



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33 / 11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

Present Sri. NAGARAJ NARAM

Friday the 15th day of January 2021

Appeal No. 17 of 2020-21

Against Order dated 31.09.2020 of CGRF in CG Nos. 27 & 38 / 2020-21
of Saroor Nagar Circle

Between

M/s. Sri Sai Ram Ice Factory,
represented by Sri. D. Deepak Kumar Gupta,
Plot No. 27 (P), Pasumamula, Hayatnagar.
RR Dist - 501 503. Cell: 9246537422, 7036205211.

... Appellant

AND

1. The AE/OP/Pedda Amberpet/TSSPDCL/RR Dist.
2. The ADE/OP/Hayath Nagar/TSSPDCL/ RR Dist.
3. The AAO/ERO/Hayath Nagar/TSSPDCL/RR Dist.
4. The DE/OP/Saroor Nagar/TSSPDCL/RR Dist.
5. The SE/OP/Saroor Nagar/TSSPDCL/RR Dist.

... Respondents

The above appeal filed on 19.10.2020 coming up for final hearing in the presence of Kum. Nishtha on behalf of the appellant and Sri. Ravinder Reddy, AAE / OP / Pedda Amberpet, Smt. V. Sridevi, AAO / ERO / Hayath Nagar and Sri. G. Rajender Reddy, ADE / OP / Hayath Nagar for the respondents, having considered the record and submissions of both parties, the Vidyut Ombudsman passed the following;

AWARD

This is an appeal against the orders of the CGRF, Saroor Nagar Circle in CG Nos. 27 and 38 / 2020-21 dated 30.09.2020 as per Clause 3.19 (a) of Regulation No. 3 of 2015.

2. The appellant is a firm under name and style of M/s. Sri Sai Ram Ice Factory and having service connection of LT III A 1 bearing No. 5625 00810 with contracted load of 99 HP for supply of energy and demand from the respondents. That the CGRF vide common order dated 30.09.2020 passed in C.G. No. 27 and 38 / 2020-21 rejected the complaints. That the order dated 30.09.2020 is received by the appellant on 09.10.2020.

3. The representation sought to highlight the appellant is aggrieved by the said common order as the same is rejected without considering and understanding the facts on the record, provisions of law and with predetermined mind. It is also stated that during hearing held on 16.09.2020 Sri Jaya Raj, Chairman, Smt. K Shobha Rani Member (Finance) and Sri. Gajender, Member (Independent) were present. But in the common award dated 30.09.2020 only the names of Chairman and Member mentioned and the name of Member (Independent) is not reflected which is a violation of law and showing the malafide intention of the forum.

4. The respondent No. 3 has raised the consolidated bill for the C.C. Charges under category LT 3 A for the months of April and May 2020 instead of raising the said bill separately for April and May, 2020 billing months. The respondent No. 3 while raising the bill of LT III A Category charged the tariff rates of HT I category. The same violation is done in the month of July, 2020 billing month bill also. It is stated that there is no discrepancy in June, 2020 bill as the respondents claimed the LT tariff rate only. Aggrieved by the said violations this appellant approached before respondent No. 5 on 21.07.2020 which was registered as C. G. No 27 of 2020-21 / Saroornagar Circle.

5. The CGRF has not taken any action on the complaint filed by the appellant on 21.07.2020 and registered as C. G. No. 27/2020-21 / Saroornagar Circle till 07.08.2020 pertaining to the period from April, May and July, 2020 bills. Meanwhile the respondent No. 3 has done the same violation in the month of August, 2020 billing month and issued the bill dated 07.08.2020 hence, the appellant was constrained to approach before the CGRF on 12.08.2020 for August, 2020 bill which was registered by the CGRF as C. G. No. 38 of 2020-21 / Saroor Nagar Circle. The respondent No. 5 has conducted the hearing on 16.09.2020 for both the complaints together, consequently passed the common award dated 30.09.2020.

6. The respondent No. 3 raised the bill for the months of April and May, 2020 for Rs. 1,58,359/-. The appellant while making payment deducted an amount of Rs. 63,844/- towards above said dispute duly intimating to the respondents. In July, 2020 bill the respondent No. 3 has raised the bill for Rs. 2,32,463/-. The appellant while making payment has deducted an amount of Rs. 40,565/- towards above said dispute duly intimating to the respondents. In August, 2020 the respondent No. 3 has raised

the bill for Rs. 2,32,853/-. The appellant while making payment deducted an amount of Rs. 36,651/- towards above said dispute. Thus, amounting to Rs. 1,41,060/- which is pertaining to above disputes.

7. The CGRF while rejecting the said complaints has not considered and understand the facts and grounds on the record, the relevant provisions of GTCS, Electricity Act, 2003 and regulations, legal position of the present complaints. The said facts and grounds are explained once again hereunder for kind consideration of this Authority.

8. The appellant raised the following grounds for consideration.

a) The respondent No. 2 and 3 during the personal hearing held on 16.09.2020 categorically admitted that they have raised the appellant's LT bill with HT Rates as per clause 12.3.3.3 of GTCS. The clause No. 12.3.3.3 of GTCS is stated by the appellant

“Cases where the total connected load is above 75 HP / 56 KW or cases where the total connected load is above 150 HP under LT category III (B). These services will be billed at the HT category in tariff rates from the consumption month in which the unauthorized additional load is detected till such additional load is removed and got inspected by the Designated officer of the company”

In view of the above highlighted word Connected Load the Clause No. 12.3.3.3 is applicable to LT consumer where the total connected load is above 75 HP / 56 KW or 150 HP under LT category III (B) whereas the appellant service connection is LT III A. It is to be noted at this juncture that this particular clause is applicable only when the connected load is detected. Whereas in this particular case when the RMD is increased the HT tariff rate are imposed in LT Bill in violation of clause 3.4.1 of GTCS for which the respondents are not entitled to do so unilaterally.

b) The respondent No. 2 on 13.5.2020 inspected the premises of the appellant and gave a report on 22.05.2020 vide its letter No. 189 dated 22.05.2020 and confirmed the connected load of 94.91 HP which is less than the threshold limit of 100 HP as prescribed in clause No. 7.3 and clause 7.16 of tariff order of financial year 2018-19 dated 27.03.2018 for LT Supply passed by the Hon'ble Commission.

c) The respondent No. 2 and 3 cannot issue the consolidate bill for two months even though they issued the single bill for April and May, 2020 consumption;

d) There is no provision in the tariff order or regulation to claim HT tariff rates in LT bill; The respondents cannot change the category of the consumer on monthly basis more specifically based on the RMD; and

e) In April and May, 2020 bill the respondents claimed Rs. 1,560/- per KVA on 0.79 KVA which is a violation of tariff rates approved by the Hon'ble Commission. During August, 2020 bill the RMD is 71.14 KVA or 94.85 HP even though the HT tariff rate are applied in LT bill. In view of the above stated facts, the appellant pray to this this authority to pass an award / orders:-

9. The appellant sought orders under clauses 3.35 and 3.41 of Regulation 3 of 2015:

- 1) 'Not to disconnect power supply of the appellant for non payment of Rs. 1,41,060/- pertaining to April, May, July and August, 2020 Billing Months bills pending final decision by this Hon'ble Authority in the present appeal.
- 2) To set aside the common award passed by Respondent No. 5 dated 30.9.2020 of C.G. No. 27 & 38 / 2020-21/Saroornagar Circle;
- 3) To set aside an excess claim of Rs. 1,41,060/- pertaining to April, May, July and August, 2020 Billing Months bills claimed with HT Tariff Rates in LT bill;
- 4) To issue April and May, 2020 bills separately;

10. The respondents submitted their reply through the respondent No. 2 in the letter dated 03.11.2020 stating as follows:-

a) The consumer has given a complaint to the CGRF for setting aside the bill raised against the SC No. 5625 00810 claiming that the bill was not given in the appropriate category. Accordingly, submissions were made to the CGRF and the forum has passed order rejecting the consumer's complaint holding that the bill was proper and not in violation of GTCS or the tariff order given by Hon'ble Commission. Aggrieved by the order the consumer has made the representation to this authority.

b) This authority had passed interim order on 19.10.2020 directing the respondents not to take any coercive action until disposal of the appeal on payment of 50% of the demanded amount. They stated that the consumer has not paid the amount so far which amounts to full disobedience. Therefore, they requested this authority to direct the consumer to pay the 50% of the disputed amount.

c) They stated that in the month of May on 07.05.2020 the consumer was given a bill for 15454 units and it is observed that the MD in KVA is 100.05 HP. Since the consumer's contracted load is 99 HP and the RMD has exceeded 100 HP the consumer was billed in HT category I as per the clause No.12.3.3.3 of GTCS. Subsequently the billing tariff was changed from LT category III A 1 to HT category I since the consumer has exceeded the contracted load of 99 HP and above 100 HP.

d) The consumer gave representation to review the load recorded citing problems in the machinery and capacitors. The service was inspected and the connected load was found to 94.91 HP. A report was submitted to the CGM / Revenue / TSSPDCL through AAO / ERO / Hayathnagar recommending removal of HT flag in billing on 22.05.2020. The same was approved by the CGM / Revenue / TSSPDCL. The flag was updated to LT category III A 1 in EBS in the month of June 2020. The consumer was advised to look after the machinery and capacitors as the failure or malfunction may result in high power consumption and high demand.

e) In the month of July at the time of billing it is observed that the RMD is 104.91 HP. Since the maximum demand recorded has exceeded 100 HP the consumer was billed in HT Category I.

f) The consumer has expressed doubts over the performance of the meter and has paid a challenge test fee for testing of the meter vide CC906202091097 dated 13.07.2020. The meter is tested by the ADE / HT meters / Saroor Nagar Circle on 13.07.2020. The meter was tested and found performing satisfactorily. The history of the last 12 maximum demands is stored in the meter. The same was downloaded and the following are the last 12 MDs recorded in the meter as per the MRI data downloaded.

Date	MD Recorded in KVA	Multiplication factor	MD recorded in HP (KVA*2/0.75)
13.07.2020	35.1783	2	93.81
28.06.2020	35.9382	2	95.84
15.06.2020	39.339	2	104.90
26.05.2020	35.3293	2	94.21
08.05.2020	36.5689	2	97.52
07.05.2020	34.9829	2	93.29

20.04.2020	6.6152	2	17.64
06.03.2020	37.5212	2	100.06
01.03.2020	35.276	2	94.07
09.02.2020	33.661	2	89.76
29.01.2020	34.0763	2	90.87
19.01.2020	33.7716	2	90.06

g) The dates mentioned in the table are the occurrences of the maximum demand recorded / detected by the energy meter and as per the stored data downloaded on 25.08.2020 from the meter. The consumer has exceeded the maximum demand in the month of March after billing was taken on 06.03.2020. In the month of April provisional bill was issued as per the Hon'ble Commission's guidelines following the lockdown norms. In the month of May the readings were taken and bill was issued for two billing months as per the readings. Since the consumer has exceeded the MD in the month of March the billing tariff is changed to the appropriate category for both the months. As per the approval given by CGM / Revenue / TSSPDCL the billing category was changed in the month of May 2020 and in the month of June the consumer was billed under LT Category III A 1. The MD recorded was 73.14 KVA (97.52HP) which is below the contracted load of 99HP.

h) In the month of July' 2020 the recorded MD was 104.91 HP which is exceeding the threshold of 100 HP and accordingly the bill was given under HT category I. The consumer was given a bill under HT Category I since there is a violation of the contractual agreement between TSSPDCL and the consumer. The consumer has taken permission for utilisation of a connected / contracted load of 99HP. The consumer is well aware of the fact that any excess loads utilised will attract penalties.

i) The consumer has in fact exceeded the contracted load previously and a development charges case was booked for a total of 108 HP. The consumer has acknowledged the load by paying the case amount. The additional load was updated in the month of December' 2019. The consumer has represented to reduce the load to 99HP. A recommendation was made accordingly and the load was reduced by DE / OP / Saroor Nagar designated officer for the appeal in the cases of development charges.

j) In the development charges case, the consumer is given one time option to remove the excess load and if in any future instance the consumer exceeds the connected / contracted load the load cannot be reviewed and the consumer has to pay the necessary charges and regularise the unauthorised load. The consumer of the service No. 5625 00810 is well aware of this aspect. In the month of May' 2020 the consumer made a request to review the load after the category is changed from LT III A 1 to HT Category I on account of excess load utilised, citing technical reasons like failure of capacitor and malfunction of the motors, the report was sent to CGM / Revenue / TSSPDCL for removal of the HT flag. The report was sent to CGM / Revenue / TSSPDCL has given permission to remove the flag and in the month of June the bill was given in LT Category III A 1. The consumer is made well aware of the fact that further requests for review of load will not be considered. Again, in the month of July 2020 the consumer has exceeded the contracted load which attracted penalties as well as category change that is from LT Category II to HT Category I.

k) The consumer again approached the office of the ADE / OP / Hayath Nagar for review of the load citing unknown reasons which was rejected stating that the consumer has exhausted all the options. The clause No.12.3.3.3 states that " cases where the total connected load is above 75 HP / 56 KW or cases where.... will be billed at the HT category I tariff rates from the consumption month in which the unauthorised load is detected...."

l) The consumer SC No. 5625 00810 has exceeded the contracted load of 74 HP on recorded MD of 108 HP on 06.04.2011 exceeded contracted load of 99 HP on 06.03.2020 with recorded MD of 100.05 HO and again on 15.06.2020 recorded MD of 104.9 HP the consumer was found to exceed the contracted load in all the three cases and the load was detected by the energy meter installed in the consumer premises.

m) There is no violation of regulations or tariff order passed by the Hon'ble Commission. It is the duty of the consumer to maintain the load and he is well informed that if the MD exceeds 100 HP the bill will be served in HT Category. In the month of May' 2020 the consumer has said that the MD exceeded because of internal fault but the reason for excess MD at the time of billing in July 2020 is not known. The consumer was well informed to maintain the load within the contracted load.

11. The appellant filed the written arguments and stated thus

a) The respondent No. 2 admitted before CGRF that “..... Since the consumer contracted load is 99 HP and the MD has exceeded 100 HP the consumer was billed in HT cat I accordingly to the tariff applicable. Consequently, the billing tariff is changed from LT cat III A 1 to HT cat I since the consumer has exceeded the contracted load of 99 HP and above 100 HP. In the month of July, 2020 the RMD recorded 78.68 KVA that is 104.91 HP crossing the LT loads due to which the HT Flag was automatically flagged, as per the billing software developed by the corporate office EBS team as per GTCS clause No. 12.3.3.3 and as per tariff order for FY 2018-19 Part A, LT tariffs. The bills were issued in HT Category rates from July, 2020 onwards.”

b) It is pertinent to note that the clause 12.3.3.3 of GTCS applicable to the LT category III (B) only when the unauthorized connected load is found more than 100 HP or 150 HP. The clause 12.3.3.3 is extracted hereunder for ready reference of this Hon'ble Authority duly highlighting the words “Connected Load” and “Unauthorised additional load is detected till such additional load is removed.”

“12.3.3.3 Cases where the total connected load is above 75 HP / 56 KW or cases where the total connected load is above 150 HP under LT Category III (B). These services will be billed at the HT Category I tariff rates from the consumption month in which the unauthorised load is detected till such additional load is removed and got inspected by the designated officer of the Company.”

c) In the present appeal the appellant is a consumer of category LT III (A) 1 and connected load is 94.91 HP which was confirmed by the respondent No. 2 vide letter No. 189 dated 22.05.2020 and also admitted before respondent No. 5 in the counter. Consequently, no unauthorised additional connected load is detected.

d) As per Clause 7.3 of Part A LT Tariff of tariff order for FY 2018-19 contracted load upto 75 KW / 100 HP will be treated as LT, for LT III A 1 Industry Category. There is no such provision in Part A that when the RMD is crossed 100 HP the HT flag is to be flagged automatically and HT tariff rates to be charged in LT bill. The respondent No. 2 is not authorized to change the category based on the RMD on a monthly basis unilaterally in violation of procedure laid down in clause 3.4.1 of GTCS. Hence, the claim of HT tariff rates in LT bill is illegal. It is pertinent to note that this Hon'ble Authority in its award dated 11.11.2014 of Appeal No. 59 of 2014 in Para No. 11 held that the respondent officers have to follow the due process of reclassification as provided for in clause 3.4.1 of GTCS.”

e) The Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and Andhra Pradesh in its order dated 29.02.2016 passed in W. P. No. 6493 of 2016 held that "..... in order to determine this question, a prior notice is very much necessary." In the above mentioned order the Hon'ble Court also held that "..... As this procedure is not followed by the respondents, the impugned bills are set-aside." The respondent No. 2 cannot issue the consolidated bill for April and May, 2020 hence, the bill has to be revised and issue two separate bills for April and May, 2020. The respondent No. 2 claimed fixed charges at the rate of Rs. 1,560/- per KVA on 0.79 KVA in April and May, 2020 bill, which is illegal.

f) During August, 2020 the RMD is 71.14 KVA equivalent to 94.85 HP which is well within the threshold limit of 100 HP as prescribed in tariff order even though the respondent No. 2 claimed HT tariff rates in LT bill which is illegal. Hence, the appellant pray to this Hon'ble Authority to allow the appeal as prayed for.

12. The respondents further through the respondent No. 3 submitted their written submissions on 03.11.2020 stating as follows:-

a) The development charges case was booked against the service No. 5625 00810 in the month of June' 2011 for an additional load of 34 HP to the existing load of 74 HP making a total load of 108 HP. The consumer has paid the development charges and security deposit amounts vide PR No.28032 dt.03.02.2012, later the load was updated to 99 HP in EBS.

b) In the month of November' 2019 as per the instructions issued by CGM (Rev) / TSSPDCL, the difference load of 9HP in EBS was updated duly verifying the payments as the consumer paid for a total 34 HP in 2012. FAO was issued in December' 2019 and as per FAO orders, the load was reduced duly transferring the excess paid DC amounts to CC charges vide journal entry No. 102 of December' 2019.

c) In the month of May 2020 the RMD recorded is 75.04 KVA that is 100.05 HP, as the load crossed 100 HP, HT flag was automatically marked in EBS and billed in HT category. The ADE / OP / Hayathnagar has requested for removal of HT flag in EBS and a same was addressed to SE / OP / SRNR requested to arrange for removal of HT flag in EBS. The HT flag was removed in the EBS in the month of May 2020 and June 2020 and bill was issued for 99 HP load in LT Category III A 1.

d) In the month of July 2020 the RMD recorded was 78.68 KVA that is 104.91 HP crossing the LT loads due to which HT flag was automatically placed as per the as

per clause No. 12.3.3 of GTCS as also retail supply tariffs for FY 2018-19. The bills were raised in HT category rates from July 2020 onwards. Further it is stated that the bills were issued for the months of April 2020 and May 2020 during the lockdown period as per Hon'ble Commission's guidelines.

13. The appellant further submitted a memo dated 07.11.2020 stating as follows:-

a) The Hon'ble Authority during personal hearing held on 04.11.2020 directed the appellant to file the compliance of interim order dated 19.10.2020, the details of RMD of preceding twelve billing months and tariff provision. The appellant has submitted the cheque of Rs. 70,000/- (Rupees Seventy thousand only) before the respondent No. 2 vide letter No. SSRIF / F. A. No 17 of 2020 / dated 5.11.2020 towards 50% deposit of disputed amount.

b) Further, the appellant has filed the letter No. SSRIF / F. A. No 17 of 2020 / dated 05.11.2020 in respect of details of RMD pertaining to the period from September, 2019 to October, 2020 billing months and tariff provision. Once again it is pertinent to note that the respondent No. 2 has issued the bill No. 574 dated 07.05.2020 pertaining to the period from 06.03.2020 to 07.05.2020, 75.04 KVA equal to 100.05 HP whereas the actual maximum demand consumption was 73.49 KVA equal to 97.99 HP.

c) In view of the above said mistake / discrepancy the claim of fixed charges on 75.04 KVA or 100.05 HP instead of 73.49 KVA or 97.99 HP during the period from 06.03.2020 to 07.05.2020 vide bill No. 574 dated 07.05.2020 with HT tariff rate by the respondent No. 2 is not correct and illegal. Hence, liable to be set aside. It is respectfully submitted that the directions of this Hon'ble Authority are complied with.

14. This authority had made an attempt to resolve the issue and noticing the stand taken by either party, heard both sides. In the face of the said contentions by both sides the following issues that fell for consideration and the same are framed as under.

1. Whether, the appellant is entitled to relief as claimed by it.
2. What are the implications of interpretation clause 12.3.3 and clause 3.4.1
3. If not for what relief the appellant is entitled to

Issue Nos.1 & 2

15. Since the issues 1 and 2 are interlinked the same are dealt with simultaneously.

16. The appellant has pleaded to set aside the common award passed by the CGRF on 30.09.2020 in CG No.27 and 38 / 2020-21 / Saroor Nagar Circle under clause 3.35 of Regulation 3 of 2015 and consequently set aside an excess claim of Rs 1,41,060/- pertaining to April, May, July and August 2020 billing months claimed under HT tariff rates. Also the consumer sought directions for issue of bills for the months of April and May separately and any such order or orders as deemed fit by the authority.

17. On the other hand the respondents submitted that consequent to recorded maximum demand of 100.05 HP in the month of May against the contracted demand of 99 HP and exceeding 100 HP qualifies for billing in HT I Category as per the clause 12.3.3.3 of GTCS. There after the billing tariff was changed from LT Category III to HT category I. Based on the consumer representation to review the connected load an inspection was conducted and found the connected load to be 94.91 HP. Subsequently a proposal was submitted to CGM / Revenue / TSSPDCL recommending for removal of HT slab in billing on 22.05.2020. The proposal was approved by the CGM / Revenue / TSSPDCL and LT category III was regained in the billing data in the month of June 2020. The raise in RMD was attributed to the machinery and capacitors problem used by the appellant and hence the respondents advised to take steps so that the machinery and capacitors are properly functioning in order to avoid the high consumption in demand. The issue surfaced again in the month of July and the RMD was recorded as 104.91 HP. As the RMD has exceeded 100 HP the billing was again converted to HT Category I.

18. Before adverting to the rival claims and counter statements it may be necessary to notice the provisions of the terms and conditions of supply as also observations in the tariff order passed by the Hon'ble ERC. Clause 12.3.3. of the general terms and conditions of supply has already been extracted by the rival parties. Reliance is placed on clause 3.4.1 also. It may also be appropriate to notice the observations of the Hon'ble TSERC in the tariff order for the year 2018 – 2019.

Clause 3.4.1 of general terms and conditions of supply

“3.4 Reclassification of consumer category:

3.4.1 Where a consumer has been classified under a particular category and is billed accordingly and it is subsequently found that the classification is not correct (subject to the condition that the consumer does not alter the category/purpose of usage of the premises without prior intimation to the Designated Officer of the Company), The consumer will be informed through a notice, of the proposed reclassification, duly giving him an opportunity to file any objection within a period of 15 days. The company after due consideration of the consumer's reply if any, may alter the classification and suitably revise the bills if necessary even with retrospective effect, the assessment shall be made for the entire period during which such reclassification is needed, however, the period during which such reclassification is needed cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.

3.4.2 If a consumer makes a written request for reclassification of his service connection (change of category) the company shall comply with the request within the time frame specified in the APERC (Licensee' standards of performance) regulation, 2004 (no. 7 of 2004)"

*Observations of the Commission in the tariff order for the year 2018 – 2019.
Clause 7.3 at page 116 and 7.16 to 7.18 at pages 119 and 120.*

"7.3. These tariffs are applicable for supply of Electricity to L.T consumers with a contracted load of 56 kW/ 75 HP and below. (However, contracted load up to 75 kW/ 100 HP will be treated as LT, for LT-III Industrial category).

7.16. The tariff is applicable for supply of electricity to Low Tension Industrial consumer with a Contracted load of 75 kW/ 100 HP and below. Industrial purpose shall mean, supply for purpose of manufacturing, processing and/or preserving goods for sale, but shall not include shops, business houses, offices, public buildings, hospitals, hotels, hostels, choultries, restaurants, clubs, theaters, cinemas, bus stations, railway stations and other similar premises, notwithstanding any manufacturing, processing or preserving goods for sale.

7.17. This tariff shall also apply to: i. Water Works & Sewerage Pumping Stations operated by the Government Departments or Co-operative Societies and pump sets of Railways, pumping of water by industries as subsidiary function and sewerage pumping stations operated by local bodies and Drinking Water filtering plants using only Reverse Osmosis (R.O.) process. ii.

Workshops (involving activity of manufacturing), bus depots of TSRTC, servicing and repairing centres of TSRTC, flour mills, oil mills, saw mills, coffee grinders and wet grinders, Ice candy units with or without sale outlets, Goshalas, grass cutting and fodder cutting units. iii. The Information Technology (IT) units identified and approved by the Consultative Committee on IT Industry (CCITI) constituted by the Government of Telangana State. iv. Newspaper printing unit. v. Poultry Farming Units. vi. Pisciculture and Prawn culture units. vii. Mushroom production units, Rabbit Farms, Sheep Farms and Goat Farms other than those coming under LT-IV with load exceeding 10 HP. viii. Sugar cane crushing.

7.18. The tariff rates for LT-III: Industry are shown below”

7.18 The Tariff rates for LT-III : Industry

Category	Fixed Charge (Rs. / month)		Energy Charge
	Unit	Rate	Rs./ kWh Or (Rs. / kVAh)
LT III: Industry			
Industries	kW	60	6.70
Pisciculture/Prawn Culture	kW	21	5.20
Sugarcane crushing	kW	21	5.20
Poultry farms	kW	50	6.00
Mushroom, Rabbit, Sheep and Goat farm	kW	60	6.30
1 hp = 0.75 kW			
For the purpose of billing, 1 kVA shall be treated as being equal to 1 kW.			

“Where the metering is on HT side, 1% of total energy consumed shall be deducted from recorded energy for the purpose of billing.

- No manufacturing/ production certification shall be required, if the poultry farm has no in-house manufacturing activity such as feed mills. Poultry farms are exempted from general condition of 3 HP minimum load for releasing the service.
- No manufacturing/ production certification shall be required for drinking water filtering plants using Reverse Osmosis (R.O.) process.”

Clauses 7.51

“7.51. The connected load shall not exceed the contracted load specified in the agreement as per sanction accorded for the service. The fixed charges shall be computed based on the contracted Load or actual Recorded Demand whichever is higher. For the purpose of billing, 1 kVA shall be treated as being equal to 1 kW.”

Clause 7.53 (iv)

“iv. Where the recorded demand of any service connection under this category exceeds the 75 kVA (1 kVA = 1 kW), such excess demand shall be billed at the demand charge prescribed under HT-I (11 kV supply).”

19. Now in the context of the above provisions and observations the grievance is required to be decided. The main contention of the appellant is that the respondents have raised a consolidated bill for the CC charges under category LT – III A (1) for the months of April and May 2020 instead of raising the separate bill for April and May 2020 billing months. The respondents charged the billing tariff rates at HT-I category instead of LT – III A (1) Category in violation of clause 3.4.1 of GTCS.

20. The consolidated bills were raised for the months of April and May 2020 for an amount of Rs. 1,58,359/-. Opposing the levy of consolidated bill, the appellant paid the balance amount by deducting Rs. 63,844/-. While opposing the bill for the month of July 2020 raised for an amount of Rs. 2,32,463/- under HT - I category (previously LT-III A (1) category), appellant made payment of the balance amount by deducting Rs. 40,565/-. Similarly, for the month of August 2020, the appellant paid the bill for an amount of Rs. 2,32,853/- by deducting an amount of Rs 36,651/-.

21. The CGRF disposed the CG Nos. 27 & 38 / 2020-21 on 30.09.2020 by rejecting the submissions of the appellant while confirming the bills issued for the months of April, May, July and August 2020 under HT Category I tariff as correct. The contention of the appellant that the respondents were over charging LT-I category based on the clause 12.3.3 of GTCS is not correct, which clause is extracted elsewhere in this order.

22. From the pleadings and arguments it is noticed that the above said clause is applicable to the LT consumers only where the total connected load is above 75 HP / 56 KW or 150 HP under LT Category III (B). It has been contended that this clause is applicable only when the connected load is detected in excess of the capacity

mentioned above upon inspection or survey and otherwise, whereas in this particular case the recorded maximum demand (RMD) has been noticed in excess of the capacity mentioned above while taking meter readings and therefore HT tariffs were imposed contrary to LT billing. The respondents are not entitled to do so unilaterally in violation of clause 3.4.1 of the GTCS.

22. From the record it is noticed that on physical verification of the connected load the respondents themselves have admitted that the load is below the threshold level under LT III A category as confirmed by them vide Lr. No.189 dated 22.05.2020, that the connected load is 94.91 HP which is less than the threshold limit of 100 HP as observed in clause No. 7.3 at page No. 116 and clause 7.16 at page No. 119 of the tariff order dated 27.03.2018 of the Hon'ble TSERC for the financial year 2018-19 in respect of LT Supply. The change in category of a consumer on the basis of the RMD recorded in a month is neither in accordance with the tariff orders nor the general terms and conditions of supply.

23. The concerns of the consumer on the performance of the meter was considered by ADE / HT Meters / Saroor Nagar on the request of consumer. The meter was tested on 13.07.2020 and its performance was found satisfactory. The MRI data has been placed before this authority showing the history of past 12 months of maximum demand showed in the meter which is reproduced here under:-

Date	MD Recorded in KVA	Multiplication factor	MD recorded in HP (KVA*2/0.75)
13.07.2020	35.1783	2	93.81
28.06.2020	35.9382	2	95.84
15.06.2020	39.339	2	104.90
26.05.2020	35.3293	2	94.21
08.05.2020	36.5689	2	97.52
07.05.2020	34.9829	2	93.29
20.04.2020	6.6152	2	17.64
06.03.2020	37.5212	2	100.06
01.03.2020	35.276	2	94.07

09.02.2020	33.661	2	89.76
29.01.2020	34.0763	2	90.87
19.01.2020	33.7716	2	90.06

It is noticed in the past 7 months there were only two instances exceeding 100 HP contrary to the provisions of the tariff order. Inasmuch as the consumer should have been put on notice for reclassification of the category as is required under the terms and conditions of supply. Without following the same pegging the bill in higher category is unwarranted and uncalled for.

24. One other submission that has been made by the officers of the licensee is that the billing is done in higher category once it is noticed that the RMD has been exceeded over and above the limit and billing software has been developed as such. This way of changing of category is uncalled for, as and when the RMD is recorded over and above the limit prescribed in the tariff order / GTCS immediately the provisions of the GTCS should be invoked and notice is issued. Contrary action in this case calls for interference in the matter.

25 That there may be violation of the agreement concluded with the TSSPDCL for availing supply by the appellant for connected / contracted load of 74 HP (initial) the penal charges may be natural consequence. This fact may be known to the appellant. The previous instance was a case booked against the subject service connection over excess connected load of 34 HP and total load of 108 HP on 06.04.2011 against the contracted load of 74 HP which was acknowledged by the appellant by paying the demand for excess load. Here after the appellant represented to reduce the load utilizing the one time option to remove the excess load. The request of the appellant was considered with a condition that in future, if the appellant exceeds the connected / contracted load, he has to pay the necessary charges and he has to regularise the unauthorized load. A Final assessment was also done in Dec-19 revising the total load of 108 HP to 99 HP and revised load was updated and regularised in the billing data in the month of December'2019. All the above information is borne on record as contended by the parties.

26 Be that as it may, now the case arises under a new circumstance due to prevailing situation during the relevant billing months. The respondent licensee resorted to HT category tariff billing from July 2020 onwards for exceeding the threshold limit of 100 HP in May and July 2020, invoking the GTCS and more particularly clause 12.3.3 and tariff order for FY 2018-19, the relevant portion being Part A LT tariffs. Further following the directions of the Hon'ble TSERC guidelines during the lockdown period the consolidated bills were issued for the months of April and May 2020. While doing so, the officers of the licensee have failed to give effect to the other provisions of the GTCS, in effecting change of category of the consumer.

27. The appellant has rightly contended that there is a mistake in arriving at the actual maximum demand in the bill dated 07.05.2020 wherein the RMD was shown as 75.04 KVA (100.05 HP) whereas it was claimed that the actual demand was 73.49 KVA (97.99 HP) as per the consumption, billing, collection and arrears particulars of EBS sheet for the month of April' 2019. In view of the above, converting connection to the HT category tariff rate is not correct. In view of RMD being below 99 HP during the period Sep 2019 to Oct 2020 except July 2020 the claim of HT category tariff rates during the said period is not correct and illegal. That the RMD cannot be treated as connected load in this particular case as the officers of the licensee themselves have certified that there is no connect load in excess of 100 HP. Therefore, the recorded demand for that particular month cannot be applied for the purpose of billing only contrary to the physically connected load of the machinery in the premises of the consumer.

28. The consumer sought to rely on the decision of the Hon'ble High Court in W. P. No 6493 of 2016. This judgment of the Hon'ble High Court substantially applies in the case of the petitioner. As also clause 3.4.1 of the GTCS applies to this case which reasoning is reflected in the said judgment. It is pertinent to take notice of the fact that Hon'ble High Court in W P. Nos. 2185 of 2008 and 14980 of 2007 gave similar finding with regard to change of category. This authority is bound to follow the law as rendered as the same is the law laid down by the court of record and superior forum.

29. The CGRF sought to give a finding that the clause on reclassification would not apply and the same cannot be invoked. With due respect to the CGRF that understanding is erroneous in the facts and circumstances of the case.

30. Thus the issues Nos. 1 and 2 are answered in favour of the consumer and against the licensee. In view of the finding the issue No 3 does arise.

31. Thus, viewed from any angle the representation of the consumer succeeds and accordingly the order of CGRF is set aside. The license shall take recourse to the GTCS in undertaking change of category and take a decision following due process of law keeping in mind the material available on record and observation made herein above.

TYPED BY Office Executive cum computer operator, corrected, signed and pronounced by me on this the 15th day of January, 2021.

Sd/-

Vidyut Ombudsman (FAC)

To,

1. M/s. Sri Sai Ram Ice Factory, represented by Sri. D. Deepak Kumar Gupta,
Plot No. 27 (P), Pasumamula, Hayatnagar. RR Dist - 501 503. Cell: 9246537422,
7036205211.
2. The AE/OP/Pedda Amberpet/TSSPDCL/RR Dist.
3. The ADE/OP/Hayath Nagar/TSSPDCL/ RR Dist.
4. The AAO/ERO/Hayath Nagar/TSSPDCL/RR Dist.
5. The DE/OP/Saroor Nagar/TSSPDCL/RR Dist.
6. The SE/OP/Saroor Nagar/TSSPDCL/RR Dist.

Copy to :

7. The Chairperson, CGRF-GHA, TSSPDCL, GTS Colony, Vengal Rao Nagar, Hyd.