



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

Monday the Fifteenth Day of July 2019

Appeal No. 74 of 2018

Preferred against Order dt:22.02.2019 of CGRF in
CG No.217/2018 of Khammam Circle

Between

Sri. Anand Chekkila, Divisional Railway Manager, (Traction Distribution),
1st Floor, Sanchalan Bhawan, Secunderabad. Phone: 040-27833031,
9550771658.

... Appellant

AND

1. The DE/OP/Khammam - 9440811506.
2. The SAO/OP/Khammam - 9440811567.
3. The SE/OP/Khammam - 94401811505.

... Respondents

The above appeal filed on 27.03.2019, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 12.06.2019 at Hyderabad in the presence of Sri. Ch. Srihari Varma - On behalf of the Appellant and Sri. G. Sridhar - AO/Revenue/Khammam on behalf of SAO/OP/Khammam for the Respondents and having considered the record and submissions of both parties, the Vidyut Ombudsman passed the following;

AWARD

This is an Appeal filed against the orders of the CGRF, Khammam Circle in CG No. 217/2018.

2. The Appellant contended that they filed a complaint vide CG No. 217/2018 seeking for waiver of late payment charges on arrears of penal energy

charges and levying of penal charges for exceeding the CMD and the learned CGRF failed to appreciate the fact that the exceeding of the CMD was entirely due to the Respondents not acting on their request and disposed the matter against them. Hence aggrieved by the same the present Appeal is filed.

3. The Appellant filed an Appeal seeking the waiver of the penal charges in 3 incidences levied on Dornakal Traction substation bearing Service Connection No. KMM 063 which they sought vide their representation dt.05.07.2018. They claimed that the CGRF though directed them to reconcile with the Respondents and pay the penal energy charges claimed for the months of Aug, Oct'2009 and Nov'2010 for exceeding RMD failed to deal with FSA charges and other disputes regarding CC bills, arrears and unaccounted payments etc. But when they addressed a letter to the SAO/Khammam, CMD/TSNPDCL/Warangal, CGM/Commercial for waiver or reduce the amount of late payment charges as per the directions of the CGRF they did not respond. Hence filed the present Appeal.

4. The Appellant in support of its contentions stated that the factual position as per their case is as follows:-

Railways have pleaded for waiver of penal charges in three incidences levied on Dornakal Traction substation bearing SC No. KMM-063 vide representation dt.05.07.2018.

Consequent upon hearings, CGRF has issued Order dt.22.02.2019:-

a. To pay the Penal Energy Charges claimed in Aug,2009, Oct,2009 and Nov,2010 in three occasions for exceeding RMD, FSA charges not dealt by the forum and any other disputes regarding CC bills and arrears and unaccounted payments the complainant is directed to reconcile with Respondents No. 2 SAO/Circle Office/Khammam. A letter was written to Sr. Accounts Officer/Khammam, CMD/TSNPDCL/WL and CGM/Comm. for waiver or to reduce the amount of late payment charges (surcharge).

Details of case

The chronological factual position of Railways in each case is detailed below:

Case A.

1. CMD for the month is 13500.
2. Recorded MD for the month of Aug,2009 is 18200 KVA.
3. Application pending with DISCOM since 03.07.2009 from 13500 to 15000 KVA.

4. Additional load released on Jan,2010.
5. Penal Energy Charges of Rs 27,23,546/- was claimed in the bill of Aug,2009 and was withheld.
6. Letter No. 19/TRD/5/2 dt.28.02.2009 addressed to CMD,NPDCL,WL with a copy to SE/KMM and SAO/KMM to revise the bill.

Case B.

1. CMD for the month is13500.
2. Recorded MD for the Month of Oct,2009 is 14000.
3. Excess CMD charges levied in Oct,2009 for RMD exceeding CMD of 8000 KVA for months April to July,2009 and recorded as 16200,17700,16000 and 17500 KVA.
4. Application pending with DISCOM since 15.02.2006 for 8000 to 13500 KVA.
5. Additional load released on 21.03.2006. Requested to correct CMD in the bill as 135000 KVA on 16.07.2009.
6. Penal Energy Charges (Excess CMD) of Rs 45,27,446/- was claimed in the bill of Oct, 2009 and was withheld since no details given.

Case C

1. CMD for the month is 15000.
2. Recorded MD for the month of Nov,2010 is 18589 KVA.
3. Application pending with DISCOM since 10.08.2010 from 15 to 17 MVA.
4. Additional load released on 23.11.2010
5. Penal Energy Charges of Rs 9,91,015/- was claimed in the bill of Nov,2010 and was withheld. This has been informed vide letter No. C/E.222/TRD/DKJ/APSEB/3 Dt.30.11.2010.
6. FSA Rs 15,34,400/- pending in High Court WP - 29421/2010. Hence withheld.

Case D

1. As per their record as on March,2007 arrears due is Rs 38,11,796/-
2. They state that 1.17 crores of Oct,2001 is not paid. As per our record we have paid all dues till 2007. However this amount as also paid.

Hon'ble CGRF passed the order as;-

“The penal charges levied by the Respondents are in order and complainant is liable to pay the charges “ and at 7 iv “any other disputes regarding CC bills and arrears and unaccounted payments, the complainant is directed to reconcile with the Respondent No.2/SAO/Circle Office/Khammam.”

Railways vide Lr.No.C/E.19/TRD/5/P dt.17.03.2019 has approached SAO/Khammam to waive the late payment charges and to stop charges on late payment as Railways being a prompt customer where no intimation was received for last 07 years in regular monthly bills. Reply awaited.

Further Railway vide Lr.No.19/TRD/5/P Dt.25.03.2019 has approached CMD/TSNPDCL/Warangal and CGM/Commercial for waiver/ to reduce the late payment charges of Rs 2,01,43,345/- and further charges on late payment as Railways being a prompt customer and as the amount was shown in the monthly bills at the proper time i.e. till March,2018 and raised on Railways only when applied for reduction of CMD from 19 MVA to 15 MVA on 14.09.2017 followed by reminder on 06.11.2017. Reply awaited.

CONTROVERSY

1. As per TSNPDCL, the penal charges and late payment charges are to be paid by Railways.
2. The penal charges and arrears of March,07 total Rs 1.20 crores were paid by Railways on 17.03.2018. The late payment charges (surcharge) of Rs 2,01,43,345/- and the charges on this amount were not paid. The penal charges and the late payment charges were not shown in the monthly bills at the proper time i.e. till March,2018 and raised on railways only when applied for reduction of CMD from 19 MVA to 15 MVA on 14.09.2017 followed by reminder on 06.11.2017.

RELIEF SOUGHT FOR

In view of the above the Appellants requested that TSNPDCL may be advised for Waiver/reduce late payment charges (surcharge) of Rs 2,01,43,345/- on Penal charges (Aug,09 27,23,546/- Oct, 09 - 45,27,446/-, Nov,10 - 9,91,015/- and arrears of Mar,07 - 38,11,796/- levied on railways in the month of April,2018 monthly bill and further charges on this amount please.

5. In the face of the said contentions the Respondent No.3 i.e. SE/OP/Khammam submitted the following written statement on behalf of the Respondents vide his letter No. SE/OP/Khammam/SAO/SA/HT-1, D.No. 1819 dt.22.04.2019:-

That the Hon'ble CGRF, Warangal delivered verdict against SC No. KMM-063 of

Divisional Railway Manager for Dornakal Railway Traction on the following aspects:-

1. Hon'ble CGRF verdict

A. a. The bill was issued for Rs 23818047 in 8/2009.
b. As per the tariff order for the FY 2009-2010, Additional Energy Charges were levied in 5/2009 and 7/2009 @ 1.5 times over normal energy charges as the RMD exceeded above CMD of 1205 and upto 200% which works out for Rs 8170640.11.

B. The payments for additional load from 135000 KVA to 15000 KVA paid by the consumer on the following dates:

- a. Rs 1500000/- vide DD No. 740074 Dt.11.08.2009.
- b. Rs 1125000/- vide DD No. 740075 Dt.11.08.2009.
- c. Therefore, the Additional energy charges claimed was prior to the payments made by the consumer ie., in 5/2009 and in 7/2009 in which RMD exceeded CMD. Hence, it is justified as the payments were made after RMD exceeded CMD.

C. As per Hon'ble Chairperson CGRF Order No.7, Clause ii, " it is ordered that the penal charges levied by the Respondents (DISCOM) to the disputed bills are in order in accordance with tariff orders issued from time to time and complainant is liable to pay the charges accordingly."

6. The above consumer represented before the Hon'ble Vidyut Ombudsman that to waive/reduce late payment charges (surcharge) of Rs 20143345/-.

- a. In this connection, the following are submitted for favour of kind perusal and consideration please:
- b. The Senior Divisional Electrical, Traction Distribution, Sanchalan Bhavan, Secunderabad - 71 was informed to pay Rs 13588204/- including Rs 1534400.00 towards FSA.
- c. In response to it, Senior Divisional Electrical, Traction, South Central Railway, Secunderabad stated and accepted too pay Rs 1,20,53804.00 (Rs 13588204 - Rs 1534400.00).
- d. Based on this, a notice was served to M/s The SDE/TRD, SC.No.KMM-063 to pay Rs 1,2053,804.00 along with surcharge @ 0.0007 Paise/Rs.100/day up to

31.03.2018 and @ 0.05 paise/Rs100/day from 01.04.2008 to till date of payment.

- e. Accepting the above notice, the consumer paid Rs 1,20,53,804/- DD No. 93882 dt.09.04.2018 which was also informed by the consumer.
- f. As the dues of Rs 1,20,533,804/- belong to the period from 01.04.2008 to till the date of payments in various dates, surcharge on such dues have to be paid by the consumer which is amounted to Rs 2,01,43,345.37.
- g. The details of which are enclosed.

7. The Appellant filed a rejoinder stating that South Central Railway is one of the largest customers of SEB, has SC No. KMM-063 at its Traction Sub station at Dornakal with TSNPDCL.

A. On 14.09.2017 railways have applied for reduction of CMD from 19 MVA to 15 MVA. Since no communication was received, it followed by reminder dt.06.11.2017.

B. After 7 years, a letter No. Nil dt.17.07.2017 was received from SAO/OC/Khammam, attested by ADE/Comm/OC/NPDCL/Khammam in which Rs 1,35,88,2014/- was shown as arrears as below:-

- a. Opening Balance : Rs 38,11,796/-
- b. 8/2009 : Rs 27,23,547/- (less payment)
- c. 10/2009 due : Rs 45,27,446/- (Excess CMD from 4/09 to 07/09)
- d. 11/2010 due ; Rs 25,25,415 (FSA 08/2008; Rs 15,34,400 + Excess Energy charges; Rs 991015.)

C. Railways requested SE/OP/Khammam vide Lr.No.C/E.222/TRD/3/DKJ,23.11.2017 for detailed breakup of arrears with case wise reason to verify the claim for payment and to complete the CMD deration process.

D. In turn SAO/Khammam vide Lr.No.SAO/OP/KMM/AAO/JAO(HT)/SA 1/D.No.480/17 dt.13.12.2017 has replied to us with no clear details for a) i.e. Rs 38,11,796/- but given details for b,c,d as follows:-

“a. In 10/2001, the bill was issued Rs 1,17,94,2014 but consumer has not paid the amount gradually the arrears amount decreased and finally up to 03/2007 the arrears due was Rs 38,11,796/-.

“b. In 08/2009, the bill was issued for Rs 2,38,18,047/- but consumer has paid only Rs 2,10,94,500/- and the balance amount due is Rs 27,23,547/- (less payment amount).

“c. Excess CMD from 04/2009 to 07/2009 demand for Rs 45,27,446/- was raised in the month of 10/2009, but the consumer not paid the excess MD charges raised amount.”

“d. (i). FSA 08/2008 for Rs 15,34,400/- (consumer has filed the case in High Court _ of 2010).

(ii). Excess Energy Charges 11/2010 for Rs 9,91,015/- (Excess recorded MD 3589) 5% X 4.45 - Rs 9,91,015/-) was not paid.” **Total: Rs 1,20,53,804/-.**

E. In this connection it is to inform that : Details for item (a) were not clarified till today.

This office Vide Lr.No.C/E.222/TRD/DKJ/1, Dt.09.01.2018 has requested SE/KMM to accept 1.20 crores and initiate deration process. In response to it, SE/OP/TSNPDCL/Khammam vide letter No.SE/OP/SAO/AAO/JAO(HT)SA 1/F.No.Nil/D.No.596/17 dt. 25.01.2018 claimed penal charges along with surcharge i.e. Rs 1,20,53,804 + Rs 2,01,43,345/-.

F. The principal amount i.e penal energy charges (for exceeding CMD) of Rs 1.20 Crores (including Rs 38,11,796/-) was paid on 17.03.2018 (excluding FSA/8/2008 with WP No. 29421 of 2010 pending in High Court).

G. a. The late payment charges are objectionable, Railways has registered complaint in CGRF-1, TSNPDCL, Warangal on 5/13-7-2018 to waive off the Late Payment Charges.

b. Hearing held on 17.11.2018.

c. Hon'ble CGRF has advised that “the penald charges levied by the Respondents are in Order and complainant is liable to pay the charges” and at 7 iv. (any other disputes regarding CC bill and arrears and unaccounted payments, the

complainant is directed to reconcile with the Respondent No.2/SAO/CO/Khammam.

H. Railway vide Lr. No.C/E/19TRD/5/P Dt.17.03.2019 has approached the SAO/KMM and CMD/TSNPDCL/Warangal on 25.03.2019 for waiver/to reduce late payment charges of Rs 2,01,43,345/- and further charges.

In turn the CMD has replied vide Lr.No.CMD/DIR(Fin)/CGM(Fin)/NPDCL/GM(Rev)/SAO(Rev)/AAO(HT)/D.No.68/19 dt.20.04.2019 that there is no provision for waiver of late payment surcharges/surcharge for non payment of excess energy charges and requested to pay late payment charges of Rs 2,01,43,345/- to avoid disconnection of supply. The claim made by SEB is not in order.

I. All of a sudden after a gap of 7 years requesting Railway to pay late payment charges of Rs 2,01,43,345/- on penal energy charges of Rs 1,20,53,084/- for exceeding CMD vide SE/OP/Khammam letter No. SE/OP/SAO/AAO/JAO(HT)/SA 1/F.No.D.No.596/17 dt.25.01.2018 is not fair.

J. Late payment charges were not mentioned in the HT monthly bills since 2007 to March,2018 which are signed by SAO/KMM every month. Further in the bill, every month it is mentioned as “Bill Amount including arrears” which says that there are no arrears.

K. From the monthly bill of April,2018 an amount of Rs 2,01,43,345/- was claimed against “raising of late payment charges.”

L. In the monthly bill of June,2018 which was collected by our staff at Warangal, an amount of Rs 2,59,01,920/- was claimed as current bill amount and Rs 2,73,50,758/- as arrears/late payment charges and total Rs 5,32,52,679/- against bill amount including arrears/late payment charges. The bill for the month of June,2018 was passed for Rs 2,59,01,920/- arrears/withholding late payment charges.

M. After passing the bill, a copy of the same bill was received by post for Rs 2,59,01,920/- (excluding the arrears/late payment charges).

N. Due to failure of intimation by SEB, at the right time, a huge amount of late fee was accumulated since 2007.

Railways is a bulk and sincere consumer of SEB and it should not be penalized for the gross negligence of the SEB. Moreover, Railways is also Government Organisation. Such lapses are scrutinized by external audit agencies like CAG. We are supposed to answer to our higher officials/justification i.e. audit/accounts when desired.

In light of the above, it is requested to consider the case and TSSPDCL is advised for waiver of late payment charges of Rs 2,01,43,345.37 on Penal Energy Charges and further amounts added to it please.

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

1. Whether the Appellants are entitled for waiver of the late payment charges on penal charges for the month of August and October 2009 and for the month of November 2010 along with arrears for the month of March 2007 levied in the month of April 2018 monthly bills and further charges on these amounts? And
2. To what relief?

Heard both sides.

Issue No.1

9. A perusal of the averments of both sides go to show that the Appellant contended that the south central railway has a service connection bearing No KMM-063 at its traction substation at dornakal with TSNPDCL. The service was released under HT Category V for CMD of 6MVA in 1987 and subsequently increased to 13.5MVA in 2006 and 15MVA in Jan 2010, 17MVA in Dec, 2010, 19 MVA in 2011 and again derated to 15MVA in 2018. It was requested for waiver of late payment surcharges ofRs 2,01,43,345/- on penal charges and arrears of Rs 38,11,796/- levied in the month of April 2018 monthly bill and further charges on this amount. It was claimed that the penal charges and late payment charges were not shown in the monthly bills until the month of Mar 2018 and raised only when applied for reduction of CMD from 19MVA to 15MVA on 14.9.2018.

10. The Respondents on the other hand contended that they have raised the penal charges as the Recorded Maximum Demand (RMD) of the Appellant was much more than the Contracted Maximum Demand (CMD) for the month of August and October 2009 and November 2010.

11. A perusal of the billing details furnished by the Respondents and disputed by the Appellants shows that in the month of August'2009 he bill was recorded as follows:-

Recorded energy - 53,40,000 KWH.
 CMD - 13,500 KVA.
 RMD - 18,200 KVA.
 Excess MD - 4700KVA.

Billing:

Total recorded energy	53,40,000 KWH
Normal tariff charges applicable for energy	5340000-1379011=3960989 KWH
1.5 times of normal charges on excess energy	13,79,011 KWH

Normal rate	39,60,989 KWH*3.95=Rs.1,56,45,906/-
Excess energy charges(3.95*1.5)	13,79,011KWH*5.925=Rs.81,70,640/-
Customer charges	1500/-
Total bill payment	Rs 2,38,18,046/-

The billing for the month of October,2009 shows as follows:-

Contracted maximum demand(CMD)=13500KVA

Recorded maximum demand(RMD)=140000KVA

Excess demand =500 KVA

Total recorded energy	49,60,000 KWH
Normal tariff charges applicable for energy	49,60,000-1176949=3,78,305 KWH
Normal tariff rate	378305*3.95=1,49,43,052/-
1.5 times of normal charges on excess energy	1176949*5.925=69,73,423/-

Total bill amount=21916475/-

Already billed for=19592000/-

Shortfall amount=2324475/-

The Appellant had not objected to the fact that they have availed the Recorded Maximum Demand of 18200 KVA as against the Contracted Maximum Demand of 13500 KVA, but held that they are not responsible for the penal charges levied, since their request for release of Additional load from existing CMD of 13.5MVA to 15 MVA was not accorded by the respondents in time, which resulted in levy of penal charges of Rs.27,23,546. That they applied for said additional load on dt: 03.07.2009, but the additional load was released on Jan 2010. In this way they have claimed that though they have placed the request for additional load, they have not been accorded the approval resulting in the penal charges.

Similar to the Aug-09 month case, the appellant has also admitted to have availed excess MD from the month of April to July 2009 the recorded MDs were 16.2,17.7,16 &17.5 MVA respectively and in the month of Oct-09, the RMD was 14 MVA against the CMD of 13.5MVA. In this case also it was held that their application for release of additional load from 8MVA to 13.5MVA was kept pending since 15-2-2006 and released on 21-3-2006, they further requested to correct the CMD in the bill as 13.5MVA on 16.7.2009. It was claimed that penal energy charges of Rs 45,27,446/- was levied in the month of October,2009 bill, this amount was withheld since no details were given.

The Appellant held that during the month of November 2010 the RMD was 18.589 MVA against the CMD of 15 MVA and that their application for release of additional load from 15 MVA to 17 MVA was pending with the DISCOM since 10.08.2010 and was released on 23.11.2010 and an amount of Rs 9,91,015/- was shown as penal energy charges levied in the month of November which was withheld and informed on 30.11.2010 vide letter bearing No. C/E.222/TRD/DKJ/APSEB/3 and further that an amount of Rs 15,34,400/- towards FSA charges pending in the High Court vide WP No. 29421/2010 was also withheld.

12. A perusal of the averments of the Appellants clearly show that they have admitted the fact that they have availed Recorded Maximum Demand as against the Contracted Maximum Demand but contended that they are not liable to

pay penal charges as it was the Respondents who failed to release the additional load demanded by them and that the penal charges and the late payment charges were not shown in the monthly bills at proper time till March 2018 i.e. when they have applied for reduction of CMD fro 19 MVA to 15 MVA and as such they have not paid the late surcharges and the charges and as such claimed that they are entitled for waiver of penal charges levied during the month of August and October 2009 and November 2010 apart from arrears of March 2007. They also contended that as per the records of the Respondents for the month of March 2007 the arrears that were due was Rs 38,11,796/-. But the Respondents claimed Rs 1.17 crores as pending dues in October,2001 when in fact the Appellants record showed No dues pending till 2007 though the said amount was paid on 17.03.2018.

13. The Respondents on the other hand contended that there was no delay on their part and that they have to maintain certain standards for release of additional loads as prescribed by the Hon’ble Commission under Regulation 7 of 2004 Clause 4.2.

14. A perusal of the said Regulation 7 of 2004 Clause 4.2 prescribes the time period within which the electricity supply should be provided and the same is reproduced as under:-

Voltage of supply	Period from the date of payment of required security and other charges, within which supply of electricity should be provided
Low Tension	30 days
High Tension - 11000 Volts	60 days
High Tension - 33000 Volts	90 Days
Extra High Tension - Above 33000 Volts	180 days

As per the said provisions mentioned above the Respondents are entitled to take 180 days for providing extra High Tension supply which is demanded by the Appellants herein as it is above 33000 volts and as such the Respondents have provided with the required demand of the Appellants within the period of 180 days, the Appellants cannot claim that there was a delay on the part of the Respondents in providing them

with the demanded supply of electricity.

15. The Appellants themselves referred to the Review Petitions in OP Nos. 17 to 20 of 2008 in APERC in RP Nos. 9 of 2009 dt.10.03.2011 wherein the DISCOMs, TRANSCO and the Railways have entered into an agreement on the subject of CMD and non release of additional demand by DISCOMs. A perusal of Clauses 8(d)(iv) & (v) of the said agreement is reproduced as follows:-

(iv) "If the DISCOM and APTRANSCO could not complete the process or if no action is initiated after registration of the application for additional load within six months, the additional Demand sought is deemed to have been released. The Railways shall pay the required charges as estimated by the DISCOM/APTRANSCO as per the Regulations/orders issued by the Commission from time to time on the above deemed additional load."

"(v) If the DISCOM fails to release the additional Demand within the stipulated time the DISCOM shall not levy penal charges on Railway Traction services for exceeding the contracted demand to the extent of additional Demand requirement for which the application was registered and pending with DISCOMs."

The said terms and conditions of the said agreement clearly goes against the Appellants themselves, as as per the said terms and conditions of the agreement the additional loads have to be provided within 6 months and the Respondents have not exceeded the said period prescribed. The General Terms and Conditions of Supply approved by the Hon'ble Commission under Clause 5.9.1.2 also specifies that the HT agreement shall govern the supply of electricity by the Company for HT consumers as shown below:-

"I/we agree to take from the Company, electric power for a maximum load not exceeding_____KVA which shall be taken to be my/our contracted Demand for our exclusive use for the purpose above mentioned, at our Mills/Factory/Premises situated at _____. My/Our contracted load shall be ____HP and/or _____ KW. I/We shall not effect any change in the Maximum Demand or Contracted load without prior intimation to the Company."

The above said clauses supra mandates the restriction of the usage of power supply to the extent of the contracted maximum demand and the Appellant is bound not to effect any change in maximum demand or contracted load without prior intimation to the Licensee. During the intervening period of processing of the additional load applications the Appellant availed excess load over the contracted demand which could have been avoided until the release of the additional loads by the Licensee. The stand of the Appellant that since they have applied for the additional load and paid the requisite charges are free to avail the excess load over CMD, even before approval from the Licensee does not holds good, more particular when we see the following, the quantum of exceeded loads were not within the additional loads requested comparatively.

Year	Additional load in MVA	Requested CMD	RMD reached (Recorded Maximum Demand) in MVA
2006	8 to 13.5	13.5	18.2
2009	13.5 to 15	15	16.2, 17, 17.6 & 17.7
2010	15 to 17	17	18.589

As per the above table it can be seen that the Appellant over exceeded the maximum demand compared with the requested additional load, hence cannot reason out that they are not liable to pay penal charges on account of non release of additional load. Any additional load requirement from the existing network structure has to be examined whether the existing network caters such extra loads or any expansion is needed. The clause 8(d)(iv) of the Agreement in R.P. No 9 of 2009 dt.10.03.2011, envisages the Discom to release additional loads within 6 months. The said Clause mandates that if additional loads were not released or no action taken within the six months time the additional loads are deemed to be released by the licensee. Such is not the case herein, since in no cases of the above, there was a delay of more than six months from the date of payment. If network is burdened with such excess loads over the contracted loads without prior approval, it would lead to burdening of the lines and power transformers which is not desirable for safe operation of the system. The penal charges for exceeding the

CMD were introduced as a deterrent to maintain the grid discipline in the consumers.

In view of the above, the claim of the Appellant that penal charges cannot be levied for exceeding the maximum demand over the contracted maximum demand is not tenable.

16. As and when the Appellant exceeded the contracted demand, penal charges were levied, but the Appellant choose to keep aside the penal charges and paid the normal charges, resulting in accumulation of penal charges to an amount of Rs 1,20,53,804/-(including Rs 38,11,796/-) and Rs 2,01,43,345, as late payment surcharges calculated upto the payment made as given in Table No.1 above. The Appellant while paying the penal charges of Rs 1,20,53,804/-(vide DD No. 138892 dt.09.03.2018) on 17.03.2018, held Vide Letter C/E.222/TRD/3/DKJ dt.23.04.2018, that they are not in a position to pay the late payment charges of Rs 2,01,43,345.37 ps which was levied over non payment of Penal charges and opposed the payment of said amount.

17. The main appeal of the Appellant is that Respondents not informed about the late payment charges from time to time in the monthly bills and hence shown their inability to pay the charges of Rs 2,01,43,345.37 ps stating that demand was made at once in the monthly bill of March'2018. The Appellant is at fault on keeping pending the payment of penal charges for so long, paying the said amount at a later stage. Equally there is a lapse on the part of the Licensee also, on not showing the late payment charges through the monthly bills, and kept pending on account of the dispute over non payment of penal charges, that was not resolved until March'2018. Time & again there were certain communications between the Appellant and the Respondents in regard to the payment of penal charges, where the respondents in reply has not considered such requests through letters of CMD vide Lr.No. 993 dt.23.01.2011 and Lr.No.1191 dt.29.03.2011. The Appellant was informed how the penal charges were levied and vide Lr.No.191 dt.05.03.2011, SAO/OP/Khammam had given notice for disconnection over not payment of pending penal charges of Rs 9,91,015/-. The Appellant vide Lr.No.C/E.222/TRD/DKJ/03 dt.23.03.2011 having not agreed to pay the penal charges, argued on the point that it is the responsibility of the licensee to provide power to the consumer within 1 month from the date of application and urged that

in no way the consumer can be penalised for the delay, which is not the case since 6 months is the tenure to release the additional load as per the agreement between Railways, Discoms and Transco in O.P. Nos 17 to 20 of 2008, of APERC in RP No. 9 of 2009 dt.10.03.2011. The Appellant finally after keeping pending for so long decided to pay the penal charges in order to avail reduction in CMD (19 MVA to 15 MVA). As per the Tariff Orders applicable, the Licensee can charge the late payment surcharge for month in the bill amount @ of 0.05ps /INR 100/Per day or INR. 550 whichever is higher(from the year 2013-14) or the rates applicable before. Hence the late payment surcharges were calculated until the payment of penal charges i.e. 17.03.2018. Since there are no provisions to waive off the late payment surcharges, the claim of the Appellant is not tenable. Hence decides this issue against the Appellant.

Issue No.2

18. In the result the Appeal is dismissed.

Typed by Office Executive cum Computer Operator, Corrected, Signed and Pronounced by me on this, the 15th day of July, 2019.

Sd/-

Vidyut Ombudsman

1. Sri. Anand Chekkila, Divisional Railway Manager, (Traction Distribution),
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9550771658.
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5. The Chairperson, CGRF-1,TSNPDCL,Nakkalagutta, Hanamkonda, Warangal.
6. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul,Hyd.