



BEFORE THE VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

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

**PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDYUT OMBUDSMAN**

WEDNESDAY THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY TWO

Appeal No. 28 of 2021-22

Between

M/s. Sheetal Shipping and Metal Processors Ltd., #5-5-103 to 105/6, Meher Complex, 1st Floor, Ranigunj, Secunderabad, represented by its Director, Sri Shyam Sunder Agarwal - 500 003. Cell: 9866633081.**Appellant**

AND

1. The Assistant Divisional Engineer / Operation / Alair / TSSPDCL / Yadadri-Bhongir District.
2. The Senior Accounts Officer / Yadadri / TSSPDCL / Yadadri-Bhongir District.
3. The Divisional Engineer / Operation / Bhongir / TSSPDCL / Yadadri-Bhongir District.
4. The Superintending Engineer / Operation / Yadadri Circle / TSSPDCL Yadadri-Bhongir District.
5. The Chief General Manager (Commercial) / TSSPDCL / Corporate Office / Hyderabad. **Respondents**

This appeal is coming on before me for final hearing on 25.08.2022 in the presence of Kumari Nishtha - representing the appellant and Sri R Ramana Reddy - SAO/OP/Yadadri and Sri S.Parvathalu - DE/T&C/Yadadri 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 / Order passed by the Consumer Grievances Redressal Forum - I, Hyderabad - 45 (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') in C.G.No. 30/2021-22 Yadadri Circle dt. 30.10.2021 rejecting the complaint on the ground that it has no jurisdiction.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The appellant is having H.T. Service Connection No. YDD557 released by the respondents with a Contracted Maximum Demand (in short 'CMD') of 750 KVA as per the agreement dt.30.09.2015. It became sick before September 2015. During September 2015 the appellant started functioning by availing the sick unit revival scheme vide Memo No.CGM(Comml.)/SE/(C)/DE(C)/ADE-III/Sick Unit/D.No.366/15 dt.13.05.2015. They paid a sum of Rs. 9,00,000/- illegally claimed by the respondents towards Development Charges. They have not refunded the same in view of the proposal made by respondent No.5 in Lr.No. CE(Comml.)/AE/TCS/40/2001 dt.29.05.2001. Therefore it is prayed to declare the claim of Rs.9,00,000/- towards Development Charges, as illegal and consequently to set aside the same and to direct respondent No.2 to refund Rs.21,74,104/- as on 13.08.2021 and grant interest from 14.08.2021 @ 24% P.M on Rs.9,00,000/-.

AWARD OF THE FORUM

3. After considering the material on record filed by the parties and hearing the respondents, the Forum has rejected the complaint under Clause 2.37 of Regulation No. 3 of 2015 of the Hon'ble Telangana State Electricity Regulatory Commission (in short 'the Regulation').

4. Aggrieved by the Award passed by the Forum, the present appeal is preferred, contending among other things, that the learned Forum has rejected the complaint without properly analysing the facts on record and without properly considering the relevant provisions.

GROUND OF THE APPEAL

5. In the grounds of the appeal, it is, inter-alia, submitted that the rejection of the complaint without assigning reasons is in violation of Clause 2.37 of the Regulation. The order of the Forum is failure to exercise its jurisdiction vested in it. Therefore it is prayed to set aside the impugned rejection letter dt.30.10.2021; to declare the claim of Rs.9,00,000/- as illegal and to set aside the same and also to direct respondent No.2 to refund Rs.21,74,104/- as on 13.08.2021 with interest @24% p.a. from 14.08.2021 on Rs.9,00,000/-

CASE OF THE RESPONDENTS

6. In the written submissions of respondent No.4, before this Authority it is stated that the HT industrial units which are under disconnection and were closed for long periods would be allowed to choose either of the following options:-

i) To make payment of CC charges due upto the date of disconnection alongwith interest plus minimum charges upto date without interest (Normally chosen by short closure period cases).

OR

ii) To pay actual CC charges due upto the date of disconnection alongwith interest and minimum charges of a period of 4 months (on a notional application of provisions of Clause 26.10 of TCS) without interest plus **Development charges for the CMD required now.** (To accept Termination at the end of four months and avail fresh service by paying Development Charges).

Other conditions:-

i) In either case, the units have to pay the reduced amounts as above in one lump sum for restoration of supply.

ii) They will not be eligible for any other concession if any available for new industrial units under the State Industrial Policy.

iii) They shall not be entitled to contract for purchase of power from any source other than TRANSCO/DISCOM.

iv) They shall not use Captive Generation except as standby, that too for critical requirements.

The appellant has agreed for the conditions mentioned above and paid the amounts and HT service was restored by entering into a fresh HT agreement on 30.09.2015. Therefore it is prayed to pass an appropriate order.

7. In the rejoinder filed by the appellant it is submitted that the Development Charges claimed by respondent No.2 in Memo No.CGM(Comml.)/SE(C)/DE(C)/ADE-III/F Sick Unit/D.No.366/15 dt.13.05.2015 is in violation of the terms approved by the then Hon'ble Andhra Pradesh Electricity Regulatory Commission (in short 'the Commission'). It is accordingly prayed to allow the appeal.

ARGUMENTS

8. The learned authorised representative of the appellant has submitted that the claim of Rs.9,00,000/- of the respondents towards Development Charges paid by the appellant is in violation of the Memo of CGM dt.13.05.2015 and also the guidelines issued in this regard from time to time and hence it is prayed to refund the same with interest as stated above.

9. On the other hand, it is submitted by the respondents that the Licensee claimed the Development Charges as per the Clauses of GTCS and as per the Rules and hence it is prayed to reject the appeal.

POINTS

10. The points that arise for consideration are:-
- i) Whether the appellant is entitled for refund of Rs.9,00,000/- paid towards Development Charges with interest, as prayed for?
 - ii) Whether the Award /Order passed by the learned Forum is liable to be set aside? and
 - iii) To what relief.

POINTS (i) and (ii)

ADMITTED FACTS

11. It is an admitted fact that the appellant was released H.T. Service Connection No. YDD557 with a CMD of 750 KVA by the respondents. It started functioning in September 2015 by availing the sick unit revival scheme.

SETTLEMENT BY MUTUAL AGREEMENT

12. Both the parties have appeared before this Authority on 25.08.2022. 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

13. 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

14. The appellant, to claim refund of the amount towards Development Charges is relying on the order issued by the Hon'ble Commission vide Lr.No.APERC/Secy/Dir(Tariff)/F/D.No.4966/2001 dt.05.11.2001 pertaining to revival of sick unit industrial scheme. It is claimed that the above said order exempts the appellant from paying fresh Development Charges under sick unit

revival scheme since they have paid the Development Charges at the time of release of supply against the subject Service Connection in the year 2007. Hence, they claimed that they are entitled for the refund of Development Charges of Rs. 9,00,000/- paid once again subsequent to approval for restoration of power supply under sick unit revival scheme vide CGM(Comml.) Lr.No.366/5 dt.13.05.2015.

15. Nowhere in the order quoted by the appellant of the Hon'ble Commission in Lr.No. 4966/2001 dt.05.11.2001, there is exemption from payment of Development Charges. Further in the letter there are no enclosures to show that it is authenticated. The copy produced as an enclosure remains silent about the payment of Development Charges and has no authenticity as a document released by the Hon'ble Commission.

16. It is pertinent to note the main reason behind the payment of Development Charges as per the Clause 5.9.6 of GTCS which is reproduced here-under:-

“Dismantlement of Service Line after Termination of Agreement:
On the termination of the LT or HT Agreement, the company is entitled to dismantle the service line and remove the materials, Meter, cut out etc. After termination of the Agreement, the consumer shall be treated as a fresh applicant for the purpose of giving supply to the same premises when applied for by him provided there are no dues against the previous service connection.”

17. In the present case, the HT agreement of the subject service was terminated consequent to non payment of the arrears. To restore the power supply as requested by the appellant, the consumer shall be treated as a fresh applicant for giving supply for the same premises. This goes to show that the appellant is liable to payment of Development Charges. In view of these factors, I hold that the appellant is not entitled to refund of Rs.9,00,000/- paid towards Development Charges with interest and as such the impugned Award/Order is not liable to be set aside. These points are decided accordingly against the appellant and in favour of the respondents.

Point No. (iii)

18. In view of the findings on point Nos. (i) and (ii), the appeal is liable to be rejected.

RESULT

19. In the result, the appeal is rejected, without costs, confirming the Award passed by the 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 21st day of September 2022.

Sd/-

Vidyut Ombudsman

1. M/s. Sheetal Shipping and Metal Processors Ltd., #5-5-103 to 105/6, Meher Complex, 1st Floor, Ranigunj, Secunderabad, represented by its Director, Sri Shyam Sunder Agarwal - 500 003. Cell: 9866633081.
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6. The Chief General Manager (Commercial) / TSSPDCL / Corporate Office / Hyderabad.

Copy to

7. The Chairperson, Consumer Grievances Redressal Forum - I, Erragadda, Hyderabad.