



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

Thursday the Sixteenth Day of November 2017

Appeal No. 12 of 2017

Preferred against Order Dt.14.12.2016 of CGRF In

C.G.No.335/2016-17/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/Medak Town/TSSPDCL/Medak Dist.
2. The ADE/OP/Medak/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.
6. The ADE/M&P/Medak/TSSPDCL/Medak Dist.
7. The DE/M&P/Medak/TSSPDCL/Medak Dist.
8. The ADE/DPE/Medak/TSSPDCL/Medak Dist.

... 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 and Sri.B. Venkateswara Reddy - On behalf of the Appellant Company and Sri. R. Satyanarayana - ADE/OP/Medak for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant has SC No. 9930111082 at Medak which is running a Telecom Tower. The Appellant received a Demand notice for Rs 8,32,164/- stated to be towards back billing/short billing for the period from 24.3.2012 to 24.11.2015 on the ground that the meter has not recorded B Phase voltage and current and the MRT

report revealed that the meter was recording less energy consumption. The Appellant complained that it was not furnished with the MRT report along with the assessment notice, even after representation to the 2nd Respondent ADE/OP/Narsapur and 4th Respondent DE/OP/Medak. In view of the demand notice and threat of disconnection of supply, the Appellant paid 50% of the demanded amount under protest. The Appellant pleaded that the assessment period should be limited to 12 months prior to the date of inspection as per Clause 7.5.1.4.4 of GTCS and further the assessment notice was not furnished, denying an opportunity to prefer an appeal in an appropriate forum and to that effect lodged a complaint with CGRF.

2 The 3rd Respondent AAO/ERO/Medak through letter dt.6.12.2016 stated before the CGRF to the effect that the 2nd Respondent ADE/OP/Medak issued an assessment notice and the consumer paid 50% of the assessed amount and also preferred an appeal to the 4th Respondent DE/OP/Medak who issued the Final Assessment Order for Rs 8,32,164/- confirming the initial assessment order.

3. A representative of the Appellant company appeared before the CGRF and complained to the effect that:

- a. MRT report for back billing was not furnished.
- b. The period of back billing is more than 3 years,
- c. Every year testing of the meter has to be carried out and rectification has to be carried out which is not done.
- d. The notice was not given within time and
- e. The back dated notice was given after the grace period, disconnecting the power without intimation.

4. The 1st Respondent AAE/O/Medak Town stated that he inspected the service connection on 30.10.2015 and found that the meter was not recording B phase voltage and that he referred the meter to the MRT. He stated that the MRT tested the meter on 24.11.2015 and gave analysis of MRI dump.

5. The CGRF, after noting the facts, contentions of both the parties has observed that on inspection of the Appellant's service, the officials found that the meter was recording less consumption in one phase and when tested at the MRT lab, it was found that the meter was not recording voltages in B phase and based on MRI data analysis, a short billing notice was issued against which the Appellant paid 50% of the assessed amount, while requesting to limit the assessment period to 12 months as per Clause 7.5.1.4.4 of amended GTCS. CGRF concluded that in view of the Respondents

clearly establishing the error in one phase for the entire period, the short billing is done in compliance with Clause 7.5.1.4.4 of amended GTCS which is found to be correct, through the impugned orders.

6. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal on the ground that the short billing assessment should be limited to 12 months only as per Clause 7.5.1.4.4 of GTCS and the DISCOM has no answer as to why there was no checking of the meter fault for a total period of three years and raised a question as to who has to check the meter every month?

7. The DE/Electrical/M&P division Sangareddy submitted a copy of letter dt.12.12.2016 stating that the present Service Connection was inspected by M&P wing on 24.11.2015 based on the complaint received from the 1st Respondent/AE/OP/Medak Town and the ADE/DPE/LT/Sangareddy stating about voltage missing case. He stated that B phase voltage was missing in the meter due to carbon formation at voltage tapping point on the primary cable and the same was rectified.

8. The DE/OP/Medak through letter dt.10.4.2017 stated in the Appeal that the Service Connection in question has been inspected by Sri. V. Manikanta, AE/DPE who found B phase voltage missing and not recording in the energy meter and that based on MRT report, the back billing was assessed at Rs 8,32,164/- for the period from 24.03.2012 TO 24.11.2015 for which a Provisional Assessment notice was issued to the Appellant based on Clause 7.5.1.4.4 of the amended GTCS and that the 4th Respondent/DE/OP/Medak has issued Final Assessment Order directing the Appellant to pay the demanded amount.

9. When questioned why for three years, the missing of voltage in B phase was not noticed, the Respondents filed record to show that a Memo dt.25.03.2017 to Ex-AE/OP/Medak Town was issued by the DE/Electrical/OP/Medak to the effect that there was negligence found on the part of the duties of Sri. B. Ramesh-AE/OP/Medak Town for not recording the voltages and currents from 24.3.2012 to 24.11.2015 and a show cause notice to Sri. B. Ramesh -AE/OP/Medak Town was issued demanding initiation of action for the lapse on his part. The record also shows that Sri. B. Ramesh former AE/OP/Medak submitted an explanation to the DE/OP/Medak pleading that he never suffered any blemish in his record, there were no complaints against him from the consumers or from the members of the public and that he wrote a letter

dt.21.8.2015 (just before the inspection) requesting inspection of the meter and rectification of the problem.

10. The Respondents filed copy of LT inspection report dt. 30.10.2015 showing that the meter was not recording B phase voltage and therefore, it was referred to MRT wing and the MRT wing tested the meter and found B phase voltages were nil and that it was replaced with a healthy meter. The Respondents filed MRI data showing 0 voltages in B phase all through the three years.

11. The attempts at mediation failed in view of the nature of the rival claims.

12. Based on the material on record, the following issues arise for determination:

1. Whether the Appellant is liable to pay the short billing amount from 24.3.2012 to 24.11.2015 amounting to Rs 8,32,164/- based on Clause 7.5.1.4.4 Of GTCS read with Annexure XII(VII)(C) of GTCS?
2. Whether the Appellant is entitled to limiting the short billing assessment period to 12 months based on the amended Clause 7.5.1.4.4 of GTCS?
3. Who is responsible for non inspection of the service connection for a whole period of three years, leading to non discovery of the missing voltage and what are the consequences?
4. Whether the impugned orders are liable to be set aside?

Heard.

Issues 1 to 4

13. The Appellant M/s. Indus Towers Ltd. engaged in cell towers services has Service Connection bearing No. 9930111082 in Medak Town, pleaded to limit the assessment period of Short billing raised for the period from 24.03.2012 to 24.11.2015, based on the inspection of AE/DPE/Medak, for one year from the date of inspection. The ADE/OP/Medak, issued demand notice for payment of Rs 8,32,,164/- towards short billing based on the MRT report.

14. The AE/DPE/Medak on 30.10.2015 inspected the Service Connection in Medak Town based on the complaint received from AE/OP/Medak and found that the meter is not recording B phase voltage. He subsequently referred the meter for testing to MRT wing. The AE/MRT tested the meter on 24.11.2015 and found that the B phase

voltage was missing in the meter due to carbon formation at voltage tapping point on the primary cable and rectified the defect.

15. Based on the above observations, the ADE/OP/Medak issued a Provisional Assessment notice on 19.3.2016 demanding payment of Rs 8,32,164/- towards short billing for the period from 24.3.2012 to 24.11.2015 towards loss of revenue owing to less recording of energy consumption in the meter due to missing of B phase voltage.

The assessment of loss is calculated by the DISCOM as follows:

Contracted load	20500 W	Connected load	10370 W
Assessment from period	24.3.2012	Assessment to period	24.11.2015
Units assessed	287096 Units	Units recorded	191397 Units
Units lost	95699 Units		
Amount	Rs 8,26,422.00		
Electricity duty charges	Rs 5742.00		
Total Amount	Rs 8,32,164.00		

16. The Appellant opposed the Preliminary Assessment notice and appealed to the designated officer for final assessment under short billing i.e. DE/OP/Medak on 23.6.2016. The DE/OP/Medak upheld the provisional assessed amount of Rs 8,36,162/- and held the Appellant liable to pay the charges towards revenue loss to the company as per the Clause 7.5.1 of GTCS read with annexure XII (VII)(C). Aggrieved, the Appellant preferred a complaint to the CGRF for limiting the assessment period to 12 months. The CGRF upheld the demand notice for short billing as in compliance with the amended Clause of 7.5.1.4.4 of the GTCS.

17. It is clear that the Appellant has paid 50% of the assessed amount of Rs 4,16,082/- 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 under the following grounds:

- a. The Appellant was not furnished with the MRT report, based on which, the assessment period was calculated.
- b. As per Clause 7.5.1.4.4 of GTCS, any assessment shall be limited to a period of 12 months prior to the date of inspection.

- c. Neither the initial assessment notice nor the final assessment orders were communicated to the Appellant denying an opportunity to prefer appeal in an appropriate forum.

18. It is clear from the record that the B phase Voltage was found missing in the meter due to carbon formation at the voltage tapping point on the primary cable and it was rectified. Only on the basis of this discovery, the Assessment was made based on MRI data of the meter which revealed that from 24.3.2012 onwards B phase voltage recorded was 0.00 Volts and the defect persisted until the rectification on 24.11.2015. Therefore, as per the amended clause 7.5.1.4.4 of GTCS, which mandates that the assessment shall be made for the entire period during which the status of defective meter can be clearly established and the annexure XII(VII)(C) which mandates short billing arising out of defective meter if the period of the defect can be established with the aid of production figures of consumer and MRI (Meter Reading Instrument) dumps, the period of the defective meter is held as clearly established through MRI data which is reliable, the plea for limiting the assessment period to one year from the date of inspection is found as not tenable.

19. The Appellant claimed that the MRI data relied on by the DISCOM to prepare Preliminary Assessment Order, was not furnished which caused prejudice to its defence. In the Appeal grounds, it is mentioned that the MRI dumps were furnished during pendency of complaint before CGRF, which shows poorly of the personnel handling the dispute on behalf of the DISCOM. Non furnishing of MRI dumps to the Appellant is a lapse, which though important, but not fatal to the dispute at this stage. The DISCOM officials have to act more responsibly while dealing with consumer disputes.

20. Regarding the claim of the Appellant that neither the Preliminary Assessment Order was furnished nor an opportunity to prefer an Appeal was afforded, the record shows differently. The Final Assessment Order dt.16.09.2016 itself shows that the Appellant, after receipt of the Preliminary Assessment notice, paid 50% of the assessed amount Rs 4,16,082/-, which answers the complaint of the Appellant. Regarding the lapse of the Respondents in not facilitating filing of Appeal, the Final Assessment Order dt.16.09.2016 itself mentions that the "Consumer representation dt.23.06.2016" was taken to start the Appeal proceedings. There may be delay on the part of the Respondents in furnishing copies and notices, but the delay is not serious as to hold the entire proceedings as invalid. The contention of the Appellant on these aspects are found not tenable.

21. The record shows that there is negligence on the part of the meter reading official in detecting the missing of voltages in 'B' phase early. It took 3 years to verify. Though the explanation of the concerned AE that at his instance the inspection was carried out in 2015 notwithstanding, there was delay of 3 years, which is not explained and at no fault of the consumer, it is being burdened with huge short billing assessment. For this lapse, the Appellant is found entitled to compensation of Rs 15,000/- which shall be deducted from the total amount due. The DISCOM shall order proper enquiry in the matter, fix responsibility and recover this amount of Rs 15,000/- from that person found responsible for the serious lapse.

22. There are no grounds to interfere with the impugned orders, except regarding the quantum of compensation amount. The Appeal is disposed of with the following directions:

- a. The Appellant is found liable to pay the short billing amount of Rs 8,32,164/- less Rs 15,000/- awarded towards compensation, w.e.f. 24.03.2012 to 24.11.2015 as per the amended Clause No. 7.5.1.4.4 of GTCS.
- b. The Appellant is found not entitled get the short billing amount limited to 12 months only as per the amended Clause No.7.5.1.4.4 of GTCS.
- c. The Appellant is entitled to compensation of Rs 15,000/- towards deficiency of service in not getting the defect in the 'B' phase rectified in time leading to heavy financial burden at one time.
- d. The DISCOM shall initiate an enquiry to find out the lapse in not discovering the 'B' phase voltage missing in the meter within a reasonable time, leading to 3 years delay and recover Rs 15,000/- from the person found responsible in the enquiry.
- e. The impugned orders are affirmed as aforesaid.

24. 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 16th 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.
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9. The ADE/DPE/Medak/TSSPDCL/Medak Dist.

Copy to :

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