



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

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

:: Present:: R. DAMODAR

Monday, the seventh Day of December 2015

Appeal No. 44 of 2015

(Old Appeal No. 92 of 2014)

Preferred against Order Dt.18.07.2014 of CGRF In

CG.No:27/2014 of Medak Circle

Between

M/s Mehra Mac Industries Pvt Ltd, Plot No. 3/6, Automotive park, Kalakal(V),
Toopran (M), Medak Dist, Cell 9246523153.

..... Appellant

AND

1. The AE/OP/Kanakal/TSSPDCL/Medak Dist.
2. The ADE/OP/Toopran/TSSPDCL/Medak Dist.
3. The SAO/OP/Medak/TSSPDCL/Medak Dist.
4. The DE/OP/Toopran/TSSPDCL/Medak Dist.
5. The SE/OP/Medak Circle/TSSPDCL/Medak Dist.

..... Respondents

The above appeal filed on 13.01.2015, came up for final hearing before the Vidyut Ombudsman, Telangana State on 29.09.2015 at Hyderabad in the presence of the Sri. Ravi - Advocate on behalf of the Appellant and Sri. CH. Nageshwara Reddy - JAO/HT Section/OP/Medak for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant has Service Connection with No. MDK 1515 with CMD of 200 KVA. The Appellant claims that the Respondents have imposed late payment charges for 2013-14 (April, 2013 to February,2014) billing months for Rs 1,41,077/- in violation of clause 6(9) of terms and conditions of Tariff Orders 2013-14 against the mere due amount of only Rs 3140/-.

2. The APERC issued R&C measures from 12/9/2012 to 31/7/2013. As per clause 19(c) OF R&C measures vide proceedings dt.1.11.2012, the Licensee shall not collect ACD. The Appellant claims that the Respondents, during the R&C measures period, claimed an amount of Rs 20,772/- with effect from November, 2013 to February, 2014 billing months towards Additional Consumption Deposit in violation of R&C measures. The Appellant pleaded for withdrawal of the excess amounts claimed on which no action was taken. Therefore, he preferred a complaint with the CGRF.

3. Before the CGRF, the 2nd Respondent, SAO claimed that the supplementary bills for the months from September, 2012 to January, 2013 were revised, an amount of Rs 6,90,889/- was withdrawn and adjusted towards CC charges arrears. The 2nd Respondent further stated that the difference of surcharge amount on original R&C supplementary bills and revised supplementary bills have been withdrawn and an amount of Rs 87,017/- has been adjusted towards CC charges arrears. The details of excess levied surcharge withdrawn is as detailed below:

Already billed surcharge amount:

Month	Year	MDK No	Name	R&C Amount	Added in cc bill	paid amount	Due Date	Payment Date	No of Days	Surcharge
9	2012	MDK1515	M/s Mehra Mac	34202	Jan-13		12/1/13	23/5/14	496	8482
10	2012	MDK1515	M/s Mehra Mac	144835	Jan-13		12/1/13	23/5/14	496	35919
11	2012	MDK1515	M/s Mehra Mac	233048	Jan-13		12/1/13	23/5/14	496	57795
12	2012	MDK1515	M/s Mehra Mac	360678	Feb-13	200000	12/3/13	02/5/13	51	9197
1	2013	MDK1515	M/s Mehra Mac	557105	Mar-13	200000	9/4/13	30/4/13	21	5849.6
				357105		300000	30/04/13	02/07/13	63	11248
				1329868						117243

To be billed surcharge amount

Month	Year	MDK No	Name	R&C Amount	Added in cc bill	paid amount	Due Date	Payment Date	No of Days	Surcharge
9	2012	MDK1515	M/s Mehra Mac	0	Jan-13		12/1/13	23/5/14	496	0
10	2012	MDK1515	M/s Mehra Mac	21276	Jan-13		12/1/13	23/5/14	496	5276.4
11	2012	MDK1515	M/s Mehra Mac	65988	Jan-13		12/1/13	23/5/14	496	16365
12	2012	MDK1515	M/s Mehra Mac	181311	Feb-13	200000	12/3/13	02/5/13	51	4623.4
1	2013	MDK1515	M/s Mehra Mac	377345	Mar-13	200000	9/4/13	30/4/13	21	3962
				357105		300000	30/04/13	02/07/13	63	0
										30227
Surcharges amount to be withdrawn 13,29,868-30227=						87016.85				

4. Before the CGRF, the 3rd Respondent stated that the ACD surcharge imposed for the period from April, 2013 to Feb 2014 would be withdrawn by taking permission from DISCOM and similarly, surcharge and CC bills would be revised on or before 14.7.2014. This was not done as undertaken.

5. After hearing arguments and on the basis of the record, the CGRF directed the Respondents to verify and levy the Late payment charges (DPS) for belated period as per clause 6(9) of Tariff Orders, 2013-14 and further directed the Respondents that they shall not collect ACD during the R&C measures ordered by APERC vide proceedings dt. 1.11.2012 as per clause 19(c), through the impugned orders.

6. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal alleging that the Respondents failed to comply with the directions of the CGRF and on the other hand, disconnected the power supply on 27.12.2014 without notice in violation of Sec 56(1) of the Electricity Act, 2013 and that under protest, the Appellant paid Rs 1,50,000/- for restoration of power supply on 30.12.2014. The Appellant sought a direction to the Respondents not to disconnect the power supply without notice, implement the impugned orders of CGRF, withdraw the late payment charges of Rs 1,37,937/-, and also withdraw Rs 20,772/- claimed towards ACD in violation of R&C measures.

7. Efforts made at mediation could not succeed and hence, the matter is being disposed of on merits.

Arguments heard.

8. The points for determination are:
1. Whether the Respondents have not implemented the orders of the CGRF without justification?
 2. Whether the Respondents are not entitled to claim Late payment charges of Rs 1,37,937/- for the period from April, 2013 to Feb, 2014 billing months?
 3. Whether the Respondents claimed ACD of Rs 20,772/- against the R&C measures?

ISSUE No. 2

9. After R&C measures order dt.14.9.2012, the revised (R&C) order dt.1.11.2012 was issued. The R&C demand was raised under Non Continuous Option as per Column No. 5 for Rs 13,29,868/- as shown below:-

TABLE-1

Month 1.	Year 2.	MDK No 3.	Name 4.	R&C Amount 5.	Added in cc bill 6.	paid amount 7.	Due Date 8.	Payment Date 9.	No of Days 10.	Surcharge 11.
9	2012	MDK1515	M/s Mehra Mac	34202	Jan-13		12/1/13	23/5/14	496	8482
10	2012	MDK1515	M/s Mehra Mac	144835	Jan-13		12/1/13	23/5/14	496	35919
11	2012	MDK1515	M/s Mehra Mac	233048	Jan-13		12/1/13	23/5/14	496	57795
12	2012	MDK1515	M/s Mehra Mac	360678	Feb-13	200000	12/3/13	02/5/13	51	9197
1	2013	MDK1515	M/s Mehra Mac	557105	Mar-13	200000	9/4/13	30/4/13	21	5849.6
				357105		300000	30/04/13	02/07/13	63	11248
				1329868						117243

10. The Appellant took 60% option as offered in R&C orders under continuous process industries and then the R&C demand(Col.No.5) was revised as surcharge(Col.No. 11) as shown below:

TABLE-II

Month 1.	Year 2.	MDK No 3	Name 4.	R&C Amount 5.	Added in cc bill 6.	paid amount 7.	Due Date 8.	Payment Date 9.	No of Days 10.	Surcharge 11.
9	2012	MDK1515	M/s Mehra Mac	0	Jan-13		12/1/13	23/5/14	496	0
10	2012	MDK1515	M/s Mehra Mac	21276	Jan-13		12/1/13	23/5/14	496	5276.4
11	2012	MDK1515	M/s Mehra Mac	65988	Jan-13		12/1/13	23/5/14	496	16365
12	2012	MDK1515	M/s Mehra Mac	181311	Feb-13	200000	12/3/13	02/5/13	51	4623.4
1	2013	MDK1515	M/s Mehra Mac	377345	Mar-13	200000	9/4/13	30/4/13	21	3962
				357105		300000	30/04/13	02/7/13	63	0
										30227
Surcharges amount withdrawn = Rs 87016.85/-										

11. As per proceedings No. APERC/Secy/154/2013 dt. 8.8.2014 50% R&C penalties were withdrawn. In view of this order, the Respondents withdrew Rs 13,52,746/- in March, 2014. This amount should have been withdrawn from September,2012 to July, 2013 from month to month, with distinct figures during the currency of R&C measures as shown below:-

TABLE-III

S.No 1	Month 2	Initial R&C demand raised 3	Raised in the month of 4	R&C demand revised 5	Difference of amount Withdrawn 6	50% R&C demand withdraw 7
1.	Sep - 12	34202	1/2013	-6950	41152	0
2.	Oct 12	144835	1/2013	21276	123559	17629
3	Nov - 12	233048	1/2013	65988	167060	39737
4	Dec - 12	360678	2/2013	181311	179367	97449
5	Jan - 13	557105	3/2013	377354	179751	196129
6	Feb - 13	738222	3/2013	738222		379161
7	Mar - 13	356367	3/2013	356367		178183
8	Apr - 13	364663	8/2013	364663		182458
9	May - 13	291639	6/2013	291639		145820

10	Jun - 13	211616	6/2013	211616		105595
11	Jul - 13	21169	8/2013	21169		10585
	Total	3313544		2622655	690889	1352746

12. An amount of Rs 6,90,889/- was withdrawn towards the revision of R&C demands owing to 60% option under the continuous process effected in the month of December,2013. This amount withdrawn was later implemented for the period from the month of Sep'2012 (Inception of R&C measures) as shown in column 5 of Table II leading to reduction of DPS amount to an extent of Rs 87,016.85.

13. Similarly, the late payment surcharges were to be revised owing to withdrawal of amount of Rs 13,52,764 towards 50% R&C penalties which was implemented in the month of March, 2014 which have to be implemented from Sep, 2012 as shown in column no 7 of Table III from month to month, taking in to account the debits & credits. The DPS so evaluated shall be paid by the Appellant. The Respondents shall revise the late payment surcharges accordingly.

ISSUE No. 3

14. ACD SURCHARGE

The ACD charges of Rs 20,772/- levied for the FY 2013-14 was opposed by the Appellant owing to clause 19(C) of R&C orders. Every month from November,2013 to March,2014 an amount of Rs 5193/- was levied towards ACD surcharges. The R&C period was from September,2012 to July, 2013. The notice for ACD demands for the FY 2013-14 was given on 30.08.2013 with due date as 30.9.2013, which is beyond the R&C period. Due to non payment of ACD amounts, ACD surcharges were levied from November,2013. The ACD demand/Surcharge claimed here does not pertain to the R&C period. Hence the ACD demand surcharge beyond the R&C measures is liable to be paid by the Appellant. The issue is answered accordingly.

ISSUE No. 1

15. The CGRF, without going into merits of the case, has chosen to direct the DISCOM in a blanket manner to levy DPS as per clause 6(9) of Tariff Order, 2013 - 14 which is not in consonance with the duties and responsibilities entrusted with it. This direction of CGRF has not given any guidance to the DISCOM, where it went wrong and what should be done in the fact situation. The direction is found to be a proforma one without substance. The issue is answered accordingly.

16. In the result, the Appeal is allowed directing:-

- a. That the Respondents shall revise the DPS keeping in view the withdrawal of Rs 13,52,746 towards 50% R&C penalties to be implemented from Sep, 2012 as shown in column No. 7 of Table III from month to month, taking into account the debits and credits in the Account.
- b. That the ACD demand claimed in the Appeal does not relate to R&C measures. Hence the Appellant is liable to pay the ACD demand.
- c. That the impugned order does not show that the matter is examined on merits of the case and hence, found as a pro forma order not guiding the DISCOM and liable to be held as such, though the law is stated to be followed, without applying the facts of the case.

Corrected, Signed & Pronounced on this the 7th day of December, 2015.

Sd/-

VIDYUT OMBUDSMAN

TYPED BY CCO

1. M/s Mehra Mac Industries Pvt Ltd, Plot No. 3/6, Automotive park, Kalakal(V),
Toopran (M), Medak Dist, Cell 9246523153
2. The AE/OP/Kanakal/TSSPDCL/Medak Dist.
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6. The SE/OP/Medak Circle/TSSPDCL/Medak Dist.

Copy to:

7. The Chairperson, CGRF, Rural, TSSPDCL, Vengal Rao Nagar Colony,
Erragadda, Hyderabad.
8. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad.