



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

Friday, the Thirteenth Day of May 2016

Appeal Nos. 15 and 16 of 2016

Preferred against Order Dt. 25-01-2016 of CGRF In

CG.No: 99 and 100 /2015 of Medak Circle

Between

M/s Dr. Reddy's Laboratories Limited, Formulations Tech Ops-1,
Plot Nos.137,138,145 & 146, S.V.Co-operative Industrial Estate.
Bollaram, Jinnaram Mandal, Medak Dist - 502 325.
Tel: 958458-279532/620/622/669.

... Appellant

AND

1. The SAO/OP/Medak/TSSPDCL/Medak Dist.
2. The DE/OP/Sangareddy/TSSPDCL/Medak Dist.
3. The SE/OP/Medak Circle/TSSPDCL at Sangareddy..

... Respondents

The above appeal filed on 20.02.2016 coming up for hearing before the Vidyut Ombudsman, Telangana State on 04.05.2016 at Hyderabad in the presence of Sri. K. Vishwanatha Gupta and M. Gopala Krishna on behalf of the Appellant Company and Smt. P. Manjula, SAO/OP/Medak Circle 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 SC No MDK-578 (Merged with MDK 123 in October, 2015) having CMD of 1490 KVA with stipulated voltage at 11KV. The Appellant claimed that the respondents levied penalties for exceeding RMD over the

contracted demand (CMD) as well as the MD prescribed for the voltage level as follows:-

C.G.No 99/2015/Medak Circle.					
Month	RMD over CMD	Levied Excess over CMD	Penalty levied	Excess voltage	Voltage surcharge
August 14	1519 KVA	29 KVA	22736	19 KVA	465258.06
September 14	1565 KVA	75 KVA	58800	65 KVA	505823.40
October 14	1585 KVA	95 KVA	74480	85 KVA	481219.76
December 14	1653 KVA	163 KVA	68460	153 KVA	449493.71
					Rs 19,01,794.93

C.G.No 100/2015/Medak Circle.

Month	RMD over CMD	Levied Excess over CMD	Penalty levied	Excess voltage	voltage surcharge
June 15	1617 KVA	127 KVA	52628.80	117 KVA	620840.80
August 15	1539 KVA	49 KVA	20305.60	39 KVA	633024.60
September 15	1633 KVA	143 KVA	59259.20	133 KVA	711019.20
October 15	1502 KVA	12 KVA	4972.80	02 KVA	310118.80
					Rs 22,75,003.40

2. According to the Appellant, the penalties can be levied for RMD exceeding CMD as per part (B) para 6(4) of the Tariff orders 2015-16. For the RMD exceeding the prescribed voltage level, the Respondents imposed voltage surcharge of Rs 19,01,794/- and Rs 22,75,003/- respectively without any statutory support. Though there is no provision to levy voltage surcharge on RMD exceeding CMD, except for those HT consumers, who are now getting supply at different voltages from the declared voltage and who want to continue taking supply at the same (different) voltage, will be charged as per the rates indicated. The voltage surcharge has to be levied when (a) the consumer should be drawing the power at different (lower)

voltage from the declared or specified voltage, (b) The consumer intending to continue taking supply at the same lower level of voltage.

3. The Appellant claimed that for the CMD of 1490 kVA during the months previous to the levy of surcharge, the stipulated voltage has been 11KV and thus the Respondents are not entitled to levy the voltage surcharge. Therefore, the voltage surcharge imposed on the appellant deserves to be set aside and the amounts collected either be refunded or adjusted in the future bills.

4. The 1st Respondent SAO/OP/Medak submitted a reply dt 3.5.2016 stating that the voltage surcharge was levied for the months 06/2015, 08/2015,09/2015 and 10/2015(C.G No 100/2015) and for the months of 08/2014 to 11/2014 (C.G No 99/2015) as per part 'B', Clause 6(4) of the provisions of Tariff Order 2014-2015 and 2015-16. The 1st Respondent extracted the part B Clause 6(4) of Tariff Order 2015-16 as follows:-

“The H.T.Consumers who are now getting supply at voltage different from the declared voltages 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 licensee and other sources (in KVA)	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:- In case of consumers who are having supply arrangements from more than one source, the RMD or CMD only with the licensee, whichever is higher shall be the basis for levying voltage surcharge.”

5. In C.G No 99/ 2015, the 1st Respondent further claimed that the Appellant was getting supply of CMD 1490 KVA at 11KV and the recorded maximum demand (RMD) from 08/2014 to 11/2014 as follows:

August 2014	: 1519 KVA
September 2014	:1565 KVA
October 2014	:1585 KVA
November 2014	:1584 KVA
December 2014	:1560 KVA

6. In C.G No 100/2015, The Appellant availed supply and exceeded CMD. The RMD for the months of 06/2015, 08/2015 to 10/2015 is as follows:

June 2015	: 1617 KVA
August 2015	:1539 KVA
Sep 2015	:1633 KVA
Oct 2015	:1502 KVA

7. The 1st Respondent claimed that the voltage surcharge was validly levied because the RMD exceeded the CMD of 1490 KVA as well as the specified voltage limits.

8. The 1st Respondent further claimed that TSSPDCL (CGM (comml) SE(c)/DE(RAC)/D No. 427/08 dt 21.6.2008) has issued instructions for levying voltage surcharge if the recorded maximum demand is more than the total CMD in kVA fixed at different voltage levels (on common /independent feeders). This memo has been issued by way of interpretation of the condition No.1 in the general conditions of HT supply of Tariff Orders.

9. The Appellant's representative sought withdrawal of the voltage surcharge on the ground that the DISCOM has no power to levy the voltage surcharge in the present cases and has no power or authority to issue instruction to the respondents to levy voltage surcharge contrary to the tariff orders.

10. The Respondents represented by the 1st respondent supported the levy of voltage surcharge in terms of para 6(4) of the tariff orders 2015-16.

11. The CGRF, after the consideration of the material on record and without examining the contentions of the Appellant, by way of a three line order to the

effect “The forum is of the considered opinion that the levy of voltage surcharge against the complainant’s service for exceeding the threshold limit of 1500KVA in 11kv supply is in order and they are at liberty to collect the same from the complainant” and disposed of the complaints.

12. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present appeals claiming that the voltage surcharge is applicable only when the consumer avails supply continuously at a lower level of voltage than the specified voltage level and that too after issue of pre notice of 6 months and after expiry of 6 months, if the consumer has not made any arrangements to switchover to avail supply at the stipulated voltage and not in cases of RMD exceeding the CMD limits. The appellant further claimed that in several cases, imposition of voltage surcharge was set aside and therefore, the voltage surcharge levied in the present cases is liable to be set aside.

13. The 1st respondent filed a report supporting the claim of the respondents that when the appellant was having supply at 11kv with CMD of 1490 KVA, and when the recorded maximum demand exceeded 1490 KVA , the voltage surcharge has been levied on the RMD exceeding CMD, as well as the specified voltage limits, and therefore, the imposition of the voltage surcharge is legal and valid.

14. The efforts made for mediation could not succeed, as both the parties have no meeting point in the matter.

Arguments heard.

15. The sole point that arises for determination is whether the appellant is liable to pay the voltage surcharge on the additional usage of KVA during the relevant months in issue.?

The Issue

16. The HT consumers are entitled to draw power at a particular voltage level as per clause 3.2.2.1 of GTCS to avail supply on common feeders as follows:-

Contracted Demand	Voltage level
Up to 1500KVA	11KVA
1501 KVA to 5000KVA	33KV

Above 5000KVA	132KV or 220KV as may be decided by the company
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17. HT consumers intending to avail supply through independent feeders from the substation to draw power at a particular voltage as per clause 3.2.2.2 of GTCS is as follows:

Contracted Demand	Voltage level
Upto 2500 KVA	11KVA
2501 KVA to 10000KVA	33KV
Above 10000KVA	132KV or 220KV

18. The appellant has CMD of 1490 KVA at 11KV through a common feeder and the consumption in CG 99/2015 and CG 100/2015 clearly show that in the specified month, RMD was is in excess over CMD, as shown in para one supra.

19. The appellant contended that there are three conditions in the tariff orders for levying voltage surcharge and they are:-

- a. HT consumer should have contracted for supply of voltage through a particular voltage, known as declared voltage.
- b. If HT consumers are now getting supply at voltage different from the declared voltage and
- c. When the consumer wants to continue taking supply at different voltage than the declared voltage and these conditions are absent in the present cases and levy of voltage surcharge in these cases is unsustainable.

20. There are three prerequisites to the present matter for application of the Table in para 4 supra for imposing voltage surcharge. The relevant column for the consumers availing supply through independent feeders is part B of the table. The prerequisites they are:-

- i. The contracted demand with licensee and other sources (in KVA) should have been 1501 KVA to 5000KVA at voltage level 33KV

- ii. Voltage at which supply should be availed at 33KV.
- iii. and the Voltage at which the consumer is availing supply 11 KV and insisting on availing supply at 11KV.

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

21. The maintenance of the voltage level is of utmost importance for the Distribution Company. When the power is supplied in higher voltages, the transmission losses are lesser. Hence, when a utility supplies power at a specified voltage as stated supra, and the consumers avail supply at a lower level continuously than the specified voltage level, the transmission losses would arise 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.

22. The respondents contended that when the appellant crossed the threshold from August to December 2014 by 29KVA , 75KVA, 95KVA, 94 KVA and 70KVA respectively each month relating to CG No 99/2015 and June 2015, August 2015 to October 2015 , the appellant draw excess power by 127 KVA , 49KVA, 143 KVA, and 2 KVA respectively in CG No 100/2015, the appellant ought to have drawn power at 33kva and since the appellant had not drawn power at 33kv , the appellant is liable to pay voltage surcharge as per para 6(4) of the Tariff Order(shown in para 4 supra) 2015-16.

23. In the present case:-

- a .The voltage for CMD below 1500KVA to draw the power is 11 KV. The appellant is availing supply at 11kv and there is no deviation,
- b. The appellant is not getting supply continuously at different voltage from the declared voltage which is 11kv.,
- c. There is no continuation in drawing supply at different voltage.

24. The appellant contented while referring to APSEB.B.P.MS. No 607 (comml) Dt 21.7.1981 mentioning 6 months notice on the consumer availing supply at a voltage less than specified to enable them to make necessary arrangements to avoid

additional charges for low voltages to compensate the losses etc., which is not relevant for the present matter covered by the tariff orders.

25. The appellant also relied on a judgment dt.22.9.2008 of the Hon'ble High Court in Writ Petition No. 14921 of 1999 and batch wherein imposition of voltage surcharge, as shown in the table, which is essentially similar to para 6 of the Tariff Order 2015-16 was upheld. The appellant further relied on a decision dt 6.7.2015 in Appeal no 45 and 52 of 2015 , decision dt. 28.4.2015 in Appeal No. 7/2015, Decision 8.12.2011 in Appeal No. 26 of 2011 of the Vidyut Ombudsman in support of the contention that levying voltage surcharge in the present matter is not legal and authorised.

26. The reliance placed by the Respondents on the memo of CGM(Comml)/SE(c)/DE/RAC)/ D.No. 427/08 dt. 21.06.08 instructing the Respondents to levy voltage surcharge if RMD is more than CMD limits in KVA fixed at different voltage levels, ignoring the purpose of imposing voltage surcharge mentioned in para 6(4) of the table in Tariff Order 2015-16, is totally unsustainable and it is issued based on misinterpretation of the contents of the table.

27. The voltage surcharge imposed on the Appellant in the two cases, as discussed supra, is not mandated by Para 6(4) of the Tariff Order 2015-16. It is practically not possible to shift from drawing power supply at 11Kv to 33 kv, 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 a claim was made for the voltage surcharge in these two cases, making huge demand over the appellant. The respondents prepared energy bills in these cases levying voltage surcharge, without having authority to do so, based on misinterpretation of the criteria prescribed in para 6(4) of the table of the Tariff Order 2015-16.

28. In view of the aforementioned discussion, it is clear that CGRF which disposed of the complaints in a three line order in its entirety, is unsustainable for absolute lack of reasoning and merits. The issue is answered accordingly.

29. In the result, the impugned orders Dt 25.1.2016 in CG no 99/2015 and orders Dt 25.1.2016 in CG 100/2015 are set aside. The voltage surcharge imposed on HT SC No MDK 578(merged with MDK 123) in the present cases is also set aside. The

amount of voltage surcharge collected shall be adjusted in the future bills. The appeals are allowed.

30. 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 13th day of May, 2016.

Sd/-

VIDYUT OMBUDSMAN

1. M/s Dr. Reddy's Laboratories Limited, Formulations Tech Ops-1,
Plot Nos.137,138,145 & 146, S.V.Co-operative Industrial Estate.
Bollaram, Jinnaram Mandal, Medak Dist - 502 325.
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4. The SE/OP/Medak Circle/TSSPDCL at Sangareddy.

Copy to:

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