



**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 Eleventh day of December 2015

Appeal No. 3 of 2015

(Old Appeal No. 94 of 2014)

Preferred against Order Dt. 9.12.2014 of CGRF In

CG.No: 317/2014 of Hyderabad North Circle

Between

M/s P.R.Electrical, Represented by its proprietor Sri. Sanchit Garg, P.No.96,  
Sy.Nos. 196,197 & 198, IDPL, Hyderabad.

..... Appellant

**AND**

1. The AE/OP/IDPL/TSSPDCL/Hyderabad.
2. The ADE/OP/Balanagar/TSSPDCL/Hyderabad.
3. The AAO/ERO/Bowenpally/TSSPDCL/Hyderabad.
4. The DE/OP/Bowenpally/TSSPDCL/Hyderabad.
5. The SE/OP/Hyderabad North Circle/TSSPDCL/Hyderabad.

..... Respondents

The above appeal filed on 21.01.2015 came up for final hearing before the Vidyut Ombudsman, Telangana State on 05.11.2015 at Hyderabad in the presence of Sri. N. Vinesh Raj - Advocate - on the be-half of Appellant and Sri. G. Gopi - ADE/OP/Balanagar, Sri. S. Surender Reddy - AE/OP/IDPL and Smt. G.V.N.L. Bhavani - AAO/ERO-XII/Bowenpally for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

**AWARD**

The Appellant has a LT Service Connection bearing No. S600 5332 with a contracted load of 74 HP. The Appellant faced back billing charges of Rs 7,89,060.64 by way of a notice for preliminary assessment for the period from 1.04.2012 to 30.09.2014. The Appellant sought withdrawal of this back billing notice and a personal hearing through his letter dt. 20.10.2014 addressed to the 4th Respondent/DEE/OP/Bowenpally. The 2nd Respondent/ADE informed the

Appellant that its recorded maximum demand is more than contracted demand and that it was using full load from April, 2012. He informed the Appellant that an estimate was sanctioned for conversion of their LT Category III A service to HT Category IB, while explaining that the back billing for the service was done under LT III A. The Appellant claimed this back billing as violative of SEC 56(2) of the Electricity Act, 2003 and liable to be withdrawn. The Appellant further claimed that the Respondents have earlier billed the service for actual recorded consumption and actual recorded demand for the period from April, 2012 to September, 2014 and these bills were paid and sought the back billing amount to be set aside and a direction to the Respondents not to disconnect the power supply for recovery of the back billing amount.

2. The 2nd Respondent ADE/OP/Balanagar through his letter dt.7.11.2014 stated that the Appellant sought conversion of service from LT III Category to HT 1 Category for a CMD of 130 KVA with a connected load of 200 HP, which was accorded by the 5th Respondent vide sanction memo dt. 27.04.2010. He claimed that the Appellant paid the necessary charges on 17.9.2010, but failed to execute the specified work within the prescribed 3 months on receipt of sanction. A letter dt. 22.10.2014 was addressed to the Appellant to complete the work by a licensed contractor and furnish CEIG approval for HT metering installation within one month, which evoked no response from the Appellant. He claimed that a back billing case was booked by the DPE wing for an amount of Rs 7,89,060.64/-.

3. The 3rd Respondent AAO/ERO/Bowenpally claimed that a development charges case was booked for the load from 74 HP to 132 HP for Rs 1,16,000/- vide case dt 9.11.2009 and the Appellant paid this amount in the year, 2010 and still, the load is not regularised. He further alleged that again another development charges case was booked in the year, 2011 for exceeding the contracted load from 74 HP to 165 HP and this time, the Appellant failed to pay the development charges. He further claimed that the recorded MD of the service is more than the contracted MD as per the consumption history and therefore, a backbilling case was booked vide case dt. 9.10.2014 for Rs 7,89,060/- on account of loss of revenue to the Respondents, when the Appellant failed to get the service converted from existing LT Category III to HT Category I service connection.

4. Before the CGRF, the Appellant claimed that the back billing charges against the service connection in question was levied for a period beyond 2 years in violation of SEC 56(2) of the Electricity Act, 2003 and sought withdrawal of this back billing levy. He claimed that due to bad market conditions, he does not require additional load for the present and he is willing to continue his service in LT only.

5. The 2nd Respondent claimed that the Appellant was drawing power more than the contracted load and therefore, he was being levied the differential tariff between LT Category III and HT Category I. He claimed that the Appellant failed to produce CEIG approval and execute the works on turnkey basis for conversion of service from LT to HT so far.

6. The 4th Respondent claimed that the Appellant approached his office with a letter dt. 29.10.2014 for withdrawal of back billing case and that the service was booked twice for excess load for 58 HP in 2009 and for 91 HP in 2011. The Appellant paid Rs 1,08,000/- towards development charges and Rs 65,000/- towards security deposit in July, 2010 for additional load of 130 KVA - 58 KVA = 72 KVA for regularisation. She claimed that the service was billed under HT tariff rates for over and above 74 HP from December,2009 till April, 2012, but from May, 2012, the service is being billed under LT tariff rates, till the back billing case was booked in October,2014.

7. After hearing and on consideration of the material on record, the CGRF observed that the DE/OP/Bowenpally had not finalised the back billing case for want of some information from the DPE wing and opined that the Appellant had approached the forum without following the due procedure and without exhausting the internal remedy and issued a direction to the effect that the 4th Respondent/DE/OP/Bowenpally should finalise the back billing case within a month by giving a personal hearing and disposed of the complaint through the impugned orders.

8. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal with the following allegations:

- i. That the 2nd Respondent issued CC bills ignoring the direction in the impugned orders. The 4th Respondent, ignoring the direction in the impugned order, issued final assessment order No. 14 dt. 31.12.2014 for Rs

8,69,448/- as against the provisional assessment of Rs 7,89,060/- of the 2nd Respondent for the period from December, 2009 to March,2012 which was itself in violation of Sec 56 (2) of the Electricity Act, 2003,. The 4th Respondent issued this final assessment order dt. 31.12.2014 relying on clause 12.3.3.2 of GTCS which has not provided for back billing, which is liable to be set aside.

ii. The Appellant further alleged that the 2nd Respondent, in his provisional assessment dt. 14.10.2014 for Rs 7,89,060/-, admitted the following:

**VALUE OF ASSESSED REVENUE LOSS**

“In view of the above, the energy consumption during the period of wrong category/wrong MF, the details of the assessment are indicated below:

Assessment Period: From 1-4-2012 to 30-09-2014

Connected Load : 130000 Watt

Contracted Load : 130000 Watt

Unit Assessed : 0 Watt

Units Recorded: 0 Watt

Units back billed : 0 Watt

Value of Demand Back Billed: Null (nil)Watt”

9. The Appellant, on the basis of the noting of the 2nd Respondent in the provisional assessment order, contended that when the assessed units are zero, there could be no back billing, which is self explanatory. The Appellant sought a direction to the Respondents not to take coercive steps for recovery of the back billing amount, to set aside HT bill dt. 6.12.2014 for the month of December, 2014 billing month issued by the 2nd Respondent and also to set aside the back billing amount of Rs 8,69,448/- as mentioned in the final order dt. 31.12.2014 of the 4th Respondent.

10. The Respondents together had submitted a reply dt. 14.6.2015 stating that the 4th Respondent had finalised the back billing case within time after due consideration of the representation of the Appellant dt. 20.10.2014. The 4th Respondent submitted through a letter dt. 10.7.2015 that the hearing was given to

the Appellant as directed by the CGRF and the matter was disposed off within time.

11. The Respondents contended that the 4th Respondent, after the Appellant was sanctioned CMD of 130 KVA with connected load of 200 HP, issued 3 months notice demanding execution of the work on turnkey basis apart from other specifications, informing the Appellant that in case it fails to avail the supply within 3 months from the notice period, it shall have to pay monthly minimum charges/fixed charges as specified by the Tariff Orders in force, as the case may be, from the date of expiry of the period of the notice. This is in connection with the request of the Appellant for supply of HT CAT I supply with CMD of 130 KVA with connected load of 200 HP. Obviously, the Appellant did not carry out these works and continued to avail the supply from LT CAT III A.

12. Steps to bring the parties together for conciliation and mediation failed because of the extreme stands and therefore, the matter is being disposed off on merits.

### **Heard Arguments**

13. The following issues arise for determination:

- i. Whether the back billing amount of Rs 7,89,600 (provisional)/ Rs 8,69,448/- (final assessment order) w.e.f April, 2012 to September, 2014/ December, 2009 to September, 2014 is liable to be set aside?
- ii. Whether there is violation of Sec 56(2) of the Electricity Act, 2003?
- iii. Whether the impugned orders are liable to be set aside?

### **Issues 1 & 2:**

14. The Appellant was released LT category III A service connection in the month of March, 2009 with a contracted load of 74HP. In December, 2009 the appellant was booked for additional load (132-74=58hp) and he was directed to pay development charges of Rs 1,16,000/-, which the Appellant failed to pay.

15. The Appellant applied for additional load 72 KVA above existing 74 HP (58 KVA) and connected load of 200 HP(149.2 KW) converting existing LT category III A to HT category I. The Appellant failed to take up the execution of work for the structure though he paid Rs 65,000/- towards deposit, Rs 1,08,000/- towards

development charges and also paid 10 % of the Service Line Charges Rs 17,711/- as per the demand notice of the Respondent No.5 dt. 27.4.2010. Thus the additional load of 72 KVA totalling 130 KVA ought to have been regularised, but for want of CEIG approval, it was not regularised.

16. The Appellant was subjected to 2nd case in September, 2011 for drawing additional load of 91 HP (165-74 = 91HP) and he was imposed Rs 1,36,500/- towards Development Charges and Rs 45,5000/- towards Security Deposit, which he has not paid. In view of the foregoing para, the Appellant was not obliged to pay the amount indicated in the paragraph.

17. The Respondent No. 5 gave a notice dt 27.4.2010 to the Appellant to undertake capital work on turnkey basis with a caveat at paragraph 14, which is as follows:

“In case the consumer fails to avail the supply within 3 months from the notice period, he shall have to pay monthly minimum charges and/ or the fixed charges as specified in the tariff order in force, as the case may be from the date of expiry of the period of the above said notice”.

5 months later, the Appellant paid the Security Deposit, Development Charges and Service Line Charges on 17.9.2010. There is no notice from the Respondents that they are willing to supply HT I CAT power and there is no agreement between the parties to enable the Respondents to collect the minimum charges as mentioned in the notice dt 27.4.2010 during the currency of the non existent agreement as required under the clause 5.9.2.1 of GTCS.

18. The back billing case is booked by way of the provisional assessment of the 2nd Respondent dt. 14.10.2014 demanding Rs 7,89,060.00/- and final assessment order dt. 31.12.2014 of the 4th Respondent demanding payment of Rs 8,69,448/-, based on the request of the Appellant for the sanction of additional load of 72 KVA over existing 74 HP (58 Kva) converting the service into HT Category I service. The Appellant had paid the development charges and service line charges, but failed to get the structure ready and obtain statutory approvals such as CEIG approval.

19. For better understanding of the procedure and responsibilities of the Respondents, it is apt to reproduce clause 12.3.3.2. of GTCS, in cases where the total connected load is above 75 HP/56 kw.

#### 12.3.3.2 Cases where the total connected load is above 75 HP/56 kW

i. These services shall be billed at the respective HT tariff rates from the consumption month in which the un-authorized additional load is detected. For this purpose, 80% of connected Load shall be taken as billing demand. The quantity of electricity consumed in any month shall be computed by adding 3% extra on account of transformation losses to the energy recorded in LT meter.

ii. The Company may at its discretion, for the reason to be recorded and in cases where no loss of revenue is involved, continue LT supply. If the consumer, However, makes arrangements for switchover to HT supply, the company shall release HT supply as per the rules.

iii. One-month notice will be given for payment of service line charges, development charges and consumption deposit required for conversion of LT service into HT service.

iv. service of such consumer who do not pay HT tariff rates or who do not pay the required service line charges, development charges and consumption deposit shall be disconnected immediately on expiry of notice period and these services shall remain under disconnection unless the required service line charges, development charges and consumption deposit are paid for regularising such services by conversion from LT to HT category.

v. If the consumer where required, does not get the LT services converted to HT supply and regularised as per procedure indicated above within three months from the date of issue of the notice, the company is entitled to terminate the agreement by giving required notice as per clause 5.9.4 of the GTCS, notwithstanding that the consumer is paying bills at HT tariff rates prescribed in clause.

20. As per Proceedings no. APERC/Secy/01.12 Dt. 7.3.12

**Clause No. 12.3.3.2(iii) was substituted as:-**

One month notice shall be given to regularise the additional connected load or part of additional load as per the requirement of the consumer or to remove the additional connected load, if the consumer desires to continue with the additional connected load, he shall pay the required service line charges, development charges and consumption deposit required for conversion of LT service into LT III(B) to HT service depending upon the connected load. However, if the consumer opts to remove the additional connected load and if the additional load is found connected during subsequent inspection, penal provisions shall be invoked as per the rules in vogue.

21. In the 1st instance, the respondents have not complied with Sub Clause V of clause 12.3.3.2 of GTCS at all, under which if the Appellant failed to get the LT Service Connection converted to HT supply and get it regularised, the DISCOM is entitled to terminate the agreement by giving the required notice as per clause 5.9.4 of GTCS in spite of the Appellant paying the bills at HT tariff rates. It is crystal clear that the respondents have failed to follow the Clause 12.3.3.2 of GTCS, before venturing into back billing mode.

22. The respondents took recourse to back billing and started with notice dt.14.10.2014 of ADE/OP. The consumption history, according to the ADE/OP, as per the record shows that the Appellant was drawing more power than the CMD. *If the contracted load is more than 56 kW(75hp) , the service should be billed in HT tariff rates as per clause 12.3.3.2 of GTCS* and therefore, in the final orders of DE/OP the entire consumption of the appellant was billed as HT I with reference to the sanctioned load of 130 KVA w.e.f December, 2009 (Date of 1st detection of unauthorised additional load) to September 2014. This extended period resulted in the provisional assessment of Rs 7,89,060.64/- becoming Rs 8,69,448/-

23. The Appellant questioned the back billing by way of Final Assessment from 2009 to 2014 as in violation of S.56(2) of the Electricity Act, 2003 being beyond the

period of 2 years from the due date. S.56 of the Electricity Act, 2003 relates to default in payment and disconnection of power supply. S.52(2) of the Electricity Act is not applicable to the back billing cases governed by the GTCS.

24. The Appellant under the caption **Value of Assessed Revenue Loss** contended that in the notice of Assessment for backbilling dt. 14.10.2014, the assessed units, back billed units etc were mentioned as '0' units and '0' watt and therefore, there could be no back billing. This argument is untenable because only in the meter defective cases, units lost would be assessed. In the present case, the issue is billing category reclassification and not defective meter case.

25. In view of the foregoing discussion, under the issue No.1 the back billing from December, 2009 to September, 2014 is held as not violative of S.56(2) of the Electricity Act, 2003, and hence the final assessment is not liable to be set aside. Regarding the issue No.2, it is found that there is compliance of the Clause 12.3.3.2 of GTCS in levying back billing and therefore the back billing in this case is not liable to be set aside. Both the issues are answered accordingly.

26. In view of the findings on issues 1&2, the impugned orders directing the 4th Respondent to finalise the back billing case, instead of CGRF itself, once the matter is placed before them, deciding the points raised regarding the back billing, is found to be a unique way of avoiding responsibility entrusted to it. The issue No.3 is answered accordingly.

27. In the result, the Appeal is dismissed.

Corrected, Signed and Pronounced on this the 11th Day of December, 2015.

Sd/-

**VIDYUT OMBUDSMAN**

**TYPED BY CCO**

1. M/s P.R.Electrical, Represented by its proprietor Sri. Sanchit Garg, P.No.96, Sy.Nos. 196,197 & 198, IDPL, Hyderabad.
2. The AE/OP/IDPL/TSSPDCL/Hyderabad.
3. The ADE/OP/Balanagar/TSSPDCL/Hyderabad.
4. The AAO/ERO/Bowenpally/TSSPDCL/Hyderabad.

5. The DE/OP/Bowenpally/TSSPDCL/Hyderabad.
6. The SE/OP/Hyderabad North Circle/TSSPDCL/Hyderabad.

**Copy to**

7. The Chairperson, CGRF, TSSPDCL, Greater Hyderabad Area, Erragadda, Hyderabad.
8. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad.