



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA
First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: Smt. UDAYA GOURI

Tuesday the Eighteenth Day of August 2020

MP.No. 03 of 2020-21

in

Appeal No. 02 of 2020-21

Between

M/s. Binjusaria Ispat Pvt. Ltd., C-1, Govt. Industrial Estate,
Chandulal Baradari, Hyderabad - 500 064. Cell: 9848563999, 7036205211.

... Appellant

AND

1. The DE/OP/Shadnagar/TSSPDCL/RR Dist.
2. The SAO/OP/Rajendra Nagar/TSSPDCL/RR Dist.
3. The SE/OP/Rajendra Nagar Circle/TSSPDCL/RR Dist.

... Respondents

The above appeal filed on 02.07.2020 coming up for final hearing before the Vidyut Ombudsman, Telangana State on 18.08.2020 at Hyderabad in the presence of Kum. Nishtha - on behalf of the Appellant and Sri. G. Lokeshwaraiiah - SAO/OP/Rajendra Nagar for the Respondents and having considered the record and submissions of both parties, the Vidyut Ombudsman passed the following;

AWARD

M E M O FOR REOPENING THE APPEAL BY THE APPELLANT

It is respectfully submitted that this Hon'ble Authority is pleased to reserve this Appeal No. 2 of 2020-21 on 16.6.2020 for orders.

The Respondents have claimed Delay Payment Surcharge from July, 2014 to April, 2017 of Rs. 23,52,024/- without furnishing the detail calculation.

Even in the present appeal also not furnished. Hence, this Appellant was forced to make an application under RTI Act, 2005. Accordingly, an application vide letter No. BIPL/F. DE-MBN/1910/2020-21 dated 26.5.2020 was filed before DE, Mahabubnagar.

On followed by the appellant, it was informed to the appellant that the concerned section has already forwarded the statement to DE, Mahabubnagar who is appellant authority and the same statement will be sent to this appellant by DE, Mahabubnagar shortly. However, a copy of said statement is forwarded to the appellant through E mail. On perusal of the statement Mahabubnagar Circle following major discrepancies are found:-

1. From July, 2014 to February, 2017 an amount of Rs. 1,72,84,239/- is not credited in the account of appellant maintained by the respondent. It is pertinent to note that the credit of said amount of Rs. 1,72,84,239/- is given by the operation circle Rajendernagar but not given by the Mahabubnagar Circle.
2. The operation circle Mahabubnagar Circle from July, 2014 to February, 2017 claimed an amount of Rs. 23,52,024/- towards Delay Payment Surcharge duly showing above said amount of Rs. 1,72,84,239/- in arrears apart from the amount deducted by the appellant of FSA of Rs. 1,24,94,655/- in July to September, 2014 months and paid on 22.11.2016. It is pertinent to note that from July, 2014 onwards the said amount was stayed by the Hon'ble Supreme Court vide order dated 25.7.2014 hence the DPS will not attract on said amount.
3. From July, 2014 to March, 2015 the appellant has not paid Rs. 12,17,895/- claimed towards DPS, Rs. 1,65,167/- towards other charges and Rs. 14,08,274/- Voltage Surcharge disputing their claim as wrong. Voltage Surcharge WP is pending before Hon'ble High Court vide W.P. No. 40084/2015, 3488/2015 and 35399/2014 and same is admitted by the Respondent in their counter. Hence, on court case amount no DPS will attract.
4. From April, 2015 to March, 2016 the appellant deducted Rs. 4,12,560/- claimed towards DSP and Rs. 2,07,42,496/- claimed towards Cross Subsidy Surcharge which is pending in Hon'ble Supreme Court vide SLP (C) No. 14047 -

14066 of 2019. The same is admitted by the Respondent in their counter. Hence, on court case amount no DPS will attract.

5. From April, 2016 to March, 2017 the appellant deducted Rs. 1,38,013/- claimed towards DSP and Rs. 95,96,804/- claimed towards Cross Subsidy Surcharge which is pending in Hon'ble Supreme Court vide SLP (C) No. 14047 - 14066 of 2019. The same is admitted by the Respondent in their counter. Hence, on court case amount no DPS will attract.

In view of the above, after the said discrepancies are rectified, with effect from July, 2014 onwards the Respondents have to withdraw the DPS of Rs. 23,52,024/- or give credit in the account so that the account will show credit balance which the respondents are liable to refund with applicable rate of interest from date of payment to date of refund.

Hence, this Appellant pray to this Hon'ble Authority to reopen the present Appeal No. 2 of 2020 - 21 to receive the above said documents which are having very important grounds for the present appeal otherwise this Appellant will be put into huge irreparable losses.

2. WRITTEN SUBMISSIONS OF THE RESPONDENTS

That the Complainant is the HT Consumer Of M/s. Binjusaria Ispat Pvt. Ltd bearing No.RJN1910 released on 15.01.2005 under Category -I(A).

That the DPS(Delay payment surcharge) will be calculated on delay payment automatically through system at Corporate office as per the Tariff Order which was approved by the Hon'ble TSERC time to time, in this present Appeal the Appellant paying the bills on his own calculation and deducting the amount for that we are unable to furnish which amount appellant kept pending.

Further submitted that FSA amount which was raised in the month of 07/2014 billed on 08/2014 Rs 42,36,925/- 08/2014 billed on 09/2014 Rs 50,34,649/- and 09/2014 billed in 10/2014 Rs 32,23,080/- total amount of Rs 1,24,946,55/- the same was transferred to Court Case GL as per the Hon'ble Supreme Court of India Interim Orders under SLP(C) Nos. 18199-18230/2014 an

amount of Rs 1,24,94,655/- and DPS amount of Rs 721663/- withdraw from pending dues, DPS which was levied in CC bills from 09/2014 upto the date of Transfer to court case GL in the month of 02/2015. Further the Hon'ble Supreme Court of India has passed the orders in favour of the Respondents, accordingly the total FSA amount of Rs 1,24,94,655/- along with DPS of Rs 49,07,372/- demand raised in the month of 11/2016.

3. WRITTEN ARGUMENT FILED ON BEHALF OF APPELLANT

First of all the Appellant thanks to this Hon'ble Authority for considering and reopening the present appeal. The Miscellaneous Appeal for reopening of this appeal is filed on the following grounds please:-

1. This Appellant every month wrote a letter to the Respondents to furnish the details of their calculation of claim of DPS but the Respondents never furnished the details. Even before Hon'ble CGRF II when the C.G. No. 544/2019-20/Rajendra Nagar Circle was pending which includes this issue of claim of DPS they did not file any reply in respect of DPS claim. The Hon'ble CGRF II also did not call for the relevant record from the Respondents even the Appellant prayed in the main complaint Under Clause 2.41 of Regulation 3 of 2015 and deposition dated 23.12.2019.
2. The Respondents in this present Appeal No. 2 which includes the issue of DPS claim was there they did not file any reply in this regard. The Respondents are silent on this issue and not furnished any details.
3. As the Respondents did not furnish the detail calculation to the Appellant and before this Hon'ble Authority as explained above, the Appellant was forced to file an application under the provision of RTI Act, 2005 vide its letter No. BIPL/F. DE-MBN/1910/2020-21 dated 25.6.2020. After filing the application of RTI the Appellant regularly followed up with the official of Mahabubnagar Circle where the connection of Appellant was existing during the period from July, 2014 to February, 2017 months.

4. Due to Covid 19 pandemic the Appellant was not allowed to visit their office personally hence followed up over cell phone and through E mail only with their officials.
5. On 20.6.2020 the officials of Mahabubnagar Circle were forced to sent one statement in E mail showing the principal amounts, method of calculation of DPS and DPS amount arrived apart from other details. On verification it is observed that in August, 2014 month the Respondents taken Opening Balance of Arrears amount of Rs. 43,04,352/- on which they claimed DPS of Rs. 19,370/- for 9 days. On closing balance of Rs. 93,39,001/- again they claimed DPS of Rs. 98,060/- for 22 thus totalling to Rs. 1,17,429/- and claimed in October, 2014 bill. It is pertinent to note that on Rs. 43,04,352/- they claimed DPS for 31 days and on Rs. 50,34,649/- claimed for 22 days. Both the amount i.e. Rs. 43,04,352/- and Rs. 50,34,649/- are pertaining the FSA amounts deducted by the Appellant as the Hon'ble Supreme Court granted stay on 25.7.2014 in its order dated 25.7.2014 in SLP (C) Nos. 18199 - 18230/2014.

After verification the statement the Appellant again sent the following clarifications through E mail to the official of Mahabubnagar Circle:-

"In August, 2014 you have shown an opening balance of arrears as Rs. 43,04,352/- which includes Rs. 42,36,925/- pertaining to FSA claimed in July, 2014 Bill which was deducted by us. On opening amount of Rs. 43,04,352/- you have calculated DPS of Rs. 19,370/- for 9 days. In C.C. Demand column you have shown your claim amount as Rs. 3,05,05,450/- against which we paid Rs. 2,54,70,801/- hence we deducted Rs. 50,34,649/- which is pertaining to again FSA you claimed in August, 2014 Bill. Now on total amount of Rs. 93,39,001/- you have claimed DPS of Rs. 98,060/- for 21 days. Thus total DPS is Rs. 1,17,429/-. Please note that on opening arrears you have claimed DPS for 30 days on current month deduction you have claimed DPS for 21 days.

Now in September, 2014 you have shown Rs. 96,10,418/-. After credit of Rs. 3,98,152/- the net balance shown as Rs. 92,12,266/- on which Rs. 46,061/- DPS claimed for 10 days. In C.C. Demand column you have shown your claim amount as Rs. 2,20,55,972/- against which we paid Rs. 1,84,03,844/- hence

we deducted Rs. 36,52,128/- which is pertaining to again FSA you claimed in September, 2014 Bill. Now on total amount of Rs. 1,28,64,395/- you have claimed DPS of Rs. 1,35,076/- for 21 days. Thus total DPS is Rs. 1,81,137/-. Please note that on opening arrears you have claimed DPS for 31 days on current month deduction you have claimed DPS for 21 days.

Now the following points are to be noted:-

a. The Hon'ble Supreme Court vide its order dated 25.7.2014 passed the Interim Order as "In the meantime, no coercive action for recovering the FSA charges for the term April, 2010 to June, 2012 shall be taken". Please note that when the Hon'ble Supreme Court stopped the recovery of FSA on 25.7.2014 the said amounts were not due for payment with effect from 25.7.2014 onwards. Hence, DPS will not attract on FSA amounts;

b. Even though you have claimed the DPS on FSA in August, 2014 Bill dated 26.8.2014 for 31 day without intimating which 31 days for which you have calculated the DPS. Whereas as on 26.8.2014 the FSA amounts are not due as per Hon'ble Supreme Court direction

c. In August, 2014 you have shown total due amount of Rs. 93,39,001/- which includes Rs. 42,36,925/- of July, 2014 FSA, Rs. 50,34,649/- of August, 2014 FSA and claimed DPS of Rs. 1,17,429/-. Hence, the claim of DPS on FSA amounts is not correct and liable to be withdrawn. Please note that the August, 2014 bill was raised on 26.8.2014 and the due date was 9.9.2014. Even if we assume that DPS attracts on August, 2014 amounts it will attract with effect from 10.9.2014 onwards only. Hence, kindly explain in opening balance of Rs. 43,04,352/- what component amount is shown of which month for which 10 days DPS is calculated and closing balance of Rs. 93,39,001/- what component amount is shown of which month for which 21 days DPS are calculated.

d. In September, 2014 you have shown total due amount of Rs. 1,28,64,395/- which includes Rs. 42,36,925/- of July, 2014 FSA, Rs. 50,34,649/- of August, 2014 FSA, Rs. 32,23,080/- of September, 2014 FSA and claimed DPS of Rs. 1,81,137/-. Hence, the claim of DPS on FSA amounts is not

correct and liable to be withdrawn. Please note that the September, 2014 bill was raised on 26.9.2014 and the due date was 10.10.2014. Even if we assume that DPS attracts on September, 2014 amounts it will attract with effect from 11.10.2014 onwards only. Hence, kindly explain in opening balance of Rs. 96,10,418/- what component amount is shown of which month for which 10 days DPS is calculated and closing balance of Rs. 1,28,64,395/- what component amount is shown of which month for which 21 days DPS are calculated.

e. If the opening balance amount and closing balance amounts from October, 2014 to February, 2017 months are pertaining to court case amounts as explained in above two months no DPS will attracts. Please note that From July, 2014 to March, 2015 the deducted amounts are Rs. 1,24,94,654/- pertaining to FSA (which was paid on 22.11.2016), Rs. 12,17,895/- pertaining to DPS, Rs. 1,65,167/- pertaining to others and Rs. 14,08,274/- pertaining to Voltage Surcharge. From April, 2015 to March, 2016 the deducted amounts are Rs. 2,07,42,496/- pertaining to CSS and Rs. 4,12,560/- pertaining to DPS. From April, 2016 to March, 2017 the deducted amount are pertaining to Rs. 95,96,804/- of CSS and Rs. 1,38,013/- pertaining to DPS. Year wise statement enclosed for your kind ready reference.”

6. On the above clarification the officials of Mahabubnagar Circle informed that the short amount shown in the payment is pertaining to Electricity Duty amount. In the Arrears amount also the Electricity Duty amount is not shown. Hence, the net effect is nil. For which the Appellant is satisfied.

7. In respect of Rs. 1,24,94,654/- paid on 22.11.2016 they informed that they have credited the said amount to the Court Case Account. Due to their mistake and due to non credit of Rs. 1,24,94,654/- in DPS statement it was effected adversely.

8. In respect of clarification pertaining to break up of opening arrears amount, closing arrears amount, pertaining to which component, pertaining to which Billing Month and for which period the DPS is calculated, the officials of

Mahabubnagar Circle said that they cannot give those break up month wise. However, they informed and admitted that the Court Case amounts and DPS claimed on that Court Case amounts are shown credit in the statement and transferred to Court Case Account. For example in February, 2015 the credit amount shown of Rs. 7,16,344/- is pertaining to DPS claimed on FSA and informed the Appellant to verify the statement accordingly.

9. On verification it is observed that the credit of Rs. 7,16,344/- is available in the statement. But this credit amount of Rs. 7,16,344/- not shown in the February, 2015 bill.

10. On the February, 2015 concept it is observed that the credit column is shown total credit of Rs. 5,62,60,520/- during the period from September, 2014 to July, 2016 which includes principal amount of Court Cases and DPS claimed thereon i.e., Rs. 5,39,06,702/- pertaining to Court Case Amount (Principal) and Rs. 23,53,818/- pertaining to DPS. The Appellant is not able to furnish the month wise break up of component wise of arrears amounts as the Respondents who have arrived the arrears amount are not able to give the breakup. The total DPS claimed from July, 2014 to February, 2017 is Rs. 23,53,818/-.

11. If this DPS amount of Rs. 23,53,818/- is shown credit in the account statement of Appellant furnished by the Rajender Nagar Circle, the accounts shows the closing balance as on 31.3.2018 as follows:-

The closing balance shown by the Respondents as on 31.3.2018 payable	Rs. 13,68,859/- Debit /
If the amount of DPS of Court Case of	Rs. 23,53,818/- Tr to CC / withdraw
Closing balance as on 31.3.2018 will be	Rs.9,84,959/-Credit/ Refundable.

It is pertinent to note that the closing balance of Rs. 13,68,859/- is almost tally with Rs. 13,80,382/- shown in Other Account as on 31.3.2018 in March, 2018 bill

and the credit amount of Rs. 9,84,959/- refundable is almost tally with excess amount paid by the Appellant in November, 2013 payment.

A copy of statement furnished by the officials of Mahabubnagar Circle is enclosed duly highlighting the Credit Column which is Showing the total of Rs. 5,62,60,520/- and last column of DPS claimed of Rs. 23,53,818/- is enclosed for ready reference of this Hon'ble Authority.

It is also to be noted your honour that the Mahabubnagar Statement is showing total credit of Rs. 5,62,60,520/- of court case account whereas the Rajendranagar Statement showing the court case amount of Rs. 4,56,07,575/- as on March, 2018. Thus there is a short credit of Rs. 1,06,52,945/- in Rajender Nagar Statement in court case account. The differences are found in First Four entries, February and July, 2015 entries. The details are as follows:-

Sl. No .	Month	Amount shown in Mahabubnagar Statement Rs.	Amount shown in Rajendernagar Statement Rs.	Difference (Short) / Excess Rs.
(1)	(2)	(3)	(4)	(5) (3-4)
1	September, 2014	3,98,152	394401	(3751)
2	October, 2014	333097	929957	596860
3	December, 2014	250698	1556207	1305509
4	January, 2015	13216318	635215	(12581103)
5	February, 2015	716344	716878	534
6	July, 2015	637500	666506	29006
7	TOTAL NET			(1,06,52,945)

Out of this short credit amount of Rs. 1,06,52,945/- if the DPS amount is considered as Rs. 23,53,818/- the balance amount of Rs. 82,99,127/- will be pertaining to principal amount of Court Case Account.

Hence, this Appellant prayed to this Hon'ble Authority to allow the appeal as prayed for.

4. The Appeal was reserved for orders on dt.16.06.2020, but the Appellant requested for reopening of the file seeking certain additional information is to be submitted which are having very important grounds for the Appeal, otherwise the Appellant will be put into huge irreparable losses. Hence the Appeal was reopened. Before going to the additional written submissions, it is pertinent to note that the subject service connection was under the jurisdiction of Mahaboobnagar Circle, presently the service is under newly formed Rajendra Nagar Circle. The Appellant's pleaded for further revision of the bills for the period from July'2014 to April'2017 which is based on the data procured under RTI Act vide Lr.No.PIO/DE/TECH/C.O/MBNR/ADE-TECH/D.No.261/2020 dt.19.06.2020, from the Mahabubnagar operation circle. The fresh points raised in the MP-03 of 2020-21 were not heard by the CGRF. Hence the Appellant is directed to reconcile with the Respondents duly exhausting his appeal in the CGRF.

TYPED BY Office Executive cum Computer Operator, Corrected, Signed and Pronounced by me on this the 18th day of August, 2020.

Sd/-

Vidyut Ombudsman

1. M/s. Binjusaria Ispat Pvt. Ltd., C-1, Govt. Industrial Estate,
Chandulal Baradari, Hyderabad - 500 064. Cell: 9848563999, 7036205211
2. The DE/OP/Shadnagar/TSSPDCL/RR Dist.
3. The SAO/OP/Rajendra Nagar/TSSPDCL/RR Dist.
4. The SE/OP/Rajendra Nagar Circle/TSSPDCL/RR Dist.

Copy to :

5. The Chairperson, CGRF-GHA, TSSPDCL, GTS Colony, Vengal Rao Nagar, Hyd.
6. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul, Hyd.