

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 22-02-2013

Appeal No. 5 of 2013

Between

Smt.Bachhala Santhi

W/o.Pullaiah

Managing Partner Safety Cold Storage plant

Pedda Settipalle Vilalge, Proddatur

... Appellant

And

1. Asst.Accounts Officer/ERO/Proddatur
2. Asst.Engineer/Operation/Rurals/Proddatur
3. Asst.Divisional Engineer/operation/Rurals/Proddatur
4. Asst.Divisional Engineer/CT Meters/Kadapa
5. Divisional Enginer/Meters&Protection/Kadapa
6. Senior Accounts Officer/Operation/Kadapa

....Respondents

The appeal / representation filed on 27.12.2012 of the appellant has come up for final hearing before the Vidyut Ombudsman on 04.02.2013 at Tirupathi in the presence of Smt. C.V.Jayalakshmi, Advocate for the appellant, present and Smt.M.Deepthi, JAO/ERO/Proddatur and Sri J.Sravan Kumar, ADE/O/Rural/Proddatur for respondents present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

The appellant filed a complaint against the Respondents for Redressal of her Grievances and stated as hereunder:

1. "She is the Managing Partner of "Safety Cold Storage" which is situated in Peddisetty Village, Proddatur mandal, Y.S.R.Dist.
2. Since 2010, they are in this business with the same name and nomenclature.
3. They are having HT service bearing No: 2222533000384 to this cold storage plant.
4. Since 2010, they are regularly paying the electricity bills without any default.
5. As per the nature of their business i.e. cold storage plant, their business would be peak in some months and 'Nil' in some periods.
6. Accordingly the business, their consumption of electricity will be varying from time to time and upon the business that they promulgate.
7. The nature of business is storing the essential commodities etc., in cold storage plant in order to keep the same intact.
8. They have been paying electricity consumption charges every month regularly for the consumption availed by them i.e. for the units which recorded without any hindrances or adverse comments from their side, till this date.
9. As such astonishingly and to their surprise, they received a bill dated 12/7/2012 wherein they are informed and are required to pay Rs. 1,90,160/-.
10. In that bill total units consumed were mentioned as 36,532 and the energy charges as Rs 1,82,660/- and some other charges were added and in toto they claimed Rs 1,90,160/- and also mentioned the due date to pay that bill as 26-07-2012.
11. Further it is mentioned in that same bill, that the disconnection date mentioned as 11-08-2012 may be in default of paying the same.
12. On seeing the same they perturbed and flabbergasted. She submitted, why such huge and exorbitant bill was raised on their service? And she further submit the Forum, what is the reason to raise such enormous bill without any proper notice or explanation, which caused to them mental agony and harassment and disturbed their regular business.
13. At this juncture she would like to bring some of the important aspects in this regard..
 - a. They started their business in the year 2010.
 - b. Since then they used to get the electricity charges bill in an average of Rs. 25,000/- to Rs. 80,000/- varied from month to month.
 - c. On any occasion it has not crossed Rs 90,000/- except in one occasion i.e. in the month of April 2011.
 - d. Their average electric consumption was also regular and in sequence as per the business and seasons, (Please refer the consumption of electricity by them from 2010 to 2012).
 - e. In-spite of power cut during summer which is almost 10 hrs per day, how could they face such huge bill? In fact during the power cut they were depending on the generators.

- f. Her question is in such power shortage period how could they get this enormous bill?
14. she would like to inform the Forum, that on 21-07-2012, they already submitted to the SE/Opn for kind perusal and to go through their case, and do needful.
15. Till date they neither received any reply nor any action on the part of the good office. Further astonishing thing in this case is till date, they did not receive any such notice with regards to the penalization or any details for their perusal. Their plea to the SE might have been ignored.
16. The local electrical officials forcing them to pay that penalty amount and they are planning to take steps with regard to collect the penalty.
17. At this juncture, she would like to appeal to the Forum, to kindly instruct the electric officials not to take steps against their firm with regard to the collection of penalty and provide uninterrupted supply and further she appealed to the Forum, to verify their case, and see that for which no fault, she had to bear such huge charges?
18. She, therefore prays the respectful officer, to treat this letter as their appeal and verify the records and revise the bill by reducing the same and take necessary steps and action why such thing happened which caused her mental agony and torture, otherwise they will be put to an irreparable loss and injury.

2. The respondent-3 i.e. the Assistant Divisional Engineer/Operation/Rurals/Proddatur submitted his written submissions as hereunder:

1. In the month of 06/2012 as per the instructions of Honourable Chairman & Managing Director, APSPDCL, Tirupati for cross checking of consumption of the services, while taking the monthly reading of SCNo: 384 M/s safety Cold storage at Peddasetty palli (Village in rural section, Proddatur on 12-06-2012, the ADE/Opn/PDR observed that, Zero current in R-Phase is recording in the meter.
2. The same is recorded in the MRB and intimated the fact to the ADE/HT Meters/Kadapa on 13-06-2012 over cell phone for inspection and rectification of the service.
3. On 15-06-2012, the ADE/HT Meters/ Kadapa had inspected the service No: 384, Pedda settepalli. During the inspection of service, the ADE/HT.Meters/Kadapa found that, Zero current is recorded in R-Phase at TTB and in the meter due to internal fault of the TTB.
4. The supply cut off to the meter at 11:20 Hrs. and the defective TTB replaced with new TTB and supply extended to the meter at 12:10 Hrs on 15-06-2012, the ADE/HT.meters/kadapa added in his inspection report and assessed shortfall units of 20644 for R-Phase current missing period from 21-01-2012 to 15-06-2012 and requested to add shortfall units in the CC.bill of 06/2012 to be issued in 07/2012.

5. On verification of consumption pattern of the service before the TTB failure i.e. before 21-01-2012, it is observed that an average of 14970 units (KVAH) have been consumed by the consumer from the period 08-03-2011 to 12-12-2011 where as the average consumption recorded in the meter from 12-01-2012 to 12-06-2012 i.e. the R-Phase current zero recording period is 12371 units (KVAH).
6. A copy of the consumption particulars recorded in the MRB for the period from 08-03-2011 to 12-06-2012 is herewith enclosed to the kind perusal.
7. Since it is loss sustained by the department due to R-Phase current recording is missing in the meter for the period from 21-01-2012 to 15-06-2012, it is quite reasonable to add the shortfall units for the period to avoid loss of revenue to the company.
8. Accordingly, during the month of 07/2012, he had included the shortfall units of 20644 in the CC.bills of 06/2012 served on to the consumer on 10-07-2012 apart from the consumption of 15888 units of 06/2012 i.e. for total units of $(20644 + 15888) = 36532$.

3. The respondent-5 i.e. the Divisional Engineer/Meters & Protection/Kadapa submitted his written submissions as hereunder:

1. Based on the complaint of ADE/Rurals/proddatur dated 13-06-2012 that zero current is recorded in R-Phase and requested to inspect the service No: ISC-384 stands in the name of M/s safety cold storage, Peddasettipalli, in Proddatur Rurals mandal.
2. The service was inspected by ADE/HT meters/Kadapa along with ADE/Rurals/Proddatur on 15-06-2012 on detailed examination and testing the meter it is observed that zero current was recording in R-Phase both at TTB and in meter due to internal fault of TTB.
3. After replacement of defective TTB with new one the current in R-Phase was restored both at TTB and in meter as well.
4. Even though the consumer is availed 3-phase supply to his/her industrial loads, the HT Trivector energy meter is unable to record the energy in R-phase as the current is missing due to the internal fault of TTB.
5. The meter is recorded energy only in Y&B phases.
6. The energy recorded missing in R-Phase is noticed through the MRI data and back billed as per load survey of MRI data.
7. The same is intimated to the DE/OPn/Proddatur vide Lt dt:10-07-2012 to arrange to serve the back billing notice to the consumer to recover the revenue loss to the Discom sustained by the defective TTB for the period from 21-01-2012 to 15-06-2012.
8. The detailed report of ADE/HT.Meters/Kadapa along with cumulative tamper status report is submitted for action.

4. After hearing both sides and after considering the material placed before the Forum, the Forum passed the impugned order as here under:

1. **The respondents are directed that they shall immediately replace the existing meter with a tri-vector meter for the service No:384 of Peddasettipalli in Proddatur Mandal if not done already.**
2. **They shall revise the bill duly splitting the consumption and bill as per the tariff orders 2011-12 and 2012-13 suitably within 7 days from the date of receipt of this order.**
3. **They shall accept the representation of the complainant if sought for installments for payment of back billing amount and they are at liberty to collect the regular CC.Charges as usual.**
4. **The complainant is advised that she may represent the final assessing authority, if not having any proof of earlier representation for revision of the bill of shortfall and may request for installments, if required.**

Accordingly the case is allowed and disposed off

5. Aggrieved by the said order, the appellant preferred this appeal questioning the same by projecting the following grounds:

- (i) They are having HT service bearing No: 2222533000384 to this cold storage plant.
- (ii) According to the business, their consumption of electricity will be varying from time to time and upon the business that they promulgate
- (iii) As such astonishingly and to their surprise, they received a bill dated 12/7/2012 wherein they are informed and are required to pay Rs. 1,90,160/-.
- (iv) In that bill total units consumed were mentioned as 36,532 and the energy charges as Rs 1,82,660/- and some other charges were added and in toto they were claimed Rs 1,90,160/- and also mentioned the due date to pay that bill as 26-07-2012.
- (v) They used to get the electricity charges bill in an average of Rs. 25,000/- to Rs. 80,000/- varied from month to month.
- (vi) On any occasion it has not crossed Rs 90,000/- except in one occasion i.e. in the month of April 2011.
- (vii) They were not been either informed by giving a notice on which cause they were penalized?

- (viii) As per the order of the Forum they came to know that the ADE/Rurals / Proddature had given a complaint on 13.06.2012 that zero current is recorded in R-phase and requested the DE/Meters & protection, Kadapa to inspect the S.C No.ISC 384 stands in the anme of M/s. Safety cold Storage, Peddasettipalli in Proddatur rurals mandal. It was not informed to them either orally or by notice. What prevented to inform the same to them?
- (ix) The Managing partner of the Cold storage company, did not know the replacement of defective TTB.
- (x) If at all there defective TTB is there, in what way they are responsible and bear for the fault of others? Hence the demand by APSPDCL has to be rejected in lemini.
- (xi) On perusal of the billing particulars it is very crystal clear that, there is no such variation even after replacing of the defective TTB.
- (xii) The calculation of short fall is abnormal and unreasonable.
- (xiii) The arrival of shortfall units is base less. As per the order of the Forum it is said that, the short fall units arrived by the respondents based on the MRI data and a total of 20644 and the bill was raised for the regular consumption of 15888 units and the total bill was issued for 36532 units for the months of 6/2012 which is highly unreasonable and it is just to harass them.
- (xiv) It is therefore prayed to go through the case, and treat this letter as an appeal and avoid them to pay the unethical and unreasonable demand and do justice to them. Otherwise, they will be put to an irreparable loss and injury.

6. Now, the point for consideration is, "Whether the impugned order is liable to be set aside? If so, on what grounds?"

7. The learned advocate for the appellant argued that the nature of business is storing essential commodities; and that the bill in one month did not exceed Rs.90,000/- but to the surprise of the appellant they have served a notice of Rs.1,90,160/- and the appeal preferred by the appellant is to be allowed by setting set aside the impugned order.

8. Whereas, the respondents are represented by Smt.M.Deepthi, JAO/ERO/Proddatur and Sri J.Sravan Kumar, ADE/O/Rural/Proddatur and they have made the present billing basing on the parameters of KVAH by converting kwh into kvah units by taking 3 months average and the appeal preferred by the appellant is liable to be dismissed.

9. The grievance of the appellant is that they received the bill on 12.07.2012 for an amount of Rs.1,90,160/- which includes the energy charges of Rs.1,82,660/- and some other charges.

10. It is clear from the record that on the request made by ADE/Op/Proddatur, the service was inspected by ADE/HT Meters /Kadapa on 15.06.2012. After examining it was noticed that zero current recorded in R-phase was due to defect in the TTB resulting in non recording of the consumption in R-phase by the meter though the consumer was utilizing three phase supply.

11. The defective TTB was replaced with a new healthy one and the current in R-phase was also restored to normalcy. The data obtained through MRI and recommended for back billing based on the consumption and the period of defect ie., from 21.01.2012 to 15.06.2012. The respondents arrived at the KVAH based on the KWH recorded in the previous 3 months. The bill towards shortfall units arrived in accordance with clause 7.5.1 of the GTCS and they arrived to the conclusion that it is in order.

12. As per clause 7.5.1.4.1 it shall be determined by taking electricity supply during preceding three billing cycles to the billing cycle in which the said meter is ceased to function. The said clause reads as follows:

7.5.1.4.1The number of units to be billed during the period in which the meter ceased to function or became defective, shall be determined by taking the average of the electricity supplied during the preceding three billing cycles to the billing cycle in which the said meter ceased to function or became defective provided that the condition with regard to

use of electricity during the said three billing cycles were not different from those which prevailed during the period in which the Meter ceased to function or became defective.

7.5.1.4.2 If the conditions with regard to use of electricity during the periods as mentioned above were different, assessment shall be made on the basis of any 3 (three) consecutive billing cycles during the preceding 12 Months when the conditions of working were not different.

13. The Forum has directed to split the bill as per the Tariff orders 2011-12 and 2012-13.

14. It appears the levy is made for a period of 6 months in between 21.01.2012 to 15.06.2012 but the above said clause says that the billing has to be done on the average of 3 preceding cycles but it does not say that it has to be taken for 6 months period. At best they have to take for 3 months.

15. In the light of the above said observation, the calculation has to be made accordingly for 3 months preceding period on which month the meter ceased to function but not 6 months.

16. In the result, the respondents are directed to revise the bill for three months preceding from the date of the defect of the meter found detected and issue the bill to the appellant and the appellant is directed to pay the same accordingly.

17. In the result, the appeal is allowed in part as directed above.

This order is corrected and signed on this day of 22nd February 2013

**Sd/-
VIDYUT OMBUDSMAN**