



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: **R. DAMODAR**

Monday, the Fifth day of June 2017

Appeal No. 6 of 2017

Preferred against Order Dt.24.01.2017 of CGRF In

CG.No: 653/2016-17 of Ranga Reddy East Circle

Between

Smt. S. Aruna, W/o. Dr. S. Prabhakar Rao, # 9-29, Sharada Nagar, Ramanthapur,
Hyderabad. Cell : 9885279055.

... Appellant

AND

1. The ADE/OP/Uppal/TSSPDCL/Hyderabad.
2. The AAO/ERO/Habsiguda/TSSPDCL/Hyderabad.
3. The DE/OP/Habsiguda/TSSPDCL/Hyderabad.
4. The SE/OP/RR East Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 09.02.2017 coming up for final hearing before the Vidyut Ombudsman, Telangana State on 03.05.2017 at Hyderabad in the presence of Sri. G.S.Jagannath and Sri. S. Sudheer - on behalf of the Appellant and Sri. B. Yugandar - ADE/OP/Uppal for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant claimed that M/s Princeton Degree College and M/s Ramadevi College of Education are being run in one premises with SC No.1501 08577 with separate and independent identities like staff, operations, accounting and income etc. She claimed that there are two different colleges, namely M/s Princeton College of Management and M/s Princeton P.G.College of Information Technology in one premises with SC No.s 1501 24169 with separate independent identities like staff, operations, accounting and income etc. She claimed that she received two notices on 27.6.2015 in respect of two service connections alleging that the services were inspected on

23.6.2016 and it was found that the connected load recorded was 15.0 KW and sanctioned load was 3 KW in SC No.1501 24169. In the notices, a demand for Rs 22,157/- for SC No. 1501 24169 and a demand for Rs 29,474/- for SC No. 1501 08577 stated to be found due towards short billing. She claimed that the DISCOM had installed two separate meters in the same premises being operated in different floors. She further claimed that she had no knowledge about the inspection conducted by the officials of the DISCOM who have been trying to club the two services and thereby, proposing short billing. She sought a personal hearing on 15.3.2016 where her representatives explained the position of the colleges and promising further hearing, the DEE/O/Habsiguda left and that without conducting a hearing, he issued demand notices for short billing and for regularising the connections. The Appellant sought a direction to set aside the demand notices.

2. Before the CGRF, the 1st Respondent/ADE/O/Uppal through letter dt.17.12.2016 claimed that the Appellant has been running a college in the name of Princeton Degree College at Ramanthapur which has five service connections viz. SC Nos. 1501 08577, 1501 07964, 1501 24169,1501 21221 and 1501 22130. He stated that the premises of the Appellant was inspected on 23.3.2015 in the presence of an employee of the college and cases were registered against SC Nos. 1501 24169 and 1501 08577 with the following allegations:

- i. The sanctioned load of SC No. 1501 24169 was 3 KW and whereas, the connected load was 15 KW. A Demand notice was issued in terms of Clause 12.3.3 of GTCS for regularisation.
- ii. As per Tariff orders, all the LT Category services with more than 10 KW load should be billed with KVAh units and hence, short billing under KVAh units were proposed w.e.f. 7.4.2012 to 23.6.2015.
- iii. In respect of SC No. 1501 08577, demand notice was issued for short billing under KVAh as the consumer was using two services in one building and the total load exceeded 10 KW.
- iv. The notice mentions that if the consumer opts to remove the additional connected load or part of it, the consumer can make a representation to DE/O/Habsiguda within 15 days, else in case there is no representation, after

expiry of 30 days from the date of service of notice, the services will be disconnected immediately.

3. The ADE/O/Uppal claimed that the DISCOM has right to merge the multiple connections situated in a single premises under Clause 3.5.2 and 3.5.3 of GTCS where it is reasonably found that the consumer of same group or family or firm or company who are availing supply under different service connections situated within a single premises by splitting the units. The ADE/OP/Uppal stated that then the DISCOM may treat such multiple connections as a single service connection and charge the total consumption of all the consumers at the appropriate Tariff Rates.

4. The ADE/O/Uppal/R1 further claimed that as per Clause 3.5.1 of GTCS each separate establishment will be given a separate point of supply in respect of establishment having distinct setup and staff, owned or leased by different person, covered by different licenses or registrations under any law where such procedures are applicable and, under domestic category, the households having a separate kitchen. He further stated about the issue of demand notices and about representation of the Appellant seeking withdrawal of the notices and about the consumer failing to attend the personal hearing on 15.2.2016 and about passing of final assessment orders by the DEE/O/Habsiguda/R3 for Rs 44,520/- against SC No. 1501 21221, Rs 22,157/- against SC No. 1501 24169 and Rs 29,174/- against SC No. 1501 08577 which were communicated to the Appellant on 20.10.2016 and the amounts were included in the CC bills of October,2016 which were not paid even after a lapse of 30 days.

5. Before the CGRF, a representative/son of the Appellant stated that the inspection report has not been furnished to the Appellant, but the Provisional Assessment notice dt.27.6.2016 was furnished to her. They have been using only the sanctioned load. The proposal of the DISCOM officials to club the two services is not correct, as the services are being used for two different colleges/entities having independent staff and independent activity and the short billing proposed for 3 years without providing any basis is against the law.

6. The 1st Respondent represented that the consumer has addressed a letter to the CGRF, claiming they will not allow the DISCOM officials to inspect the service and if any inspection is done by forceful means, they would initiate legal proceedings and therefore, the re inspection has not been taken up.

7. On the basis of the facts and contentions, the CGRF held that the demand notice issued by the Respondents to the Appellant based on Clause 3.5.2 of GTCS is correct and therefore, the Appellant is not entitled for withdrawal of demand notice dt.26.7.2015, with the independent member of CGRF dissenting, and directing that the Appellant is not entitled to withdrawal of the demand notices, through the impugned orders.

8. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal pleading that the demand notices should be withdrawn and that these are separate establishments with distinct setup and staff, though they are being run in one premises, but they have different staff operations, accounting and income. She had no notice about the inspection which is a fabricated one and no copy of such inspection report was furnished to her.

9. The 1st Respondent/ADE/O/Uppal through letter dt.27.2.2017 stated that the AE/DPE had inspected the premises of the Appellant on 23.6.2015 in the presence of one V. Vani, an employee of the college and found the following:

SL. No.	Case No.	Date of inspection	Service no	Consumer name	Consumer address	offence	Inspecting officer	designation	PAO Amount	DC charges/Excess load	SD charges	FAO Amount	Paid amount in Rs	PR Date
1.	DPE/RRE /SD01/52 60/15	24.06 .2015	15012 4169	S. Aruna	9-29 Sharada Nagar	Developmental charges	P. Kalyani	AE/I	24000	14400	9600			
2.	DPE/RRE /SD01/52 61/15	24.06 .2015	15012 4169	S. Aruna	9-29 Sharada Nagar	Short billing unbilled service	P. Kalyani	AE/I	22157			22332	7444	233/02/2017
3.	DPE/RRE /SD01/52 63/15	24.06 .2015	15010 8577	S. Aruna	9-29 Sharada Nagar, Ramant hapur	Developmental charges	P. Kalyani	AE/I	20000	12000	8000			
4.	DPE/RRE /SD01/52 64/15	24.06 .2015	15010 8577	S. Aruna	9-29 Sharada Nagar, Ramant hapur	Short billing unbilled service	P. Kalyani	AE/I	29474			29649	9883	23.02.2017

10. The 1st Respondent further claimed that a) in respect of SC No. 1501 241669 the Sanctioned load was 3 KW and whereas, the connected load was 15 KW and therefore, a notice was issued for an amount of Rs 24,000/- for regularisation of the additional connected load as per Clause 12.3.3 of GTCS. b) As per Tariff order LT Category II services having connected load of 10 KW should be billed under KVAh and therefore, short billing under KVAh was proposed w.e.f. 7.2.2012 to 23.6.2015 and a demand for Rs 22,157/- in respect of 1501 24169 was issued. c) For SC No. 1501 08577 the sanctioned load was 3 KW and whereas, the connected load was 13 KW and therefore a notice of demand was issued for Rs 20,000/- for regularisation of the additional connected load as per Clause 12.3.3 of GTCS, d) The consumer was using two services namely 1501 08577 and 1501 07964 for one building and the total load of the services exceeded 10 KW and therefore, a demand was made for Rs 29,474/- against the SC No. 1501 08577.

11. The 1st Respondent claimed that the two separate colleges with independent identities pertain to service nos. 1501 24169 and 1501 08577 which are existing and that the inspecting officer did not register cases by clubbing the two services and that the demand notices were issued separately as the total connected load of individual services exceeded 10 KW as mentioned in para 9 supra.

12. The 1st Respondent referred to Clause 7.5.1.4.4 of GTCS which states that “the assessment shall be made for the entire period during which the status of defective meter can be clearly established. However, the period during which such status of defective meter cannot be ascertained, such period can be limited to a period of 12 months immediately preceding the date of inspection” and contented that thus, the demand notices have been issued. He claimed that the Provisional Assessment Order notice was issued after following the due procedure and the personal hearing notice was issued before the Final Assessment Order was passed and that there is also a provision for appeal before SE/O/RR East against the demand notices.

13. During the course of hearing, a copy of inspection report and also EBS statement have been furnished to the Appellant.

14. In view of nature of disputes and contentions, the mediation has not been successful and therefore, the matter is being disposed of on merits.

15. On the basis of the material on record, the following issues arise for determination:

1. Whether the demand notices for additional load for Rs 24,000/- for SC No. 1501 24169 and Rs 20,000/- for SC No.1501 08577 and short billing notice concerning SC No. 1501 24169 for Rs 22,157/- and Rs 29,474/- for SC No. 150108577 are liable to be set aside?
2. Whether the DISCOM is justified in clubbing two services SC Nos. 1501 08577 with 1501 07964 and SC Nos. 1501 24169 with 1501 27880 being used for two different colleges/entities having independent staff and activity in one premises and accordingly, the short billing proposed for three years is tenable and legal?
3. Whether the impugned orders are liable to be set aside?

Heard.

Issues 1 to 3

16. The Appellant pleaded for withdrawal of the following demand notices issued by the Respondents.

Sl.No	Date of inspection	Service No	Offence	PAO Amount	DC Charges	SD Charges	FAO Amount	Paid amount in Rs	Paid Receipt Date
1.	23.6.15	1501 24169	Development charges	24000	14400	9600			
2.	23.6.15	1501 24169	Short billing unbilled service	22157			22332	7444	23.02.17
3.	23.6.15	1501 08577	Development charges	20000	12000	8000			
4.	23.6.15	1501 08577	Short billing unbilled service	29474			29649	9883	23.2.17

17. The inspecting officer inspected the premises on 23.6.2015 and observed 3 irregularities overall and they are:

- a. Exceeding the contracted load with reference to the amended Clause 12.3.3 of GTCS.

- b. Exceeding the load over 10 KW for which the billing shall be carried out in KVAh Units, as required under Clause 213.3.2(1) of the Tariff Order for the FY 2012-13.
- c. Requiring clubbing of multiple services into single service as per Clause 3.5.1 of GTCS.

Basing on these stated infractions, the demand notices were issued.

18. The Appellant questioned the demand notice on the following grounds by relying on the Clause 3.5.1 of GTCS, which is as follows:

“for the purpose of the GTCS, separate establishments shall include the following types of establishments:

i Having distinct set-up and staff;

ii Owned or leased by different persons;

iii Covered by different licenses or registrations under any law where such procedures are applicable; and

iv For domestic category, the households having a separate kitchen”.

i) The Appellant contended that they have well established distinct set ups and staff with two different colleges a) princeton degree college and b) Ramadevi College of Education running in one premises pertaining to SC No. 1501 08577. The another clubbed service SC No. 1501 24169 also have two different colleges a) Princeton P.G.College of Management and b) Princeton P.G.College of Information Technology which are two institutions being run in the same premises, having independent identities, staff,operations, accounts and income etc. In support of her claim, the Appellant has produced separate orders from the Osmania University granting extension of Provisional Affiliation for the academic year 2015-16 for their educational institutions bearing the address 3-9-29, Sharada Nagar, Ramanthapur in the name of 1. Princeton Degree and PG college, 2. Ramadevi College of Education (B.ed) 3. Princeton PG College of Management (MBA), 4. Princeton P.G.College of Information Technology (MCA) in support of her contention that these institutions are distinct and separate identities which can not be clubbed by the DISCOM to charge more tariff.

ii) The Appellant referred to the Clause 7.5.1.4.4 of the GTCS which has no relevance to the present case, since the referred Clause pertains to the assessment for defective metering period.

iii) The Appellant asserted that no inspection was carried out on 23.6.2015 terming the inspection report as a fabricated one. She claimed that even a copy of such inspection report was not furnished to her.

iv) The Appellant lastly claimed that the entire process of assessment was done without following the due procedure.

19. The 1st Respondent ADE/OP/Uppal has submitted reply dt. 27.2.2017 claiming that:

i. The Appellant's premises was inspected on 23.6.2015 by the AE/DPE in the presence of V.Vani, an employee of the college.

ii. The excess load was detected over the sanctioned load relating to

i) SC NO. 24169 - Sanctioned load - 3kw, Connected load - 15 KW

ii) SC No. 08577 - Sanctioned load -3kw, Connected load - 13kw

and claimed that these Services should be regularised as mandated as per the Clause 12.3.3 of GTCS.

iii. The Tariff Order mandates KVAh billing for all LT category II services having connected load more than 10 KW. Therefore the short billing under KVAh units was proposed from 7.4.2012 to 23.6.2015 for these two services and accordingly, demand notices were issued for an amount of Rs 22,157/- against SC No. 24169 and Rs 29,474/- against 08577.

iv. The plea of the Appellant about existence of the two separate colleges having independent identities relating to the SC Nos. 24169 and 08577 is not relevant since the inspecting officer did not register the cases by clubbing the above said services. The notices were issued since the connected load of the individual services exceeded 10 KW.

20. To the reply of the Respondents, the Appellant submitted the following rejoinder on 3.5.2017 contending:

a. That the copy of Inspection notes regarded as main evidence was not furnished to her during the hearing before CGRF depriving her of being heard properly.

b. The Appellant, after receiving the inspection report, asserted that the report is a fabricated one as it is neither carrying the initials of the Appellant, nor

does it bear her stamp or seal. She further stated that the connected load mentioned in the report are odd numbers viz:

1. Fans - 150 Nos.
2. Tube lights - 150 Nos
3. Water coolers - 2 Nos
4. Systems - 2 Nos
5. Bore motor - 1

Which are questionable, without the Appellant mentioning as to what was the actual load.

- c. There is no signature at page 4 of the inspection report under remarks “statement of the consumer”.
- d. The Appellant termed the entire allegations mentioned in the written submissions filed by the Respondents as false and against the principles of natural justice.

21. Cases on regularisation of excess load

On the basis of the inspection report, the DISCOM has booked two cases:

- (a) One case on SC No. 24169 with Connected load : 15 KW and Sanctioned load 3 KW.

The extra connected load of 12 KW has to be regularised as mandated in the amended Clause No. 12.3.3 of GTCS. The Tariff Order mandates KVAh billing for Category II consumers with 10 KW and above. Further, the inspecting officer has requested the ADE/OP/Uppal to club the service No. 27880 and 24169, regularise the services and collect the development charges.

- | | |
|--|------------------------|
| (b) <u>Another case against SC No. 08577</u> | SC No. 07964 |
| Connected load - 7 KW | Connected load - 6 KW |
| Sanctioned load - 3 KW | Sanctioned load - 5 KW |

In the normal course, after inspection, the excess connected load over the sanctioned load ought to be regularised as mandated in the amended Clause 12.3.3 of the GTCS. The inspecting officer, by merging the two services SC No. 08577 and 07964, has arrived at the total connected load 13 KW(7 KW + 6 KW) which is more than 10 KW and proposed short billing as per the Tariff Order, for difference of units between KWH and KVAh consumption.

22. In the detection of excess connected load over the sanctioned load, the Provisional Assessment notices have to be issued to regularise the excess load, Containing the details of the excess load and the amount demanded for regularisation. The Respondents have produced the acknowledgements for these Provisional Assessment notices received by One V. Sarala Rani on 22.7.2015, obviously on behalf of the Appellant. The provisional notices were issued based on the amended Clause 12.3.3.2(iii) of GTCS, giving an option for removal of the additional load or part of the additional connected load. In case of no representation against the notice, as per the procedure, the service shall be disconnected immediately on expiry of the notice period of 30 days.

23. The Appellant denied and termed the detection of excess load claiming it as odd. The Appellant was given an option for a second inspection vide the Provisional Assessment notice which has not been opted/availed. The Appellant has not disclosed the connected load as counter to the claim of the inspecting officer, leaving the connected load reported by the inspecting officer without any reasoned denial. Hence, the excess connected load as alleged by the DISCOM against the service connections holds good and tenable.

24. **Merging of multiple connections into single connections as per Clause 3.5.3. Of GTCS.**

As per the billing record, the following are the registered addresses against the four services.

SC No.	Name	Address of the premises
1501 24169	S. Aruna	9-29, Sharada Nagar
1501 27880	Vagdevi educations society. S. Aruna	8-109, Sharada Nagar, Ramanthapur
1501 08577	S. Aruna	9-29, Sharada Nagar, Ramanthapur
1501 07964	Vagdevi educations society.	12-20/1, Ganesh Nagar, Ramanthapur.

25. The inspecting officer proposed merging of two services i.e. SC No. 24169 and 27880 into one service and SC No. 08577 and 07964 into one service and proposed KVAh billing through short billing. The reason for merging of the services is not mentioned in the inspection notes. The registered addresses against the proposed

merger of services i.e 08577 and 07964 is 9-29, Sharada Nagar and 12-20/1, Ganesh Nagar respectively. Whereas for SC Nos. 24169 and 27880 the registered addresses are 9-29, Sharada Nagar and 8-109, Sharada Nagar. The addresses of the merged services are not the same, which ought to have been noticed by the inspecting official.

26. It is clear that the Appellant while opposing the merger of the services, produced separate grants and affiliation certificates for different colleges issued by the Osmania University and contended that as per the Clause 3.5.1 of GTCS, if any separate establishment has any distinct setup and staff and covered under different registrations, the merger of the services is not tenable and acceptable. This ground is found tenable and the clubbing of two services is found not permissible, in view of the material placed in the Appeal and in view of the mandate of Clause 3.5.1 of GTCS.

27. Cases of short billing: Short billing resorted to by the DISCOM by clubbing the two services on finding of the connected combined load of above 10 KW as mandated in the Clause 213.3.2(1) of the Tariff Order 2012-13 to bill the service in KVAh units. The short billing is based on the difference of units between KWH and KVAh as mandated in the Tariff Order. In the present one case, the connected load of above 10 KW was arrived at by merging of load of two services. Short billing cannot be resorted to under Clause 12.3.3 of GTCS in the present case in view of the fact that a notice under the amended Clause 12.3.3 vide proceeding No. APERC/Secy/01/2012 dt.7.3.2012 should give 30 days either to remove the additional load or regularise by paying the necessary charges. This Clause permits the consumer to exercise options which raise a presumption against the back billing. Therefore, the back billing resorted to by the DISCOM in this case clearly violates Clause 12.3.3 of GTCS. This does not mean that the DISCOM should not bill the consumer from KWH to KVAh units when the connected load is 10 KW or above, from the date of inspection. The issues are answered accordingly.

28. The Appeal, for the reasons stated, is allowed partly holding as follows:

- a. The Demand for Rs 29,474/-relating to short billing (KWH to KVAh) of SC No. 1501 08577 and the demand for short billing for Rs 22,157/- (KWH to KVAh) relating to SC No. 1501 24169 for the period prior to the date of inspection on 24.6.2015 are set aside.
- b. The DISCOM is entitled to charge consumption from KWH to KVAh units when the connected load is 10 KW or above KW **from the date of inspection only.**

- c. The clubbing of two services SC No.s 1501 08577 and 1501 07964 is found not tenable and against the spirit of Clause 3.5.1 of GTCS.
- d. The demand notices relating to regularisation of the excess load noted in para 9 supra on SC No. 1501 24169 for Rs 24,000/- and on SC No. 1501 08577 for Rs 20,000/- is upheld and the Appellant is found liable to pay the demanded amounts. The amount paid by the Appellant on demand over short billing shall be adjusted towards the demanded amount for regularisation of the excess load.
- e. The impugned orders are set aside to the extent indicated.

29. The licensee shall comply with and implement this order within 15 days for the date of receipt of this order under clause 3.38 of the Regulation 3 of 2015 of TSERC.

Typed by CCO, Corrected, Signed and pronounced by me on 5th day of June, 2017.

Sd/-

VIDYUT OMBUDSMAN

1. Smt. S. Aruna, W/o. Dr. S. Prabhakar Rao, # 9-29, Sharada Nagar, Ramanthapur, Hyderabad. Cell : 9885279055.
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5. The SE/OP/RR East Circle/TSSPDCL/Hyderabad

Copy to:

6. The CGRF - Greater Hyderabad Area, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad.
7. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills, Lakdikapool, Hyderabad.