

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 22-02-2013

Appeal No.12 of 2013

Between

Sri B Surendra Reddy
Managing Partner, Om Sri Sai Ferro Alloys (P) Ltd
Thimmanagaripalem (V), Kadivedu (PO), Chillakur Mandal,
SPSR Nellore Dist.

... Appellant

And

1. Chief General Manager / Finance/APSPDCL / Tirupati
2. Senior Accounts Officer / Operation/APSPDCL/Nellore

....Respondents

The appeal / representation filed on 11.01.2013 of the appellant has come up for final hearing before the Vidyut Ombudsman on 05.02.2013 at Tirupathi. Sri B.Surendra Reddy, appellant, Sri T.Hanumanth Prasad, CGM/Finance, and S.Subba Rao, SAO/Op/Nellore 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 his Grievances and stated as hereunder:

1. *He is representing the HT service number:NLR422 in the capacity of Managing Director.*
2. *The SAO/Op/APSPDCL/Nellore is charging the delayed payment surcharge @ 1.5% of bill amount for the whole month irrespective of the number of days of delay in payment imposing heavy burden on them.*

3. *Their CC.bill due date is 10th of every month. Even if the bill is paid on the 11th day i.e. one day delay, the DPS is calculated for the whole month for maximum of 15 days delay also the DPS is calculated for the whole month which is unfair.*
4. *Again DPS is calculated for the whole month on any out standing balance payable as on 26th of the month which they feel is also unreasonable.*
5. *It will be a great relief for them if the DPS is calculated only for the days of delayed payment instead of the whole month.*

2. The respondent-2 i.e. the Senior Accounts Officer/Operation/Nellore submitted his written submissions as hereunder:

1. *The HT SCNo: 422, M/s Om Sai Ferro Alloys Pvt was released on 14-11-2009.*
2. *The consumer never paying his CC.bills in time and in total bill amounts i.e. he is paying part amounts that too with a delay in every month from past several months.*
3. *The surcharge for belated payment levied by this office as per the tariff order with effect from 01-04-2012 as noted below :*
 - a. *The licensee shall charge the delayed payment charge (DPS) per month at the rate of 1.5% of bill amount or Rs.550/- whichever is higher.*
 - b. *In his representation, the consumer has not mentioned any monthly bill amount or amount of surcharge levied for which month, for what amount is not mentioned.*
 - c. *So, it is not possible to give reply clearly for the amount of surcharge, but at the same time it is submitted that surcharge levied, for the belated payment on the bill amounts at the rate of 1.5% or Rs.550/- whichever is higher.*
 - d. *The copies of the bills for the entire period from which consumer paying CC.Charges partly that too after due dates.*

3. The respondent-1 i.e. the Chief General Manager/Finance/SPDCL/ Tirupati submitted his written statement as hereunder:

1. The complainant's objection that the additional charges for belated charges payments of CC.Charges are to be collected on daily basis instead of for the whole month is not acceptable in view of the following.
 - a. The additional charges calculated are as per the clause 213.6 of 9 of tariff order for the year 2012-13 approved by the APERC and the same is reproduced hereunder:-

213.6 H.T. SUPPLY- GENERAL CONDITIONS:

9. Additional Charges for belated payment of charges

The Licensees shall charge the delayed payment surcharge (DPS) per month at the rate of 1.5% of Bill amount or Rs 550 whichever is higher. In case of grant of instalments at 18% per annum compounded annually and the two shall not be levied at the same time.

- b. Since delayed payment charges are levied only in accordance with tariff order approved by the Honourable APERC. There are no merits in the complaint hence it is requested to dispose of the complaint.

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

The complainant is advised that he may approach the honourable APERC in this matter.

Accordingly the case is allowed and disposed off

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

(i) The Discom has levied Rs.3,64,699/- additional DPS charges on the appellant.

(ii) In this power shortage scenario, they are facing lot of production loss due to prevailing Restriction and Control measures and they are consuming more power for per ton production.

(iii) In this connection, they request this authority to issue suitable orders to the Discom to implement the spirit of the Tariff Order (2012-13) provision mentioned in para 213.6(9) of page 186 and to levy Delayed Payment Surcharge (DPS) at the rate of 1.5% per month pro-rated to number of days of delayed payment.

(iv) It is also requested to kindly direct the Discom to refund the excess amount collected in the form of Delayed Payment Surcharge from him and adjust the same in his future bills.

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

7. The appellant present before this authority and stated that they ought to have collected charges on average day instead of monthly and this has not been accepted by the Forum and he approached this authority for redressal.

8. Whereas, the respondents are represented by Sri T.Hanumanth Prasad, CGM/Finance, and S.Subba Rao, SAO/Op/Nellore stated that Delayed Payment Surcharge (DPS) is made in accordance with Tariff Order 2012-13 and also submitted Tariff order for the two years ie., 2011-12. It is also represented by him that APSPDCL sought a clarification from the Commission to that effect and the Commission issued the reply as hereunder:

“Whether additional charges for belated payment of bills or the minimum amount (as defined in the Tariff order for each category specifically) is to be prorated for actual no. of days of delay since the phrase “per month or part thereof” is not used in the Tariff order”

Therefore, the DPS is made basing on the Tariff order 2012-13.

9. The grievance of the complainant is that the licensee charges additional charges for belated payment of bills and calculating on monthly basis instead of daily basis at the rate of 1.5% of the bill amount, which is un-reasonable and requested to collect the same on daily basis instead of monthly basis.

10. The Tariff order for the two years is extracted as hereunder:

“213.6 H.T.Supply – General Conditions: - 2012-13

9. Additional Charges for belated payment of charges

The Licensees shall charge the delayed payment surcharge (DPS) per month at the rate of 1.5% of Bill amount or Rs 550 whichever is higher. In case of grant of instalments at 18% per annum compounded annually and the two shall not be levied at the same time.

Some of the consumers have represented this office to levy surcharge as provided in the Tariff order 2011-12 ie., based on the number of days of delay which is submitted hereunder for ready reference.

Para No.222 Chapter – IX

Retail Supply Tariff Schedule for FY 2011-12

(8) ADDITIONAL CHARGES FOR BELATED PAYMENT OF CHARGES

The Licensees shall charge the delayed payment surcharge (DPS) at the rate of 5 paise/Rs.100/day and the interest leviable on the outstanding amounts in case of grant of instalments at 18% per annum compounded annually and the two shall not be levied at the same time.”

11. In the previous year ie., 2011-12, it was on daily basis and the same is modified on monthly basis. While looking into the said Tariff order 2012-13, the Forum has rightly directed the appellant to approach APERC for clarification or for amendment by restoring to old pattern. Instead of approaching APERC, the appellant approached this authority. This authority is not competent to amend the Tariff order or it has no power to give any direction to the Commission as it is the within the purview of the APERC and beyond the scope of Forum or this authority. Hence, there is no case for the appellant to speak before this authority.

12. There are no grounds to interfere with the order of the Forum and the appeal is liable to be dismissed.

13. In the result, the appeal is dismissed.

This order is corrected and signed on this day of 22nd February 2012

Sd/-
VIDYUT OMBUDSMAN