



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

Monday the Twenty Fifth Day of June 2018

Appeal No. 28 of 2018

Preferred against registration of C.G.No.999/2017-18

Between

M/s Garg Steels Udyog India Pvt. Ltd., G&G Business Centre,
3-4-174/12/1/14/c, 1st Floor, Kanthreddy Nagar, Attapur, Hyderabad - 500 048.
Cell: 7036205211.

... Appellant

AND

1. The ADE/OP/Medak/TSSPDCL/Medak.
2. The DE/OP/Medak/TSSPDCL/Medak.
3. The SAO/OP/Medak/TSSPDCL/Medak.
4. The SE/OP/Medak/TSSPDCL/Medak.
5. The GM/Revenue/Corporate Office/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 21.04.2018, coming up for final hearing before the Vidut Ombudsman, Telangana State on 05.06.2018 at Hyderabad in the presence of Nishitha - on behalf of the Appellant Company and Sri. T. Ajay Kumar - SAO//OP/Medak and Sri. P. Krishna Reddy - GM/Revenue for the Respondents and having considered the record and submissions of both the parties, the Vidut Ombudsman passed the following;

AWARD

This is an Appeal filed by M/s. Garg Steel Udyog India Pvt. Ltd, Attapur, Hyderabad having consumer bearing number HT SC No. MDK1114 with Contracted Maximum Demand (CMD) of 2490 KVA for supply of energy and demand from the Respondents. The Appellant contended that they have filed a complaint before CGRF vide CG No. 999 of 2017-18 seeking for payment of interest on security deposit as per the approved condition by Hon'ble TSERC under Clause 7 of Regulation 6 of 2004 dt.17.05.2004 for the FY 2016-17, but the said complaint has not been disposed by the CGRF in spite of the passage of 45 days as is provided under the act and as such

aggrieved by the same the present Appeal is filed.

2. The contention of the Appellant is that it is having an HT connection bearing HT No. MDK 1114 with Contracted Maximum Demand (CMD) of 2490 KVA and claimed that as per Clause 7.1.2 of the Regulation 6 of 2004 and read with Clause 5.71 at page No. 161 of Tariff Order for the FY 2016-17, the Respondents ought to have given interest on consumption deposit (ICD) @ 7.75% P.A. and credited the bill as on or before 01.05.2017 if the amount is not credited before 01.05.2017 as per sub clause 4 of the said Regulation the Respondents have to give interest rate @ twice the rate, but the Respondents credited an amount of Rs 4,92,242/- in the bill dt.26.04.2017 instead of Rs 6,90,258/- ICD in accordance with Clause 5.71 of Tariff Order for the FY 2016-17 as approved by the Hon'ble TSERC at page No. 161 and thus an amount of Rs 1,43,323/- was credited less in their account as such claimed that they are entitled for twice the said amount i.e. Rs 2,86,646/- (1,43,323 X 2) as per sub clause 4 of the said Regulation in view of the delay in making the said adjustment on or before 01.05.2017 as shown in the table below:

INR. Crores	Approved by the Commission Rs.
Opening balance as on 1.4.2016	89,06,549
Addition during the year	0
Deduction during the year	0
Closing balance 31.3.2017	89,06,549
Average balance	89,06,549
Interest Rate (%P.A.)	7.75%
Interest Cost	6,90,258

3. The Appellant has also furnished the notified bank rates from time to time for the FY 2015 to 2017 as shown below:

TABLE-1

01-04-2016 to 04-04-2015	7.75	RBI DBOD No.Ret.BC.42/12.01.001/2015-16 Dt:29-09-2015
05-04-2016 to 03-10-2016	7.00	RBI DBOD No.Ret.BC.90/12.01.001/2015-16 Dt:05-04-2016
04-10-2016 to 31-03-2017	6.75	RBI DBOD No.Ret.BC.19/12.01.001/2015-16 Dt:04-10-2016

4. The Respondents on the other hand claimed that the calculation of the rate of interest varies from time to time in accordance with the change in the bank rates notified by the Reserve Bank of India and reproduced Clause 7 of Regulation 6 of 2004 as follows:

Interest on security deposit payable by the licensee:

1. The licensee shall pay interest on security deposit of a consumer, at the bank rate notified by reserve bank of india provided that the commission may specify a higher rate of interest from time to time by notification in official gazette.
2. The interest accruing to the credit of the consumer shall be adjusted annually against the amounts outstanding from the consumer to the licensee as on 1st may of every year and the amount becoming due from the consumer to the licensee immediately thereafter.
3. The licensee shall duly show the amounts becoming due to the consumer towards interest on the security deposit in the bills raised on the consumer.
4. The licensee shall pay interest at twice the rate specified under for delay in making the adjustments for interest on security deposit.

Based on the above given clause, the Hon'ble commission approved the interest on consumer security deposit in the tariff order of FY 2016-17 which is placed below:

Interest on consumer security deposit

Clause 5.70:- As per the provisions of the Regulation No. 6 of 2004, the licensee shall pay interest on security deposit of a consumer at the Bank rate notified by Reserve Bank of India. Accordingly, TSSPDCL has considered an interest rate of 7.75% p.a. as per the recent notification of RBI. However, TSNPDCL has considered an interest rate of 9.00% P.A.

Basis of approval

Clause 5.71:- Pursuant to the Regulations notified by the erstwhile APERC; adopted by TSERC, the Commission has approved an interest rate for consumer security deposit at 7.75% p.a. as notified by the Reserve Bank of India. The interest is calculated on the opening balance of security deposit in the beginning of the year and additional deposit anticipated on sales during the year. The Commission has considered the opening balance of security deposit as per the audited annual accounts of the Licensees.

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

1. Whether the rate of interest specified in Tariff Order for the FY 2016-17 i.e. 7.75% P.A shall be the rate of interest for calculating interest on security deposit as claimed by the Appellant?
2. Whether the rate of interest on the security deposit varies from time to time on the rate of interest notified by the Reserve Bank Of India?
3. To what relief?

Issues 1 & 2

6. The contention of the appellant is that as per Clause 5.71 of the Tariff Order FY 2016-17 as approved by the Commission the Respondents have to pay interest @ 7.75% on the security deposit made by the Appellant while the Respondents contended that the 7.75% of interest as approved by the Hon'ble commission in Clause 5.71 of the Tariff Order for the FY 2016-17 is only on the basis of the rate of interest proclaimed by the RBI and that the same is liable to be changed from time to time as per the rates notified by the RBI.

7. A perusal of Clause 5.71 of the Tariff Order approved by the Hon'ble commission for the FY 2016-17 is reads as below:

“Clause 5.71:- Pursuant to the Regulations notified by the erstwhile APERC; adopted by TSERC, the Commission has approved an interest rate for consumer security deposit at 7.75% p.a. as notified by the Reserve Bank of India. The interest is calculated on the opening balance of security deposit in the beginning of the year and additional deposit anticipated on sales during the year. The Commission has considered the opening balance of security deposit as per the audited annual accounts of the Licensees.”

The said Regulation notified by the Hon'ble Commission mentions that the interest for the FY 2016-17 is approved to be 7.75% P.A. on the basis of the prevailing rate of interest notified by the RBI and as such the Appellants are contending that since the Commission itself fixed the rate of interest for the FY 2016-17 as 7.75% P.A., the Respondents are liable to pay the said 7.75% on the security deposit while the Respondents are contending that since the Commission has stated in its Tariff Order that the interest is payable at 7.75% on the security deposit in view of the then prevailing rate of interest by the RBI was 7.75% but since subsequently there is a variance in the rate of interest notified by the RBI the said rate of interest has to be

taken into consideration as the Tariff Order clearly mentions that the rate of interest fixed by the Commission is entirely on the rate of interest notified by the RBI.

8. In the face of the said contradictory versions adopted by the Appellant and the Respondents this office perused the amendment brought about by the Hon'ble Commission in the Tariff Order for the FY 2018-19 in view of the claims made in 21 of 2017 and 22 of 2017 dt.18.04.2018 which is reproduced as below:

“Clause 2:- The following para shall be added after para 3.15.1 :

The Clause 3.15.1 reads as follows

The DISCOMs have claimed the interest on consumer security deposit for FY 2018- 19 considering the provisions of the Regulation No. 6 of 2004. Accordingly, the interest on consumer security deposit has been claimed as Rs. 176.18 crore and Rs. 53.15 crore for SPDCL and NPDCL respectively. Pursuant to the Regulations notified by the erstwhile APERC, adopted by the Commission, the interest on consumer security deposit has been approved considering the interest rate of 6.25% as notified by the Reserve Bank of India. The interest is calculated on the average balance of the consumer security deposit as estimated by the Commission for FY 2018-19. Accordingly, the Commission has approved the interest on consumer security deposit as Rs. 179.03 crore and Rs. 53.67 crore for SPDCL and NPDCL respectively.

“3.15.2:- The interest rate considered by the Commission for computation of interest on consumer security deposit as above is the Bank Rate prevailing at **the time of issue of this order**. The DISCOMs are liable to pay the interest on consumer security deposit in accordance with Clause 7 of the Regulation No. 6 of 2004, as amended from time to time, reproduced below:

“7. Interest on Security Deposit payable by the Licensee:

(1) The licensee shall pay interest on security deposit of a consumer, at the Bank Rate notified by Reserve Bank of India provided that the Commission may specify a higher rate of interest from time to time by notification in Official Gazette.”

The Clause 7(1) reiterates that the interest shall be paid by the DISCOM at the Bank rates notified by the RBI, with a condition to specify, in case of higher rate of interest through a Notification in Official Gazette.”

9. The said amendments clearly show that the Hon'ble Commission through the above amendments has made it very clear that the rate of interest, as provided under the Tariff Order, changes in accordance with the prevalent interest rate notified by the RBI from time to time and in the said orders the Hon'ble Commission has directed that the DISCOMs are liable to pay the interest on consumer security deposit in accordance with Clause 7 of the Regulation No. 6 of 2004, as amended from time to time. The Clause 7(1) mandates the DISCOM to pay the interest on security deposit of a consumer at the bank rate notified by RBI.

10. In the face of the above since there is no specification of higher rate of interest through the notification of the Hon'ble Commission during the FY 2016-17, the DISCOM is free to adopt the bank rates notified by RBI from time to time as per Clause 7(1) and as such concludes that the claim of the Appellant that the Respondents is liable to pay interest @ 7.75% P.A. in spite of the change in the rate of interest notified by RBI during the FY 2016-17 is not tenable and as such the Respondents is liable to pay the interest on security deposit in accordance with the rate of interest notified by the RBI and hence the Respondents is also not liable to pay any interest twice the rate of interest as claimed by the Appellant under Clause 7.4 of Regulation 6 of 2004. Hence decides these issues against the Appellant.

Issue No.3

11. In the result the Appeal is dismissed.

12. 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 Clerk Computer Operator, Corrected, Signed and Pronounced by me on this the 25th day of June, 2018.

Sd/-

Vidyut Ombudsman

1. M/s Garg Steels Udyog India Pvt. Ltd., G&G Business Centre,
3-4-174/12/1/14/c, 1st Floor, Kanthreddy Nagar, Attapur,
Hyderabad - 500 048. Cell: 7036205211

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6. The GM/Revenue/Corporate Office/TSSPDCL/Hyderabad.

Copy to :

7. The Chairperson, CGRF- I, GTS Colony, Vengal Rao Nagar,
Erragadda, Hyderabad.
8. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul, Hyd.