



VIDUYUT OMBUDSMAN FOR THE STATE OF TELANGANA
First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

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

Thursday, the Second Day of July 2015

Appeal No. 19 of 2015

(Old Appeal No. 45 of 2011)

Preferred against Order Dt. 30.5.2011 of CGRF In
CG.No:128/2011-12 of Mahaboobnagar Circle

Between

M/s Binjusaria Ispat Pvt. Ltd
C-1, Govt. Industrial Estate
Chandulal Baradhari
Hyderabad.

... Appellant

And

1. The DE/OP/TSSPDCL/Jadcherla/Mahaboobnagar Dist.
2. The SAO/OP/TSSPDCL/Mettugadda/Mahaboobnagar Dist.
3. The SE/OP/TSSPDCL/Mettugadda/Mahaboobnagar Dist.

... Respondents

The above appeal filed on 14.07.2011 coming up for hearing before the Viduyut Ombudsman, Telangana State on 24.06.2015 at Hyderabad in the presence of Sri. G. Vijay Sarathi on behalf of the Appellant and Sri. B. Sammaiah SAO/OP/MBNR, Sri. A. Venkatesh ADE/TOWN/Jadcherla on behalf of DE/OP/Jadcherla, for the Respondents and having considered the record and submissions of both the parties, the Viduyut Ombudsman passed the following;

AWARD

The Appellant is a consumer of the respondents with HT SC No. MBN-627 with a contracted maximum demand of 9990 KVA at 33 KV through a dedicated feeder. The Appellant during March, 2011 exceeded CMD 9990 KVA by 186 KVA. Based on this excess consumption by 186 KVA, the respondents have issued a bill for the month of March, 2011 levying voltage surcharge of Rs 18,60,915. Leaving this voltage surcharge which is in dispute now, the Appellant had paid the balance bill

amount of Rs 1,83,67,222/-. The appellant claims that this voltage surcharge is against the terms of the tariff order for 2010-11 and it is liable to be set aside.

2. The Appellant had relied upon a decision Dt. 12.12.2014 rendered in the Appeal No. 26/2014 by the learned Vidyut Ombudsman in M/s Suryalata Spinning Mills Ltd setting aside the voltage surcharge levied when CMD of 4995 KVA was exceeded by 59 KVA for a short period of 15 minutes, with a direction to revise the relevant bill, in support of its case.

3. The respondents on the other hand claimed that the meter of the Appellant was found in order and the consumer had utilised the load overshooting the maximum demand 9990 KVA and therefore, as per the tariff order, the Appellant is liable to pay voltage surcharge on consumption of 186 KVA.

4. The CGRF, after hearing both sides and on consideration of the facts, held that similar relief as was given in the matter of M/s Devashree Ispat Pvt. Ltd for exceeding CMD cannot be extended to the Appellant herein, as facts are different and the bill issued by the respondents to the appellant for the month of March, 2011 is in order and refused any relief through the impugned order.

5. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal.

Efforts at mediation could not succeed as both parties had no meeting point.

6. Arguments heard. On behalf of the Appellant, written arguments are filed in addition to advancing oral arguments.

7. The sole point that arises for determination is whether the Appellant is liable to pay voltage surcharge on additional usage of 186 KVA during March, 2011.

THE POINT

8. The contracted maximum demand of the Appellant is 9,990 KVA. The recorded maximum demand during the month of March, 2011 is 10,176 KVA. The Appellant thus exceeded the maximum demand by 186 KVA over CMD during the month of March, 2011 about which there is no dispute.

9. The respondents have issued energy bill Dt. 26.03.2011 based on the excess

KVA over the CMD with the following particulars:

Demand Charges Normal:	9,990	27,97,200/-
Demand Charges Penal:	12%	1,04,160/-
Energy Charges :		
@325+32.5(10%) i.e @357.5	45,90,360	1,64,10,537/-
Peak Energy Charges 110	5,81,880	6,40,068/-
Electricity Duty		2,75,421/-
Total:		<u>2,02,27,386/-</u>
Customer charges		<u>750/-</u>

10. The tariff order for the years 2010-11 in Annexure D Part B(1) table prescribes the criteria for imposing voltage surcharge, based on which the respondents have obviously charged voltage surcharge, is reproduced below for clarity;

“H.T Consumers who are now getting supply at voltage different from the declared voltages and who want to continue taking supply at the same voltage will be charged as per the rates indicated below:

Sl.No	Contracted demand with licensee and other sources (in KVA)	Voltage at which supply should be availed (in kV)	Voltage at which consumer is availing supply (in kv)	Rates % extra over the normal rates	
				Demand Charges	Energy Charges
A. For HT consumers availing supply through common feeders					
1	1501 to 5000	33	11	12%	10%
2	Above 5000	132 or 220	66 or below	12%	10%
B. For HT consumers availing supply through independent feeders					
1	2501 to 10000 KVA	33	11	12%	10%
2	Above 10000 kVA	132 or 220	66 or below	12%	10%
Note: FSA will be extra as applicable as notified by the commission from time to time					

11. The respondents assert that they have charged the rates in the bill for March, 2011 based on the parameters fixed on voltage surcharge in the table noted supra as per the tariff order 2010-11 and there is no illegality in the bill. The Respondents base their claim on the premise that the RMD used was 10,176 KVA which is more than CMD of 9,990 and therefore, the consumer falls within the purview of the last

category i.e, for consumers having CMD of above 10,000 KVA, voltage should be availed is 132 or 220 KV, Voltage at which the consumer should be availing supply of 66 Kv or below, and then the Demand charges shall be extra 12% and Energy charges shall be extra 10% representing voltage surcharge.

12. The Appellant contends that the respondents have no right to claim voltage surcharge, not only on the basis of the stray increase, but also on the basis of the decision in M/s Suryalata spinning mills case, where the learned Vidyut Ombudsman vide orders Dt. 12.12.2014 in Appeal No. 26/2014 had correctly held that the voltage surcharge cannot be levied in cases where there is stray recording of excess demand over and above the contracted maximum demand and in such cases, penalty on the maximum demand alone has to be levied, but not the voltage surcharge.

13. The question now is whether the Appellant is liable to pay voltage surcharge based on excess consumption of 186 KVA in March, 2011?

The respondents rely on the Tariff order of 2010-11 in annexure - D part B(1) of table to support the bill regarding voltage surcharge.

What are the grounds on which this table becomes applicable?

The preamble to the table states “ H.T consumers who are now getting supply at voltage different from the declared voltages and who want to continue taking supply at the same voltage will be charged as per the rates indicated below:-

There are three prerequisites to the present matter for application of this table, and the relevant column for consumers availing supply through independent feeders is part (B) of the table. The Prerequisites are:

- i) The contracted demand with licensee and other sources (In KVA) should have been - 2501 - 10,000 KVA
- ii) Voltage at which supply should be availed - 33 KV
- iii) Voltage at which consumer has availed supply - 11 KV

only then, 12% demand charges and 10% energy charges representing voltage surcharge are leviable and not otherwise.

14. In the present case, the Appellant is availing energy with 9990 KVA with 33 KV supply and not with 11 KV and there is no deviation. If such is the position, there are no grounds to collect the voltage surcharge, as the criteria prescribed in the table is not fulfilled/met. This is the result of a plain reading of the table prescribed by

the Electricity Regulatory Commission for collecting voltage surcharge.

15. The contention of the Respondents that voltage surcharge in the present case relates to the Tariff order 2010-11 and whereas, M/s Suryalata Spinning Mills case relates to the Tariff order 2013-14 which has a note added to the table relating to the voltage surcharge, has no relevance to the present case, as the issue involved in the present case is whether the excess consumption attracted the criteria fixed in the table for collecting voltage surcharge, which is now answered in the negative.

16. The Respondents prepared the energy bill in the present matter charging voltage surcharge, which is not mandated by the Tariff Order 2010-11. The Respondents have no authority to collect the voltage surcharge based on misinterpretation of the criteria prescribed in the table of the tariff order. The CGRF has not examined the facts properly, applied the criteria correctly to the facts and refused to grant any relief, which is not legal.

17. In the result, the order of CGRF Dt. 30-05-2011 is set aside and the voltage surcharge imposed on the Appellant vide CC bill for March, 2011 is held as not legal and set aside.

Corrected, Signed and Pronounced on this the 2nd Day of July 2015.

VIDYUT OMBUDSMAN

To

1. M/s Binjusaria Ispat Pvt. Ltd,
C-1, Govt. Industrial Estate,
Chandulala Baradhari,
Hyderabad.
2. The DE/OP/TSSPDCL/Jadcherla/Mahaboobnagar Dist.
3. The SAO/OP/TSSPDCL/Mettugadda/Mahaboobnagar Dist.
4. The SE/OP/TSSPDCL/Mettugadda/Mahaboobnagar Dist.

Copy to:

5. The Chairperson, Consumer Grievance Redressal Forum, Greater Hyderabad
Area, TSSPDCL, Vengal Rao Nagar, Erragadda, Hyderabad - 500 045.

6. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapool, Hyd.