



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

WEDNESDAY THE TWENTY NINTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

Appeal No. 42 of 2024-25

Between

M/s. Sri Sai Ram Ice Factory, represented by Sri D. Deepak Kumar Gupta,
Plot No. 27 (P), Pasumamula, Hayathnagar, Ranga Reddy District - 501 503.
Cell: 9246537422, 7036205211.

..... Appellant

AND

1. The Assistant Engineer/Operation/Pedda Amberpet/TGSPDCL/RR Dist.
2. The Assistant Divisional Engineer/Operation/Hayath Nagar/TGSPDCL/ RR Dist.
3. The Assistant Accounts Officer/ERO/Hayath Nagar/TGSPDCL/RR Dist.
4. The Divisional Engineer/Operation/Saroor Nagar/TGSPDCL/RR Dist.
5. The Superintending Engineer/Operation/Saroor Nagar/TGSPDCL/RR Dist.

.....Respondents

This appeal is coming on before me for final hearing on this day in the presence of Sri Ravinder Prasad Srivastava - authorised representative of the appellant and Sri G. Vijaya Bhaskar - ADE/OP/Hayath Nagar, and Sri K. Nagaraju - AAO/ERO/Hayath Nagar for the respondents and having stood over for consideration, this Vidyut Ombudsman passed the following:-

AWARD

This appeal is preferred aggrieved by the common Award in C.G.No.27 & 38/2020-21 dt. 30.09.2020 passed by Consumer Grievances Redressal Forum -

Greater Hyderabad Area (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TGSPDCL'), rejecting the complaints.

CASE OF THE APPELLANT BEFORE THE FORUM

C.G.No.27/2020-21

2. The case of the appellant before the learned Forum is that the respondents have released Service Connection No.5625 00810 (in short 'the subject Service Connection') to the appellant under LT Category-III(A) with an initial contracted load of 74 HP. Now the contracted load is 99 HP. Respondent No.3 during the billing months of April and May 2020 claimed an excess amount of Rs.63,844/-. In June 2020 the correct bill was claimed. Again in July 2020 excess amount of Rs.40,565/- was claimed without any intimation or notice to the appellant. The respondents instead of claiming the bills for the subject Service Connection under LT-III Industry Category applied the tariff rates different from LT-III Category. Therefore it was prayed to set aside the claim of Rs.63,844/- for April and May 2020 and Rs.40,565/- for July 2020.

C.G.No.38/2020-21

3. The case of the appellant before the learned Forum is that respondent No.3 during the billing month of August 2020 claimed excess amount of Rs.36,651/- (Rs.12,614/- towards electricity charges + Rs.23,476/- towards fixed

charges + Rs.560/- towards consumer charges).

4. The above said excess claims are in respect of energy charges @ Rs. 6.65/- on 14016 units and Rs.7.65/- on 14016 units instead of tariff rate of Rs.6.70/- on 28032 units, fixed charges @ Rs.390/- on 71.14 KVA instead of applicable tariff rate of Rs.60/- on 71.14 HP and customer charges claimed @ Rs.1,685/- instead of Rs.1,125/-. Therefore it was prayed to set aside the claim of Rs.36,651/- in respect of August 2020 billing month.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

5. In the common written reply filed by respondent No.2, it is, inter-alia, submitted that in May 2020, bill was given on 07.05.2020 for 15454 units and MD KVA was 100.05 HP. Since, the appellant's contracted load is 99 HP, the appellant was billed under HT Category-I according to the tariffs applicable. Consequently, the billing tariff was changed from LTCategory-III to HT Category-I.

6. The appellant gave representation to review the load recorded on the ground that there was a problem in the machinery and capacitors. The subject service was inspected and the connected load was found as 94.91 HP and recommended for removal of HT flag in billing on 22.05.2020. That was also approved by the Chief General Manager/Revenue/TGSPDCL. The flag was updated to LT Category-III in EBS in June 2020. In July 2020 at the time

of billing it was observed that the recorded MD was 104.9 HP, as such the appellant was billed under HT Category-I.

7. On the request of the appellant, the meter of the subject Service Connection was tested by ADE/HT Meters/Saroor Nagar Circle on 13.07.2020. It was found healthy. The MDs recorded in (12) months in the meter as per MRI data are as under:-

Date	MD Recorded in KVA	Multiplication factor	MD recorded in HP (KVA*2/0.75)
13.07.2020	35.1783	2	93.81
28.06.2020	35.9382	2	95.84
15.06.2020	39.339	2	104.90
26.05.2020	35.3293	2	94.21
08.05.2020	36.5689	2	97.52
07.05.2020	34.9829	2	93.29
20.04.2020	6.6152	2	17.64
06.03.2020	37.5212	2	100.06
01.03.2020	35.276	2	94.07
09.02.2020	33.661	2	89.76
29.01.2020	34.0763	2	90.87
19.01.2020	33.7716	2	90.06

8. In the rejoinder filed by the appellant, it is, inter-alia, submitted that respondent No.2 has issued two months bills i.e. April and May 2020 in June

2020. Since the Recorded Maximum Demand (in short 'RMD') was increased more than 100 HP on 07.05.2020, respondent No.2 has changed the Category of the appellant from LT-III to HT-I illegally, without giving notice under Clause 3.4.1 of General Terms and Conditions of Supply (in short 'GTCS')

AWARD OF THE FORUM

9. After considering the material on record and after hearing both sides, the learned Forum has rejected the complaint.

10. Initially the complainant filed an appeal before this Authority vide Appeal No. 17 of 2020-21 reiterating the contents of the complaint filed by it before the learned Forum. Like-wise respondent No.3 has also filed his reply in the appeal reiterating the contents of the written reply filed by him before the learned Forum.

11. After considering the material on record and after hearing both sides this Authority has set aside the impugned common Award and directed the respondents to take recourse to the GTCS in undertaking the change of Category etc., Challenging the said Award the respondents have preferred W.P.No.9257 of 2021.

12. The Hon'ble High Court allowed W.P.No.9257 of 2021 and set aside the Award dt.15.01.2021 in Appeal No. 17 of 2020-21 on the file of this Authority on the ground that it was passed by the Presiding Officer without

having jurisdiction as he was not qualified to hold the post of Vidyut Ombudsman.

13. Now the present appeal is filed presumably aggrieved by the common order in C.G. Nos. 27 & 38 /2020-21/Saroor Nagar Circle dt.31.09.2020, contending among other things, that during the pendency of the Writ Petitions, the appellant paid CC charges at LT tariff rates though the respondents raised the said charges with at HT tariff rates from April 2020 to September 2023. The appellant paid different amounts to the respondents on different dates when there was threat of disconnection of the subject Service Connection. Therefore the appellant is entitled for refund of Rs.21,33,174/- along-with further interest from 01.01.2025 till its refund.

WRITTEN SUBMISSION OF THE RESPONDENTS

14. In the written reply filed by respondent No. 2, it is, inter-alia, submitted that on 07.05.2020, the appellant was given bill for 15454 units and its MD KVA was 100.05 HP. The Contracted Maximum Demand (in short 'CMD') of the appellant was 99 HP. Since the appellant has exceeded 100 HP the subject Service Connection was billed in HT Category-I as per Clause 12.3.3.3 of GTCS. The subject service was inspected subsequently and it was found with a load of 94.91 HP. The subject meter was also tested and it was found healthy. In the month of July 2020 the RMD of the subject Service Connection was 104.91 HP, again exceeding 100 HP, therefore the bill was

given under HT Category-I.

ARGUMENTS

15. It is submitted on behalf of the authorised representative of the appellant that the respondents have claimed the bill of the subject Service Connection under HT Category-I instead of LT Category-III; that when there was threat of disconnection the appellant paid different amounts on different dates; that Clause 3.4.1 of GTCS is not followed by the respondents; that since the Hon'ble High Court has set aside the Award passed by this Authority in Appeal No. 17 of 2020-21 on the ground that the then Presiding Officer was not qualified to hold the post of the Vidyut Ombudsman, but since the Hon'ble High Court has not touched the merits of the case, the said Award is still in force and therefore it is prayed to direct the respondents to refund the excess amount paid by the appellant with interest till its refund.

16. On the other hand, the respondents have supported the common Award passed by the learned Forum.

POINTS

17. The points that arise for consideration are:-

- i) Whether the appellant is not liable to pay the CC charges from April 2020 to September 2023 under HT Category - I tariff rates ?
- ii) Whether the appellant is entitled for refund of excess amount paid with interest till its refund?

iii) Whether the impugned common Award passed by the learned Forum is liable to be set aside? and

iv) To what relief?

POINT No. (i) to (iii)

ADMITTED FACTS

18. It is an admitted fact that the respondents have released the subject Service Connection on 07.04.2010. It is also an admitted fact that the Award passed by this Authority in Appeal No. 17 of 2020-21 on 15.01.2021 was set aside by the Hon'ble High Court in W.P.No.9257 of 2021 on 10.12.2024.

SETTLEMENT BY MUTUAL AGREEMENT

19 Both the parties have appeared before this Authority on different dates virtually and physically. 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

20. The present appeal was filed on 28.12.2024. This appeal is being disposed of within the period of (60) days as required.

CRUX OF THE MATTER

21. There is no dispute about the payment of amounts by the appellant on different dates to the respondents. Now it has to be seen whether the bills issued for the subject Service Connection were under the correct Tariff Order or not.

WHETHER CLAUSE 3.4.1 OF GTCS IS APPLICABLE:

22. While measuring the consumption of the electricity consumers, broadly there are two types of tariffs. LT tariffs and HT tariffs. Again there are several categories in these two tariffs. In the present case, as already stated, there is no change of Category, but only billing was changed to HT tariff rates. For more clarity if the respondents released any Service Connection in a wrong Category and if it is found subsequently that such Category requires reclassification, the respondents have to follow Clause 3.4.1 of GTCS, by issuing notice to the consumer in that regard. This is not such a case. The learned Forum has analysed the point involved in this case properly and came to the correct conclusion in respect of the said Clause.

23. The learned authorised representative of the appellant has relied upon the Award of the Vidyut Ombudsman for Andhra Pradesh and Telangana in Appeal No. 59 of 2014 dt.11.11.2014 in support of his case. In the said Award there was change of Category and that Category was changed without

issuing notice to the consumer. In those circumstances the Vidyut Ombudsman has held that the respondents have not followed Clause 3.4.1 of GTCS. In the present case there is no change of Category and it is only the bill was raised with HT tariff rates. Therefore this Award is not helpful to the appellant.

24. Similarly the learned authorised representative of the appellant has relied upon the judgment of the Hon'ble High Court in W.P.No.6493 of 2016 dt.29.02.2016. In the said judgment the Hon'ble High Court has held that the Category of the consumer cannot be changed without giving notice to the consumer. In the present case there is no change of Category and it is only the bill was raised with HT tariff rates. Therefore this judgement of the Hon'ble High Court is not helpful to the appellant.

25. The authorised representative of the appellant has relied upon the judgement of the Hon'ble Supreme Court reported in **Gokaraju Rangaraju etc., v. State of Andhra Pradesh** (Crl. Appeal No.234 of 1976) dt: 15 April 1981, wherein it was held that when a person was appointed as a Session Judge etc., he would be exercising jurisdiction in the Court of sessions and those judgements would be valid in spite of the appointment of such Session Judge being declared invalid. In the said judgement one more judgement in **MILWARD v. THATCHER** was also referred to which is to the similar effect. Basing on these judgements the learned authorized representative of the

appellant has argued that though the Hon'ble High Court set aside the Award in Appeal No. 17 of 2020-21 dt.15.01.2021 passed by this Authority on the ground that the Presiding Officer has no jurisdiction to pass such Award, still the said Award is valid. This argument cannot be accepted because as already stated, the Hon'ble High Court in W.P. Nos.9257 of 2021 has set aside the Award in Appeal No. 17 of 2020-21 on the ground that the said Presiding Officer was not qualified to hold the post of Vidyut Ombudsman. That being the case, now the authorised representative of the appellant cannot re-agitate such a question before this Authority. The judgement of the Hon'ble High Court dt 10.12.2024 is binding on both the parties herein and also on this Authority.

26. As already stated, the respondents have released the subject Service Connection to the appellant under LT Category-III, now it is with a contracted load of 99 HP. The material on record goes to show that in March and June 2020, the appellant exceeded the RMD over and above 100 HP and hence the bills were raised by the respondents with HT tariff rates from April to August 2020, except for June 2020, as per Clause 12.3.3.3 of GTCS issued by Telangana Electricity Regulatory Commission (in short 'the Commission'). The relevant Clause 12.3.3.3 of GTCS reads as under:-

“Cases where the total Connected Load is above 75 HP/56kW 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 I tariff rates from the consumption month in which the unauthorised additional load is detected till such additional load is removed and got inspected by the Designated Officer of the Company.”

The material on record goes to show that on 07.05.2020, the appellant was given a bill for 15454 units and the Recorded Maximum Demand was 100.05 HP. Since the appellant's CMD is 99 HP and since the appellant has exceeded the RMD of 100 HP, the appellant was billed under HT tariff rates as per Clause 12.3.3.3 of GTCS. The above Clause makes it crystal clear that where the total connected load is above 75 HP (it is 100HP as per the Tariff Order 2018-19), as in the present case, when the consumer exceeds 100 HP, it will be billed at the HT tariff rates from the consumption month in which the un-authorized load was detected. In the instant case the appellant exceeded contracted load of 99 HP on 06.03.2020 and the RMD was 100.05 HP and again exceeded contracted load of 99 HP on 15.06.2020 to 104.9 HP which amounts exceeding Contracted load. These loads were detected by the energy meter installed at the premises of the appellant.

27. It is significant to note that on representation of the appellant to review the load, the service was inspected and the connected load was found as 94.91 HP. This is subsequent to 06.03.2020. The fact remains that on 06.03.2020 the appellant exceeded 100 HP for which it is liable to pay the HT tariff rates. As already stated, there is no dispute about the billing pattern in June 2020. But again in July, the RMD was 104.91 HP exceeding 100 HP due to which the appellant was billed under HT tariff rates and billing was continued with HT tariff rates till September 2023. Further the meter of the

subject Service Connection was tested and it was found healthy as per the report dt.13.07.2020.

28. In the present case, the appellant's Contracted load is 99 HP under LT-III Industry Category. RMD recorded in the month of March 2020 is 100.05 HP and in the month of June 2020 is 104.91 HP due to which the respondents have been charging the subject Service Connection with HT Tariff rates for the entire period from April 2020 to September 2023 except for June 2020. The RMD cannot be treated as a connected Load in this case as consumer category is LT Category-III. Therefore the respondents are not entitled to claim the bills under HT tariff rates from April 2020 to September 2023 as per Clause 12.3.3.3 of GTCS. Further Clause 7.53 (iv) of Retail Supply Tariff Order for LT Category-III for the FY 2018-19, relied on by the appellant is as follows:-

“Where the recorded demand of any service connection under this category exceeds the 75 KVA (1 KVA= 1KW), such excess demand shall be billed at the demand charge prescribed under HT-I (11kV supply)”.

29. The aforementioned Clause meant for LT Category-III which clearly states that the consumer who exceeds the RMD over and above 75 KVA, such **excess** demand shall be billed under HT-I (11 KV supply), balance CMD should be billed under the original category under LT-Category-III only. In the instant case, the consumer exceeded RMD over CMD only for the months of March 2020 and June 2020. The contention of the respondents for claiming of HT bills from April 2020 to till September 2023 under HT flag is not in

conformity with the above Clause 7.53(iv) of Tariff Order FY 2018-19. Hence, the appellant is entitled for revision of bills during the period when the appellant exceeded RMD which is for the months of March 2020 and June 2020 in terms of above said Clause 7.53(iv) i.e., the excess demand shall be billed at the demand charges of HT-I and the balance shall be billed under original category i.e., LT Cat-III only. For the balance months, the billing should be done under originally Category i.e., LT Category-III only.

30. In view of the above facts and circumstances, I hold that the appellant is not liable to pay CC charges from April 2020 to September 2023 under HT category except for exceeded months in March 2020 and June 2020 that too exceeding demand over and above 100 HP. Thus the appellant is entitled for refund of excess amount with interest @ 9% p.a., till its refund by the respondents. The impugned common Award passed by the learned Forum is liable to be set aside These points are accordingly decided in favour of the appellant and against the respondents.

POINT No. (iv)

31. In view of the findings on point Nos. (i) to (iii), the appeal is liable to be allowed in part.

RESULT

32. In the result, the appeal is allowed in part with the following directions to the respondents:-

i. The respondents are hereby directed to remove the HT flag posted to the subject Service Connection during the relevant period.

ii. The respondents are hereby directed to revise the bills of the subject Service Connection for the period from April 2020 to September 2023 i.e., during the period of HT flag posted to the subject Service Connection as per Clause 7.53(iv) of retail supply Tariff Order for the FY 2018-19 of Hon'ble Commission.

For more clarity the respondents shall limit the billing to the excess demand recorded over and above 75 KVA at the demand charges prescribed under HT-I (11 kV Supply). The balance refundable amount arrived at with interest @ 9% p.a., shall be adjusted in the future bills of the appellant subject Service Connection.

iii. The respondents shall file compliance within (15) days from the date of receipt of this Award.

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 the 29th day of January 2025.

**Sd/-
Vidyut Ombudsman**

1. M/s. Sri Sai Ram Ice Factory, represented by Sri. D. Deepak Kumar Gupta, Plot No. 27 (P), Pasumamula, Hayathnagar RR Dist - 501 503.Cell: 9246537422, 7036205211.
2. The Assistant Engineer/Operation/Pedda Amberpet/TGSPDCL/RR Dist.
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6. The Superintending Engineer/Operation/Saroor Nagar/TGSPDCL/RR Dist.

Copy to

7. The Chairperson, Consumer Grievances Redressal Forum of TSSPDCL- Greater Hyderabad Area, Door No.8-3-167/E/1, Central Power Training Institute (CPTI) Premises, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad - 45.

