

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 20 -02-2013

Appeal No. 8 of 2013

Between

Sri Jaddu Brahmaji Rao & others
Prop: Suryanarayana Modern Rice Mill,
Paddy & Rice Merchants
Chinamiram, Bhimavaram – 534202,
WG Dist.

... Appellant

And

1. Asst Engineer/Operation/Rural/APEPDCL/Bhimavaram
2. Asst Divisional Engineer/Operation/ APEPDCL/ Bhimavaram
3. Asst.Accounts Officer/ERO/APEPDCL/Town/ Bhimavaram
4. Divisional Engineer/Operation/ APEPDCL/ Bhimavaram

....Respondents

The appeal / representation filed on 08.01.2013 of the appellant has come up for final hearing before the Vidyut Ombudsman on 28.01.2013 at Viakhapatnam. Sri K.Durga Prasad, representative of the appellant present and Sri Y.Srinivasa Rao,AAO/ERO/Bhimavaram 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 his Grievances and stated as hereunder:

“He has filed a complaint stating that shortfall amount bill notice was issued against his service for exceeding CMD, hence requested for justice..”

2. The 2nd respondent has filed his written submissions as hereunder:

“He has approached CGRF/Visakhapatnam for consideration of HT shortfall levied on regular CC bills for withdrawal and same was registered vide CG.No.423/12 of W.G.Dist.

when the consumer exceeds RMD over CMD in period of 10/2009 to 03/2010, the shortfall billing would be done under HT tariff.

The following are the details of shortfalls towards HT tariff for your kind perusal please

Sl.No	Month	CMD	RMD	Amount
1	10/2009	53.26	68.2	10,302.00
2	11/2009	53.26	62.6	8,125.00
3	12/2009	53.26	70.0	11,853.00
4	01/2010	53.26	70.2	25,450.00
5	01/2010	53.26	70.2	5,154.00
6	02/2010	53.26	72.2	7,511.00
7	03/2010	53.26	63.2	7,308.00
			TOTAL	75,703.00

The consumer has filed a court case under O.S.No.392/2008 in the Hon'ble court of Senior Civil Judge/Bhimavaram on the AG Audit shortfall amount for an amount of Rs.58,100/- levied and included in regular CC bills for the month of 09/2008 and the consumer paid Rs.29050.00 towards 50% suit amount as per the court directions. The case has been pending for disposal.

The consumer has been paying regular CC bills by way of cheque on every month by excluding HT short fall amount as he is fully aware of the HT shortfall amount which could be included as arrear amount the regular CC bills. The consumer has to pay an amount of Rs.1,36,958/- to the end of 10/2012.”

3. The 3rd respondent has filed his written submissions as hereunder:

“The consumer of Sc.No.2045, Cat-III, Chinamiram of Rural, Bhimavaram section has approached CGRF/Visakhapatnam for withdrawal of HT billing shortfall levied on regular CC bills for the period from 11/2009 to 4/2010 and the same was registered under CG.No.423/12-13 of W.G.Dist.

When the consumer exceeds RMD over CMD, the billing would be done under HT tariff. The details of the shortfall towards HT tariff is as follows.

Sl.No	Month	Amount	RJ.No	Remarks
1	11/2009	10,302.00	25/11-2009	HT Shortfall
2	12/2009	8,125.00	10/12-2009	HT Shortfall
3	1/2010	11,853.00	20/1-2010	HT Shortfall
4	1/2010	25,450.00	38/1-2010	HT Short fall
5	2/2010	5,154.00	30/2-2010	HT Short fall
6	3/2010	7,511.00	76/3-2010	HT Short fall
7	4/2010	7,308.00	5690/4-2010	HT Short fall
	TOTAL	75,703.00		

Regarding payment of regular CC bills, the consumer has been paying regular CC charges by way cheque every month by excluding the HT shortfall as he is fully aware of the HT short fall amount which could be included as arrear amount in the regular CC bills. However, the consumer was apprised of the details of the short fall amount earlier when he approached this office. However, the consumer has to pay an amount of Rs.1,36,958/- to end of 10/2012."

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

- **The shortfall towards HT cat-I tariff due to exceeding CMD for the period from 11/2009 to 4/10 against Sc.No.2045, Cat-III, Chinamiram, Bhimavaram (Rural) and included in regular CC bill is in order.**
- **The complainant is liable to pay the above said shortfall included in the bills.**

Accordingly, CG.No.423/12-13 is disposed off.

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

(i) the respondents have not physically inspected the premises and they have not issued any notice regarding additional load and conversion of billing from LT to HT. This information is received by them from AAO/ERO/Bhimavaram.

(ii) The Vidyut Ombudsman passed several orders in Bhimavaram in favour of the consumers and the appeal is to be allowed by setting aside the impugned order.

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

7. Sri K.Durga Prasad, representative of the appellant present. The respondents appeared before this authority and submitted a representation to the effect that ADE/DPE-I/Eluru inspected his service and noticed that the consumer has exceeded the sanctioned contracted load of 71.34HP connected load, but availed 84 HP (i.e., additional connected load is 12.66HP). Basing on the inspection report, one month notice was served on the consumer by the ADE/O/Bhimavaram as he exceeded the contracted load by availing connected load and additional charges were demanded as per the procedure.

8. The appellant has filed copy of the order passed by this authority in Appeal No.31/2010 dt.26.08.2010. In the appeal, the Forum extracted clause 12.3.3.1 of GTCS which reads as follows:

“12.3.3.1 Where the total Connected Load is 75 HP/56 kW or 150HP in cases of LT Cat III(B) or below at the time of detection:

(i) One Month notice shall be given to regularise the additional Connected Load for payment of required service line charges, development charges and consumption deposit, in accordance with the format prescribed in Appendix IX.

(ii) Service of consumers who do not get the additional loads regularised, shall be disconnected immediately on expiry of notice period and these services shall remain under disconnection, until they are regularised.”

9. In that case, no such notice was given to the appellant nor physical inspection was made by any of the officials of the respondents to verify physically about the exact connected load and utilization of the same by the appellant at the relevant point of time. In that appeal it was observed that a case was booked basing on the audit report submitted by the internal audit department.

10. Whereas, in this case inspection was made by ADE/DPE-I/Eluru on 12.11.2009 and a notice was also issued to the appellant. So, there is sufficient

compliance of clause 12.3.3.1. The facts of this case on hand are not similar to the facts of the case in Appeal No. 31/2010. So, the appellant is not entitled for any benefit.

11. Hence, there are no merits in the case and the appeal filed by the appellant is liable to be dismissed and the order passed by the Forum is liable to be confirmed.

12. In the results, the appeal is dismissed.

This order is corrected and signed on this day of 20th February 2013

Sd/-
VIDYUT OMBUDSMAN