



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

Tuesday the Twenty Second Day of January 2019

Appeal No. 46 of 2018

Preferred against Order dt:29.08.2018 of CGRF in
CG No. 202/2018-19 of Mahaboobnagar Circle

Between

M/s. Sree Venkata Sai Industries, represented by Sri. Challa Sreeramulu
H.No.21-72/L, Nacharam (V), Tandur Road,Kosgi Mandal,
Mahaboobnagar Dist - 509339. Cell: 9440157996..

... Appellant

AND

1. The ADE/OP/Kosgi/TSSPDCL/Mahaboobnagar Dist.
2. The SAO/OP/MBNR/TSSPDCL/Mahaboobnagar Dist.
3. The DE/OP/Narayanpet/TSSPDCL/Mahaboobnagar Dist.
4. The SE/OP/Mahaboobnagar Circle/TSSPDCL/Mahaboobnagar Dist.

... Respondents

The above appeal filed on 29.10.2018, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 18-12-2018 at Hyderabad in the presence of Sri. Challa Sreeramulu - Appellant and Sri. M. Mallesh - I/c. ADE/OP/Kosgi, Sri. B. Sammaiah - SAO/OP/Mahaboobnagar and Sri. D. Chandriah - DE/OP/Narayanpet 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 against the orders in CG No. 202/2018-19 issued by CGRF Mahaboobnagar Circle dt. 29.08.2018.

2. The Appellant contended that he has filed CG No. 202/2018-19 on the file of the CGRF/Mahaboobnagar seeking for withdrawal of the penal charges levied towards drawing excess load during the months of May and June,2018 amounting to Rs 92,673/- as there was no fault on their part and as the release of additional load was delayed by the Respondents and that in spite of their adducing sufficient oral and documentary

evidence the learned CGRF failed to appreciate his grievance and disposed his complaint. As such aggrieved by the same he filed the present Appeal.

3. The Appellant contended in his Appeal that he has originally applied for a load of 200 KVA for their HT Service Connection bearing SC No. MBN 736 and later got the same derated to 120 KVA but later in view of his additional requirement he has applied for additional load from the existing 120 KVA to 200 KVA for their HT Service Connection on 14.03.2018, but the Respondents have not taken any action in spite of numerous requests for the release of the additional load and three months later i.e. on 01.06.2018 they were informed to file an Application for load restoration and not for additional load. Later on 15.06.2018 he was informed that 200 KVA was restored, in the meanwhile he received a bill with penal charges of Rs 48,840/- for the month of May,2018 and Rs 43,833/- for the month of June,2018 totalling to Rs 92,673/-.

4. The Appellant contended that the penal charges have to be withdrawn by the Respondents as the delay of restoration was on the part of the Respondents and for their delay he cannot be asked to pay the penal charges. They have also requested for action against the ADE who delayed the process for three months causing loss and inconvenience to them.

5. The Respondent No.2 i.e. SAO/OP/Mahaboobnagar has submitted his written submissions vide Lr.No.622 dt.27.11.2018 on behalf of the Respondents contending that the HT Consumer namely M/s. Venkata Sai Industries, Nacharam Village, Kosgi Mandal with SC No. MBN736 has registered an application in consumer service center Kosgi, vide registration No. HT44319153 dt.14.03.2018 for the release of additional load of 80 KVA to the existing CMD of 120 KVA totalling to 200 KVA. Later again on 01.06.2018 he registered another application vide registration No. HT44319853 for restoration of load from 120 KVA to 200 KVA. Thus the Appellant wrongly registered the first application for additional CMD of 80 KVA instead of restoration of CMD which was originally derated at his request with his knowledge.

6. The CMD was restored from 120 KVA to 200 KVA with immediate effect or from the date of agreement entered with TSSPDCL whichever is later vide Lr.No. SE/OP/Mahaboobnagar/ADE/Commercial/F.No.MBN738/D.No.211/2018 subject to the following conditions on 06.06.2018:

1. That the consumer has to enter amendment agreement for a total CMD of 200 KVA and

2. To pay all the pending dues if any .

As such the consumer/Appellant has entered into an agreement on 07.06.2018 for a CMD of 200 KVA and the same was subsequently affected and issued CC bills as per restored CMD. As such prayed that the Appeal be set aside.

7. In response to the said reply of the Respondents the Appellant filed a rejoinder on 04.12.2018 alleging that the original sanctioned power load to M/s. Sri. Venkata Sai Industries is 200 KVA. Then after as per our utility reasons that he has requested to derate the load from 200 KVA to 120 KVA vide registration Application No. HT443198533 dt. 01.06.2018 (date mentioned is not correct). Though the load was derated we have not taken back our deposits (Made by us for sanctioning 200 KVA). All the deposits are there in the department only. Later in the rainy season as the harvest is done potentially he requested to restore their sanctioned load of 200 KVA and the restoration was done upto sanctioned load 200KVA on 14.06.2018.

In the first letter vide registration No. HT 44319153 dt. 14.03.2018, the error cropped by referring “Additional load” instead of “Load restoration” which the technical word “Additional load” was referred/suggested by the ADE/OP/Kosgi only. It is not his mistake.

That they have not utilised any excess load than that of our original sanctioned and restored load of 200 KVA only.

The second application registered vide letter No. HT44319853 dt.01.06.2018 for restoration of original sanctioned load 200 KVA.

But the restoration was made after his first application delaying of 75 days in spite of several requests made by me on phone. And to find out error there is no need to take 75 days time.

During this delayed period Respondents have levied Rs 92,673/- penalties unnecessary cause on a technical word “Additional load” which is injustice on us though he didn’t use excess load of 200 KVA.

He utilised sanctioned load only. But the departmental representative ADE/OP/Kosgi misguided him to impose unnecessary penalties. They never utilised excess load than sanctioned load 200 KVA any time.

Hence requested, keeping in view of the facts kindly refund and retain the wrongly imposed penalties of Rs 92,673/- in the interest of justice.

8. In view of the rejoinder of the Appellant the Respondents through SAO/OP/Mahaboobnagar vide D.No. 639 dt.13-12-2018 filed their second reply as follows:-

That the HT Consumer SC No. MBN 736 M/s. Venkata Sai Industries Nacharam (V), Kosgi (M) has registered in CSC for release of additional load of 80 KVA to the existing load of 120 KVA vide registered No. HT 44319133 dt.14.03.2018.

That the consumer has initially applied on 14.03.2018 for release of additional load at the consumer service center vide registration No. HT44319133 Dt.14.03.2018 for release of additional load for which necessary development charges and initial consumption deposit has to be paid by the consumer. But the proposal sent by the ADE/DE were returned by the SE/OP/Mahaboobnagar on 23.04.2018 for re-submission of the proposals under restoration of original load instead of additional load. Then the consumer registered another application on 01.06.2018 vide registration No. HT 44319853 dt.01.06.2018 for restoration of derated load.

After getting approval and entering HT agreement on non judicial stamp paper with the consumer by the DE/OP/Narayanpet, as per the GTCS of TSSPDCL.

The restoration of load was completed on 14.06.2018 by inspecting consumer premises and resetting of MD in the meter by ADE/OP/Kosgi.As per the terms and conditions of GTCS approved by the TSERC under clause No. 12.3.2(wrongly mentioned as 40.2) ie.”if at any time the maximum demand of a HT consumer exceeds his contracted demand or LT consumer exceeds teh contracted load without prior approval of the Board, the consumer shall be liable to compensate the Board for all damages occasioned to its equipment or machinery if any, by reason of this default, and shall also be liable to pay the charges payable by him on account of such default, and shall also be liable to pay the charges payable by him on account of such increase in demand or load and penalty, as prescribed by the board from time to time, without prejudice to this right the Board may also cause the supply to the consumer to be disconnected.” the consumer has to utilise supply within the contracted MD for avoiding penal charges, here in this case the consumer utilised excess than the sanctioned load and levy the penal charges for excess utilisation of CMD during the consumption months of May and June,2018.

Further submitted that the consumer in HT agreement as per GTCS approved by the TSERC under Appendix-III, Point No.3, agreed to utilise within the sanctioned CMD of 120 KVA. If any month exceeds than sanctioned CMD the penalty will be levied for excess utilised load.

On verification of records, the consumer has availed excess load during the consumption month May and June, 2018 i.e. prior to restoration of original load of 200 KVA and penalty levied for excess utilised load. Further also observed that the consumer is in regular practice of utilising excess load prior to his application i.e. in 5/2017 (184.03 KVA), 9/17 (199.87), 11/17 (134.31 KVA) and 12/17 (158.49KVA) and paid penal demand charges for exceeding load as per Tariff Order.

9. Heard both sides.

Issues

10. In the face of the said contentions by both sides, the following issues are framed:

1. Whether the ADE/OP/Mahaboobnagar delayed the process of restoration?
2. Whether the Respondents are liable to withdraw the penal charges imposed against the Appellant? and
3. To what relief?

Issue No.1

11. Admittedly the Appellant i.e. M/s. Sri Venkata Sai Industries located at H.No.21-72/L/Nacharam Village, Tandur Road, Kosgi Mandal, Mahaboobnagar District originally applied and sanctioned for 200 KVA vide HT SC No. MBN 736 and later opted for deration from 200 KVA to 120 KVA in the year 2016. And again they sought for a load of 200 KVA from 120 KVA by filing an application seeking for additional load of 80 KVA over and above 120 KVA. And as such the said application was not considered and the Appellant was asked to file a fresh application for restoration of CMD for a load of 200 KVA.

12. The contention of the Appellant is that he has originally made an application seeking for additional load on 14.03.2018 and the same was returned by SE/OP/Mahaboobnagar on 23.04.2018 with a direction for resubmission of the proposal for restoration of original load instead of seeking for additional load. And subsequently he filed another application for restoration of 200 KVA load on 01.06.2018 and the process of restoration of the additional load was completed on

14.06.2018. And hence contended that there is a delay of more than 75 days on the part of the ADE/OP/Mahaboobnagar in restoration of 200 KVA load sought by him and as a result he is being asked to pay the penal charges. The Respondents on the other hand contended that the delay as alleged by the Appellant is the result of their own action. Admittedly the Appellant was aware that M/s. Sri Venkata Sai Industries with HT SC No. MBN 736 was originally sanctioned the load of 200 KVA and they were also aware that they sought for deration of the load from 200 KVA to 120 KVA. As such when they are again seeking for 200 KVA load they ought to have sought for restoration and not additional load, but the Appellants have filed an application for an additional load and then again filed an application for restoration of the original load. And hence cannot claim that there was a delay on the part of the Respondents for about 75 days.

13. A perusal of the evidence adduced by both sides go to show that admittedly after seeking for deration of CMD load of 200 KVA to 120 KVA, the Appellant has filed an application seeking for additional load of 80 KVA totalling to 200 KVA on 14.03.2018 and the said application was returned on 23.04.2018 by SE/OP/Mahaboobnagar. Which goes to show that the ADE/DE/Mahaboobnagar instead of returning the Application immediately after verifying the same have processed the same and sent the said application to the SE/OP/Mahaboobnagar for sanction, as such the same was returned on 23.04.2018. In other words instead of returning the application of the Appellant within 2 or 3 days from the date of application at the consumer center dt.14.03.2018 it was returned with a delay of 40 days. As such the Appellant made renewed application for restoration on 01.06.2018. The Appellant also caused the delay in filing his second application as he filed the same on 01.06.2018 when he got the knowledge of filing the same on 23.04.2018. However the delay on the part of the ADE/DE/Mahaboobnagar cannot be simply overlooked as they have not applied their mind while scrutinising the application of the Appellant in the first instance, instead of processing it to SE/OP/Mahaboobnagar resulting in the delay. Hence decides this point against the Respondents.

Issue No.2

14. The admitted facts are that the Appellant M/s. Venkata Sai Industries, Nacharam are the HT consumers with SC No. MBN 736 and originally they were sanctioned a load of 200 KVA which they later derated to 120 KVA and they are carrying on their business. But in the month of March,2018 the Appellant have given an application

vide registration No. HT 44319133 dt.14.03.2018 seeking for additional load of 80 KVA totalling to 200 KVA. The said application was not considered by the Respondents on the ground that the application ought to be for restoration of original load and not for additional load. Hence the said application was returned on 23.04.2018 by the SE/OP/Mahaboobnagar and so the Appellant again filed another fresh application on 01.06.2018 vide registration No. HT 44319853 for restoration of the derated load and the said application was accepted and the additional load was processed and completed on 14.06.2018 by resetting the MD in the meter.

15. The contention of the Appellant is that the Respondents have imposed penal charges for the months of May and June 2018 @ Rs 48,840/- and Rs 43,833/- respectively totalling to Rs 92,673/-. The Appellants contended that they are not liable to pay any penal charges for the period on which the Respondents are charging the penalty as the delay was on the part of the Respondents. The Respondents on the other hand contended that the delay was due to the wrong filing of the Application by the Appellant and for using excess load over and above the sanctioned load, as admittedly the restoration of 200 KVA load was completed on 14.06.2018 i.e. till 14.06.2018, the permitted consumption of the Appellant was only to the extent of 120 KVA and not above that, but a perusal of the reading of the consumer bill of the Appellant clearly shows that the Appellant has consumed 176.05 KVA for the month of May,2018 and 169.74 KVA for the month of June,2018 which goes to show that the consumption for the months of May and June,2018 is beyond the sanctioned permitted load to be consumed by the Appellant. The evidence of the Appellants clearly shows that the Appellant has not denied that they have consumed 176.5 KVA in the month of May,2018 and 169.74 KVA in the month of June,2018. The said evidence of the Appellants also shows that the restoration process from 120 KVA to 200 KVA on their application was completed only on 14.06.2018. Which goes to show that the Appellants themselves admitted that they have consumed over and above the KVA load sanctioned to them at that point of time i.e.120 KVA. The Appellants have also not denied that they have executed an agreement for a CMD of 200 KVA on 07.06.2018 which was later completed on 14.06.2018. The reports filed by the Respondents showing the consumption bills of Appellant clearly show that the Appellant has exceeded the sanctioned load even on earlier occasions and the same is not denied by the Appellant. The above said admissions on the part of the Appellant clearly go to show that the Appellant in spite of his undertaking to be bound by the terms of the agreement dt. 05.02.2016 has gone beyond the said terms and thus made himself

liable for penal action from the Respondents under Clause 12.3.2 of GTCS, as such cannot now take a plea that he is not liable to pay the penalty in view of the delay on the part of the Respondents. Hence decides this point against the Appellant.

Issue No.3

16. In the result the Appeal is dismissed directing the Appellants to pay the penalty charges as imposed by the Respondents for the month of May and June,2018. The delay caused by those officers responsible in not informing the Appellant that they should file an application for restoration and not for additional load goes to show the negligence on their part. And as such the SE concerned is directed to initiate necessary enquiry against them and intimate the same to this office.

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

TYPED BY Office Executive cum Computer Operator, Corrected, Signed and Pronounced by me on this the 22nd day of January, 2019.

Sd/-

Vidyut Ombudsman

1. M/s. Sree Venkata Sai Industries, represented by Sri. Challa Sreeramulu
H.No.21-72/L, Nacharam (V), Tandur Road,Kosgi Mandal,
Mahaboobnagar Dist - 509339. Cell: 9440157996.
2. The ADE/OP/Kosgi/TSSPDCL/Mahaboobnagar Dist.
3. The SAO/OP/MBNR/TSSPDCL/Mahaboobnagar Dist.
4. The DE/OP/Naraynpet/TSSPDCL/Mahaboobnagar Dist.
5. The SE/OP/Mahaboobnagar Circle/TSSPDCL/Mahaboobnagar Dist.

Copy to :

6. The Chairperson, CGRF- I, GTS Colony, Vengal Rao Nagar,
Erragadda,Hyderabad.
7. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul,Hyd.