



**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**

Thursday the Twenty Fourth Day of May 2018

Appeal No. 37 of 2017

Preferred against Order Dt.30.11.2016 of CGRF  
in CG.No.501/2016-17/ Hyderabad Central Circle

Between

M/s. IVRCL Limited, Represented by its Authorised Signatory  
Mr. Valligitti Suresh, Assistant Manager (Electrical),  
Regd.Office: MIHIR, 8-2-350/5/a/24/1b, Panchavati Colony, Road No.2,  
Banjara Hills, Hyderabad - 500 034. Cell:9533130912.

... Appellant

**AND**

1. The ADE/OP/Hyderguda/TSSPDCL/Hyderabad.
2. The DE/OP/Saifabad/TSSPDCL/Hyderabad.
3. The SAO/OP/Hyderabad Central Circle/TSSPDCL/Hyderabad.
4. The SE/OP/Hyderabad Central Circle/TSSPDCL/Hyderabad.
5. The SE/Commercial/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 06.11.2017, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 15.05.2018 at Hyderabad in the presence of Sri. Srimannarayana - on behalf of the Appellant Company and Sri. D. Rathnaiah - ADE/OP/Hyderguda, Sri. M.V.Gnaneshwar - DE/OP/Saifabad, Sri. Ch. Chandrudu - SAO/OP/Hyd. Central Circle for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

**AWARD**

This is an Appeal filed by M/s. IVRCL Ltd. seeking for conversion of billing category from temporary supply to HT-I(Industrial) Category for their temporary HT Service Connection HDC-980 with the CMD of 150 KVA for availing power supply for construction of 120 flats for the MLAs in a phased manner at Hyderguda.

2. The Appellant contended that they have approached the CGRF vide CG No. 501/2016-17 Hyderabad Central Circle for the above relief and that the said CGRF rejected their complaint vide their orders dt. 30.11.2016. Hence, aggrieved by the same the present appeal is filed.

3. The Appellant averred that they are in business of construction of buildings pertaining to residential, commercial and industrial structures and as such are executing various infrastructure projects including construction of buildings and thus construction is one of its main activity.

4. The Appellant stated that they have entered with an agreement with the Licensee on 14.03.2013 for electrical supply under HT Category- II (Temporary) and that they have been under wrong advice availed supply under HT Category II (Temporary), though the said service connection ought to have been categorised in HT Category-I (Industrial).

5. The Appellant further stated that while the matter stood thus, the 2nd Respondent issued letter on 04-08-2016 stating that as per the Tariff Order for the FY 2016-17, the temporary supply under HT category-VII can be extended only for a period of 12 months and that after 12 months, the consumer is at liberty to seek for further extension, provided the consumer pays twice the tariff or the consumer avails the regular supply and that the said 12 months has expired on 14-03-2014 and therefore the Appellant Company was directed to give its consent for payment of twice of the regular tariff, if the Appellant Company is willing to avail temporary supply. It is further stated that, if Appellant is agreeable to avail regular supply by submitting required approvals etc., then it was requested to file its content to that effect within 15 days of the receipt of the said letter/notice dated 04-08-2016 as per Clause No. 3.4.1 of General Terms and Conditions of Supply w.e.f. 01-07-2016 and relied on Clause 7.12 -LT-VIII, Clause 7.19 HT VII, and Clause 9.138 (a) of Tariff Orders for the FY 2016-17, Chapter VII of Tariff Design, retail supply of tariff etc. in support of its contentions.

6. The Appellant also contended that on 27-07-2017 received letter dated 24-07-2017 of the 2nd respondent demanding an amount of Rs 17,60,620/- as the tariff applicable for HT-category-VII(Temporary) after expiry of 12 months i.e, double the tariff and also that if the said amount is not paid within 5 days, the same may be raised in the current bill to be paid in the month of august, 2017. Aggrieved by the

action of the respondent in not categorizing the Appellant's electrical connection bearing HDC-980 in HT category-I (industrial), the Appellant company filed Writ Petition No.26690 of 2017 and the Hon'ble High Court disposed the said WP No. 26690 of 2017 holding as follows:

a) That whether the construction activity comes under a particular category or not is a decision that falls for consideration before the adjudicating authority and that since there is no dispute with regard to the activity of the petitioner, the following with regard to the applicable tariff to the activity of the petitioner, should have been recorded and that no such finding was recorded.

b) That since the point involved is only with regard to application category for application of tariff, and that the said issue can be decided by the Hon'ble Ombudsman constituted under Section 42(6) of Electricity Act, 2003.

7. The Appellant contended that they are entitled for the relief sought by them i.e. for conversion of billing category from temporary supply to HT-I (Industrial) for their temporary HT service connection HDC - 980 with the CMD of 150 KV for availing power supply for construction of 120 flats for the MLAs at Hyderguda.

8. The Respondents through the SE/OP/Hyderabad Central Circle submitted their written statement vide Lr.No. 2575 Dt.15.11.2017 stating that Clause 3.4.1 of the GTCS a notice was issued to the Appellant as they are availing temporary supply for more than one year period and continuing the usage of temporary supply vide Lr.No.1528 dt.04.08.2016. The Tariff Order FY 2016-17 mandates that if the consumer seeks to avail supply beyond 12 months of temporary supply shall has to pay twice a regular Tariff or to avail regular supply.

9. It was stated that the Appellant's Service Connection is used for the purpose of construction and has to be billed under HT Category VII (Temporary) and not HT Category - I (Industry). The HT Category-I industry is applicable to those consumers who are using electricity for industrial purpose.

*Industrial purpose shall mean manufacturing, processing and/or preserving goods for sale, but shall not include shops, Business Houses, Offices, Public Buildings, Hospitals, Hotels, Hostels, Choultries, Restaurants, Clubs,*

*Theatres, Cinemas, Railway Stations printing presses, Photo Studios, Research and Development Institutions, Bus Stations and other similar premises (The enumeration above is illustrative but not exhaustive) notwithstanding any manufacturing, processing or preserving goods for sale.*

Hence, the said service connection does not falls under manufacturing, processing or preserving goods for sale. The HT service shall be billed under temporary supply category as per the Tariff Order.

10. Hence in the above mentioned circumstances the issues that arise are:

**1. Whether the business of construction of buildings comes under industrial category and if so whether the Appellants are entitled for conversion of billing category from HT (temporary supply) to HT-I (Industrial) category for their HT Service Connection HDC -980 with CMD of 150 KVA availing power supply for construction of 120 flats?**

**2. to what relief?**

**Issues 1 & 2**

11. The Appellant in support of his contentions that their construction activity comes under industrial category relied on the dictionary meanings in Section 2(k), Section 2(m) and Section 2(i) of the factories act apart from Black's Law Dictionary of manufactures, processes and industry along with Webster's dictionary for manufacture, process and industry and also contended that the CGRF has erred in holding that the Appellant company has not produced any document including the certificate of Government of Telangana recognizing the activity of the Appellant Company stating that the construction of flats fall under the expression industry and ought to have considered whether the particular activity comes within the definition of HT Category - I and not sought for any certificate from the Government.

12. The Appellant further claimed that the definition of Industrial Category consumers in the Tariff Order mandates any such activity such as

- i. manufacturing
- ii. processing
- iii. Preserving
- iv. processing and preserving

and hence claimed that the same entitles them to billed under industrial category. They also argued that their company utilizes raw materials such as cement, sand, bricks, steel, wood and paints etc. so as to produce or convert them into house, flats, villas and other commercial buildings and that in order to convert the raw material into a building several processes are involved and after the raw material goes through the several processes they become or convert into a building etc. and as such their business not only comes within the definition of process but also manufacturing and hence come under industrial category.

13. The same is denied by the Respondents herein who contended that industrial purpose shall mean manufacturing, processing and/or preserving goods for sale, but shall not include shops, Business Houses, Offices, Public Buildings, Hospitals, Hotels, Hostels, Choultries, Restaurants, Clubs, Theatres, Cinemas, Railway Stations printing presses, Photo Studios, Research and Development Institutions, Bus Stations and other similar premises (The enumeration above is illustrative but not exhaustive) notwithstanding any manufacturing, processing or preserving goods for sale. Hence, the said service connection does not falls under manufacturing, processing or preserving goods for sale.

14. The said averments of both sides go to show that the Appellant is contending that since they are converting the raw material into a building and since several processes are involved and since the raw material goes through the said several processes resulting into buildings their business comes under the category of industry. And the same is denied by the Respondents but a scrutiny of the said averments of the Appellant go to show that the Appellant is pointing out to the material used in the construction such as cement, bricks, steel, wood and paints etc. as raw materials which are processed to convert the same into buildings but this authority is of the opinion that the said material used in construction of the buildings as claimed by the Appellant i.e. Cement, bricks, steel etc. cannot be treated as raw material as they are the finished goods having already gone through certain processes in separate industries before the Appellant assembling them for construction. Hence concludes that the Appellant wrongly interpreted their activity as an industrial activity and claimed that their construction activity can be defined as an industrial act.

15. The Appellant further relied on the Clauses of Tariff Orders for the FY 2016-17 Chapter VII Tariff Design, retail supply tariff and other process reproduced as under claiming that the billing category from temporary supply to HT-I (Industrial)

Category for their temporary HT connection HDC-980 with CMD of 150 KVA for availing power supply construction of 120 flats.

Clause 7.12:-LT-VIII Temporary Supply - Construction activities: The Licensees have proposed to bring construction activities under the purview of temporary service. The Commission has not accepted this proposal since temporary supply is to be given based on the request of the consumer only. The period of availing of temporary supply shall not exceed at a time 6 months and it can be extended up to one year (period of regular supply). If a consumer requests for extension beyond one year i.e. instead of opting for regular supply, after examining the reasons for seeking such extension, such extension can be considered by the Licensees for a further period of 1 year. The relevant details have been covered in the terms and conditions of Tariff schedule.

Clause 7.19:-HT-VII Temporary service: The licensees have proposed a separate tariff for consumers availing of temporary supply under HT voltage which was charged earlier at the rate of 1.5 times of the tariff for respective categories. The Commission accepted the proposal to introduce a separate tariff rate for the category.

HT-VII: Temporary Supply Clause 9.138 (a) Temporary supply can be given on the request of a consumer initially for a period up to 6 months as per the tariff applicable under the Temporary supply category. In case, the consumer requests for further extension, the same can be extended for another 6 months with the same tariff as applicable to Temporary supply category. After the expiry of 12 months, the consumer is at liberty to seek further extension provided, the consumer pays twice the regular tariff or the consumer has the choice of availing of regular supply.

16. The Appellant, on 27-07-2017 received letter dated 24-07-2017 of the 2nd Respondent demanding an amount of Rs 17,60,620/- as the tariff applicable for HT-category-VII(Temporary) after expiry of 12 months i.e, double the tariff and also that if the said amount is not paid within 5 days, the same may be raised in the current bill to be paid in the month of august, 2017. Aggrieved by the action of the respondent in not categorizing the Appellant's electrical connection bearing HDC-980 in HT category-I (industrial), the Appellant company filed writ petition No.26690 of 2017.

17. The Hon'ble high court disposed the WP no 26690 of 2017, holding as follows:

That whether the construction activity comes under a particular category or not is a decision that falls for consideration before the adjudicating authority and that since there is no dispute with regard to the activity of the petitioner, the following with regard to the applicable tariff to the activity of the petitioner, should have been recorded and that no such finding was recorded.

That since the point involved is only with regard to application category for application of tariff, and that the said issue can be decided by the Hon'ble Ombudsman constituted under Section 42(6) of Electricity Act, 2003.

18. The Appellant contended that the action of the 2nd Respondent in not categorising the service connection HDC-980 in HT Category - I (Industrial) is illegal, arbitrary and contrary to the Tariff Order, he relied on the Tariff Order billing category HT category - I (Industrial) which is reproduced here under:

*“This tariff is applicable for supply to all H.T. Industrial consumers, Industrial purpose shall mean manufacturing, processing and/or preserving goods for sale, but shall not include shops, Business Houses, Offices, Public Buildings, Hospitals, Hotels, Hostels, Choultries, Restaurants, Clubs, Theatres, Cinemas, Railway Stations and other similar premises notwithstanding any manufacturing processing or preservation goods for sale. The water works of Municipalities and Corporations and any other Government organisations come under this category. Information Technology units identified and approved by the Consultative Committee on IT industry (CCITI) constituted by Govt. of AP also fall under this category.”*

Quoting the above the Appellant stated that their activity falls under the definition referred above. The activity of the Appellant mainly construction of buildings comes within the four corners of “Manufacturing” and also “Processing”. The Appellant Company utilises raw- materials like Cement, Sand, Bricks, Steel, Wood and Paints etc., so as to produce or convert them into houses, Flats, Villas and Other Commercial Buildings. In order to convert raw materials into a building, several

processes are involved and after the said raw-materials goes through the said several processes, they become or convert into a building etc. Therefore, it not only within a definition of “Process” but also “Manufacturing”.

19. He argued that the CGRF has erred in holding that the Appellant Company has not produced any document including the certificate of Government of Telangana recognising the activity of the company viz. Construction of flats falls under the expression industry. That CGRF ought to have considered whether a particular activity comes within the definition of HT Category - I is the activity itself and not any certificate either from the Government or other bodies.

20. The Appellant stated that the activity of construction of buildings comes under the expression “Industry” on the sole ground that Appellant Company has not submitted any certificate from the Government forum has rejected their plea.

21. Hence pleaded the Hon’ble Ombudsman to set aside the CGRF order in CG No. 501/2016-17 and also proceedings of 2nd Respondent in Lr.No.SC/CP/CC/HYD/SAO/HT/SDC-980/D.No.1864 dt.09.09.2016 as ab initio void as it is in violation of principle of natural justice, arbitrary and illegal. Consequently direct the Respondents to categorise the electrical connection in HT Category - I.

22. The SE/OP/Hyd Central circle has submitted the following written submissions vide Lr.No. 2575 dt.15.11.2017:

Based on the Clause 3.4.1 of the GTCS a notice was issued to the Appellant as they are availing temporary supply for more than one year period and continuing the usage of temporary supply vide Lr.No.1528 dt.04.08.2016. The Tariff Order FY 2016-17 mandates that if the consumer seeks to avail supply beyond 12 months of temporary supply shall has to pay twice a regular Tariff or to avail regular supply.

23. It was stated that the Appellant’s service connection is used for the purpose of construction and has to be billed under HT Category VII (Temporary) and not HT Category - I (Industry). The HT Category-I industry is applicable to those consumers who are using electricity for industrial purpose.

*Industrial purpose shall mean manufacturing, processing and/or preserving goods for sale, but shall not include shops, Business Houses, Offices, Public Buildings, Hospitals, Hotels, Hostels, Choultries, Restaurants, Clubs, Theatres, Cinemas, Railway Stations printing presses, Photo Studios, Research*



*and Development Institutions, Bus Stations and other similar premises (The enumeration above is illustrative but not exhaustive) notwithstanding any manufacturing, processing or preserving goods for sale.*

Hence, the said service connection does not falls under manufacturing, processing or preserving goods for sale. The HT service shall be billed under temporary supply category as per the Tariff Order.

24. The facts that are admitted by both the parties are that M/s. IVRCL limited, Old Mla Quarters, Hyderguda, Gun Foundry, Hyderabad was released on 15.03.2013 with CMD of 300 KVA in the Category of Temporary supply for the purpose of construction of 120 flats for Hon'ble members of Assembly in phased manner.

25. The Hon'ble High Court in WP No.26690 of 2017, directed that there is no dispute with regard to the activity of the Petitioner the finding with regard to the applicable tariff to the activity of the petitioner should have been recorded but no such finding was recorded. Since the point involved is only with regard to applicable category for application of tariff, this Court feels that the said issue can be decided by the Ombudsman constituted under Section 42(6) of the Electricity Act, 2003.

26. Now the disputes stands that whether the Appellants service connection usage of supply i.e. for construction purpose, falls under the billing category of HT-I Category (Industrial) or HT-VII (Temporary). The yearly Tariff Orders of the TSERC defines the relevant billing Categories of the consumers.

27. At the time of release of Temporary supply of the Appellant service the Tariff Orders in vogue 2013-14 & 2014-15 mandates the following conditions for the consumers who seeks to avail temporary supply at High Tension.

Temporary supply at High Tension may be made available by the Licensee to a consumer, on his request subject to the conditions set out herein. Temporary supply shall not ordinarily be given for a period exceeding 6 (six) months. In case of construction projects, temporary supply can be extended for a period of 3 years. The electricity supplied to such consumer shall be charged for, at rates 50% in excess of the rates set out in the H.T. Tariffs applicable subject to, however, that the billing demand for temporary supply shall be the contracted demand or the recorded maximum demand registered during the month whichever is higher.

28. Subsequent to the above vide tariff order 2015-16 the conditions for the temporary supply was revised as following

**Clause (9) TEMPORARY SUPPLY AT HT.**

(i) Temporary supply can be given on the request of a consumer initially for a period up to 12 months as per the tariff applicable under the Temporary supply category. In case, the consumer requests for further extension, the same can be extended for another 12 months with the same tariff as applicable to Temporary supply category. After the expiry of 24 months, the consumer is at liberty to seek further extension provided, the consumer pays twice the regular tariff or the consumer has the choice of availing of regular supply.

Here, the condition for extending temporary supply was revised from 3 years at 50% excess rates to extension of supply upto 24 months, after expiry of 24 months, consumer pays twice the regular tariff or the consumer has the choice of availing of regular supply.

29. Again the conditions for the temporary supply was revised in the tariff order 2016-17 as following

**9.138 (a)** Temporary supply can be given on the request of a consumer initially for a period up to 6 months as per the tariff applicable under the Temporary supply category. In case, the consumer requests for further extension, the same can be extended for another 6 months with the same tariff as applicable to Temporary supply category. After the expiry of 12 months, the consumer is at liberty to seek further extension provided, the consumer pays twice the regular tariff or the consumer has the choice of availing of regular supply.

Here the conditions for extending Temporary supply were revised to further six months and beyond one year twice the regular tariff shall be charged.

30. The Appellant Service Connection since inception from 14-3-2013 was billed under HT temporary supply. Until the notice given by the respondent SE/OP/central circle, HYD, vide Lr no 1528 dt 4-8-2016, wherein based on the tariff order FY 2016-17 the appellant was requested to avail the option of continuing the temporary supply further with payment of twice the regular tariff or availing the

regular supply, the appellant undisputedly availed the supply under temporary supply category. The Appellant vide letter dt. 18-8-2016, opposed the said notice and requested for change of billing category from temporary to HT category I, stating that the construction is also an industry to which the Respondents vide Lr.No. 1864 dt. 09-09-2016 addressed to the Appellant held that as per the Tariff Orders the said service does not falls under Industrial category.

31. Hence, in the result in view of the fact that the materials used by the Appellant for construction of flats are all finished products which have already undergone different processes and that the Appellant had not undertaken the said processes for bringing out the said finished products for utilizing them for his construction purpose and in view of Clause 9 Temporary supply at HT and Clause 9.138(a) of Tariff Order, it is concluded that the Appellant wrongly interpreted their activity as industry in spite of the Tariff Orders clearly categorizing the construction projects well within the ambit of Temporary supply category, the claim of the Appellant to change the category for their Service Connection from HDC 980 into HT Industrial category is found to be not tenable and as such the Appellant has to pay the charges as per the temporary supply category prescribed under the Tariff Orders hence directs the Appellant to pay the said charges as per the temporary supply category prescribed by the Tariff Order, hence decides these **issues** against the Appellant.

TYPED BY Clerk Computer Operator, Corrected, Signed and Pronounced by me on this the 24th day of May, 2018.

Sd/-

**Vidyut Ombudsman**

1. M/s. IVRCL Limited, Represented by its Authorised Signatory  
Mr. Valligitti Suresh, Assistant Manager (Electrical),  
Regd.Office: MIHIR, 8-2-350/5/a/24/1b, Panchavati Colony, Road No.2,  
Banjara Hills, Hyderabad - 500 034. Cell:9533130912.
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5. The SE/OP/Hyderabad Central Circle/TSSPDCL/Hyderabad.

6. The SE/Commercial/TSSPDCL/Hyderabad.

**Copy to :**

7. The Chairperson, CGRF, Greater Hyderabad Area, GTS Colony,  
Vengal Rao Nagar, Erragadda, Hyderabad.

8. The Secretary, TSERC, 5<sup>th</sup> Floor Singareni Bhavan, Red Hills, Lakdikapul, Hyd.