.No.2185 of 2008 dated 16.04.2008), Hindustan Petroleum Corporation Ltd., v. A.P.Electricity Regulatory Commission represented by its Secretary and others (W.P.No.14980 of 2007

dated 02.05.2008) and M/s. Lotus Poly Packs India Pvt. Ltd., v. The Southern Power Distribution Company of Telangana (W.P.No. 6493 of 2016 dated 29.02.2016), it was held that notice to the consumer is mandatory before changing the Category from Industrial to Commercial. Since there is no change of Category in this case, these judgements are not useful to the appellant. However in the instant case, provisional assessment notice was given to the appellant, hearing before issue of final assessment notice was accorded and arrears of Rs 80,000/- was shown in the bills regularly from January 2014, thus in other words, the essence of Clause 3.4.1 of giving notice is complied with. Since in the Appeal No. 17 of 2020-21 dated 15.01.2021 the respondents therein have unilaterally imposed H.T. tariffs based on the meter reading (RMD) through auto generation of H.T. Flag contrary to L.T. billing violating the Clause 3.4.1 of the GTCS therefore that Award is also not applicable in this case. Further in the appeal No. 17 of 2020-21, there is Category reclassification, as such the Award in that appeal cannot be based to pass any Award in the present case. Further in the Award in Appeal No. 59 of 2014, there is change of Category, as such it necessitates issue of notice. That apart these two Awards are not binding in the present case. In view of the above facts and circumstances, I hold that there is no change of Category of the appellant to H.T. supply attracting Clause 3.4.1 of GTCS and as such the appellant is not entitled for refund of the excess amount paid. However, the appellant is entitled for deration of 20 HP as prayed for. Accordingly, the Award passed by the Forum is liable to be set aside to this extent.

29. POINT No. (iv) :- In view of the findings at points (i) to (iii), the appeal is liable to be allowed, in part, to the extent indicated above.

RESULT

30. In the result, the appeal is allowed in part and the impugned Award is set aside. The respondents are directed to implement the deration from 110 HP to 90 HP following the procedures thereon and they shall recalculate the entire charges taking the revised CMD of 90 HP w.e.f. 07.04.2020 till date and adjust the excess amounts paid, in the future C.C. bills. The respondents shall pay compensation of Rs 50/- as per Regulation 5 of 2016, Schedule II, Clause XIII in view of delay occurred for effecting the deration. The claim, in respect of refund of Rs 2,73,156/- is rejected. The Award in this appeal shall be complied within (15) days from the date of receipt of copy of the Award.

Typed to dictation by Office Executive-cum-Computer Operator, corrected and pronounced by me on this the 27th day of July 2022.

Sd/-

Vidyut Ombudsman

1. M/s. Golden Adhesives & Chemicals, represented by Mr. Mohammed Abdul Sattar, #19-5-80/42, A/74-75&2, N.M.Guda, Attapur, Hyderabad - 500 048
Cell: 8978647786, 7036205211.
2. The Assistant Engineer / Operation / Attapur / TSSPDCL / Hyderabad.
3. The Assistant Divisional Engineer / Operation / Miralam / TSSPDCL / Hyderabad.
4. The Assistant Accounts Officer / ERO / Salarjung / TSSPDCL / Hyderabad.
5. The Divisional Engineer / Operation / Charminar / TSSPDCL / Hyderabad.
6. The Superintending Engineer / Operation / Hyderabad South Circle / TSSPDCL / Hyderabad.

Copy to

7. The Chairperson, Consumer Grievances Redressal Forum -Greater Hyderabad Area, TSSPDCL, GTS Colony, Vengal Rao Nagar, Hyderabad.