



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

Friday the Fourteenth Day of December 2018

Appeal No. 42 of 2018

Preferred against Lr.Dt.28.08.2018 vide D.No. 524 of CGRF II

Between

**Laxmi PL & AGL Farm, Beneficiary Rajendra polymers, Plot no.88(part),
sy.no.48,kattedan, RR District-500077, Represented by its proprietor
M.Pradeep Kumar Jain - 9391033606.**

... Appellant

AND

- 1. The ADE/OP/Gagan Pahad/TSSPDCL/RR District.**
- 2. The DE/OP/Rajendranagar/TSSPDCL/Hyderabad.**
- 3. The SE/OP/Rajendranagar/TSSPDCL/Mehdipatnam.**

... Respondents

The above appeal filed on 29.08.2018, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 20.11.2018 at Hyderabad in the presence of Sri. Mutha Pradeep Jain - Appellant and Sri. J. Dasaradha - ADE/OP/Gaganpahad and Sri. D. Somireddy - DE/DPE/RR South for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

This is an Appeal filed against the Orders of the CGRF- II Vide D.No. 524/2018 dt.28.08.2018.

- 2. The Appellant stated that they have filed a complaint before the CGRF-II on 27.08.2018 seeking for setting aside the claim notice of Rs 7,76,797/- demanded by the Respondents through ADE/OP/Gaganpahad/F.theft/D.No.915/18 dt.20.07.2018 and the learned CGRF returned the said complaint without considering the grievance placed by them before the CGRF. Hence aggrieved by the same they have filed the present Appeal.**

3. A perusal of the appeal shows that the Appellant is a tenant in Plot No. 8, Sy No. 48, Kattedan, RR Dist. belonging to Lakshmi PL and Agriculture Farm and hence using the SC No. 3405 04301 and that on 30.07.2018 the ADE/OP/Gaganpahad/F.Theft/D.No.915/18 issued a back billing assessment notice for Rs 7,76,797/- for the period from 01.08.2014 to 05.07.2018 i.e. for a period of 3 years 11 months changing the category from LT III (Industrial) to HT -I.

4. That the Respondent No.3, ADE/OP/Gaganpahad, also informed in Clause No. 5.2 of assessment notice that if the Appellant is not agreeable with the assessment of back billing he shall make representation before DE/OP/Rajendranagar or SE/OP/Rajendranagar, the designated officers for appeal within 15 days from the date of serving of notice. Accordingly, the Appellant filed a representation dt.24.08.2018 before SE/OP/Rajendra Nagar.

5. That the SE/OP/Rajendranagar has disconnected the power supply on 23.08.2018 without any notice or opportunity in violation of Electricity Act,2003. Immediately the Appellant filed the representation dt.24.08.2018 and requested to restore the power supply. But the SE/OP/Rajendranagar has not considered the representation and request of the Appellant and not restored the power supply.

6. That the Respondent No.3, ADE/OP/Gaganpahad, vide its assessment notice dt.30.07.2018 informed that they have booked a case for 122 HP on 25.02.2010 and the Appellant has not regularised, hence back billing of Rs 7,76,797/- is proposed from LT III to HT I from 01.08.2014 to 05.07.2018. In this regard please note that the Respondent No.3, ADE/OP/Gaganpahad, vide its notice No.ADE/OP/Gagan Pahad/F.No.4248/K/D.No.729/14 dt.26.07.2014, informed to the Appellant that they have found the connected load of 78 HP against the contracted load of 49 HP, hence the Appellant has to pay Development Charges of Rs 34,800/- and Security Deposit of Rs 14,500/- to regularise 29 HP. The Appellant vide Receipt No. 846678 dt.31.07.2014 paid Rs 34,800/- and vide receipt No. 846679 dt.31.07.2014 paid Rs 14,500/-.As per the Tariff Orders upto 100 HP the service connection falls under LT III Category which is present category of the Appellant.

7. The Respondents on the other hand admitted that the Appellant is using the power supply issued in the name of M/s. Lakshmi PL and AGL Farm through the service connection No. 3405 04301 under LT Category III which has been originally

released on 13.03.1989 with 49 HP. On 04.02.2010 a Development charges case was booked for 73 HP additional load over existing load of 49 HP making a total load of 122 HP was booked by the DPE wing vide case No. DPE/HYS/SD01/1613/10. The consumer has paid the assessment amount of Rs 1,46,000/- vide Pr No. 116949 dt.31.07.2014, but the load is not regularised in EBS due to the consent letter of consumer not received for HT metering conversion as the service is having more than 100 HP. The service is supposed to provide with HT side metering for which the consumer not came forward.

8. The Respondents further stated that again a back billing case was booked vide Case No. DPE/RRS/596/18 and assessment was done for Rs 7,76,797/- for the period from 01.08.2014 to 05.07.2018 and service was disconnected on 23.08.2018 and the consumer paid Rs 3,88,000/- vide Pr No.17100 dt.29.08.2018 towards 50% of the Assessment amount. Then the supply was restored to the service.

9. The Appellant filed a rejoinder on 20.11.2018 countering the allegations of the Respondents and stated that the Respondents themselves have alleged that on 04.02.2010 development charges case was booked for 73 HP additional load over existing load of 49 HP totalling 122 HP where as the notice issued by the Respondent No.3, ADE/OP/Gaganpahad, has issued for regularisation of additional load dt.26.07.2014, stating that the Appellant is using total load of 78 HP whereas connected load is 49 HP. Hence, directed to pay Rs 34,800 towards development charges and Rs 14,500/- towards security deposit and the Appellant had paid the said amounts.

10. Hence the allegation that the Appellant is using total load of 122 HP is false and incorrect. Admittedly there is no need of any consent letter when load is less than 100 HP. In the contention of para 4 of the reply is false and in correct.

11. That the Respondent No.3, ADE/OP/Gaganpahad, vide Lr.No.ADE/OP/Gaganpahad/F.No.4248/D.No.729/14 dt.26.07.2014 issued direction to the Appellant to make the payment of Rs 34,900/- towards Development charges and Rs 14,500/- towards Security Deposit to regularise the Additional Load of 29 HP over the existing load of 49 HP thus totalling to 78 HP. Accordingly, the Appellant vide receipt No. 846678 dt.31.07.2014 made the payment of Rs 34,800/- towards Development charges and vide receipt No. 846679 dt. 31.07.2014 made the payment of Rs 14,500/- towards Security Deposit.

12. In view of the above stated facts the back billing claim of Rs 7,76,797/- for the period from 01.08.2014 to 05.07.2018 is illegal, not maintainable and liable to be set aside.

13. Heard both sides.

Issues

14. In view of the above contentions by both sides the following issues are framed:

1. Whether the claim of back billing for an amount of Rs 7,76,797/- for the period from 01.08.2018 to 05.07.2018 is liable to be set aside as illegal as claimed by the Appellant?
2. To what relief?

Issue No.1

15. A perusal of the written submissions and the oral arguments submitted by both sides go to show that M/s. Laxmi PL & AGL Farm is an industrial service connection bearing SC No. 3405 04301 released under LT Category III with a load of 49 HP on 13.03.1989. On 04.02.2010 a case was booked on excess connected load of 73 HP over the contracted load of 49 HP resulting in total connected load of 122 HP by DPE wing vide case No. DPE/HYS/SD01/1613/10. The Appellant has paid the assessed amount of Rs 1,46,000/- an amount of Rs 1,09,500/- (73 HP X Rs 1500) towards development charges and Rs 36,500/- (73 HP X Rs 500) towards security Deposit vide PR No. 116949 dt.31.07.2014. In the meanwhile on 24.02.2014 an another case was booked on the same service by the DPE wing towards excess connected load of 29 HP over contracted load of 49 HP resulting in total connected load of 78 HP and an amount of Rs 34,800/- (29 HP X Rs 1200) towards development charges and Rs 14,500/- (29 HP X Rs 500) towards security Deposit was demanded vide Provisional Assessment Notice, Lr.No. ADE/OP/Gaganpahad/F.No.4248/K/D.No. 729/14 dt. 26.07.2014, the amount was paid by the Appellant vide PR No. 846678 Dt: 31.07.2014.

16. The matter stood so as above, even though the payments for both the notices were released on 31.07.2014, the Respondents had not regularised the load, continued to bill the service with 49HP contracted load. There was an another inspection conducted by the DPE wing on 05.07.2018 and a provisional assessment notice vide Lr.No. ADE/OP/Gaganpahad/F.Theft/D.No.915/18 dt.30.07.2018, was

issued which was based on the inspection over the excess connected of 122HP during the year 2010, with following incriminating points:

“ At the time of inspection it is observed the meter seals are intact. As per MATS it is observed that 1 No. Development charges case was booked on this service connection vide case No.DPE/RRS/SD01/1613/10 for 122HP on dt.25.02.2010. The consumer made payment on 31.07.2014. But the load was not regularised. Hence, back billing is proposes from LT Cat-III to HT-I from date of payment i.e. 01.08.2014 to 05.07.2018.”

In view of the above observations an amount of Rs 7,76,797/- was assessed for the period from 01.08.2014 to 05.07.2018 towards the difference of Tariff rates between LT Category III to HT Category I, since the HT Tariff rates are applicable to the consumers having more than 100 HP load.

17. The Appellant filed a representation dt.24.08.2018 before SE/OP/Rajendranagar against the above given back billing case. Before finalisation of the back billing case, the Appellant approached the CGRF, where the CGRF held that since the subject matter of the grievance of the Appellant is pending with SE/OP/Rajendranagar, unless the said matter has been disposed of by the SE, this forum cannot entertain grievance filed by the Appellant and the complaint was returned. Notwithstanding the above directions of the CGRF the Appellant filed this appeal based on the Clause 14.8.1 of GTCS which mandates the consumer for entitlement to approach the forum at any stage if he so desires and the Appellant further pleaded that as per the Clause 2.37 of Regulation 3 of 2015 no grievance shall be rejected in writing unless the complainant or association of persons has been given the opportunity of being heard.

18. In both the cases towards excess connected load booked during 2010 and 2014 the Appellant paid the amounts for regularisation of the load without any protest. The objection was raised only after the issue of demand notice towards back billing for an amount of Rs 7,76,797/- in view of category change from LT Category III to HT -I. The Respondents had to regularised the load of 122 HP after payment of the Appellant in the billing record in the year 2014, which was not done and ought to have taken the initiative based upon the provisions laid in such cases provided in the GTCS Clause 12.3.3. In view of the non compliance of the above said clause the burden

of accumulated differential charges from LT Category III to HT Category-I was imposed at a time to the Appellant. However the Respondents can resort to back billing by altering the classification of the billing category from LT-III to HT-I and suitably revise the bills, even with retrospective effect for the entire period during which such reclassification is needed based on the amended clause 3.4.1 of GTCS. The plea taken by the Respondents in not regularising the load due to non receiving of consent letter from the Appellant towards HT metering conversion is not correct, since there is no such provisions for consent letter for conversion into HT Metering and as per the GTCS Clause 12.3.3.2(v), a notice shall invariably be issued giving 3 months period for conversion to HT Supply, if the Consumer doesn't convert in three months, the Licensee is entitled to terminate the agreement by giving required notice as per the clause 5.9.4 of the GTCS.

19. The issue remains to be addressed now is whether the billing shall be done under LT Category III or HT Category I. As per the Tariff order the supply of electricity to Low Tension Industrial consumers under LT Category III is applicable for those consumers with a contracted load of 75 KW/ 100 HP and below and to bill under HT-I Category for the consumers having loads above 100 HP load. This shall be the criteria whether to bill the subject service connection under LT-III or HT-I. The Respondents levied the back billing by revising the LT III Category bills issued into HT-I category referring to the total connected load of 122 HP which is above 100 HP liable to bill under HT-I as per Tariff Order. The payment of amounts towards the notice of total connected load of 122 HP by the Appellant envisages the Respondents to bill the service in HT Category -I. The Appellant took almost 8 years to oppose using of total load of 122 HP as false and in correct and rather not commented on payment made by him in the year 2014 for regularisation of 122 HP. The payment for total load of 122 HP confirms that there after the contracted load of the subject service shall be 122HP. Though the next inspection conducted in the year 2014 reveals that the total connected is 78HP, the Appellant ought to have utilised the option given to them through the notice Vide D.no 729, Dt 26.07.2014, to remove the additional connected load or part of additional connected load and regularise actual load or derate the contracted load, whichever is possible. The Appellant instead paid the amounts for regularisation against both notices. This also shows that there was double payment made for 29HP load which has to be withdrawn. In view of the payment made by the Appellant for excess connected load of 73HP over 49 HP total of 122HP which had to

be regularised, the back billing towards the differential tariff charges from LT Category -III to HT Category -I holds good.

20. The Hon'ble Commission has introduced a Sub Category from the Tariff Order FY 2016-17, with Contracted Maximum Demand upto 150 KVA under HT I(A) Category at 11kV voltage only and made it an optional category, the relevant Clause is reproduced hereunder:

***Clause 7.14.** "Based on the above representations the Commission has introduced a sub-category with contract maximum demand up to 150 kVA under HT-1(A) category at 11kV voltage only and made it an Optional category. The consumers who qualify under this category are at liberty to opt to remain under HT-1(A) or choose the Optional sub-category for which the tariff rates are determined (compared to HT-I (A) General the demand charges are lower and energy charges are higher)."*

Table 57: HT-I (A) introduction of sub-slab by the Commission for FY 2016-17

Existing Tariff Sub-Category	Revised Tariff Sub-Category
No existing sub category called optional category (with contract maximum demand up to 150 KVA)	HT-I(A) General (11kV)
	Optional category (with contract maximum demand up to 150 KVA)

Clause 8.89. This Optional category is applicable to HT-I- Industry- general consumers whose contracted maximum demand is upto 150 kVA and availing supply at 11 kV only. The consumers who qualify under this category are free to opt to remain under HT-I(A) or choose this Optional sub category.

21. The assessment of Rs 7,76,797/- was based on the Tariff applicable to HT-I- Industry- general consumers, whereas an option was awarded by the Hon'ble commission to the consumers who falls below the contracted maximum demand of 150KVA to free to opt to remain under HT I (A) of choose the optional sub category. This option was not exercised by the Appellant and to impose the Tariff rates under HT-IA Category without giving any option to the consumer is too harsh. Hence, it is reasonable on the Appellant to exercise the option and consequent assessment of the back billing shall be done. As such decides this issue in favour of the Appellant.

Issue No.2

22. In the result the Appeal is allowed directing the Respondents to revise the assessment amount based on the tariff rates applicable from 01.08.2014 and from 01.07.2016 under HT IA (Industry General)/Optional Category subject to the condition of the Appellant undertaking the following before the DE/Operations :-

- i. Opting HT IA Industry General - Optional Category
- ii. To convert distinct LT metering setup into single HT Metering setup within a period of not more than 3 months.

And that until the compliance of the above undertaking within the stipulated period the Clause 9.53 (V) of the Tariff Order 2016-17 shall prevail i.e. 3% of the recorded energy during the month shall be added to arrive at the consumption on High Tension side of the Transformer and since the Appellant has already regularised the total connected load of 122 HP by way of payment of Rs 1,46,000/- and again paid towards excess connected load of 29 HP over the existing 49 HP amounting to Rs 49,300/- (which amounts to double payments) though the Respondents have not regularised the total load of 122 HP, the double payment made by the Appellant i.e. Rs 49,300/- is to be withdrawn and the balance amount shall be paid in 10 instalments as the consumer i.e. the Appellant herein cannot be burdened due to the indifferent attitude of the Respondents.

23. 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 Office Executive cum Computer Operator, Corrected, Signed and Pronounced by me on this the 14th day of December, 2018.

Sd/-

Vidyut Ombudsman

1. Laxmi PL & AGL Farm, Beneficiary Rajendra polymers, Plot no.88(part), sy.no.48,kattedan, RR District-500077, Represented by its proprietor M.Pradeep Kumar Jain - 9391033606.

2. The ADE/OP/Gagan Pahad/TSSPDCL/RR District.
3. The DE/OP/Rajendranagar/TSSPDCL/Hyderabad.
4. The SE/OP/Rajendranagar/TSSPDCL/Mehdipatnam.

Copy to :

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