



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**

Friday, the Twenty Third Day of March 2018

CMP No. 5 of 2017

In Appeal No. 75 of 2016

Order dt. 22.02.2017 of Vidyut Ombudsman

Between

M/s. Binjusaria Metal Box Co.Pvt.Ltd., represented by Sri. M. Sunder Murthy -
General Manager, #102, A Block, White House, Begumpet, Hyderabad - 500 016
Cell: 8886988842.

... petitioner

AND

1. The ADE/OP/Gaganpahad/TSSPDCL/ RR Dist.
2. The DE/OP/Rajendranagar/TSSPDCL/RR Dist.
3. The SAO/Rajendra Nagar Circle/TSSPDCL/Hyderabad.
4. The SE/OP/Rajendra Nagar Circle/TSSPDCL/Hyderabad.

... Respondents

ORDER

The Appellant had 3800 KVA supply which was derated to 70 KVA w.e.f. 26.11.2015 which is the subject matter of Appeal No. 75 of 2016. The direction given to the Respondents in the Appeal was to refund the ACD amount to the Appellant with interest after retaining the required ACD amount for consumption of 70 KVA, as prescribed in the Regulation 6 of 2004. The industry of the Appellant was closed by the orders of TSPCB entitling the Appellant for refund of the balance ACD from the DISCOM after deration.

2. In connection with the service of the Appellant with 3800 KVA, the consumption deposit of Rs 1,55,75,934/- was with DISCOM as contended by the Appellant. The ACD demand for FY 2016-17 by the DISCOM was Rs 26,05,059/-. The Appellant sought refund of the excess ACD amount of Rs 96,13,982/- as against the

claim of the DISCOM for Rs 26,05,059/- which was exempted (withdrawn) by letter No. 32 dt.25.04.2017.

3. The 3rd Respondent represented that the ACD demand for FY 2016-17 amounting to Rs 26,05,059/- and the interest thereon Rs 2,34,455/- was withdrawn in the books of Accounts against the Consumer's account. There was an order dt.22.02.2017 in the Appeal for refund of the ACD amount after retaining the required ACD amount relating to 70 KVA. This order has not been complied with, according to the Appellant.

4. The Appellant pleaded for refund of Rs 96,13,982/- after retaining the ACD amount for 70 KVA based on the order in the Appeal. The ACD amount of Rs 26,05,059/- and the accrued interest for 6 months from September, 2016 to February,2017 for Rs 2,34,455/- was exempted (withdrawn) and an amount of Rs 87,90,470/- was to be refunded to the Appellant as per the orders in the Appeal. This amount has not been refunded on the ground that there are court cases regarding wheeling charges due to the DISCOM and therefore, the amount was retained by the DISCOM specifically on the ground of pending 'court cases'. The details of the court cases given by the DISCOM and not denied by the Appellant are as follows:

W.P.No.2190/2005	75,78,931/-	Wheeling charges	Pending]	Appellant
W.P.No.19001/2010	2,76,924/-	FSA FY 2008-09	Opposed		
W.A.No.1121/2011	6,84,501/-	FSA FY 2009-10	Opposed		
W.P.No.34415/2012	2,50,114/-	FSA FY 2010-11	Accepted		
Total	87,90,470/-	DISCOM stopped payment			

5. The defence of the Appellant regarding the writ petitions and writ Appeals is that it is not a party to these cases, as these cases are between the power generating companies and APTRANSCO. The DISCOM, through SE/OP/RR South, stated that the wheeling charges amounting to Rs 75,78,931/- w.e.f. April 2004 to December,2004 and March,2005 were withheld by the Appellant though it claimed that it is not a party to the cases and at the same time, referring to pendency of WP No.2190/2005 filed by M/s. Rain Calcinating Ltd. This information is furnished by the

SE/OP/Rajendranagar which is not brought on record earlier. The important question now is how could the Appellant, which is not party to the Writ Petitions, has withheld wheeling charges of Rs 75,78,931/- due to the APTRANSCO when it asserted that it has nothing to do with the writ petitions and sought refund of Rs 87,90,470/- representing deration of 3730 KVA. These matters have to be gone into separately by the parties and also in the court cases. The balance amount of Rs 26,05,059/- representing the ACD amount along with the interest of Rs 2,34,455/- levied from September,2016 to February, 2017 has been accounted for by the DISCOM. Under the circumstances, the claim of the petitioner for refund of Consumption Deposit representing 3730 KVA derated power is found subject to the court cases as well subject matter of retention of Rs 75,78,931/- by the Appellant representing wheeling charges for the period from April,2004 to December,2004 and March,2005 as claimed by the SE/OP/Rajendranagar vide his letter dt.24.10.2017.

6. In view of the matter being in contest in a court and serious claim and counterclaims, it is found proper to leave the issue for decision in the writ petition and writ appeals. The CMP is closed.

TYPED BY Clerk Computer Operator, Corrected, Signed and Pronounced by me on this the 23rd day of March, 2018

Sd/-

Vidyut Ombudsman

1. M/s. Binjusaria Metal Box Co.Pvt.Ltd., represented by Sri. M. Sunder Murthy - General Manager, #102, A Block, White House, Begumpet, Hyderabad - 500 016. Cell: 8886988842.
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Copy to :

6. The Chairperson, Consumer Grievance Redressal Forum, Greater Hyderabad Area, TSSPDCL, Vengal Rao Nagar, Erragadda, Hyderabad - 500 045.
7. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapool,Hyd.