



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

Wednesday the Twenty third Day of September 2020

Appeal No. 09 of 2020-21

Preferred against Order dt.10.03.2020 of CGRF in
CG No. 548/2019-20 of Hyderabad South Circle

Between

M/s. Shivam Bright, Door No. 19-2-239, Govt. Industrial Estate,
Chandulal Baradari, Hyderabad - 500 064. Cell: 9948022557.

... Appellant

AND

1. The AE/OP/Chandulal Baradari/TSSPDCL/Hyderabad.
2. The ADE/OP/Miralam/TSSPDCL/Hyderabad.
3. The AAO/ERO/Salarjung/TSSPDCL/Hyderabad.
4. The DE/OP/Charminar/TSSPDCL/Hyderabad.
5. The SE/OP/Hyd. South Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 22.07.2020 coming up for final hearing before the Vidyut Ombudsman, Telangana State on 16.09.2020 at Hyderabad in the presence of Sri. Sonu Kumar Agarwal - Appellant and G. Krishnaiah - AAO/ERO/Charminar, Y. Manohar - AO(Rev)/Hyd South, Sri. P. Surya Prakash - ADE/OP/Miralam and Sri. MD. Anwarpasha - DE/OP/Charminar for the Respondents and having considered the record and submissions of both parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant submitted the following:-

We have received an electricity bill for the month of Nov'2019 showing a bill amount of Rs 15,907/- and fixed charges pending for several years Rs 54,663/- as

arrears. We have never used more than the contracted load i.e. 25 HP in the past several years.

You can verify our bill records for the past several years for your ready reference. Since last 3 years the industry is not running properly due to market uncertainty and we have gone for a hearing at consumer forum CG No.548/2019-20/Hyderabad, South Circle (CGRF-II) on 13.02.2020 in that they have given a credit Rs 1498/- JE No.3395 dt.29.02.2020 and consumer has to pay for 36 months i.e. for the period from November'2016 to November'2019 for excess contracted load of 10 HP for which we have never used. We have received the order copy on 27.05.2020 due to Government lockdown.

2. Written submissions of the Respondents

The Respondents through the Respondent No.2, ADE/OP/Miralam Sub Division submitted their written submissions stating as follows:-

As per the report of the AE/OP/Chandulal Baradari on SC No. M3-9680 under Category III, pertains to M/s. Shivam Brights at D.No.12-2-239/AIE, Chandulal Baradari in CH-Baradari Section of Mir Alam SubDivision in Charminar Division, regarding fixed charges raised in the month of Nov'2019. The service has been inspected by DPE wing on 13.02.2009 and it was found that consumer has connected load of 35 HP against Sanctioned load of 25HP. The Development Charges case has been booked for additional 10 HP of Rs 20,000/- and the consumer has paid the total case amount with two instalments i.e. Rs 6000/- on 29.10.2016 and remaining Rs 14,000/- on 17.11.2016 but load has not been released in ERO after paying the case amount.

As per the case registered in CGRF, the service has been re-inspected on 07.01.2020 along with AE/OP/Chandulal Baradari and found that the present connected load is 35 HP. The fixed charges are raised from the date of inspection as per the above order for the additional load of 10 HP as agreed by the consumer and paid the DC and SD charges as above.

The above consumer has approached to CGRF-2 with final hearing on 13.02.2020 and Hon'ble Chairperson has issued order on 17.03.2020 to revise the bill by calculating fixed charges for 3 years only.

Later CGM Revenue has issued order to collect the shortfall fixed charges for the entire period as there is no Provision/Rule/Clause/Condition either in GTCS or in Regulation/Tariff Orders approved by the TSERC to restrict the back billing to only 3 years period.

Hence it is humbly requested to drop the case and issue the suitable orders please.

3. The Hon'ble CGRF has also issued orders in other cases and a clarification sought on implementation of Hon'ble CGRF orders and it was requested to arrange to issue necessary instructions for implementation of the Hon'ble CGRF orders. The clarification is as follows:-

“To collect fixed charges against unauthorised loads regularised on receipt of 100% of case amount i.e. DEV and SD for the entire period from the date of inspection of service and booked a case for additional load to date of regularisation of load and also to file the Writ Petition before the Hon'ble High Court against the CGRF orders.”

The decision for exemption/limiting the shortfall period to 3 years for collection of shortfall fixed charges will lead to disincentive to the consumer, who have paid these 100% case amount in time and whose unauthorised excess loads are regularised intim in EBS, as they have been paid the applicable fixed charges from the date of Regularisation of excess load in EBS and they have also paid non-refundable Development charges and Security Deposit for the un-authorized loads.

4. Rejoinder of the Appellant

We have never used the contracted load more than 25 HP in the past several years so you can verify our old bills record. We have received an electricity bill for the month of November'2019 showing bill amount of Rs 15,907/- and fixed charges pending for several years Rs 54663/- as arrears. In 2012 they have added additional security deposit and development charges in our bill amount, If we have not paid the bill they said they will disconnected our service hence we have to pay the bill forcibly that time after that they have kept the case pending for several years and not released the extra 10 HP additional load till November'2019 and suddenly they have released the additional contracted load in November'2019 without

informing to the consumer and they laid fixed charges for past several years amount to Rs 54663/- which we have never used and the department never released the extra 10HP contracted load upto November'2019.

So we have gone for the Appeal to the CGRF-II Court on December'2019. The Hon'ble Chairperson has issued an order on 17.03.2020 to revise the bill by calculating fixed charges for only 3 years.

Once again your good selves are requested to kindly arrange to waive off the above extra CMD for contracted load which we have never used and department never released till November'2019 kindly help us being a small scale industry which is struggling to survival from the present market position since last several years due to market uncertainty.

Heard both sides.

Issues

5. In the face of the said contentions by both sides the following issues are framed:-

1. Is the fixed charges levied by the Respondents is in line with the statutory provisions?
2. To what relief?

Issue No.1

6. M/s. Shivam Bright of Category-3A situated at Door No. 19-2-239, Govt. Industrial Estate, Chandulal Baradari, Hyderabad bearing SC No.M3009680 pleaded for withdrawal of Fixed Charges issued for Rs.54,663/- levied in the month of November 2019 to the SC No.M3009680 of Category-III.

That they have received an electricity bill for the month of November 2019 showing the bill amount of Rs. 15,907/-and fixed charges pending several years Rs. 54,663/- as arrears. They have never used the contracted load of 25 HP or more in the past several years since last 3 to 4 years the industry is not working properly due to market uncertainty. Hence he requested to waive off the fixed charges for excess contracted load charges at an early date.

7. The Respondent No.3 (AAO/ERO/Salarjung) filed written submissions stating that the Developmental charges case was booked for service No.M3009680 vide case No.DPE/HYS/SD01/645/09 on 13.02.2009 for utilizing additional load of 10 HP than the actual contracted load of 35 HP for Rs.20,000/- (Developmental Charges Rs.15,000/- and Security Deposit Rs.5,000/-). And the consumer has paid the total development charges case amount of Rs.20,000/- in installments vide PR Number: 87077170219, date:17-11-2016, 87077170228, date:17-11-2016 & PR No. 87433290256, dated:29-10-2016. In December, 2019 the load was enhanced from 25 HP to 35 HP as per Final Assessment Order. Due to which auto generated debit JE for Rs.54,663/- (Rupees Fifty Four Thousand Six Hundred and Sixty Three only) towards fixed charges was raised as per the department rules in the month of December 2019 for additional load of 10 HP from the date of case booking i.e., from February 2009 to November 2019 which was un billed charges in the monthly bills. The fixed charges were revised. If approved a sum of Rs.1,498/- may be credited to CC bill. The remaining balance amount has to be paid by the Consumer.

The details of Fixed charges levied are given below:-

Tariff Date	Start	Tariff End Date	No. of Months	Rate	Load	Charges
01.04.2009		31.03.2011	24	37	10	8880
01.04.2011		31.03.2013	24	50	10	12000
01.04.2013		31.03.2015	24	37.5	10	9000
01.04.2015		30.06.2016	15	39.75	10	5962.5
01.07.2016		30.11.2019	41	45	10	18450
Total			129			54,663

8. A perusal of the events shows that soon after the receipt of payments towards the additional load of 10 HP, the Respondents should have regularised the load, the present dispute would not have been raised. There is negligence over not regularising the load in time from the Respondents. Coming to the issue of whether levy of fixed charges is in line with the statute or not. The excess load of 10 HP was detected on 13.02.2009, subsequently demand notice was issued for regularising the

load, the Appellant opposed the detected load. The Appellant paid the amount of Rs 20,000/- as on 17.11.2016, but the load was regularised on Nov'2019 for the reasons not known. The DE/OP/Charminar issued Final Assessment order on dt.02.03.2020 confirming the total connected load of 35 HP. The Tariff Orders issued by the Hon'ble Commission mandates payment of Fixed Charges corresponding to the contracted load of the consumer. The non regularisation load led to the shortfall of the fixed charges to the extent of 10 HP load. The irregularity was observed by Respondents in the month of Nov'2019 and an amount of Rs 54,663/- was raised for the period from Feb'2009 to Nov'2019 but without giving any notice to the Appellant.

The amount so raised was again revised and an amount of Rs 1,498/- was credited to the Appellant's account vide J.E.No.3395 in the month of February' 2020.

The CGRF in CG No.548/2019-20/Hyderabad South Circle disposed of the said appeal directing the Respondents to limit the fixed charges upto 3 years only. Notwithstanding the above relaxation, the Appellant preferred present Appeal to withdraw the total amount.

9. The Appellant relied on the fact that he has not consumed the contracted load more than 25 HP in the past history, that they have forcibly paid the demanded amount of Rs 20,000/- consequent to disconnection. Usually the tariff rates for the subject category is two part tariff i.e. energy charges against the consumed units and fixed charges against the contracted/connected load. Though the past history did not show the maximum demand to the extent more than 25 HP, the tariff rates towards fixed charges is levied corresponding to the connected load/contracted load, there is no relation to the consumed units, which are in general billed as energy charges.

But in view of the fact that on the re-inspection conducted by AE/OP/Ch. Baradari on 01.07.2020, again the same total load more than 35HP, precisely 36.5 HP was found to be connected, there is not much to be added on the issue. There is a shortfall in the levy of fixed charges from the date of inspection against the additional load of 10 HP. The fixed charges are liable to be paid corresponding to the contracted load as mandated by the Tariff Orders. The Appellant has not given any valid reasons on what grounds the Fixed charges are to be withdrawn. The Appeal of the Appellant to withdraw total fixed charges is not tenable. Hence, this issue is decided against the Appellant.

Issue No.2

10. In the result the Appeal is dismissed.

TYPED BY Office Executive cum Computer Operator, Corrected, Signed and Pronounced by me on this the 23rd day of September, 2020.

Sd/-

Vidyut Ombudsman

1. M/s. Shivam Bright, Door No. 19-2-239, Govt. Industrial Estate, Chandulal Baradari, Hyderabad - 500 064. Cell: 9948022557.
2. The AE/OP/Chandulal Baradari/TSSPDCL/Hyderabad.
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6. The SE/OP/Hyd. South Circle/TSSPDCL/Hyderabad.

Copy to :

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