



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**

FRIDAY THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY TWO

Appeal No. 29 of 2020-21

Between

M/s. Vinayaka Cotton Mills (P) Ltd., Sy.No.1708-9, Anthireddy Guda Road,
Nandigaon, Ranga Reddy District - 509 228, represented by its Director,
Sri J. Basvi Reddy. Cell: 9949988699. **.....Appellant**

AND

1. The Assistant Engineer / Operation / Kothur / TSSPDCL / Hyderabad.
2. The Assistant Divisional Engineer / Operation / Kothur / TSSPDCL / Hyderabad.
3. The Assistant Accounts Officer / ERO / Shadnagar / TSSPDCL / Hyderabad.
4. The Divisional Engineer / Operation / Shadnagar / TSSPDCL / Hyderabad.
5. The Senior Accounts Officer / Operation / Rajendra Nagar Circle / TSSPDCL / Hyderabad.
6. The Superintending Engineer / Operation / Rajendra Nagar Circle / TSSPDCL / Hyderabad. **..... Respondents**

This appeal is coming on before me for final hearing on 26.08.2022 in the presence of Sri Basvi Reddy - representing the appellant and Sri K. Ravinder - ADE/OP/Kothur, Smt. G. Nagamani - AAO/ERO/Shadnagar and Sri T.Yadaiah - DE/OP/Shadnagar 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 passed by the Consumer Grievances Redressal Forum - Greater Hyderabad Area, Hyderabad - 45 (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') in C.G.No. 52/2020-21, Rajendra Nagar Circle dt. 21.11.2020.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The appellant has been availing power supply through the following three LT Industrial Service Connections with 65 HP each of Contracted Load at Nandigama Village.

- i) Service Connection No. 3501 00901 (with Contracted Load of 65 HP).
- ii) Service Connection No. 3501 00902 (with Contracted Load of 65 HP).
- iii) Service Connection No. 3501 00828 (with Contracted Load of 65 HP).

3. The respondents have added Development Charges and Security Deposit charges to the regular CC bills of S.C.No.3501 00901 and S.C.No. 3501 00828 as shown below:-

- i) Rs 47,000/- S.C.No. 3501 00901
- ii) Rs 13,500/- S.C.No. 3501 00828

The appellant has applied for clubbing of three LT services into single HT service by paying necessary amounts against S.C.No. 3501 00828 for 15 HP additional load at the threat of disconnection by the respondents without issuing any notice and without any application.

4. The appellant paid Development Charges for the Contracted Load of 195 HP (65 HP x 3 Services) and also case amount for 55 HP additional load against S.C.No.3501 00901 and for 15 HP additional load against S.C.No.3501 00828. The respondents have increased the Contracted Load from 65 HP to 120 HP in the month of February 2018 without any agreement and test report from their company and issued C.C. bills with HT tariff from February 2018 onwards, though there is no consumption except lighting load and borewell load. Even after they have applied for clubbing of their (3) LT services into single HT service from February 2018 onwards abnormal bills were issued till September,2018. Respondent No.3 issued a notice dt.15.09.2018 for payment of Rs.12,50,168/- . On the representation of the appellant that it is a seasonal industry, respondent No.6 reduced the said amount to Rs.6,86,206/-. Therefore it is prayed to direct the respondents to revise the electricity bills from February 2015 to July 2019 with L.T. tariff as its R.M.D exceeded only in February and March 2016 and the respondents shall not issue HT bills continuously etc.

CASE OF THE RESPONDENTS BEFORE THE FORUM

5. In the written submissions made by respondent No.3 it is submitted that a Development Charges Case was booked on SC No. 3501 00901 on the excess load of 55 HP and the appellant paid the same in 2017. The load was enhanced in January 2018. Therefore a back billing case was booked for Fixed and other charges in HT tariff for the period from February 2015 to January 2018. The back billing amount of Rs 86,909/- was adjusted on 31.07.2019.

Therefore it is stated that the appellant is liable to pay the said amount.

AWARD OF THE FORUM

6. After considering the material on record and after hearing both sides, the Forum has partly allowed the complaint directing the respondents to adjust the back billing amount of Rs.86,909/- and also to adjust an amount of Rs. 62,480/-, both to the H.T.Service Connection of the appellant.

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

GROUND OF THE APPEAL

8. In the grounds of the appeal, it is, inter-alia, submitted that the Forum has wrongly mentioned that the appellant has exceeded the load for billing under HT tariffs from February 2015 and March 2015, but it is due to technical reason i.e. failure of one DTR for another service, the total load was recorded in the meter of S.C.No. 3501 00901. Respondent No.3 has no authority for issuing back billing. Therefore it is prayed to direct the respondents to withdraw the back billing amount including surcharge and for revision of the bills with L.T. tariff as was done to all the industrial consumers of the respondents and also to refund the excess amounts paid by the appellant with compensation.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

9. In the written submissions filed by Respondents No.3 dt. 12.02.2021, it is submitted that as per Clause 12.3.3.2 of General Terms and Conditions of Supply (in short 'GTCS'), since the Connected Load was above 100 HP, the HT tariff rates from the consumption month was levied as the appellant accepted for payment of seasonal tariff. The bill was revised to Rs.6,86,206/- but it was not paid. At the time of release of HT supply duly clubbing three LT services into one service with additional load of 235 HP making the total CMD of 375 KVA, the consumer has given undertaking to pay the back billing amount after enclosure of HT C.C. bill. Therefore, it is prayed to dismiss the appeal.

10. Heard both sides.

POINTS

11. The points that arise for consideration are:-

- i) Whether the appellant is entitled to refund of remaining amount with interest and compensation?
- ii) Whether the Award passed by the learned Forum is liable to be set aside? and
- iii) To what relief.

POINTS (i) and (ii)

ADMITTED FACTS

12. It is an admitted fact that initially the appellant was having 3 Service Connection No.3501 00901 with 65 HP load. Excess load of 55 HP was detected over 65 HP totalling 120 HP. Subsequently, Rs.12,50.168/- was raised towards back billing in view of H.T. tariff rates above 100 HP. The bill for

Rs.12,50,168/- towards back billing was reduced to Rs.6,86,206/- because the industry of the appellant is a seasonal one.

SETTLEMENT BY MUTUAL AGREEMENT

13. Both the parties have appeared before this Authority on 26.08.2022. 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

14. 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 CASE

15. A perusal of the rival contentions go to show that there are three different disputes over excess load, wrong categorisation and clubbing of three services which are briefly mentioned below:-

i. Detection of excess load of 55 HP over existing sanctioned load of 65 HP total of 120 HP against SC. No. 3501 00901:-

There is no denial from the appellant that an inspection was conducted during January 2015. During the inspection an excess load of 55 HP was detected over the existing sanctioned load of 65 HP. A notice for regularisation of the said additional load was issued by the ADE/OP/Kothur vide

Lr.No.ADE/OP/Shadnagar D.No.5230 with a demand to pay Development Charges of Rs. 49,500/- and Security Deposit Rs. 27,500/- wherein a choice was given to the appellant to opt to remove the total additional connected load or part or to regularise the total load by paying the demand. The record shows that at the time of inspection on dt.30.01.2015, the appliances existing in the premises of the Service Connection No. 3501 00901 are as follows:-

Sl. No	Appliance Name	Usage Type	Wattage (W)	Number	TotalLoad(W)
1.	Screw Motor - I	Others	1492	2	2984
2.	Screw Motor- II	Others	2238	1	2238
3.	Ginning Motor	Others	3730	20	74600
4.	Belt Conveyor	Others	2238	1	2238
5.	Crane Motor	Others	3730	1	3730
6.	Elevator	Others	2238	1	2238
7.	CFL Lights	Others	60	15	900

The appellant admitted that there was utilisation of excess load over 100 HP during the month of February and March 2015. The appellant has paid the demanded amount in two instalments and the last instalment was paid on 21.02.2017. The total load of 120 HP was regularised by the respondents in January 2018, the delay for regularisation is not disclosed. Also on the option given in the notice for regularisation of additional load vide Lr.No.5230 Dt.25.02.2015, to opt to remove the additional load or regularise the total load, the appellant preferred to pay the total amount towards regularisation of 55 HP

excess load dt. 21.02.2017. Hence, the denial of excess connected load is not tenable.

16. Back billing assessed for an amount of Rs 12,50,168/- towards change in category from LT Category III to HT Category - I:-

Consequent to payment of Development Charges and Security Deposit towards regularisation of excess connected load of 55 HP, the total load of 120 HP was regularised in the month of February 2018. The respondents on the outcome of regularisation of load upto 120 HP changed the category of the subject Service Connection No. 3501 00901 from LT category-III to HT Category-I, further resorted to back billing revising all the LT bills issued from the month of February 2015 (Detection of excess load) into HT tariffs and demanded an amount of Rs. 12,50,168/- which is difference of tariffs from February 2015 to January 2018 vide Lr.No.AAO/ERO/SDNR/JAO/Billing/SA/D.No.554/18 dt.15.09.2018. The appellant opposed the demand stating that they have never utilised the load above 100HP, excess load stating that they have never connected excess load above 65 HP since there was no excess machinery installed in each premises. But given the reason of excess MD recording in view of supply extension to their three LT industrial connections through three different/separate DTRs and due to failure of one of the DTRs the supply to the load of failed DTR of other service connection was extended through the SC No. 3501 00901 during the month of February and March resulting in recording over 100HP. Even though

the energy was utilised in stray months the Licensee should have billed the HT tariff for those corresponding stray months rather than all the months as billed from the month of February'2015. It is argued that the AAO/ERO is not the Designated Officer to issue the back billing notice, who has not considered the seasonal months while calculating the back billing. In the meanwhile the appellant came forward for sanction of additional load of 250 HP along-with clubbing of 3 Nos. existing LT services 3501-901(120 HP), 3501-828 (65 HP) and 3501-00902 (65 HP) making a total load of 500 HP with 375 KVA into 1 No. HT Category I service. The same was sanctioned vide Memo No. SE/OP/RJNR/Coml/DR No.112/18-19/D.No.1210 dt.24.09.2018. The appellant paid the estimated charges on 07.09.2018. However, based on the request of the consumer to consider seasonal industries, the AAO/ERO/Shadnagar vide Lr.No. AAO/ERO/SDNR/JAO/Billing-SA/D.No.210/19, dt.30.03.2019 has given the revised back billing amount from Rs 12,50,168/- to Rs 6,86,206/-. The record of EBS statement of SC No. 3501 00901 shows that the appellant had exceeded the contracted load on numerous occasions i.e. 01/2018 to 03/2018, 12/2016 to 03/2017, 12/2015 to 03/2016, 12/2014 to 04/2015, 11/2013 to 02/2014, 11/2012 to 02/2013, 11/2011 to 03/2012 and 11/2020 to 03/2011. The tariff order envisages the category of a consumer based on the contracted load. The consumers having contracted load of above 100 HP fall under the category of HT-1 i.e. HT Tariffs.

17. At this stage it is necessary to refer to Clause 12.3.3.3 of GTCS which mandates these services to be billed at respective HT tariffs, from the consumption month in which the unauthorised additional load is detected. The relevant Clause is reproduced here-under:-

“Cases where the total connected load is above 75 HP/56 KW or cases where the total connected load is above 150 HP under LT category III(B). These services will be billed at the HT category 1 tariff rates from the consumption month in which the unauthorised additional load is detected till such additional load is removed and inspected by the designated officer of the Company.”

In view of the above, the billing shall be under HT Category-1 tariff rates from the consumption month until removal of additional load. In the instant case, in view of their operational needs the appellant preferred to avail additional load. Hence, the request of the appellant for further relief against the back billing is not tenable.

18. Clubbing of (3) nos. services back billing Rs.1,15,703/- :-

The record shows that an inspection was conducted by the DE/DPE/RJNR on 14.05.2019 wherein, it was adjudicated that three Services 3501 00901, 3501 00902 and 3501 00828 were running in the same premises having same type of activity, thereby resorted to back billing based on Clause 3.5.3 of GTCS for an amount of Rs. 1,51,703/- for the period from 10.10.2018 to 05.04.2019 wherein before clubbing of the above three services only SC No. 3501 00901 was billed under HT tariffs and other two services 3501 00902 and 3501 00828 were billed under LT tariffs. Subsequently based on the representation

dt.29.06.2019 of the appellant the DE/OP/Shadnagar vide order No. DEA/I/HYD/DAT.D.No.411/19 dt.03.08.2019 issued Final Assessment Order revising the provisional back billing demand of Rs 1,51,703/-, to Rs 86,909/-. The revision is done by reducing the period of assessment from 10.10.2018 to 10.01.2019 since for the months of February 2019 to April 2019 already the back billed amount was claimed. The respondents adjusted the revised amount of Rs 86,909/- from the available Security Deposit amount of Rs. 2,38,968/- of SC No. 3501 00902 vide Credit JE No. 43 dt.31.07.2019.

19. The Forum has granted partial relief against the grievance of the appellant considering that the inspecting officer has wrongly back billed clubbing the two services in the month of May 2019 even though the three services were billed under HT tariffs from February 2019. The Forum found that the appellant already applied for release of new HT Service Connection by way of clubbing of three services along-with additional load in the month of September 2018, but the service was released during the month of June 2019, which shows negligence on the part of the respondents. Therefore the respondents were directed to withdraw Rs. 86,909/- and report compliance. Further, the Forum found that for the SC No 3501 00901 Rs. 53,705/-, S.C. No. 3501 00902 Rs 4050/- and SC No. 3501 00828 Rs. 4725/- were wrongly raised under status "99" during the month of July 2019 which is fictitious. Hence it directed for refund of total rupees of 62,480/-.

20. The respondents opposed the direction of the Forum over withdrawal of Rs 86,909/- stating that if the load of a Service Connection or clubbed services exceeded 100 HP, the tariff order and Clause 12.3.3.2 of GTCS mandates HT tariffs billing. In the present case the total load of two services exceeded 100 HP to an extent of 145 HP. Hence the respondents pleaded for setting aside the direction to withdraw Rs 86,909/-. The above plea of the respondents cannot be entertained since the Licensee cannot appeal against the order of the Forum before this Authority. Licensee may appeal on this particular issue before a competent Court. Therefore whatever benefit that was given by the Forum to the appellant cannot be denied by this Authority.

21. Therefore the amount worked out by the respondents considering the above for the three services 3501 00901 (120 HP), 3501 00902 (65 HP) and 3501 00828 (80 HP) total of 265 HP /198.75 KVA under HT seasonal category from 02/2015 to 01/2018 to Rs 13,75,394/- cannot be accepted by this Authority in the present Appeal.

22. In view of the discussion supra, I hold that the appellant is not entitled for refund of remaining amount with interest and compensation claimed by him and the appeal is liable to be rejected. These points are accordingly decided against the appellant and in favour of the respondents.

Point No. (iii)

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

RESULT

24. 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 23rd day of September 2022.

Sd/-

Vidyut Ombudsman

1. M/s. Vinayaka Cotton Mills (P) Ltd., Sy.No.1708-9, Anthireddy Guda Road, Nandigaon, Ranga Reddy District - 509 228, represented by its Director, Sri J. Basvi Reddy. Cell: 9949988699.
2. The Assistant Engineer / Operation / Kothur / TSSPDCL / Hyderabad.
3. The Assistant Divisional Engineer / Operation / Kothur / TSSPDCL / Hyderabad.
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6. The Senior Accounts Officer / Operation / Rajendra Nagar Circle / TSSPDCL / Hyderabad.

7. The Superintending Engineer / Operation / Rajendra Nagar Circle / TSSPDCL / Hyderabad.

Copy to

8. The Chairperson, Consumer Grievances Redressal Forum - GHA, Erragadda, Hyderabad.

APPEAL NO. 29 OF 2020-21