



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 Fifth Day of June 2019

Appeal No. 67 of 2018

Preferred against Order dt:31.12.2018 of CGRF in
CG No. 384/2018-19 of Vikarabad Circle

Between

M/s. Sugna Metals Limited, #1-8-673, Azamabad, Hyderabad - 500 020.

Cell: 9848346211.

... Appellant

AND

1. The DE/OP/Vikarabad/TSSPDCL/ RR District.
2. The SAO/OP/Vikarabad Circle/TSSPDCL/Hyderabad.
3. The SE/OP/Vikarabad Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 07.03.2019, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 21.05.2019 at Hyderabad in the presence of Sri. Bharat Kumar - On behalf of the Appellant Company and Sri. M. Venkata Chary - DE/OP/Vikarabad and Sri. M. Madhav - SAO/OP/Vikarabad Circle for the Respondents and having considered the record and submissions of both parties, the Vidyut Ombudsman passed the following;

AWARD

This is an Appeal against the order of the CGRF Vikarabad Circle in CG No. 384/2018-19 dt.31.12.2018.

2. The Appellant stated that he has filed a complaint before the CGRF/Vikarabad Circle seeking redressal on 5 issues:-

1. To set aside the claim of arrears of Rs 1,74,21,702/- shown as Court claim case dt.23.03.2018 demanded on 26.08.2018.

2. To set aside the claim of Rs 2,06,68,065/- shown as other column dt.23.03.2018 in the bill dt. 26.03.2018.
3. To set aside the claim of Rs 40,89,591/- claimed towards late payment charges during the period from May,2015 to March,2016.
4. To set aside the claim of Rs 68,45,266/- claimed towards the late payment charges during the period from April,2016 to March,2017. And
5. To set aside the claim of Rs 17,05,612/- claimed towards ACD surcharges during the period from Aug,2015 to March,2016.

Stating that the consumer company is registered under the Companies Act having service connection of HT bearing SC No. VKB1247 with contracted MD of 30999 KVA for supply of energy and demand from the Licensee and that the learned CGRF rejected his grievances and hence aggrieved by the same the present Appeal is filed.

3. The Appellant stated in the Appeal that the Respondent No. has not given an opportunity to the Appellant to lead any oral or documentary evidence to substantiate his claim and that the Respondent has also not informed the date of hearing of the CG No. 384/2018 after reopening the case.

4. The Appellant in support of his case stated that it is a company registered under the Companies Act under the name and style of M/s. Sugna Metals Limited Situated at 1-8-673, Azamabad, Hyderabad - 500 020, represented by its director Sri. Bharat Kumar and having a HT Consumer bearing No. H. T No. VKB 1247 with Contracted Maximum Demand (CMD) of 30999 KVA for supply of energy and demand from the respondents.

That the Respondent No.3 and 4 raised the CC Charges bill dt.26.03.2018 for the Billing Month of March, 2018. In the said bill they have shown an amount of Rs 1,74,5,74,402/- in the Court case account and Rs 2,06,68,065/- in other account. Aggrieved by the same the appellant filed a representation Dated 5.7.2018, before Respondent. No 3 and 4 Under Clause VII 7. 1 (i) of Regulation 5 of 2016. The Respondent No. 3 and 4 ought to have resolved the grievance of the Appellant within 24 working hours. But the Respondents have not resolved the same. Hence, the Appellant approached before Hon'ble CGRF II Under Sub Section 2.32(e) of Regulation 3 of 2015. The Hon'ble CGRF II registered the complaint as CG No. 384 of 2018-19/Vikarabad Circle.

That the Respondent No. 4 filed its counter vide Letter No. SE/OP/VKB/SAO/HT/D. No. 1466/ 20 1 8 dated 12.10.2018 during the hearing held on 15. 10. 2018.

That the Appellant filed its rejoinder on 5. 11. 2018 against the Counter of Respondent No.4 of letter No.1466 dt.15.10.2018 before Hon'ble CGRF II.

That the Respondent No. 4 filed its second counter vide Lr. No.SE/OP/VKB/SAO/HT/D.No.1731/2018 dt.17.11.2018 against the rejoinder dt.05.11.2018 of the Appellant.

That the Appellant on 05.12.2018, filed an Interim Appeal before CGRF-II with a prayer to reopen the complaint which was reserved on 19.11.2018.

That the Hon'ble CGRF II passed the order dt.31.12.2018 of CG No.384/2018-19/Vikarabad Circle.

It is Pertinent to note at this juncture that the Hon'ble CGRF has not furnished the original copy of the Said order. When the representative of the appellant approached the CGRF on 18.2.2019, to file a complaint enquired about the order of C.G.No. 384/2018-19 at that time the Hon'ble CGRF furnished a copy of the said order only.

That the Hon'ble CGRF II passed the said order without giving and opportunity to the appellant of hearing, without considering and applying judicial mind properly on the following facts :-

- a. The Hon'ble CGRF II failed to call for the month wise and component wise breakup of arrears of Rs. 2,06,68,054/- as on 23.06.2018 in spite of repeated requests from the appellant.
- b. The Respondent No. 4 in its Annexure enclosed letter No. 1466 dated 12.10.2018, filed before the Hon'ble CGRF II categorically admitted that during the Financial Year 2016-17 they have raised CC. Bills for Rs. 31,53,57,005/- against which the Appellant paid Rs 32,78,81,254/- thus an amount of Rs 1,25,24,249/- excess paid during Financial Year 2017-18, the Respondent No. 4 raised the CC Charges bills for Rs.62,22,23,368/- against which the Appellant paid Rs 64,03,26,297/- thus an amount of Rs 1,81,02,929/- excess paid. At total C4 the

Respondent No. 4 admitted the credit balance of Rs 2,24,05,824/- as on 31.3.2018 after withdrawal of demand.

5. That the Appellant pray to this Hon'ble Vidyut Ombudsman to allow the present appeal and remand to Hon'ble CGRF II for disposing the case giving opportunity to the appellant to lead oral as well as documentary evidence on the following facts before passing the final order :

a) Month wise and component wise break of Rs.1,74,21,702/- as shown in Court case account as on 31.03.2018.

b) Month wise and component wise break of Rs. 2,06,68,065/-of arrears shown in Other account as on 31. 3. 2018

c) Month wise calculation of Late Payment Charges of Rs. 40,89,591/-of the period from May, 2015 to March, 2016

d) Month wise calculation of Late Payment c^h charges of Rs 68,45,266/- of the period from April,2016 to March, 2017; and

e) Detail calculation of Rs. 17,05,612/-claimed towards ACD surcharge of the period from August,2015 to March,2016.

That in view of the above said facts, the appellant pray that the Hon'ble Vidyut Ombudsman may be pleased to allow the present Appeal thereby remand the matter to CGRF-II for denovo enquiry or decide the Appeal on merits directing the Respondents:-

- a. To set aside the Respondent No.1 Order dt.31.12.2018, passed in CG No.384 of 2018-19/ Vikarabad Circle.
- b. To set aside the claim of arrears of Rs 1,74,21,702/- shown in Court Case column as on 23.03.2018 in March,2018 dt.26.03.2018.
- c. To set aside the claim of arrears of Rs.2,06,68,065/- -shown in Other Column as on 23. 3. 2018 in March, 2018 bill dated 26. 3. 2018
- d. To set aside the claim of Rs. 40,89,591/-claimed towards Late Payment charges during the period from May, 2015 to May, 2016.
- e. To set aside the claim of Rs. 68,45,266/-claimed towards Late Payment charges during the period from April, 2016 to March, 2017.

- f. To Set aside the claim of Rs. 17,05,612/-claimed towards ACD surcharge claimed towards the period from August, 2015 to March, 2016 and
- g. Any other order or orders as may deem fit and proper by the Hon'ble Vidyut Ombudsman under the circumstances of the case in the interest of justice and fair play.

Written submissions of the Respondents

6. The SE/OP/Vikarabad submitted his written submissions vide Lr.No.SE/OP/VKB/SAO/HT/D.No.16/2019 dt.03.04.2019 as follows:-

with reference to above cited, it is to submit that the following replies were given hereunder for the issues raised by the complainant M/s. Suguna Metals P. Ltd HT Service No. VKB 1247.

Issue No. 1 CLAIM of Late payment charges :-

In reference 2nd cited, it was clearly shown that surcharge will be calculated on arrears and current month consumption charges. Late payment charges levied in the month of June 2018 CC bill pertains to the late payment charges calculated for the bill of April, 2018 bill.

In reply to the workings given in the annexure, it is to submit that late payment charges for the arrears are not taken into consideration. Interest on Electricity Duty is clubbed into late payment charges which is not correct as different rates were defined.

Issue No. 2 CLAIM Of ACD surcharge:-

In light of the Honourable High Court Orders in WA. No. 968 of 2015 and batch surcharge on Additional Consumption Deposit is payable by the consumers and hence the same is levied and collected.

ACD notice for the year 2015-16 for the consumption 4/2014 to 3/n2015 is Served to the consumer in the year 2015 dt 01.06.2015 along with the working sheet of the ACD required to be paid by the consumer. In which an amount of Rs, 2,27,43,921/-is to be paid by the consumer.

ACD surcharge is calculated as follows

$22743921 * 18\%/12 = \text{Rs } 3,41,159/-$

The consumer has contended the same in High Court and consumer has deposited 50% of the amount as per interim direction and asked the DiSCOM to install prepaid meters. As per the Hon'ble High court orders in WA. No. 968 of 2015 and batch it was decided that surcharge on Additional consumption Deposit is Payable by the consumers and the consumer should not insist for prepaid meters as the same is unavailable in the market. Hence the same is levied and collected.

Rejoinder of the Appellant

7. The Appellant has filed its rejoinder dt.17.04.2019 stating as follows:-

Issue No.1: Claim of late payment charges

It is respectfully submitted that the Respondent No. 4 categorically admitted that they will be calculating surcharge on arrears and current month consumption charges.

In this regard, it is to be noted that the Additional charges for belated payment can be charged on charges only not on arrears. The provision No. 9.114 defined at Page No.235 of Tariff Order dt.23.06.2016 of the Financial Year 2016-17 is reproduced hereunder for reference

“9. 114 Additional charges for belated payment of charges

The Licensee shall charge the Delayed Payment Surcharge (DPS) per month on the bill amount at the rate of 5 paise/INR. 100/Day or INR. 550 whichever is higher. In case of grant of installments, the Licensee shall levy interest at the rate of 18% per annum on the outstanding amounts, compounded annually and the two charges shall not be levied at the same time.”

In case of sanction of installments only on the outstanding amounts 18% per annum can be levied otherwise not i.e. on the arrears. The arrears amount can be due to stay order of Hon'ble Courts or due to any other reason.

It is also to be noted the definition of charges are defined in section 45 (3) of Electricity Act, 2003. The same is reproduced hereunder for kind ready reference of Hon' ble Authority.

'Section 45 (3) The charges for electricity supplied by a distribution licensee may include...

(a) a fixed charge in addition to the charge for the actual electricity supplied

(b) a rent or other charges in respect or any electric meter or electrical plant provided by the distribution licensee.

Hence, the charges includes fixed charge, energy charge for actual electricity supplied, rent of electric meter or plant provided by the distribution licensee only not the arrears.

In view of the above, the Delay Payment Surcharge claimed on arrears to be set aside.

Issue No.2 Claim of ACD Surcharge

That the Respondent No. 4, in the reconciliation statement deducted the ACD surcharge of Rs. 17, 05, 612/-of Financial Year 2015-16 subject to reconciliation hence, no comment for the time being.

Apart from the above the following facts are to be considered :-

The appellant has filed the present appeal on the following two issues with a request to make correction in Court Case Account with the correct amount and set aside the amount of Others Account as the same is not payable-

1) The Respondent No.4, has shown an amount of Rs. 3,21,05,568/-in Court Case Account as on 23.3.2018 ; and

2) Rs. 2,06,68,065/-in Others Account.

In respect of Court Case Account of Rs 3,21,05,568/- which includes Rs 1,45,39,001/- of Cross Subsidy Surcharge of Financial Year 2015-16. As per orders dated 19.11.2018 of Hon'ble High Court the same is to be withdrawn and issue revised bills. The Respondent No. 4 has already shown deduction of Rs. 1,43,39,656/- in its reconciliation statement filed before this Hon'ble Authority vide letter No.SEOP/VKB/SAO/HT/D.No.16/2019 dt.3.04.2019. Hence the Court Case Account shall show an amount of Rs 1,71,97,333/- only.

That as per Clause No. VII 7. 1 (ii) of Regulation 5 of 2016 dated 13.07.2016 the Respondent No.4 have to issue the revised bills of April,2015 to March,2016 duly withdrawing the CSS amount. The due date for payment shall be reckoned from the date of revised bill for the purpose of disconnection of supply or for levy of additional surcharge for belated payment.

In respect of Other Account of Rs. 2,06,68,065/-please note your honour the Respondent No.4, vide letter No. SE/OPTVKB/SAO/HT/D. No. 1466/2018 dated 12.10. 2018. filed before Hon'ble CGRF II filed a reconciliation statement showing the arrears of Rs. 2, 17, 17, 234/-as on 30. 4. 2015 and Rs. 2, 06, 68, 053/-as due amount as on 31. 3. 2018.

Further, that the Respondent No. 4 vide letter No. SE/OP/VKB/SAO/HT/D. No. 16/2019 dated 3.4.2019 filed before this Hon'ble Authority filed the reconciliation statement in which the arrears amount of Rs. 2, 17, 17, 234/-as on 30.04.2015 is withdrawn along with the amounts disputed by the appellant from the Financial Year 2015-16 to 2017-18 and shown an amount of Rs. 1, 98, 38, 567/-credit (Refundable). Hence, the grievances raised by the appellant are addressed / resolved by the Respondent No.4.

That as per the directions of this Hon'ble Authority vide order dated 7.3.2019 in appeal No. 67 of 2018, to make the payment of 1/3rd of demanded amount the Appellant has paid an amount of Rs. 25,00,000/-on 6.3.2019 and Rs. 39,28,543/-on 25.3.2019. Thus the appellant is having total an amount of Rs. 2,62,67,110/-refundable along with 24% interest per annum as per Clause 4. 7. 3 of Regulation 5 of 2004 dt.17.03.2004.

8. In the face of the said averments by both sides the following issues are framed:-

1. Whether the Appellant is entitled for setting aside of the arrears Rs 1,74,21,702/- towards Court cases, Rs 2,06,68,065/- arrears for the month of March,2018, Rs 40,89,591/- late payment charges from the month of May,2015 to May,2016, Rs 68,45,266/- towards late payment charges for the period from April,2015 to March,2017 and also to set aside Rs 17,05,612/- claimed towards ACD surcharge from Aug,2015 to March, 2016? And
2. To what relief?

Heard both sides.

Issue No.1

9. The evidence on record shows that the Appellant M/s. Sugna Metals Ltd. is having a HT Service connection bearing HT SC No. VKB1247 with contracted maximum demand of 30999 KVA and that the Appellant is opposing the claim of the Respondents on the heads of court cases, late payment charges, ACD charges, arrears etc. for different periods. While the Respondents on the other hand are asserting that the demands made by them towards the Court cases, late payment charges, ACD surcharge and arrears for different periods are in accordance with the provisions of the Act and as such the Appellant is liable to pay the same.

10. The Appellant has set out non payable claims demanded by the Respondents under 5 heads which are:-

1. Rs 1,74,21,702/- under Court cases.
2. Rs 2,06,68,605/- on arrears column as on 23.03.2018 of the bill dt.26.03.2018.
3. Rs 40,89,591/- towards late payment charges from the month of May,2015 to May,2016.
4. Rs 68,45,266/- towards late payment charges from April,2016 to March,2017 and
5. Rs 17,05,612/- towards ACD surcharge from August,2015 to March,2016.

and all the said 5 claims which are denied to be paid by the Appellant are insisted to be paid by the Respondents. Hence let us take each of the said demands made by the Respondents against the Appellant so as to assess whether the said demands are rightly made by the Respondents.

11.

1. Rs 1,74,21,702/- under Court cases.

The evidence on record shows that the Appellants in their Appeal before the CGRF pleaded that the total amount of Rs 3,21,05,569/- was shown under the head of Court Cases is not correct. Out of the above said amount the Appellant claimed that the Respondents should not show more than Rs 1,46,83,867/- pertaining to cross subsidy surcharges for the period June,2015 to April,2016 and the balance amount of

Rs 1,74,21,702/- is excess shown under Court Cases and liable to be withdrawn. They have requested for month wise breakup of the arrears of Rs 1,74,21,702/- shown under the head of Court Cases in the HT bill issued for the month of March,2018 dt.26.03.2018. The Appellant argued on the fact that there were orders passed in favour of the Appellant by the CGRF and Hon'ble Vidyut Ombudsman which was not complied with, had it been, the Appellant would have got refund of considerable amount which will run into crores of Rupees with applicable rate of interest.

On the other hand the Respondent No. 3/SE/OP/Vikarabad, submitted the break up of amounts pending in the Court cases as given below:

TABLE No.1

| Court case amount breakup with case wise of VKB1247 M/s.Suguna metals | | | | | |
|---|--|--|---|--------------|-------------------|
| Breakup of arrears as on july,2018 | | | | | |
| Sl.No | Particulars | | | | Court case amount |
| A | Total arrears up to july, 2018(including amounts pending in court cases) | | | | 32105568.61 |
| B | Breakup of arrears | | | | |
| <u>Pending amount as per various court cases</u> | | | | | |
| | i | Voltage surcharge | | | |
| | 1 | Voltage surcharge levied from 12/2008 to 05/2009 | W.P.No.17287/2009 and WASR.123972 of 2012 | 52,62,353 | |
| | 2 | Voltage surcharge levied in 08/2014 | W.P.No.18475/2015 | | |
| | 3 | Voltage surcharge levied from jun-2015 and jul-2015 and surcharge thereon(7323210/-DPS-585377/-) | CG.No 286 of 2015 | 79,08,587.00 | |
| | ii | FSA-PENDING AT HIGH COURT | | | |
| | 1 | FSA for the FY 2008_09 | W.P.No 18400 of 2011 | 19,06,470.00 | |
| | 2 | FSA for 04/2009 billed in | As per common orders | 14,61,737.17 | |
| | 3 | FSA for the month of 05/2010 billed in 06/2014 | W.P.No34415/12 | 6,58,186 | |
| | i | CROSS SUBSIDY | | | |

| | | | | | |
|--|--------|--|-----------------------|--------------------|----------------|
| | i i | | | | |
| | 1 | Cross subsidy from aug-2015 to dec-2015 and surcharge thereon (5526487/- & DPS-106380/-) | W.P.No.27741/20 15 | 56,32,867.00 | |
| | 2 | Cross subsidy for 01/2016 | W.P.No.27741/20 15 | 24,39,878.00 | |
| | 3 | Cross subsidy for 02/2016 | W.P.No.27741/20 15 | 32,01,107.00 | |
| | 4 | Cross subsidy for 03/2016 | W.P.No.27741/20 15 | 31,65,149.00 | |
| | 5 | Cross subsidy for 04/2016 | W.P.No.27741/20 15 | 4,69,234.26 | |
| | | TOTAL | | 3,21,05,568. 43 | 3,21,05,568.43 |

The above shown table clearly shows that there are various cases pending against the Appellant on the issues such as Voltage charges, FSA and Cross Subsidy charges etc. The contention of the Appellant is that the Hon'ble CGRF and Vidyut Ombudsman have awarded orders in their favour against the Licensee i.e. the Respondents herein, but the Respondents have not complied with the same. Whereas the records show that the Respondents have preferred appeals over such orders and are pending in the High Court under the Writ Petitions stated above. The rejoinder of the Appellants dt.17.03.2019 shows that on the basis of the directions issued by the Hon'ble High Court, changed their claim to withdrawal of cross subsidy surcharge and claimed revised bills from April,2015 to March,2016 i.e. earlier the Appellants claimed Rs 1,74,21,702/- and later revised it to Rs 1,71,97,333/- as payable. Since the Writ Petition filed by M/s. Sugna Metals Pvt Ltd. against TSERC vide WP No. 27741/2015 is still pending on the issue of cross subsidy charge, the Ombudsman is of the view that the Respondents have rightly kept aside the amounts claimed under the head of Court cases till disposal of the above Writ Petition.

2. Rs 2,06,68,605/- on other column on 23.03.2018 of the bill dt.26.03.2018.

The evidence on record shows that the Respondents have submitted month wise breakup of monthly demands, debit Journal Entries (JEs), Collection and Credit JEs of the subject service connection as shown below:

TABLE No.2

ANNEXURE-IV

Demand, Dr Jes, Collection & Credit Jes of VKB1247 M/s.Suguna Metals

| MONTH | Demand | DR JE | COLLECTION | CR JE | Closing Balance |
|-----------------|-------------|----------|------------|----------|-----------------|
| OPENING BALANCE | 13295744.11 | | | | |
| Aug-16 | 34792847 | 49512740 | 34622297 | 3858656 | 5,91,20,378.48 |
| Sep-16 | 19818104 | 0 | 19645864 | 0 | 5,92,92,618.48 |
| Oct-16 | 22435425 | 0 | 22433640 | 0 | 5,92,94,403.48 |
| Nov-16 | 20639920 | 0 | 20496951 | 4112705 | 5,53,24,667.81 |
| Dec-16 | 31654289 | 206943.1 | 32112178 | 0 | 5,50,73,721.91 |
| Jan-17 | 24548997 | 0 | 23731722 | 0 | 5,58,90,996.91 |
| Feb-17 | 21802159 | 0 | 21040733 | 0 | 5,66,52,422.91 |
| Mar-17 | 17364735 | 0 | 24366906 | 0 | 4,96,50,251.91 |
| Apr-17 | 22065762 | 0 | 28642127 | 0 | 4,30,73,886.91 |
| May-17 | 22359277 | 0 | 28241586 | 0 | 3,71,91,577.91 |
| Jun-17 | 35346664 | 0 | 32835097 | 0 | 3,97,03,144.91 |
| Jul-17 | 50629455 | 0 | 58595291 | 8802895 | 2,29,34,413.91 |
| Aug-17 | 34437351 | 0 | 37827110 | 0 | 1,95,44,654.91 |
| Sep-17 | 44517198 | 0 | 44517198 | 0 | 1,95,44,654.91 |
| Oct-17 | 52677528 | 0 | 52677528 | 0 | 1,95,44,654.91 |
| Nov-17 | 67750330 | 0 | 72250510 | 0 | 1,50,44,474.91 |
| Dec-17 | 59829768 | 0 | 59829768 | 10000 | 1,50,34,474.91 |
| Jan-18 | 51150696 | 4500000 | 50027106 | 0 | 2,06,58,064.91 |
| Feb-18 | 66506437 | 4510000 | 66506437 | 4500000 | 2,06,68,064.91 |
| Mar-18 | 59403089 | 0 | 59403089 | 0 | 2,06,68,064.91 |
| Apr-18 | 77615577 | 0 | 77615577 | 0 | 2,06,68,064.91 |
| May-18 | 73599287 | 0 | 73599287 | 0 | 2,06,68,064.91 |
| Jun-18 | 64384862 | 0 | 64384862 | 0 | 2,06,68,064.91 |
| Jul-18 | 82684782 | 0 | 82684782 | 0 | 2,06,68,064.91 |
| | 1058014539 | 58729683 | 1088087646 | 21284256 | |

Debit & Credit Jes details given in Separate Annexures as items wise

As per the above statement the breakup of the above JE's is given below:

TABLE No.3

(i)DEBIT JE's (Aug-2016) - Rs.4,95,12,740/

| Service No. | JE Date | Reference | DPS | FSA | RNC | Voltage Surcharge | Total |
|-------------|------------|---|------------|----------|---------|-------------------|-------------|
| VKB1247 | 05.08.2016 | 8% Interest amount raised as per slp common order vide C.A.No.5542/2016 | 4112704.67 | 0 | 0 | 0 | 4112704.67 |
| VKB1247 | 31.08.2016 | R&C demand raised as per V.O. Order CMP No.1/16 in Appeal No.154/2013 | 0 | 0 | 6742055 | 0 | 6742055 |
| VKB1247 | 05.08.2016 | DPS Raised as per slp common order vide C.A. No.5542/2106 | 9157824.21 | 0 | 0 | 0 | 9157824.21 |
| VKB1247 | 05.08.2016 | As per slp common order fsa tr from court to cc C.A. No.5542/2016 | 0 | 26136027 | 0 | 0 | 26136027 |
| VKB1247 | 31.08.2016 | Voltage surcharge court case amount reversal as per op No.92/2015 | 0 | 0 | 0 | 3364129 | 3364129 |
| Total | | | | | | | 49512739.88 |

TABLE No.4

(ii)DEBIT JE's (2016) - Rs.2,06,943.1

| Service No | JE Date | Reference | DEBIT | | | |
|------------|------------|--|----------------|------------------|-----|----------|
| | | | Energy charges | Customer charges | RNC | Total |
| VKB1247 | 01.12.2016 | Cross subsidy amount raised due to con from 33 Kv to 132 KV w.e.f 04.10.2016 | 206943.1 | 0 | 0 | 206943.1 |

TABLE No.5

(iii) DEBIT JE's 2018 - Rs 45,00,000/-

| Service No | JE Date | Reference | DEBIT | | | |
|------------|------------|---------------------------|----------------|------------------|-----|---------|
| | | | Energy charges | Customer charges | RNC | Total |
| VKB1247 | 01.12.2018 | SD AMT Wrongly paid in CC | 4500000 | 0 | 0 | 4500000 |

TABLE No.6

CREDIT JE (AUG-2016) - Rs 38,58,656/-

| Service No. | JE Date | Reference | Energy charges | DPS | FSA | Total |
|-------------|------------|--|----------------|--------|-----|---------|
| VKB1247 | 05.08.2016 | Voltage surcharge court case amount reversal as erc op No. 92/2015 | 3364129 | 0 | 0 | 3364129 |
| VKB1247 | 31.08.2016 | DPS withdrawal as per ERC OP No.92/2015 | 0 | 494527 | 0 | 494527 |
| TOTAL | | | | | | 3858656 |

TABLE No.7

CREDIT JE (NOV 2016) - Rs 4,11,20,704.67

| Service No. | JE Date | Reference | DPS | FSA | RNC | Total |
|-------------|------------|---|---------|-----|-----|------------|
| VKB1247 | 30.11.2016 | 8% interest amount al raised now withdrawal as per CGM/Finance letter | 4112705 | 0 | 0 | 4112704.67 |

TABLE No.8

CREDIT JE (JULY 2017) - Rs 88,02,895

| Service No. | JE Date | Reference | Energy charges | Customer charges | FSA | Total |
|-------------|------------|--|----------------|------------------|-----|---------|
| VKB1247 | 01.01.2017 | Revision of bill 05/17 after considering additional load | 8802895 | 0 | 0 | 8802895 |

TABLE No.9

CREDIT JE (DEC 2017) - Rs 10,000/-

| Service No. | JE Date | Reference | Energy charges | FSA | RNC | Total |
|-------------|------------|--|----------------|-----|-----|-------|
| VKB1247 | 11.12.2017 | Amount withdraw as per OP No.92 of 2015 of TSERC | 10000 | 0 | 0 | 10000 |

TABLE No.10

| CC Arrears Breakup as on July,2018 of VKB1247 M/s Sugna Metals | |
|--|---------------|
| DETAILS | AMOUNT |
| FSA-SLP As per Supreme Court Orders 8% - DPS on FAS_SLP Rs (4112704.67; 1.5% - DPS ON FSA - SLP - 9157824.21 | 1,39,26,010 |
| R&C Revised bills as per ERC CP No.1 | 67,42,055 |
| Total CC Arrears 21.09.2016 | 2,06,68,065 |

The table Nos. 3 to 9, shows why the debit/credit amounts were levied along with the reasons descriptively.

A perusal of the above statements clearly go to show that apart from the monthly demands, which the Appellant was paying regularly consists of certain debit JEs and Credit JEs as explained above which were also carried forward in the bills for the next month, taking into account all the factors and thus showing an amount of Rs 2,06,68,065/- as arrears pending so far. The plea taken by the Appellant over the statement given by the Respondents wherein an amount of Rs 1,98,38,567/- was shown as under the credit does not holds good. A perusal of the statement shows that opening balance of Rs 2,17,17,234/- as on 30.04.2015 was not taken into account instead Appellant foresee it as withdrawn by the Respondents which is not correct. In view of the above claim of the appellant to set aside the arrears of Rs 2,06,68,065/- is not tenable.

- 3. Rs 40,89,591/- towards late payment charges from the month of May,2015 to May,2016 and**
- 4. Rs 68,45,266/- for the period from April,2016 to May,2017.**

The Appellant claimed that during the period from May,2015 to May,2016, the Respondents have claimed the late payment surcharge of Rs 54,84,453/- , where as

the late payment surcharge applicable/payable is Rs 13,94,862/- only, which is subject to reconciliation. Hence an amount of Rs 40,89,591/- excess claimed and Rs. 68,45,66/- during the period from April, 2016 to March, 2017 which are liable to be withdrawn immediately. The Appellant has submitted their calculation over the late payment surcharges month wise from April,2015 to March,2018 vide Annexure -I. On the other hand the Respondents have submitted their calculation over late payment surcharges from April,2015 to March,2018 vide statement.

A perusal of both the two statements of the Appellant and the Respondents shows the following observations.

For the month of April,2015 the due date for payment was 10.05.2015, the final payment towards the demand was paid on 22.05.2015. The Appellant held that they are liable to pay the late payment surcharge over the net bill amount payable of Rs 3,33,97,388/- is Rs 1,37,884/-over Respondents claim of Rs 4,44,354/-, levied in the May-2015 bill. The important aspect to be noted is that the Appellant did not take account of the opening balance i.e. arrears of the previous months bill, where the Respondents claimed that an amount of Rs 2,17,17,234.29 is the arrears payable, as per the HT CC Bill bill issued in the month of May, 2015. This factor was ignored by the Appellant while calculating the LPS, thereby cumulatively for the period May,2015 to March,2017, wrongly calculated the LPS. As per the monthly demand, arrears and JEs statement as given supra at Table No.2, it is observed that the Appellant had paid monthly demand consistently leaving aside the debit JEs, thereby the cumulative arrears fell due for payment resulted in late payment surcharges. As per the CGRF records, The Respondents, has given the JE report from the month of march 2015 disclosing the various Debit JE's and Credit JE's levied. The perusal of the records goes to show that there are bill adjustments, debits/credits owing to R&C bills, voltage surcharges (As per the court directions), FSA payments based on the supreme court orders and other miscellaneous reasons which was descriptively shown by the Respondents, vide Table No. 3 to 9, the Appellant has not given any conclusive substance to defend the above. The appellant not paid such amounts which was demanded in the HT CC bills and continued to pay the monthly demand, consequently the arrears payable were cumulatively accumulated. The said amounts were based on court directions and bill revisions and had to be paid invariably. The non payment of such arrears within the due date has resulted in late payment surcharges.

Further the appellant relied on the clause 9.114 of the tariff order FY-2016/17 and section 45 (3) of the Electricity Act 2003, which is reproduced hereunder

Clause:9.114 of the Tariff Order FY 2016-17:-

“The Licensees shall charge the Delayed Payment Surcharge (DPS) per month on the bill amount at the rate of 5 paisa/ INR. 100/ day or INR. 550 whichever is higher. In case of grant of installments, the Licensee shall levy interest at the rate of 18% per annum on the outstanding amounts, compounded annually and the two charges shall not be levied at the same time”.

Section 45(3) of the Electricity Act 2003:-

“Section 45 (3) the charges for electricity supplied by a distribution licensee may include----

- (a) A fixed charge in addition to the charge for the actual electricity supplied;
- (b) A rent or other charges in respect of any electric meter or electricity plant provided by the distribution licensee.

The appellant held that in case of sanction of instalments only on the outstanding amounts, 18% per annum can be levied other wise not on the arrears. This plea taken by the appellant is not correct. The late payment surcharges shall be invariably levied on the **bill amount**, as reckoned in the clause 9.114 of the tariff order 2016-17 given above. The electricity supply code, regulation number 5 of 2004, under clause 4.2, mandates that the **bill amount** consist of current month demand and arrears also. Hence the late payment surcharge shall be levied on arrears also. In view of the above, the amount demanded towards late payment surcharges are liable to be paid.

5. **Rs 17,05,612/- towards ACD surcharge from August,2015 to March,2016.**

The appellant claimed that an amount of Rs 17,05,612/- was excess claimed from Aug 2015 to Mar 2016 towards ACD surcharge and Respondents had not furnished any details.

The Respondents held that as per the Honourable High Court Orders in WA. No. 968 of 2015 and batch surcharge on Additional Consumption Deposit is payable by the consumers and hence the same is levied and collected.

The consumer has deposited 50% of the amount as per interim direction and asked the DISCOM to install prepaid meters. As per the Hon'ble High court orders in WA. No. 968 of 2015 and batch it was decided that surcharge on Additional consumption Deposit is Payable by the consumers and the consumer should not insist for prepaid meters as the same is unavailable in the market.

The Respondents vide Lr No SE/O/SAO/JAO/HT/ACD/D.No 861 Dt 1.06.2015 given the demand notice against the ACD amount to the appellant for the year 2015-16 the work sheet is placed below.

Average monthly consumption:4943024

| | | | |
|------------------|---------|--------|-------------|
| Energy charges | 4943024 | 5.60 | 27680934.40 |
| Demand charges | 9999 | 370.00 | 3679630.00 |
| Peak ECH | 797299 | 1.00 | 797299.00 |
| Electricity duty | 4943024 | 0.06 | 296581.44 |
| L&F charges | 0 | 5.60 | 0.00 |
| Colony charges | 0 | 6.00 | 0.00 |
| Customer charges | | | 1125.00 |

| | | |
|---|---|-------------|
| Total consumption charges for one month | : | 32475569.84 |
| 2 month's consumption charges | : | 64951140.00 |
| Available consumption charges | : | 42207219.00 |
| Balance payable | : | 22743921.00 |

ACD surcharge is calculated as follows

$$22743921 * 18\% / 12 = \text{Rs } 3,41,159/-$$

There is no discrepancy found in calculation of the ACD surcharge amount. Moreover, the Appellant had not explained in which way they are not liable to pay the ACD surcharges. Hence, the request of the appellant to set aside 17,05,612/- towards ACD surcharge cannot be accepted.

12. Hence in the face of the above mentioned discussions this issue is decided against the Appellant.

Issue No.2

13. In the result the Appeal is dismissed.

TYPED BY Office Executive cum Computer Operator, Corrected, Signed and Pronounced by me on this, the 25th day of June, 2019.

Sd/-
Vidyut Ombudsman

1. Ms. Sugna Metals Limited, #1-8-673, Azamabad, Hyderabad - 500 020.
Cell: 9848346211.
2. The DE/OP/Vikarabad/TSSPDCL/ RR District.
3. The SAO/OP/Vikarabad Circle/TSSPDCL/Hyderabad.
4. The SE/OP/Vikarabad Circle/TSSPDCL/Hyderabad.

Copy to :

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