



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

Thursday, the Fourth Day of February 2016

Appeal No. 67 of 2015

Preferred against Order Dt. 22-07-2015 of CGRF In

CG.No: 51/2014 of Medak Circle

Between

M/s Vijaya Iron Foundry Limited, Represented by Sri Suresh Singhal - Managing Director, Plot No. 8-62/1, Sy.No. 171-172, IDA Bollarum, Medak District. 500 057. Cell No. 9440063128, 8897905691.

... Appellant

AND

1. The ADE/Operation/Bolarum/TSSPDCL/Medak Dist.
2. The SAO/Operation/Medak/TSSPDCL/at Sangareddy.
3. The DE/Operation/Sangareddy/TSSPDCL/Medak Dist.
4. The SE/Operation/Medak Circle/TSSPDCL at Sangareddy.

... Respondents

The above appeal filed on 14.09.2015 coming up for hearing before the Vidyut Ombudsman, Telangana State on 21.01.2016 at Hyderabad in the presence of Sri. G.V Saradhi, Advocate for Sri D.V.Nagarjuna babu ,Advocate on behalf of the Appellant and Sri. A. Chandra Shekar - JAO, Sri. P. Karunakar babu - DE/OP/Sangareddy for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant has HT service connection No. MDK 922 with CMD 9900 KVA. During the month of April,2014 RMD went up to 10080 KVA there by increasing the consumption by 180 KVA in that month. During the month of August 2014 the RMD went upto 10038 KV thereby increasing the consumption by 138KV. The Appellant claimed that in view of abnormal incoming voltage, their meter recorded the extra

maximum demand over the CMD and therefore, the DISCOM may be entitled to penal charges on excess demand at twice the normal rate, but not the voltage surcharge. The Respondents claimed that in a related case, the Hon'ble High court disposed of WP No. 29865 of 2014 filed by the Appellant M/s Vijay Iron Foundry Pvt. Ltd, Bollaram with a direction to the CGRF to dispose of the complaint after hearing both parties within a period of one month and till such disposal, the Respondents were directed not to disconnect the power supply for non payment of balance of voltage surcharge amount of Rs 55,62,991/- .The Respondents further claimed that the Appellant in the present case has not paid the balance voltage surcharge amount.

2. The 2nd Respondent SAO/OP/Medak supported the demand for payment of voltage surcharge and claimed that the demand was raised correctly and as per the rules.

3. The DE/M&P/Sangareddy stated before the CGRF that as per the MRI dump analysis, the maximum demand shot up and no voltage/current fluctuations were observed on 10.4.2014 from 01:45 hrs to 02:15hrs and on 28.7.2014 from 19.00hrs to 19.45hrs (The increase in KVA was found during these times), as an answer to the claim of the Appellant that there was abnormal incoming high voltage and therefore, the consumption shot up by 180 and 138 KVA.

4. The Representative of the Appellant pleaded that the matter may be disposed of in terms of the award of Vidyut Ombudsman, AP & Telangana dt.12.12.2014 in Appeal No. 26 of 2014. The 2nd Respondent SAO reiterated that the billing was done based on the Maximum recorded consumption and the voltage surcharge was levied as per the rules mentioned in the Tariff Order. The 3rd Respondent DE/OP/Sangareddy claimed before the CGRF that as per the analysis of DE/DPE/HT the RMD shot up due to internal drawal of power of the consumer/Appellant.

5. The CGRF in this matter opined that the CMD of the Appellant shot up due to **Internal Fault** but not due to voltage fluctuations and upheld the levying of voltage surcharge through the impugned orders, without explaining what is the internal fault.

6. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal alleging that the meter recorded extra maximum demand over the CMD on account of abnormal incoming voltage over which the Appellant had no control for which it should not be found fault with. The Appellant further contended

that for this excess over CMD consumption, the Respondents may be entitled to claim only penal charges on the excess over the maximum demand at twice the normal rate and levying of the voltage surcharge for this stray increase in the CMD once or twice cannot be a ground to levy the voltage surcharge. The Appellant further claimed that the Respondents 2 to 4 excess billed for an amount of Rs 55,62,991/- under the head voltage surcharge for the 2 months period, without any basis and without any support from the statutory procedure and that the Voltage surcharge is not attracted in the present case. In view of the conditional order dt. 1.10.2014 of the Hon'ble High Court in the writ petition, the Appellant claimed to have deposited a sum of Rs 15 Lakhs with the licensee. The Appellant contended that once the power was disconnected without issuing any notice as contemplated under Sec 56 of the Electricity Act, 2003, violating the principles of natural justice and that exceeding the limit of the contracted maximum demand does not attract the voltage surcharge.

7. In this Appeal, the 2nd Respondent submitted a reply justifying the levy of the voltage surcharge relating to the consumption during the months of April 2014 and August, 2014 on the ground that the recorded maximum demand of 10,080 KVA in April, 2014 and 10038 KVA in August, 2014 was in excess of CMD of 9,990 KVA and as per the para 6 of the Tariff Order 2014-15 and 2015-16 the voltage surcharge was levied, because the RMD exceeded the CMD as well as the specified voltage limits.

8. The 3rd Respondent DE/OP/Sangareddy submitted a calculation sheet for levying the voltage surcharge as follows:

Calculation for levying voltage surcharge

I. Demand charges rates extra over the normal rates

a) Normal Rate	- Rs. 350.00 per KVA/Month
Add: 12% extra on normal rate:	<u>+Rs. 42.00</u>
Rate including penal charges:	<u>Rs. 392.00</u> per KVA/Month

II. Energy charges rates extra over the normal rates

a) Normal Rate	- Ps. 530.00 per unit.
Add: 10% extra on normal rate:	<u>+Ps. 53.00</u>
Rate including penal charges:	<u>ps. 583.00</u> per KVAH Unit

April - 2014

CMD - 9900 KVA

Billed MD 10080

KVAH Units 4448685

Demand Charges: $9900 \times \text{Rs } 392 = 38,80,800.00$

$180 \times 784 = 1,41,120.00$

Energy Charges : $4448685 \times 583 \text{ ps} = 259.35,833.55$

May - 2014

Billed MD 10038

KVAH Units 4428068

Demand Charges : $9900 \times \text{Rs } 392 = 38,80,800.00$

$138 \times \text{Rs } 784 = 108,192.00$

Energy Charges : $4428068 \times \text{Ps } 583 = 258,15,636.44$

9. In view of the specific nature of the dispute, the nature of the stand of the Respondents, efforts at mediation have not succeeded and therefore, the matter is being disposed of on merits.

10. On the basis of the pleadings and the material on record, the only issue that arises for determination is whether the Appellant is liable to pay Voltage Surcharge on excess consumption of 180KVA in April,2014 and 148 KVA in August,2014?

THE ISSUE

11. The Contracted demand of the Appellant for availing supply at 33kv with CMD is 9900 KVA. The Appellant had recorded Maximum demand in April,2014 to the extent of 10080 KVA and in August,2014 to the extent of 10038 KVA. The Respondents pleaded that when RMD exceeds CMD as per para 6 of the Tariff Order 2014-15 and 2015-16, they are entitled to demand the voltage surcharge. The Appellant claimed that in view of the abnormal incoming voltage, the meter recorded extra maximum demand over the CMD which is beyond the control of the Appellant. The Appellant by way of an argument claimed that the Respondents at best are entitled to claim the penal charges on the excess demand at twice the normal rate, but not the voltage surcharge in stray increase in the maximum demand once or twice.

12. For the dispute relating to April,2014 and August,2014, the Tariff Order of 2013-14 (for 2014-15 also) is applicable. Chapter XIV, Part B of HT Tariffs Clause 6(4) of the Tariff Order 2013-14 provides for imposing voltage surcharge, which is extracted here for clarity:-

“ HT 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 charges 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: In case of consumers who are having supply arrangements from more than one source, the RMD or CMD only with the Licensee, whichever is higher shall be the basis for levying voltage surcharge.					

13. The Respondents are relying on not only the Column No.2(Subject Column) which states that CMD with Licensee and other sources (in KVA) but also on the note appended to the table mentioned above to the effect that RMD or CMD only with the licensee whichever is higher shall be the basis for levying voltage surcharge, when the consumers have supply arrangements from more than one source. In the present case, the Respondents have not stated about the Appellant having supply arrangements from more than one source. The Respondents base their claim for levying the voltage surcharge on the premise that RMD used was 10,080 KVA in April 2014 and 10038 KVA in August,2014 which is more than CMD of 9900 KVA and as per

the table mentioned above, once the demand exceeds 10000KVA, the Appellant should have availed the supply at 132 KV or 220 KV, while ignoring the other part of the requirements mentioned in the table.

14. The claim of the Appellant that there was sudden surge of voltage and therefore, the meter recorded the extra consumption, is untenable and not supported by any material on record.

15. Why voltage surcharge is levied? It has to be noted that the distribution licensee suffers loss including transmission losses when energy is supplied to the consumers at voltages lower than the specified voltages. The tariff order 2013-14 and GTCS are clear on this aspect. These voltage levels were specified primarily to ensure good quality of supply and also to ensure that losses are minimised. Further higher voltage levels are essential for higher loads for the system stability apart from the other benefits like quality of supply.

16. It is also important to note the preamble of voltage surcharge clause which gives an indication of why voltage surcharge should be billed to a consumer:-

“ HT 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:”

The table clearly shows that on the basis of the CMD from all sources, the voltage as per the clause 6(3) of part B (HT Tariff) of chapter XIV of Tariff order 2013-14 at which the consumer should avail the supply is prescribed. If the consumer draws power at the voltage at lower level than the prescribed one, the DISCOM would suffer transmission losses and if the consumer insists on availing supply at lower level of supply and only then, apart from the energy and demand charges, the consumer is liable for the voltage surcharge and not otherwise. The insistence of the Respondents on mere increase of RMD over CMD crossing the prescribed voltage level for levying of voltage surcharge, is not supported by the Tariff Order.

17. For application of the table shown in para 12 supra, there are 3 prerequisites shown in the relevant columns for the consumers availing supply through independent feeders in part(B) of the table supra and they are:

- I. The contracted demand with licensee and other sources in (KVA) should have been 2501-10000KVA.
- II. Voltage at which supply should be availed - 33 KVA.
- III. Voltage at which consumer has availed supply - 11 KVA

If the above criteria is fulfilled and only then 12% demand charges and 10% energy charges, representing the voltage surcharge, are leviable by the DISCOM and not otherwise.

18. In the present case, the Appellant is availing energy of 9900 KVA with 33 KV supply and not with 11 Kv and there is no stated deviation. The Appellant was not given any notice about shifting to higher level of supply i.e. 133KV and the Appellant has not made any request insisting on drawing the power at lesser than 33 KV supply. If such is the position, there appears to be no good ground to collect the voltage surcharge as the criteria prescribed in the table supra is not adhered to/met. This is the result of a plain reading of the table prescribed by the Electricity Regulatory commission for collecting the voltage surcharge.

19 The Appellant, in support of its case, has relied upon the decision dt 12-12-2014 in Appeal No 26 of 2014 of Vidyut Ombudsman, AP/Telangana between M/s Suryalata Spinning Mills Limited Vs . AE/OP/Kalwakurthy/TSSPDCL/Mahaboobnagar District and three others, wherein it was observed in para 14 that the approach of the Discom in so far as levy of the voltage surcharge is concerned was not consistent and in one case, they were content with levying the penal demand charges and in another case they have levied the voltage surcharge also. In the said order it is observed similarly as in the present case to the effect that:-

“it is very well known that the transmission losses are inversely proportional to the voltage level at which power is supplied. i.e , when a consumer gets supply at 33 KV level, the DISCOM suffers lower transmission losses and when the power is supplied at 11KV level , the DISCOM suffers greater transmission losses. Voltage surcharge is a levy that is deployed worldwide by electricity utilities to compensate for this differential loss”.

20 The Appellant has also relied on an award dt 2-7-2015 in Appeal No 19 of 2015 of Vidyut Ombudsman, Telangana between M/s Binjusaria Ispat Pvt Ltd Vs the DE/OP/TSSPDCL//Jadcherla/Mahaboobnagar and others wherein the issue involved

was also the issue in the present case and it was decided on similar lines as in the present case holding that the ratio in the orders in the Appeals is applicable to the present case and sought a decision disallowing the demand of the Respondents in the present case for voltage surcharge.

21. The criteria for levying the voltage surcharge is detailed in the Tariff order 2013-14 issued by the ERC which is discussed in the foregoing paragraphs. The arguments advanced on behalf of the DISCOM justifying levy of the voltage surcharge against the Appellant, in view of increase in maximum demand over CMD for April and August, 2014 on the ground that the note appended to the table supra permits such imposition, is totally untenable and consequently the claim of the DISCOM for voltage surcharge against the Appellant for the months of April and August 2014 is held as illegal and set aside. The issue is answered in favor of the Appellant.

22. In the result, the Appeal is allowed setting aside the impugned award which is anything but rational, when the order stated that the MD of the consumer service shot up due to 'internal fault', without elaborating further betraying ignorance.

23. **This award shall be implemented within 15 days of its receipt at the risk of penalties as indicated in clauses 3.38, 3.39, 3.42 of the Regulation No. 3/2015 of TSERC.**

Typed by cco, Corrected, Signed and Pronounced by me on this the 4th day of February, 2016.

Sd/-

VIDYUT OMBUDSMAN

1. M/s Vijaya Iron Foundry Limited, Represented by Sri Suresh Singhal -
Managing Director, Plot No. 8-62/1, Sy.No. 171-172, IDA Bollaram,
Medak District. 500 057. Cell No. 9440063128, 8897905691.
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5. The SE/Operation/Medak Circle/TSSPDCL at Sangareddy.

Copy to:

6. The Chairperson, CGRF - 1, TSSPDCL, GTS Colony, Erragadda, Hyderabad.
7. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad.