



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

:: Present:: R. DAMODAR

Wednesday the First Day of November 2017

Appeal No. 10 of 2017

Preferred against Order Dt.14.12.2016 of CGRF In

C.G.No.334/2016-17/Medak Circle

Between

M/s Indus Towers Limited, represented by Sri. Nagaraju, Sy.No.133,4-51,8th Floor,
SLN Terminus, Besides Botanical Gardens, Gachibowli, Hyderabad- 500 032
Cell : 9848006100.

... Appellant

AND

1. The AE/OP/Kowdipally/TSSPDCL/Medak Dist.
2. The ADE/OP/Narsapur/TSSPDCL/Medak Dist.
3. The AAO/ERO/Medak/TSSPDCL/Medak Dist.
4. The DE/OP/Medak/TSSPDCL/Medak Dist.
5. The SE/OP/Medak Circle/TSSPDCL/Medak

... Respondents

The above appeal filed on 08.03.2017, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 14.09.2017 at Hyderabad in the presence of Sri. K. Ashok Kumar Reddy - On behalf of the Appellant Company, Sri. K.V.L. Narasimha RAO - AAE/OP/Kowdipally and Sri. R. Satyanarayana - ADE/OP/Narsapur for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant having Service Connection No. 1891300386 filed a complaint before CGRF when it received a demand notice for payment of Rs 12,08,671/- stated to be towards back billing/short billing for the period from 25.2.2010 to 26.12.2015, seeking limiting of the back billing period to 12 months after the inspection when it is stated that the meter has not recorded 'Y' phase voltage and current and the MRT report revealed that the meter was recording less energy than the consumption. The Appellant claimed that it was not served with MRT report along with the assessment notice even after representation to that effect to the 2nd Respondent

ADE/OP/Narsapur. The Appellant paid 50% of the initial assessment amount under protest to avoid disconnection. As per Clause 7.5.1.4.4 of GTCS any assessment shall be limited to 12 months prior to the date of inspection. Neither the initial assessment notice nor the final assessment order was communicated to the Appellant and the opportunity to appeal is denied.

2. The 2nd Respondent/ADE/O/Narsapur through letter dt.6.12.2016 stated that the short billing case was booked by the DPE wing and a Preliminary Assessment notice was issued to the Appellant, who paid 50% of the demanded amount and preferred an appeal to the 4th Respondent DE/O/Medak and the final assessment order was passed by him.

3. The 3rd Respondent /AAO/ERO/Medak through letter dt.6.12.2016 claimed similarly as the 2nd Respondent stating that the Final Assessment Order was passed for Rs 12,08,671/-

4. Before the CGRF, the representative of the Appellant company alleged that the MRT report for back billing was not received, the period of back billing is more than 5 years, each year testing was not done to take action for rectification, notice was not given in time and back dated notice was given after the grace period, demanding the amount without giving reasonable time.

5. The 2nd Respondent stated before the CGRF that the meter was inspected on 19.12.2015 at Yalamakanna village in Kowdipally Section. At the time of inspection, it is found that the meter M&P seals were not available and meter performance was not tested. He found that R,Y,B phase currents were not recorded in the meter and therefore, the meter was referred to MRT. After receiving MRT report, back billing was done for the period from 25.02.2010 to 26.12.2015. The MRT test report and EBS consumption pattern resulted in the assessment amount of Rs 12,08,671/-. As per MRT report, before rectification, R.Y.B phase currents were 0.08A,0.00A,0.00A and after rectification R.Y.B phase current were 8.40A,8.22A,8.16A. The consumption recorded in the meter was due to leakage of currents.

6. After considering the material on record, the stand of the parties, the CGRF opined that as per the test results of MRT lab, the meter is not recording the voltages and currents in Y phase. Based on the MRI data analysis, short billing notice was issued. The Appellant paid 50% of the assessed amount. The Appellant sought to limit the assessment period to 12 months in terms of Clause 7.5.1.4.4 of amended GTCS. The

CGRF observed that the Respondents have clearly established the defect in the meter not recording in one phase through MRT test report (MRI analysis not available) and less consumption was recorded in the meter for the entire period of short billing and held that the short billing has been done in compliance with Clause 7.5.1.4.4 of the amended GTCS through the impugned orders.

7. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal claiming that the assessment shall be limited to a maximum period of 12 months prior to the inspection as per Clause No. 7.5.1.4.4 of GTCS and since there has been no response from the Respondents about the legal position, revision of the assessment is warranted in the present case.

8. In the Appeal, the DE/Electrical/M&P division through copy of his report dt.12.12.2016 submitted that:

“ i. The LT services bearing SC No. 1850500470 (Narsapur) (not the present matter) and 1891300386(Kowdipally)(present case) were released by the section officers without the knowledge of M&P wings and the current shorting screws were not opened at the time of release of supply and hence the meter has not recorded the energy consumed by the consumers. The metering was restored by M&P wing as per the report of DPE wing on 22.8.2015 and 26.12.2016 respectively and hence the reason for long duration of back billing.

li. Since the LT services bearing Service Connection No.1850500470 (Narsapur) (not the present matter) and Service Connection No.1891300386 (Kowdipally) (present matter) were released by the section officers without knowledge of M&P wing, the periodical testings were not carried out prior to the date of booking of the case.”

iii. The LT service bearing Service Connection No. 9930111082 (Medak town) (not the present matter) was inspected by M&P wing on 24.11.2015 based on the complaint received from the AE/O/Medak Town and ADE/DPE/LT/Sangareddy alleging voltage missing. The B phase voltage was missing in the meter due to corban formation

at the voltage tapping point on the primary cable and the same is rectified.”

9. The DE/Electrical/OP through letter dt.10.4.2017 stated that the SC No. 1891300386, Cat-II of the Appellant was inspected by Sri. P. Vidyasagar/ADE/DPE and he found Y phase voltage and current are not recording in the energy meter. As per the MRT report, the back billing amount was assessed at Rs 12,08,671/- for the period from 25.02.2010 to 26.12.2015. A provisional assessment notice was issued to the Appellant and the Appellant sought back billing period restricted to 12 months. A final assessment order was passed by the DE/OP/Medak/R4 directing the Appellant to pay the back billing amount.

10. The AAE/OP/Kowdipally Section through letter dt.8.6.2017 stated that he joined as AAE in Kowdipally section on 1.10.2015. When he went to take CT meter readings, he noticed that the CT meter was not showing Y phase in the display, which he informed the AE/MRT and ADE/M&P of Medak Circle who inspected the service and took MRI reports and then a back billing case was booked. The 2nd Respondent ADE/Elecl/OP/Narsapur submitted a report dt.7.4.2017 about the inspection of the service connection and discovery of the missing voltages and current and about issuing assessment of back billing for Rs 12,08,671/- for the period from 25.02.2010 to 26.12.2015.

11. The Appellant through its letter dt.4.1.2017 addressed the DE/OP demanding copies of MRT test report and MRT dumps.

12. In view of the respective stands of the parties, there remained no meeting point and the mediation failed to succeed.

13. Based on the material on record, the following issues are settled for determination:

1. Whether the Appellant is liable to pay Rs 12,08,671/- towards short billing for the period from 25.02.2010 to 26.12.2015?
2. Whether the back billing period shall be restricted to 12 months only, as per Clause 7.5.1.4.4 of GTCS as claimed by the Appellant?
3. Who is responsible for the loss caused to the DISCOM due to short billing for a period of 5 years?
4. Whether the impugned orders are liable to be set aside?

Issues 1 to 4

14. The Appellant M/s. Indus Towers Ltd. engaged in cell tower service bearing service connection No. 1891300386 in Narsapur, pleaded to limit the assessment period to one year from the date of inspection, on the Short billing claim raised for the period from 25.02.2010 to 26.12.2015, by the DISCOM based on the inspection of ADE/DPE/Medak. The ADE/OP/Narsapur issued demand notice for payment of Rs 12,08,671/- towards short billing .

15. The ADE/DPE/Medak on 19.12.2015 inspected the M/s. Indus Towers in Yalamakanna village, Narsapur based on the complaint received from AE/OP/Kowdipally and found that the meter is not recording in Y phase voltage and no recording of currents with load currents and therefore referred the meter for testing to MRT wing. The AE/M&P tested the meter on 26.12.2015 and found that there are no M&P seals. He found that all the CTs screws are tight on TTB. The new meter performance test carried out with Accuchek ERS kit on consumer load as to its condition and error was found ok. The old defective meter (with Parameters not scrolling) was replaced with another healthy meter. The old meter voltages & Currents were found as 271.1V,0.25V,295.4V & 0.08A,0.00A,0.00A.

16. Based on the observations of ADE/DPE/Medak, 1st Respondent/ ADE/OP/Narsapur issued Provisional Assessment notice on 27.01.2016 demanding payment of Rs 12,086,71/- towards short billing for the period from 25.02.2010 to 26.12.2015 for the loss of revenue owing to reduced recording of energy consumption in the meter due to improper metering.

The loss is calculated in the following manner:

Contracted load	10000 W	Connected load	10000 W
Assessment from period	25.02.2010	Assessment to period	26.12.2015
Units assessed	163355 Units	Units recorded	9801 Units
Units lost	153554 Units		
Amount	Rs 1199457.00		
Electricity duty charges	Rs 9214.00		
Total Amount	Rs 12,08,671.00		

The percentage of error turned out was (-)94% and on its basis, the units lost were arrived at.

17. The Appellant opposed the Provisional Assessment notice and appealed to the designated officer for final assessment against the short billing i.e. DE/OP/Medak on 23.6.2016. The DE/OP/Medak upheld the provisional assessed amount of Rs 12,086,71/- and held that the Appellant is liable to pay the charges towards revenue loss to the company as per the GTCS clause 7.5.1 read with annexure XII (VII)(C) on 16.09.2016.

18. Aggrieved by the final Assessment, the Appellant approached the CGRF for limiting the assessment period for 12 months. The CGRF upheld the demand notice of short billing in compliance with the amended clause 7.5.1.4.4 of the GTCS.

19. The Appellant had already paid 50% of the assessed amount Rs 6,04,336/- on 10.6.2016 under protest and pleaded to revise the short billing assessment period not beyond 12 months prior to the date of inspection, notifying following objections:

- a. The Appellant was not furnished with the MRT report based on which assessment period was calculated.
- b. As per Clause 7.5.1.4.4 of GTCS an assessment shall be limited to a period of 12 months prior to date of the inspection.
- c. Neither the initial assessment notice or the final assessment orders were communicated to the Appellant denying the opportunity to prefer an appeal before an appropriate forum.

20. It is important to note specifically what the DE/M&P/Medak stated before CGRF through a letter dt.12.12.2016.

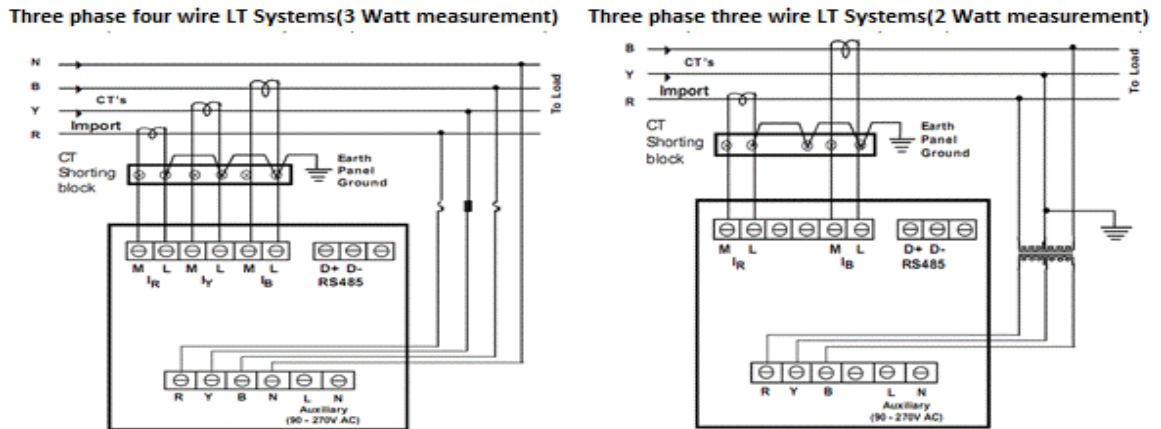
“The LT services bearing service connection Nos. 1850500470 (Narsapur) and 1891300386 (Kowdipally) were released by the section officers without the knowledge of the M&P wing. The current shorting screws were not opened at the time of release of supply, hence the meter has not recorded the energy consumed by the consumer. The metering was restored by M&P wing as per the report of DPE wing on 22.8.2015 and 26.12.2016 respectively and hence, the reason for longer duration of back billing.

The LT service connection Nos. 1850500470(Narsapur) and 1891300386 (Kowdipally) were released by the section officers without the

knowledge of the M&P wing, and hence the periodical testing was not carried out prior to the date of booking of the case.

21. What is the meaning of “current shorting screws were not opened” and what difference does it make to the “recording of the energy consumption”?

For this we have to understand the wiring diagram of 3 Phase LT CT Operated Energy Meter.



The test terminal box (TTB) is basically provided inside the enclosure of the metering box. It is basically a wiring arrangement to provide for testing the meter and also to isolate the meter from the instrument transformer secondary connection.

The three screws represented by letter ‘M’ in CT Shorting Block, in the diagram, plays role of pathway of flow of currents with respect to the incident load. When the left most screw of the TTB i.e, representing ‘M’ in each phase is not opened, the arrangement of the metering wiring will be such that the meter shall get almost disconnected or gets partially bypassed. The consumer shall avail the supply as per the actual load, without the meter recording the actual consumption. The above said position was observed by the M&P wing and it was recorded in their inspection notes, at the time of inspection.

22. At the time of inspection the current shorting screws of the Test Terminal Box (TTB) were observed as not opened, which is mandatory procedure to enable the Energy Meter to record the usage of supply. This lapse led to short billing of the actual consumption utilised by the Appellant. This lapse, it is clear, is on the part of the officials only and not of the consumer.

23. The Appellant pleaded for application of Clause 7.5.1.4.4 of GTCS pleading for back billing only for 12 months. By the Proceeding No.APERC/Secy/96/2014, Dt: 31-05-2014 of TSERC, Clause 7.5.1.4.4 was amended, and it reads as follows:

“The assessment shall be made for the entire period during which the status of defective meter can be clearly established, however, the period during such status of defective meter cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.”

24. Guidelines for assessment of short billing cases can be found in the Annexure XII(VII)(C) of the GTCS which is reproduced here for clarity:

“Short billing arising out of defective meter: meter is to be tested with Accu Chek/Electronic Reference Standard (ERS) meter at site and % Error is to be arrived at and billed for the period when the meter was defective. If the period of the defect can be established with the aid of production figures of consumer and MRI dumps (Meter Reading Instrument), the assessment is to be undertaken for the period when the meter was defective as per the formula.”

25. The assessment period was taken from 25.02.2010 (date of installation of the meter, Feb-10) to 26.12.2015 (date of replacement of defective meter). This period so arrived at was with an understanding that right from the installation of the meter i.e, from the date of release of the service connection, the current shorting screws were not opened. The amended clause 7.5.1.4.4 of GTCS mandates back billing beyond one year from the date of inspection i.e. for the entire period if the status of the defective meter can clearly be established. The guidelines for assessment out of defective meter, read with Annexure XII(VII)(C) clarify that the period of defect shall be obtained with the aid of production figures of consumer and MRI dumps.

26. Here, in this case there is no availability of MRI Data to confirm the period of liability with reasonable accuracy. The meter was recording partial consumption. Just on the probability that the screws might not have been opened, right from the installation of the meter, without any aid of MRI data, the Discom cannot arbitrarily extend the back billing assessment period beyond 1 year, when the amended GTCS Clause 7.5.1.4.4 of GTCS specifically demands clear establishment of defectiveness of

the meter. Further, the Respondents have not furnished any explanation for resorting to back billing for the period of 5 years.

27. Under the circumstances and facts, there shall be a direction to the Concerned Superintending Engineer/ Operation to revise the assessment for short billing, based on the percentage error of (-) 94% arrived at through ERS kit at the time of inspection and recover the loss of revenue for the period of 1 year immediately preceding the date of inspection i.e,19-12-2015, as per the amended Clause 7.5.1.4.4 of GTCS. The amount already paid by the Appellant shall be adjusted and any excess amount over the revised assessment amount, shall be adjusted in the future C.C. bills of the Appellant. The issues are answered accordingly.

28. The Appeal is allowed partly as follows:

1. The Appellant is found not liable to pay Rs 12,08,671/- towards short billing for the period from 25.02.2010 to 26.12.2015.
2. The back billing period shall be restricted to 12 months only as per Clause 7.5.1.4.4 of GTCS. The DISCOM shall issue a revised fresh assessment notice accordingly.
3. The DISCOM shall initiate an enquiry, find out the persons responsible for the defective installation of the meter to the Service Connection and take appropriate action against them.
4. The impugned orders are set aside partly to the extent indicated.

29. The licensee shall comply with and implement this order within 15 days for the date of receipt of this order under clause 3.38 of the Regulation 3 of 2015 of TSERC.

TYPED BY Clerk Computer Operator, Corrected, Signed and Pronounced by me on this the 1st day of November, 2017.

Sd/-

Vidyut Ombudsman

1. M/s Indus Towers Limited, represented by Sri. Nagaraju, Sy.No.133,4-51,
8th Floor, SLN Terminus, Besides Botanical Gardens, Gachibowli,
Hyderabad- 500 032. Cell : 9848006100.

2. The AE/OP/Kowdipally/TSSPDCL/Medak Dist.
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5. The DE/OP/Medak/TSSPDCL/Medak Dist.
6. The SE/OP/Medak Circle/TSSPDCL/Medak.

Copy to :

7. The Chairperson, Consumer Grievance Redressal Forum - 1, TSSPDCL,
Vengal Rao Nagar, Erragadda, Hyderabad - 500 045.
8. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapool,Hyd.