



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

Thursday, the Sixteenth Day of June 2016

Appeal No. 24 of 2016

Preferred against Order Dt. 22-03-2016 of CGRF In

CG.No: 123 /2016 of Mahaboobnagar Circle

Between

M/s. Salasar Iron and Steels PVT.Ltd Sy.No. 417, Pargi Road,
Mogiligidda Village, Farooqnagar Mandal, Mahaboobnagar - 509 410
Cell No. 93910 33606.

... Appellant

AND

1. The SAO/OP/Mahaboobnagar/TSSPDCL/Mahaboobnagar Dist.
2. The DE/OP/Mahaboobnagar/TSSPDCL/Mahaboobnagar Dist.
3. The SE/OP/MBNR Circle/TSSPDCL/Mahaboobnagar Dist.
4. The CGM/Commercial/TSSPDCL/Corporate Office/Hyderabad.

... Respondents

The above appeal filed on 22.04.2016 coming up for hearing before the Vidyut Ombudsman, Telangana State on 17.05.2016 at Hyderabad in the presence of Sri. Ravi on behalf of the Appellant Company and Sri. B. Sammaiah - SAO/OP/MBNR, Sri. B. Sanjeeva Reddy - DE/OP/Jadcherla/ Sri. K. Lingiah - DE/Comml./TSSPDCL and Sri. P. Krishna Reddy - GM/Revenue for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant has HT service connection No. MBN 1088 with CMD of 4990 KVA. The Appellant claimed that in the month of January,2016 the Respondents demanded voltage surcharge of Rs 22,81,914/- in violation of Clause 5.1.1 of part B of Tariff Order FY 2015-16 and also violating the parameters in Clause 6(3)(i) read with Clause (4). The Appellant sought setting aside of the voltage surcharge and late payment charge levied in January,2016 and lodged a complaint with CGRF.

2. The 3rd Respondent submitted a letter dt.12.2.2016 stating that in the month of January,2016 RMD of 5076 KVA exceeded the CMD 4990 by 86 KVA. He further claimed that for the consumers having contracted demand of about 4000 KVA, the maximum demand shall be four times the largest no.of KVAH delivered at the point of supply to the consumer during any consecutive 15 minutes in the month. The CMD of the Appellant is 4990 KVA and the maximum demand delivered at any consecutive 15 minutes during the month will be taken into consideration for billing as per clause 6(5) of HT supply, general conditions.

3. The 3rd Respondent stated that as per the Tariff Order 2015-16 general conditions of HT supply, if the RMD is more than 5000KVA with 33KV level voltage under common feeder in any month, the DISCOM is entitled to claim voltage surcharge, in addition to the applicable Tariff as per the Tariff Orders approved from time to time. Further, HT consumers intending to avail supply on common feeder for contracted demand with the company and all other sources, the voltage level at which the power could be drawn is as follows:

Contracted Demand	Voltage Level
Upto 1500 KVA	11KV
1501 KVA to 5000 KVA	33KV
Above 5000 KVA	132 KV or 220 KV as decided by the Company

The 3rd Respondent claimed that since RMD recorded is 5076 KVA which exceeded the limit of 5000KVA under 33 KV level under common feeder, voltage surcharge is levied @ 12% on demand charges and 10% on energy as per Tariff Order Part (A) HT Tariffs Clause 6(4) voltage surcharge of HT supply General Conditions. He relied on the part (A) HT Tariffs of Clause 6(4) of Tariff Order to support levying of voltage surcharge. He further claimed that there was an amount due Rs 13,04,232/- as on 31.12.2015 and therefore, late payment surcharge of Rs 22,487/- has been levied in the CC bill for the month of January,2016. During the hearing at CGRF, the representative of the Appellant, pointing out the Clause 6(4) relating to voltage surcharge, contended that only in case if the Appellant draws power at 11KV instead of 33KV, voltage surcharge would be levied and in the present case, the Appellant drew power at 33 KV and there has been no deviation of the declared voltage and therefore, voltage surcharge can not be levied.

4. Regarding ACD surcharge, the Appellant contended that as per the order of Hon'ble High Court in W.P. No. 37713 of 2014 dt.26.8.2013 the Appellant deposited 50% of ACD

amount and hence ACD surcharge is not attracted. It is further contended that the CC charges for the month of December, 2015 amounting to Rs 2,00,99,365/- was paid on 11.1.2016 as 9.1.2016 was a bank holiday and 10.1.2016 was a Sunday and therefore, the late payment charges of Rs 22,487/- is not attracted and is liable to be withdrawn.

5. The 1st Respondent, SAO/O/Mahaboobnagar appearing before the CGRF reiterated what has been stated by the 3rd Respondent SE/OP/MBNR.

6. After hearing the complainant and on consideration of the material on record, the CGRF upheld the levy of voltage surcharge as per the note in Clause 6(4) of HT Supply - General Conditions Vide Tariff Order 2015-16 through the impugned orders.

7. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal holding that levying of voltage surcharge of Rs 20,58,519/-, ACD surcharge of Rs 2,00,907/- and late payment charges Rs 22,487/- are not legal and liable to be set aside.

8. The 3rd Respondent SE/O/MBNR Circle submitted a reply dt.12.5.2016 in the Appeal reiterating what he stated before the CGRF. He reproduced Clause 6(4) HT Supply General Conditions: Tariff Order FY 2015-16 relating to voltage surcharge, which is as follows:

“The H.T.Consumers who are now getting supply at voltage different from the declared voltage and who want to continue taking supply at the same voltage will be charged as per the rates indicated below”:

S.No	Contracted demand with licence and other sources	Voltage at which supply should be availed (in KV)	Voltage at which consumer is availing supply (in KV)	Rates % extra over	
				Demand charges	Energy charges
A	For HT Consumers availing supply through common feeders				
1	1501 to 5000	33	11	12%	10%
2	Above 5000	132 or 220	66 or below	12%	10%
B	For HT Consumers availing supply through independent feeders				
1	2501 to 10000	33	11	12%	10%
2	Above 10000 KVA	132 or 220	66 or below	12%	10%
Note: The FSA will be extra as applicable.					

Note:- In case of consumers who are having supply arrangements from one or more than one sources, the RMD or CMD with the licensee and other sources, whichever is higher, shall be the basis for levying voltage surcharge.

9. The 3rd Respondent further reiterated that as on 31.12.2015 an amount of Rs 13,04,232/- towards CC bill was due and therefore, late payment charge of Rs 22,487/- has been levied in the CC bill of 01/16 and that in view of RMD of 5076 KVA which is more than CMD of 4990 KVA with 33 KV level under common feeder, the Appellant is liable to pay the voltage surcharge.

10. Efforts at mediation failed to succeed in view of the respective stands of both the parties and therefore, the matter is being disposed of on merits.

11. On the basis of record and contention of both the parties, the following issues arise for determination:

- i. Whether the Appellant is liable to pay the voltage surcharge on the additional usage of KVA during the month of January, 2016?
- ii. Whether the ACD surcharge of Rs 2,00,097/- is liable to be set aside?
- iii. Whether late payment charges of Rs 22,487/- are liable to be set aside?
- iv. Whether the impugned orders are liable to be set aside?

ISSUES 1 to 4

12. The Appellant contended that the Respondents have imposed voltage surcharge misinterpreting the relevant Clause even though there is no ground attracting imposition of voltage surcharge. The Appellant further claimed that with 4990 KVA of CMD, the power was drawn at 33 KVA and as per Clause 6(4) of Tariff Order 2015-16, if the Appellant whose CMD is 4990 KVA draws power at 11KV instead of 33 KV, only then the voltage surcharge is attracted and not in the present case. On the other hand, the Respondents claimed that as per the note in the Clause 6(4) in the Tariff Order 2015-16, if the RMD goes beyond 5000 KVA drawn at 33 KV level under common feeder, the voltage surcharge is attracted, because the designated voltage for above 5000 KVA is 132 KV or 220 KV as per the Clause.

13. There are three prerequisites for application of Part A of the Table in Clause 6(4) for imposing the voltage surcharge on the consumers availing supply through common feeders and they are:-

- i. The contracted demand with licensee and other sources (in KVA) should have been between 1501 KVA and 5000KVA at voltage level 33KV
- ii. Voltage at which the supply should be availed is at 33KV level.
- iii. The Voltage at which the consumer is availing supply should have been 11KV and the consumer should be insisting on availing supply at 11KV only,

and only then, 12% demand charges and 10% energy charges representing the voltage surcharge are leviable and not otherwise.

14. The maintenance of the voltage level is of utmost importance for the Distribution Company to maintain grid discipline. When the power is supplied in higher voltages, the transmission losses are lesser. Hence, when a utility supplies power at a designated voltage, and the consumers avail supply at a lower level continuously than the specified voltage level, there would be transmission losses and to compensate this type of losses, the voltage surcharge is levied. The utility suffers higher transmission losses, if it has to supply power at a lower voltage level. This is the purpose behind levy of voltage surcharge.

15. In the present case:-

- a. The specified voltage for CMD below 5000KVA under common feeder is at 33 KV level. The appellant is availing supply at 33KV and there is no deviation,
- b. The appellant is not getting supply continuously at different (lower) voltage from the declared voltage which is 33KV,
- c. There is no insistence in drawing supply at different (lower) voltage

16. The voltage surcharge imposed on the Appellant in the present case, as discussed supra, is not mandated by Para 6(4) H.T. Supply General Conditions of the Tariff Order 2015-16. It is practically not possible to shift from drawing power supply at 33 KV level to 132 KV level, at a particular instant immediately when a small portion of the demand in KVA (excess KVA) is drawn, in a particular integration of time duration and day in a month. This impossibility is ignored by the DISCOM when the claim was made for the voltage surcharge in this case, making huge demand over the appellant. The respondents prepared energy bills in this case levying voltage surcharge, without having the authority to do so, based on misinterpretation of the criteria prescribed in para 6(4) of the table H.T. Supply General Conditions of the Tariff Order 2015-16 and thus, it is clear that levy of voltage surcharge is not unsustainable in the present case.

17. The Appellant contended that late payment charges of Rs 22,487/- are liable to be set aside because there was no delay in payment of the dues. The billing data shows that an amount of Rs 13,04,232/- representing CC charges was shown as due in the month of December,2015 payable in the same month and not paid. Hence, this amount became arrears in January,2016. The amount according to the Appellant was paid on 11.1.2016 with a delay of 35 days and hence the Respondents have correctly charged the late payment charge at 5paise/RS100/day. The contention of the Appellant on this aspect is untenable.

18. The Appellant has not raised the question of ACD surcharge before the CGRF and raised the question in the Appeal. According to the Appellant, the Respondents raised ACD surcharge of Rs 2,00,907/- without any valid reason. The Respondents claimed that as per clause 6(3) of the Regulation No.6/2014, increase in consumption over a period of one year and review of inadequacy of available security deposit, the ACD has been enhanced. Further on non payment of ACD amount, the surcharge of Rs 2,00,907/- has been levied and the Appellant has to pay this amount.

19. The Appellant took a stand that a WP No. 37713/2014 has been filed by the Appellant and others and as per the orders, the Appellant paid 50% of the ACD amount. It is represented that the connected WA No. 968/2015 and batch were disposed of by orders dt.19.5.2016 upholding the right of the Respondents to collect ACD amount as per the Regulation 6/2014. Under these circumstances, in view of the fact that the Appellant failed to support the contention that the Respondents are not entitled to collect ACD amount and further in view of Clause 6(3) of the Regulation No.6/2004, it is held that the Respondents are entitled to collect ACD surcharge amount of Rs 2,00,907/- from the Appellant. The issue is answered accordingly.

20. In view of the aforementioned discussion, it is clear that the CGRF, which disposed of the complaint in a mere 2 line order without any discussion and without answering the points raised by the Appellant in its entirety, is unsustainable for absolute lack of reasoning. The issue is answered accordingly.

21. In the result, the Appeal is partly allowed holding that:

- a. the voltage surcharge imposed on the Appellant company in the month of January, 2016 is set aside.
- b. the ACD surcharge of Rs 2,00,907/- is upheld as legal and sustainable.
- c. the late payment surcharge of Rs 20,487/- is found to be legal and sustainable and

d. the impugned orders are found to be devoid of reasons and unsustainable.

22. This award shall be implemented within 15 days of its receipt at the risk of penalties as indicated in Clauses 3.38, 3.39 and 3.42 of the Regulation No. 3/2015 of TSERC.

TYPED BY CCO, Corrected, Signed and Pronounced by me on this the 16th day of June, 2016.

Sd/-

VIDYUT OMBUDSMAN

1. M/s. Salasar Iron and Steels PVT.Ltd Sy.No. 417, Pargi Road,
Mogiligidda Village, Farooqnagar Mandal, Mahaboobnagar - 509 410
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5. The CGM/Commercial/TSSPDCL/Corporate Office/Hyderabad.

Copy to:

6. The Chairperson, CGRF -1, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda,
Hyderabad.
7. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad.