



BEFORE THE VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

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

**PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDYUT OMBUDSMAN**

FRIDAY THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE

Appeal No. 40 of 2022-23

Between

M/s. Bhagyanagar India Limited, Sy.No.468, 469, 470 and 478, Municipally Village and Mandal, Sangareddy District. 502 345, represented by Sri Routhu Rajesh, Senior Manager, Cell: 9704444743.

.....Appellant

AND

1. The Divisional Engineer/Operation/TSSPDCL/Sangareddy/Sangareddy District.
2. The Senior Accounts Officer/Operation/TSSPDCL/Sangareddy/Sangareddy District.
3. The Superintending Engineer/Operation/TSSPDCL/Sangareddy/Sangareddy District.
4. The Chief General Manager(Commercial)/TSSPDCL/Corporate Office / Mint Compound /Hyderabad.
5. The Chief General Manager(Revenue) / TSSPDCL / Corporate Office/Mint Compound/Hyderabad.

..... Respondents

This appeal is coming on before me for final hearing on 14.03.2023 in the presence of Mr.P.V.Durgaprasad-authorized representative of the appellant and Sri M. Prabhu - SAO/OP/Sangareddy, Sri B. Veera Reddy - ADE/Sadasivpet, Sri A. Srinivas - DE/Tech/Sangareddy, Sri Pothoraju John - DE/Commercial for 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 - I (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') in C.G.No.368/2022-23, Sangareddy Circle dt.24.12.2022.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant is that the appellant is having Auxiliary Meter bearing M.No. 16636496 and Interface Meter M.No. 02793551. The appellant has received a notice bearing No. SC No. SGR 1908 Category HT -II for short billing from Assistant Divisional Engineer/Op/Sadashivpet stating that the service was billed with Auxiliary Meter Parameters till July 2022 instead of Interface Meter and the mistake was identified and corrected in August 2022 and shortfall assessment was made from 26.08.2014 to 22.07.2022 based on the data and meter dumps available. An amount of Rs.23,50,442/- was claimed accordingly. Aggrieved by the said notice the appellant approached respondent No.3 for redressal. Respondent No.3 directed the appellant to pay 50% of the claim on failure, he threatened to disconnect the supply.

3. The demand made by the respondents is illegal. It is the mistake of the respondents and as such the appellant is not liable to pay the same. Accordingly it is prayed to set aside the notice demanding the amount in question.

WRITTEN SUBMISSIONS OF THE RESPONDENTS BEFORE THE FORUM

4. In the written submission of respondent No.1, it is stated that the service was billed with Auxiliary Meter Parameters instead of Interface Meter Parameters till July 2022. After the mistake was identified it was rectified. The appellant is having another solar plant, M/s. Surana Solar Systems Pvt.Ltd. bearing Service Connection No. MDK 1966 at Shankapur village in Medak Operation Circle, where the consumer is billed on the parameters recorded in Interface Meter and as such the consumer is aware of the issue in respect of billing. Therefore, the appellant is liable to pay the amount claimed in this case.

AWARD OF THE FORUM

5. After considering the material on record and after hearing both sides, the learned Forum has rejected the complaint with certain directions to both parties.

6. Aggrieved by the Award passed by the learned Forum, the present appeal is preferred, contending among other things, that the mistake in this case was committed by the respondents and not by the appellant. Whenever the respondents have issued the bills, the appellant paid the same. The claim is barred by limitation. Accordingly it is prayed to set aside the impugned Award and direct respondent No.3 to refund Rs. 11,75,221/-.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

7. In the written submissions of respondent No.3, it is, inter alia, submitted that the claim is within limitation. The appellant is having technical staff at their solar plants, as such they are aware of the meters and billing at both of their solar plants. It is accordingly submitted that the appellant is liable to pay the amount claimed in the bill.

8. Heard both sides.

POINTS

9. The points that arise for consideration are:-

- i) Whether the appellant is not liable to pay the amount claimed by the respondents ?
- ii) Whether the impugned Award is liable to be set aside? and
- iii) To what relief?

POINT No. (i) and (ii)

ADMITTED FACTS

10. It is an admitted fact that the appellant is having Auxiliary Meter bearing M.No. 16636496 and Interface Meter M.No. 02793551. The appellant paid 50% of the amount claimed by the respondents.

SETTLEMENT BY MUTUAL AGREEMENT

11. Both the parties have appeared before this Authority on different dates. 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

12. 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

13. The appellant has filed the present appeal for withdrawal of short billed amount of Rs. 23,50,442/- levied for the period from 26.08.2014 to 22.07.2022. As per the Shortfall Assessment Notice vide Lr.No.1727 dt.07.10.2022, the DE/OP/Sangareddy and DE/M&P/Sangareddy have inspected the premises on 12.09.2022 and found that the service was being billed with Auxiliary Meter Parameters provided at the plant site i.e. from the date of release instead of billing with parameters of Interface Meter provided at TSSPDCL substation (Munipally 33/11 kv SS). Here it is pertinent to know what Interface meter is :-

Central Electricity Authority (installation and Operation of meters) Regulations, 2006 (hereinafter referred to as the said regulations) in sub-regulation (1) of regulation (2) is mentioned that :-

“Interface meter means a meter used for accounting and billing of electricity, connected at the point of interconnection between electrical systems of generating company, licensee and consumers, directly connected to the inter-state Transmission System or

Intra-State Transmission System or Distribution System and who have been permitted- open access by the Appropriate Commission.”
Clause 2(1)(d) of Regulation 1 of 2008 of Hon’ble Telangana State Electricity

Regulatory Commission defines Auxiliary Consumption as follows:-

“Auxiliary Consumption in relation to a period means the quantum of energy consumed by auxiliary equipment of the generating station and shall be expressed as a percentage of the sum of gross energy generated at the generator terminals of all the units of the generating station.....”

The service was billed with Auxiliary Meter Parameters corresponding to energy consumption towards the loads connected at the power plant like lighting load, water pumps etc. The Interface Meters shall also incorporate the line loss consumption + no load losses of all the power transformers connected to the grid at the power plant during the period of non-generation. The mistake was identified as the Auxiliary Meter Parameters were recorded for billing the service instead of the Interface Meter Parameters in the month of July 2022. Thus the short billing demand was raised corresponding to parameters recorded in the Interface Meter from 26.08.2014 to 22.07.2022 i.e. difference of amount between Interface main Meter Parameters and Auxiliary Meter Parameters. The amount of Rs. 23,50,442/- was provisionally assessed and demanded to pay vide assessment notice Lr.No.ADE/OP/SSPT/F.No.Theft/D.No.1727/22 dt.07.10.2022.

14. Aggrieved by the shortfall assessment notice given by the respondents the appellant preferred a complaint before the learned Forum, wherein the complaint was disposed of with the following directions:-

“18. The respondent No.2, i.e. the Senior Accounts Officer/Operation/Sangareddy is directed to withdraw the shortfall amount of Rs.23,50,442/- included in the bill of the consumer in the month of October 2022 and its surcharge, as it is impermissible and against GTCS issued by the Hon'ble TSERC. The short billing amount can be included in the bills of the Complainant only after finalisation of amount by the designated officer, and the R3, i.e. the Superintending Engineer/Operation/Sangareddy and its communication to the Complainant/Consumer after giving not less than 15 clear days notice.

19. The Respondents are at liberty to realise the short billing amount of Rs.23,50,442/- (Rupees Twenty Three Lakhs Fifty Thousand Four Hundred and Forty Two only) by giving a notice of 15 days to the Complainant afresh.

20. The Complainant is directed to pay the short billed of Rs.23,50,442/- (Rupees Twenty Three Lakhs Fifty Thousand Four Hundred and Forty Two only) less already paid amount if any.

22. The Forum agrees with objections raised by the Complainant and directs the Respondent No.3, i.e. Superintending Engineer/Operation/Sangareddy to address a letter to the Complainant rendering apology as the word “Theft”, even though crept into the notice dated 07.10.2022 unknowingly, it is unwarranted/impermissible, as the Complainant is an elite HT Consumer and also a Generator.”

15. Notwithstanding the above orders of the learned Forum, the appellant has preferred the present appeal on the grounds that demanded shortfall charges is neither maintainable under law and deserved to be set aside, stating that the assessment notice was issued under wrong statute under Clause 7.5.1 of the General Terms and Conditions of Supply (in short

'GTCS'), related to defective meters assessment. It is stated that the respondents are liable to record the readings and supervise the entire process of installation of meters at specified location, the consequence of mistake in taking wrong readings shall not be levied upon them which continued without notice for a long lapse of (8) years; that the claim is time barred under the ambit of Sec. 56(2) of the Electricity Act 2003 (in short 'the Act'); that respondents are not liable to demand the amount for more than (2) years preceding the assessment notice dt.07.10.2022 and hence the appellant cannot be penalised for the negligence of the department.

16. A perusal of the rival contentions goes to show that there is a mistake in recording the reading parameters from the date of release. It is relevant to reproduce the following Regulation of Central Electricity Authority:-

Central Electricity Authority (Installation and Operation of meters) Regulations 2006, Clause 14(1) Meter reading and recording. -

(1) Interface meters It shall be the responsibility of the Appropriate Transmission Utility or the licensee to take down the meter reading and record the metered data, maintain database of all the information associated with the interface meters and verify the correctness of metered data and furnish the same to various agencies as per the procedure laid down by the Appropriate Commission.

By virtue of the above given Clause, the Licensee has the responsibility to take down the reading and verify the correctness of metered data. Upon such verification the error in taking the readings was identified and rightly so the short billing assessment notice was given to the appellant. The Provisional

Assessment Officer/ADE/OP/Sadashivpet erred in indicating the short billing based on the Clause 7.5.1 of GTCS in the assessment notice of short billing dt.07.10.2022. The Clause 7.5.1 of GTCS relates to defective meters, which is not applicable in the present case. The wrong Clause mentioned in the assessment notice does not restrict the Licensee to recover the revenue lost in view of wrong meter reading. The Licensee can rectify the wrong reading which involves only the actual reading parameters of the Interface Meters and hence liable to be paid by the appellant. Whether the present subject is hit by Sec. 56(2) of the Act? Sec. 56(2) of the Act is reproduced here-under for perusal:-

“Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”

The above Clause mandates that no arrears shall be recovered after a period of two years when such amount became first due. In the present case the commencement of limitation starts from the date of discovery of the mistake i.e. from the assessment notice dt.07.10.2022 and hence the limitation of two years is not completed and hence the amount demanded does not fall under the ambit of Sec.56(2) of the Act.

17. The learned Forum has rightly given proper directions in respect of the claim of Rs.23,50,442/-. The Appendix-VII- Assessment notice for short billing read with Clause 5.3 of the GTCS is reproduced here-under:-

“5.3: In case there is no representation from you within 15 days from the date of service of this notice, the electricity charges payable by you shall be included as arrears in your subsequent CC bill.”

The appellant vide letter dt.07.10.2022 represented the SE/OP/Sangareddy Circle against the levy of short bill amount, under such circumstances the electricity charges payable i.e. the short billing amount shall not be included as arrears in the CC bills. There is limitation towards adding the amount in the CC bill i.e. under the circumstances where there is no representation or objection from the appellant. The respondents erred in levying such amount in the CC bills without finalisation of the assessed amount. Hence, the direction of the learned Forum is upheld and the respondents are directed to withdraw the delayed payment surcharges levied against the short billed amount Rs.23,50,442/-. In compliance to the learned Forum's Award in C.G.No. 368/2022-23 Sangareddy Circle, the respondents vide Lr.No.793 dt.08.03.2023 withdrew the surcharge amount of Rs. 24,455/- levied during the month of November 2022 CC bill payable in December 2022 and requested the appellant to pay the balance back billing amount of Rs. 11,75,221/- which is liable to be paid.

18. The learned authorised representative of the appellant has relied on the judgement of the Hon'ble Supreme Court reported in M/s. PREM COTTEX v. UTTAR HARYANA BIJLI VITRAN NIGAM LTD., in Civil Appeal No. 7235 of 2009 dt.05.10.2022 wherein it is held that if a licensee discovers any mistake in the billing, the Licensee is certainly entitled to raise the demand. In the present case such a mistake occurred. Therefore the Licensee is entitled to claim the amount as claimed in the bill. Accordingly, I hold that the appellant is liable to pay the amount claimed by the respondents except the delayed payment surcharges of Rs.24,455/- and except that the Award of the learned Forum is not liable to be set aside. These points are decided partly in favour of the appellant and partly in favour of the respondents.

POINT No. (iii)

19. In view of the findings on points (i) and (ii), the appeal is liable to be allowed in part.

RESULT

20. In the result, the appeal is allowed in part to the extent of delayed payment surcharges of Rs.24,455/-. The appeal is rejected in respect of the balance claim. However, in view of the hardship faced by the appellant it is entitled for payment of the unpaid balance of the demanded amount, excluding the amount already paid, in (12) equal monthly instalments, starting from the

month of April 2023, failure to pay any single instalment would make the entire balance due recoverable in a lump sum.

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 24th day of March 2023.

Sd/-
Vidyut Ombudsman

1. M/s. Bhagyanagar India Limited, Sy.No.468, 469, 470 and 478, Munipally Village and Mandal,Sangareddy District. 502 345, represented by Sri Routhu Rajesh-Senior Manager, Cell: 9704444743.
2. The Divisional Engineer/Operation/TSSPDCL/Sangareddy/Sangareddy District.
3. The Senior Accounts Officer/Operation/TSSPDCL/Sangareddy/Sangareddy District.
4. The Superintending Engineer/Operation/TSSPDCL/Sangareddy/Sangareddy District.
5. The Chief General Manager(Commercial)/TSSPDCL/Corporate Office/Mint Compound /Hyderabad.
6. The Chief General Manager(Revenue)/TSSPDCL/Corporate Office/Mint Compound/Hyderabad.

Copy to

7. The Chairperson, Consumer Grievances Redressal Forum -(Rural) TSSPDCL-H.No:8-03-167/14, GTS Colony, Yousufguda,Hyderabad-500045.