



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 Twenty Eighth Day of March 2016

Appeal No. 84 of 2015/1 of 2016

Preferred against Order Dt. 18-09-2015 of CGRF In

CG.No: 63/2015 of Mahaboobnagar Circle

Between

Akthar Hussain Hashmi, Door No. 1-5-39/B, 3rd floor, New Town,
Mahaboobnagar, Telangana State. 9848092030.

... Appellant

AND

1. The AAE/OP/MBNR T-II/TSSPDCL/Mahaboobnagar Dist.
2. The ADE/OP/MBNR T/TSSPDCL/Mahaboobnagar Dist.
3. The AAO/ERO/Mahaboobnagar/TSSPDCL/Mahaboobnagar Dist.
4. The DE/OP/Mahaboobnagar/TSSPDCL/Mahaboobnagar Dist.
5. The SE/OP/MahaboobnagarCircle/TSSPDCL/Mahaboobnagar Dist.

... Respondents

The above appeal filed on 04.01.2016 coming up for hearing before the Vidyut Ombudsman, Telangana State on 17.03.2016 at Hyderabad in the presence of Sri. Akthar Hussain Hashmi - Appellant and Sri. Sathyanna - AE/OP/Town-III/MBNR, Smt. B. Yashoda - ADE/OP/MBNR Town, SRI. J. Shivraj - AAO/ERO/MBNR for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant has SC No. 17202 02096 LT Category I in the III floor of the premises. He claimed that the service is being used for dining and resting of his supermarket workers. The AAE/1st Respondent inspected the premises on 21.8.2015 and observed that the service connection is in the 3rd floor of the

building of which some part is being utilized for dining and resting purpose of the super markets workers during lunch time and the remaining place is being used for storing wastage and other goods. The Respondents treated this activity as commercial and assessed the shortfall amount as Rs 33,975/- towards unauthorised use of the power supply. Against this assessment, the Appellant preferred a complaint before the CGRF.

2. The 2nd Respondent/ADE/OP/MBNR through his letter dt.25.8.2015 disclosed that AE/O/Town II/MBNR inspected the premises and found that the Appellant was using the supply for commercial activity and booked a case, also changing the category I to II as per the terms and conditions of GTCS.

3. The Appellant pleaded for restoration of category to I and for setting aside the assessment. The 1st Respondent stated that the Appellant was using the 3rd floor of the commercial building for dining and resting of the workers of the supermarket during the lunch time and using the remaining store for storing wastage of supermarket and other goods and thus the service comes under commercial use and the power used was treated as such.

4. The CGRF, based on the material placed on record, observed and termed the usage of the 3rd floor of the Appellant premises as commercial purpose and held the orders of the Respondents changing the category II from I as proper and disposed of the Appeal through the impugned orders.

5. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present appeal claiming that the 3rd floor of his premises is not part and parcel of the supermarket and that in the multi storied building, there are 2 service connections under category II for the ground floor with SC No. 0175200370, for the 1st and 2nd floors he has SC No. 0175202092 and that the 3rd floor is being used for non commercial purpose like dining, resting of workers and their accommodation which does not fall under the term commercial activity and that the waste material and goods are being stored and the premises is also being used for resting and sleeping of the village workers, who come from distant places, seeking restoration of the service connection to LT Category I.

6. In this Appeal, the DE/III Assessments/Himayat Nagar through his assessment dt.25.9.2012 observed that the electricity supply released under category I (Domestic Purpose) is being used for commercial purpose and that the claim of the

Appellant that the premises was being used for resting and dining of the workers is not correct and assessed the loss to the DISCOM as Rs 34,100/-, against which the Appellant preferred an appeal to the SE/Assessments, corporate office, Hyderabad who through orders dt.8.8.2014 confirmed the assessment made by the DE/III/Assessments/Himayat Nagar.

7. The 2nd Respondent Submitted a letter dt.4.3.2016 to contend that the building in question is g+3 floors commercial building and the 3rd floor is being used for dining and resting of supermarket workers during lunch time in one room and the remaining part of the portion is being utilised for storing supermarket material and goods, apart from storing damaged material also and thus he claimed that the 3rd floor of the premises is being used for commercial purpose and that the Appellant has been paying the property tax over the property as commercial building and therefore, there is no merit in the claim of the Appellant.

8. After considering the material on record, the stand of both the parties, the efforts made to bring out a settlement has not succeeded and therefore, the matter is being disposed of on merits.

On the basis of the material available on record, the following issues arise for determination:

1. Whether the act of the Respondents in changing the Service Connection from LT Category I to LT Category II is valid?
2. Whether the back billing assessment of Rs 33,975/- (shown in the impugned orders) is legal and binding on the Appellant?
3. Whether the impugned orders are liable to be set aside?

Issues 1 & 2

9. The Appellant claimed that in the 3rd floor of his premises having SC No. 17202 020 96 is being used for storing waste material of the supermarket and for dining and resting of supermarket workers during lunch time and therefore, the service under LT Category I is correct and the Respondents cannot change the LT category I to LT Category II. The Respondents claimed that the premises is being used for storing waste and surplus goods of the supermarket and that they have validly changed the category from LT Category I to LT Category II and thus the

Appellant is liable to pay the assessment amount of Rs 33,975/- for using the supply for commercial purpose.

10. The Tariff Order FY 2015-16 gives a clear guidance on how to treat domestic and commercial categories in clear terms:

L.T.Category - I (A) & I (B) - Domestic

This tariff is applicable for supply of electricity for lights and fans and other domestic purposes to domestic premises. Domestic establishment /Premises is one which is used for dwelling/residential purpose.

Note: For domestic category, the households having a **separate kitchen** will be treated as a separate establishment.

L.T.CATEGORY-II-NON-DOMESTIC/COMMERCIAL APPLICABLE FOR SUPPLY OF ENERGY TO:

- a) Consumers who undertake Non Domestic activity.
- b) Consumers who undertake Commercial activity.
- c) Consumers who do not fall in any other LT category i.e., LT - I, LT - III to LT -VIII categories.

11. The Tariff Order FY 2015-16 in part A LT Tariffs reproduced above clarifies what is a domestic use. It says that the households having a separate kitchen will be treated as a separate establishment. For treating a household as a separate establishment, an emphasis is given to the existence of a kitchen. Obviously, the Appellant has no kitchen in the 3rd floor and it is being used for rest and dining of the workers and for storing waste material of his super market. Then the Clause 1.2 of LT category II Non Domestic/Commercial comes to play, where the energy is supplied to consumers who undertake non domestic activity and who undertake commercial activity etc would fall into category II. That is why the AE/OP/Town II/MBNR (R1) on 21.8.2015 inspected the premises and found the premises being used for non domestic activity and then booked a case for the unauthorised usage of power and changed the category from LT1 to LTII.

12. The contention of the Appellant that since the 3rd floor in question is being used for rest of his workers and also for dining during lunch hour, apart from storing waste material and therefore it is a domestic activity and not commercial activity and that the change of category is not legal, is not correct. The Tariff

order FY 2015-16 is clear on this aspect. Admittedly there is no kitchen in the premises. The premises is also being used for storing waste material of the super market. May be the premises is being used for dining and rest of the supermarket workers during lunch time. This activity clearly falls within the four corners of Clause 1.2 LT category II NON Domestic/Commercial of the Tariff Orders FY 2015-16. The Contention of the Respondents that the activity in the 3rd floor premises is non domestic and therefore, the Assessment made is tenable and correct. The contention that the change of LT Category I to LT category II is found to be based on the Tariff orders, is found to be valid and correct.

13. The SE/Assessments/Corporate office assessed the units and loss of revenue to the DISCOM for the period from 1.8.2011 to 1.8.2012 . On the basis of the connected load of 1500W, he arrived at the shortfall units as 3975 and the value of the shortfall energy as Rs 33,975/- and by adding the supervision charges, he arrived at the assessment amount as Rs 34075/-. In principle, the DISCOM is entitled to collect the shortfall energy charges under LT category II. Thus the assessed amount is found to be proper.

14. The issues 1 & 2 are answered accordingly.

15. Without mentioning on what basis and on what provision of the Tariff Order the Respondents came to a conclusion that the power is being used for non domestic purpose, the CGRF passed the impugned orders. Though the reasons are not given, the conclusion arrived at in the impugned orders is correct and it is confirmed. The Issue no.3 is answered accordingly.

15. In the Result, the Appeal is disposed of holding that:

- a. the change of consumer service from Category-I to II is found to be in conformity with the Tariff Orders FY 2015-16 (Part A Clause 1.1 LT category- I(A) and 1(B)- Domestic) and it is upheld.
- b. The order of assessment placing a demand of Rs 33975/- towards usage of energy charges under non domestic category for the service connection is upheld.
- c. The impugned orders are confirmed.

The Appeal is disposed of accordingly.

16. 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 28th day of March, 2016.

Sd/-

VIDYUT OMBUDSMAN

1. Akthar Hussain Hashmi, Door . no 1-5-39/B, 3rd floor, New Town, Mahaboobnagar, Telangana State. 9848092030.
2. The AAE/OP/MBNR T-II/TSSPDCL/Mahaboobnagar Dist.
3. The ADE/OP/MBNR T/TSSPDCL/Mahaboobnagar Dist.
4. The AAO/ERO/Mahaboobnagar/TSSPDCL/Mahaboobnagar Dist.
5. The DE/OP/Mahaboobnagar/TSSPDCL/Mahaboobnagar Dist.
6. The SE/OP/MahaboobnagarCircle/TSSPDCL/Mahaboobnagar Dist.

Copy to:

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