



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 Twentieth day of November 2015

Appeal No. 33 of 2015

(Old Appeal No. 68 of 2014-15)

Preferred against Order Dt. 25.09.2014 of CGRF In

CG.No: 39/2014 of Nalgonda Circle

Between

M/s Hariyana Steel Center Pvt. Ltd, Represented by its Managing Director - Ravindra Kumar Agarwal, 6-4-454/3, Bolakpur, Secunderabad - 500 080.

..... Appellant

AND

1. The ADE/OP/TSSPDCL/Bibinagar/Nalgonda Dist.
2. The SAO/OP/TSSPDCL/Nalgonda/Nalgonda Dist.
3. The DE/OP/TSSPDCL/Bhongir/Nalgonda Dist.
4. The SE/OP/TSSPDCL/Nalgonda circle/Nalgonda Dist.

..... Respondents

The above appeal filed on **25.10.2014** came up for final hearing before the Vidyut Ombudsman, Telangana State on **10.09.2015** at Hyderabad in the presence of Sri. RAVI - on behalf of the Appellant and Sri. K. Hanuma - SAO/IC/Nalgonda, Sri. B. Showriah- ADE/OP/Bibinagar and Sri. Y.C.Venkanna - JAO/HT/CO/Nalgonda for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant is a consumer bearing HT No. NLG-574 with CMD of 1510 KVA of energy. The Respondents have disconnected the supply on 30.10.2013 on the ground of dues. In view of the disputes regarding the R&C bills and FSA dispute, the Appellant has not paid the energy charges.

2. The ERC had imposed R&C measures from 12.09.2012 to 31.07.2013. During this R&C measures period, the consumer was entitled to demand of 60% of CMD for the month, or 100% CMD for 18 days or 100% CMD four days a week. The Appellant consumed power at 60% CMD from September, 2012 to July,2013 at 18 days per month 4 days a week.

3. The Appellant was requesting the Respondents to correct the discrepancies in CC charges, for revision of R&C bills and for restoration of power supply. The SAO/2nd Respondent issued a termination notice dt.10.06.2014 in view of outstanding amount of Rs 1,38,38,117/-. The Appellant claimed that the 2nd Respondent issued a revised corrected R&C bill for the Outstanding amount of Rs 6,98,562/-. The Appellant is aggrieved because :-

- The Respondents generated the R&C bills without following the procedure under ERC proceedings dt.1.11.2012 i.e. actual demand consumption shall be billed on the pro rata basis at 18/30 of the prescribed rate.
- The Demand charges penal rate were charged though not attracted and charged Rs 41,90,242/- additionally.
- The Respondents wrongly claimed Rs 41,051/- as peak energy charges on lights and fans during R&C period.
- The Respondents levied interest on ED amount of Rs 3,04,348/- based on more number of days than the delays.
- The Respondents levied Fuel Surcharge Adjustment of Rs 25,41,396/- from Oct,2012 to July, 2013 billing months, even though as per the orders of the Hon'ble Supreme Court in SLP No. 9562 dt.22.6.2014, the Appellant is not liable to pay.

4. Overall, the Appellant claims that the Respondents have charged an excess amount of Rs 85,27,443/- in the HT R&C bills from Sep,2012 to July,2013. The Appellant sought a direction to the Respondents to restore power supply, correct the R&C bills and refund an amount of Rs 18,51,936/-.

5. The 2nd Respondent claimed that R&C bills were issued from September,2012 to July,2013 as per the MRI recorded units which were verified in the HT section where wrong readings were noted and at request, the DE/M&P/Nalgonda enquired into the matter and submitted a correct MRI report . Before the CGRF, the 2nd Respondent claimed that after receipt of the report of DE/M&P/Nalgonda,

necessary action will be taken for revision of R&C bills and withdrawal of excess billed amounts.

6. During the course of enquiry before the CGRF, there were efforts made between the parties to reconcile the accounts. The Respondents informed the Appellant to pay Rs 67,96,386/- inclusive of Court case Amount of Rs 7,54,724/-. The Appellant sought 24 installments to pay the amount through a letter on 26.08.2014. Subject to finalisation of orders and restoration of power supply. The Appellant submitted a representation dt.09.09.2014 pointing that there are unresolved issues relating to FSA, ACD Surcharge, Late payment surcharge, minimum charges during disconnection without notice and the court case amount. The Appellant also demanded compensation of Rs 50/- per day for the delay occurred if there is any lapse on the part of the Respondents

7. Before the CGRF, the 4th Respondent submitted through letter dt.12.9.2014 as follows:-

FUEL SURCHARGE ADJUSTMENT

As per the order of Hon'ble Supreme court, "no coercive action for recovering FSA charges for the term April,2010 to June,2012 shall be taken". The Appellant has paid FSA Charges of Rs 22,22,935/- along with regular CC bills without protest.

ACD SURCHARGE

As per the proceedings of the ERC, there is a clarification to the effect that due to R&C measures in force during 2012 -2013, the DISCOMS shall not collect ACD charges based on 2011-12 average consumption and if any amounts were collected, they should be adjusted in future consumption bills. During this relevant period, the 4th respondent claimed that the ACD surcharge levied was Rs 1,90,454/- and made clear that it will be withdrawn after receiving clarification from his corporate office. He further claimed that the Appellant has to pay ACD amount of Rs 2,60,354/- levied in 2013-14.

LATE PAYMENT SURCHARGE

The late payment surcharge was levied upto Feb,2014 only and it will revised based on revised R&C bills and minimum bills from February,2014 onwards till date.

MINIMUM CHARGES DURING DISCONNECTION WITHOUT NOTICE

After disconnection, the Appellant has not approached the 4th Respondent for reconnection.

COURT CASE AMOUNT

The amount of Rs 7,54,724/- (FSA of April 2009, April, 2010 and May 2010 covered by common order in WP No. 43770/2012) is not being insisted on for payment. He would abide by the final orders in the writ petition.

8. The CGRF noted that the load of the service was derated from 1510 KVA TO 75 KVA w.ef.27.2.2014.

9. After noting all the facts involved in detail, the CGRF approved the letter of the 4th Respondent dt.4.9.2014 and advised the Appellant to approach the corporate office for installments against the arrears and for reconnection of supply through the impugned orders.

10. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal alleging that during R&C measures, the Appellant is entitled to power and demand of 60% of CMD for the entire month or 100% Of CMD for 18 days a month i.e 100% CMD for 4 days a week as per the requirement of the consumers and the Appellant consumed power as such. The Respondents have to claim CC charges during R&C measures as per clause 19(a) of the proceedings of the APERC dt. 1.11.2012 in proportion to the supply of power and demand. The Respondents claimed excess amounts in CC bills in violation of the orders. The Appellant claims that as per the impugned orders, the demand for Rs 1,38,37,117/- made by the 2nd Respondent vide letter dt.10.6.2014 was set aside and during the reconciliation, the 2nd Respondent revised R&C bills as follows:

Billing Month	Respondent Claim before an appeal preferred by the Applicant before Hon'ble CGRF-1	Respondent claim after issue of revised bills during reconciliation	C.C. Charges payable by applicant as per provisions of R&C Orders	Difference Relief given after reconciliation of R&C bills as per the directions of Hon'ble CGRF-1
(1)	(2)	(3)	(4)	(5)
November, 12	3388705	2412596	1711483	976109
December, 12	2505071	2152626	1487745	352445
February, 13	2230644	1295660	1165317	934984

March,13	2353548	1639575	1117483	713973
June,13	2156187	1258717	1177809	897470
July,13	2078320	980622	780627	1097698
TOTAL	14712475	9339796	7440464	49726679

11. DEMAND CHARGE NORMAL RATE

The Appellant further claimed that the Respondents have not followed clause 19 of R&C measures dt.1.11.2012 under which actual demand consumption shall be billed on pro rata basis @ 18/30 which is not followed and thus there is discrepancy in the calculation of amount resulting in excess of 5,54,156/- being claimed for the period from September,2012 to July,2013 billing months.

12. DEMAND CHARGES PENAL RATE

The Appellant further claimed that even though demand charges penal rate were not attracted in some of the months, penalty of Rs 8,99,854/- in excess was imposed as shown below:-

SL.No	BILLING MONTH	AMOUNT CLAIMED RS	AMOUNT PAYABLE 50% RS	DIFFERENCE EXCESS CLAIMED RS
1	September,12	130282	0	130282
2	October,12	194775	9638	185137
3	November,12	78539	78539	0
4	December,12	507105	944	506161
5	January,13	25897	617	25280
6	February,13	11903	0	11903
7	March,13	82183	41092	41091
8	April,13			0
9	May,13			0
10	June,13			0
11	July,13			0
		1030684	13080	899854

13. ENERGY CHARGES

The Appellant claimed that it purchased power of 25900 KVAH in March,2013 billing month and 51768 KVAH in April, 2013 in open access, while the 2nd

Respondent claimed an excess amount of Rs 1,94,244/- as claimed below:

SL.No	BILLING MONTH	AMOUNT CLAIMED(RS)	AMT PAYABLE 50% (RS)	DIFFERENCE EXCESS CLAIMED (Rs)
1	September,12			0
2	October,12			0
3	November,12			0
4	December,12			0
5	January,13			0
6	February,13			0
7	March,13	974777	839534	135243
8	April,13	868173	809172	59001
9	May,13			0
10	June,13			0
11	July,13			0
		1842950	1648705.8	194244

14. PEAK ENERGY CHARGES

The Appellant claimed that the 2nd Respondent claimed L&F charges at Rs 5.82 per KVAH against HT rate of Rs 4.37 ps per KVAH and it shows that Rs 1.45 per KVAH was paid by the Appellant more. Apart from this, the Respondents claimed peak energy charges of Rs 1 per KVAH without adjusting the quantity of L&F hence there is a excess claim of Rs 52,619/- as shown below:

SL.No	BILLING MONTH	AMOUNT CLAIMED(RS)	AMT PAYABLE 50% (RS)	DIFFERENCE EXCESS CLAIMED (Rs)
1	September,12	34979	17243	17736
2	October,12	6053	0	6053
3	November,12	7430	682	6748
4	December,12	5310	0	5310
5	January,13	5204	0	5204
6	February,13	4828	0	4828
7	March,13	5048	5048	0
8	April,13	6740	0	6740
9	May,13	4860	4860	0

10	June,13	3420	3420	0
11	July,13	2880	2880	0
		86752	34133	52619

15. LATE PAYMENT CHARGES AND INTEREST ON ELECTRICITY DUTY.

The Appellant claimed that as per the Tariff Order, late payment charges is payable on CC charges is at 1.5% per month for number of delayed days and whereas, the interest was collected for more number of days than the delay. The Appellant pointed out that the 2nd Respondent admitted before the CGRF that R&C bills issued from Sep 2012 to July, 2013 billing months were based on wrong MRI readings and if such is the case, the late payment charges do not arise. The appellant pointed out that as per regulation 7 of 2004 clause VI.6.1(ii) the due date for payment of the bills shall be reckoned from the date of revised bill and therefore, the Appellant claimed that it is not liable to pay late payment charges amounting to Rs 3,09,455/- (shown below) which is liable to be withdrawn.

SL.No	BILLING MONTH	AMOUNT CLAIMED RS	AMOUNT PAYABLE 50% RS	DIFFERENCE EXCESS CLAIMED RS
1	September,12	27716	0	27716
2	October,12	23579	0	23579
3	November,12	18572	0	18572
4	December,12	34984	0	34984
5	January,13	68002	0	68002
6	February,13	46066	0	46066
7	March,13	33511	0	33511
8	April,13	25539	0	25539
9	May,13	8874	0	8874
10	June,13	12885	0	12885
11	July,13	9727	0	9727
		309455	0	309455

16. CLAUSE VI R&C PENALTIES

The Appellant claimed that the 2nd Respondent wrongly revised the bill of April 2013 billing month by including Rs 1,20,281/- (shown below) towards R&C penalties

without following the procedure:

SL.No	BILLING MONTH	AMOUNT CLAIMED(RS)	AMT PAYABLE 50% (RS)	DIFFERENCE EXCESS CLAIMED (Rs)
1	September,12			0
2	October,12			0
3	November,12			0
4	December,12			0
5	January,13			0
6	February,13			0
7	March,13			0
8	April,13	120281	0	120281
9	May,13			0
10	June,13			0
11	July,13			0
		120281	0	120281

17. ADJUSTMENT OF FSA FROM CC CHARGES PAYMENTS

The Appellant claimed that the 2nd Respondent adjusted CC charges amounts towards FSA charges during the period from October,2012 to May, 2013 ignoring the orders of the Hon'ble Supreme Court of India and because of this action, an amount of Rs 20,51,654/- has to be credited to CC charges account from FSA account as shown in the following chart :

SL.No	BILLING MONTH	AMOUNT CLAIMED(RS)	AMT PAYABLE 50% (RS)	DIFFERENCE EXCESS CLAIMED (Rs)
1	September,12	0	0	0
2	October,12	63721	0	63721
3	November,12	558819	0	558819
4	December,12	457549	0	457549
5	January,13	429975	0	429975
6	February,13	48744	0	48744
7	March,13	265534	0	230903
8	April,13	80595	34631	0
9	May,13	261943	80595	261943

10	June,13			0
11	July,13			0
				2051654

18. ACD SURCHARGE

The Appellant claimed that the 2nd Respondent levied ACD surcharge of Rs 3,96,791/- from September, 2012 to May, 2013 billing months, when R&C measures order dt 1.11.2012 mandates that the licensee shall not collect ACD surcharge, the mentioned ACD surcharge was levied. The 2nd Respondent through his letter dt.8.8.2014 informed the CGRF that ACD surcharge of Rs 1,90,454/- relating to September,2012 to March, 2013 will be withdrawn after approval of his corporate office.

19. The Appellant claimed that from April 2013 to April 2014, ACD surcharge of Rs 2,06,337/- was levied. The Appellant claimed that on 30.10.2013 its HT connection was disconnected without any notice and there was no power from that date and therefore, there is no question of ACD arising and similarly surcharge. The Appellant claimed that he got its CMD derated from 1510 KVA to 150 KVA w.e.f 27.2.2014 for which as per clause 5 (i)(VII) Of Regulation 6 Of 2004, the Appellant has to maintain initial deposit of Rs 1,50,000/- for derated CMD of 150 KVA against which the Respondents have a deposit of Rs 16,00,000/-, the balance of which the Appellant is entitled to get back. The Appellant is demanding withdrawal of claim by the Respondents in the following amounts :

- a. Rs 5,54,136/- excess claimed towards Demand charges Normal Rate;
- b. Rs 8,99,854/- excess claimed towards Demand Charges Penal Rate;
- c. Rs 1,94,244/- excess claimed towards Energy Charges;
- d. Rs 52,619/- excess claimed towards Peak Energy Charges;
- e. Rs 3,09,455/- excess claimed towards Late Payment Charges;
- f. Rs 20,51,654/- of FSA charges
- g. Rs 1,20,281/- excess claimed towards R&C Penalties;
- h. Rs 3,96,791/- claimed towards ACD surcharge.

20. The 4th Respondent through his letter dt. 30.06.2015 had reiterated what is stated in his letter dt.12.9.2014. He further claimed that the CGM had sanctioned 4 equal installments for an amount of Rs 50,00,962/- after reconciliation and the Appellant had not even paid the first installment and reconnection fee for

restoration of power. The R&C bills were issued as per the proceedings dt.1.11.2012 and at the request of the Appellant, the MRI data was verified and bills were revised.

21. The 4th Respondent further in his written submission dt. 3.8.2015 reported about reconciliation efforts and about deration of the load to 75 KVA w.e.f 27.2.2014 and about issue of revised R&C bills and about the Appellant approaching CGM commercial on 26.8.2014 for sanction of installments. He submitted his explanation on different heads in the following manner:

FSA

The Hon'ble Supreme Court passed Interim Order not to take coercive action for recovering the FSA charges for the term April,2010 to June, 2012. He claimed that the Appellant has paid FSA charge of Rs 22,73,490/- (levied from Dec 2012 to July,2013) along with regular CC bills without protest and during this period, the Appellant has approached the Hon'ble Supreme Court.

ACD SURCHARGE

The ACD surcharge was levied for Rs 1,90,454/- and at that time, no instructions were issued on ACD while R&C measures were in operation. A clarification was issued by the ERC dt.4.1.2013 on this ACD amount. Therefore, the Appellant is liable to pay ACD surcharge amounting to Rs 2,60,354/-.

LATE PAYMENT SURCHARGE

The Late payment surcharge was levied upto February,2014 only and the Appellant was assured that surcharge will be revised based on revised R&C bills from February,2014 onwards and thus the Appellant is liable to pay an amount of Rs 2,90,293/- .

COURT CASE AMOUNT

There is an amount of Rs 7,54,724/- representing FSA of April,2009, April,2010 and May, 2010 which is subject matter of common order in W.P. No. 43770 of 2012 and this amount will abide by the final orders of the Hon'ble High Court.

CALCULATION OF R&C PENALTIES

The bills were calculated as per clause 19 of R&C measures dt. 1.11.2012. The Respondents have calculated the demand charges as per pro rata basis for consumer who opted for 18/30 days power supply. In Spite of sanction of 4 equal

installments for Rs 50,00,962/- after reconciliation, the Appellant failed to pay even the first installment and reconnection fee.

22. The 4th Respondent submitted the procedure for prioritisation of collection of energy billing as follows as per UO Note of the General Manager dt. 19.8.2013:

- 1st Priority Interest on Elec. Duty (Arrears + Current Month)
- 2nd Priority Electricity Duty (Arrears + Current Month)
- 3rd Priority Fuel Surcharge Adjustment (Arrears + Current Month)
- 4th Priority Total Surcharge (Arrears + Current Month)
- 5th Priority Theft Amount
- 6th Priority Addl. Consumption Deposit (ACD) & Interest there on
- 7th Priority Total Agricultural Dues
- 8th Priority Arrears of CC charges
- 9th Priority Current Month CC Charges

23. There were efforts at mediation to settle the disputes on various issues. The parties stood their ground and there was no meeting point on any issue and therefore, the matter is left for disposal on merits.

24. Based on the material on record and contentions raised, the following issues arise for determination:-

- I. Whether Additional Consumption Deposit surcharge (ACD) raised is legal?
- II. Whether late payment surcharge raised is justified?
- III. Whether demand charges normal rate claimed is as per the procedure?
- IV. Whether demand charges at penal rate are correctly raised?
- V. Whether the Respondents claimed excess energy charges?
- VI. Whether the claim of the Respondents on peak energy charges is justified and as per R&C measures?
- VII. Whether the penalty imposed on the basis of R&C measures is applicable to the Appellant?
- VIII. Whether adjustment of amount paid towards FSA from CC charges violates or is against the interim orders of the Hon'ble Supreme Court?

IX. Whether the impugned orders are liable to be set aside?

25. Issue No I: ACD Surcharge raised is legal?

a. The Appellant contends that an amount of Rs 3,96,791 for the period from Sep'12 to May'13 representing the ACD surcharge was levied, which is against the R&C measures issued by ERC. This was admitted by the Respondents stating that this measure is subject to Corporate Office approval for Rs 1,90,454/- for the period of Sep'12 to May'13?

- For the year 2012-2013, ACD surcharges levied was Rs 1,90,454. As per the ERC proceeding on R&C measures, the ACD is not liable to be charged during the R&C period. Hence the amount of Rs 1,90,454 has to be withdrawn.

b. For the period Apr'13 to Apr'14 an amount of Rs 2,06,387 towards ACD surcharge was levied. Supply was disconnected on 30.10.2013 & no consumption bill was generated till date. Hence ACD charges shall not be levied?

- As per the APERC regulation 6 of 2004, clause 6(1) - subject to the billing periods of three months or two months as specified in clause 4, the adequacy of the amount of security deposit in respect of consumers shall be reviewed by the licensee generally once in every year (preferably after revision of tariff for the respective year) based on the average consumption for the period representing 12 (twelve) months from April to March of the previous year. As per the ERC regulation, review of adequacy of consumption deposit shall be carried out after revision of tariff. An amount Rs 2,06,337/- was levied for the year 2013-14 after the revision in the month of May based on the average consumption for the period representing 12 months of the previous year. The supply was disconnected in Oct, 2013.

- However, In the event of deration of CMD from 1510 KVA to 150 KVA, fresh review of consumption deposit shall be done. As per Regulation 6 of 2004, clause 6(2)(b) if the security deposit is found to be in excess by more than 10% of the required SD(Security Deposit), the amount so found in excess shall be refunded by the licensee, by way of adjustment of the outstanding dues.

The ACD surcharge levied during R&C measures is not legal and it is set aside.

26. Issue No II: Late payment charges & interest on ED: Late payment charges were levied not on no of days delayed. The Respondents Admitted that the R&C bills were based on wrong MRI readings and fresh corrected bills were issued

on 08.08.2014, and therefore the Appellant claimed that late payment charges do not arise?

Regulation. 5 of 2004, clause 4-4 regulates the Additional charges for belated payment of bills:

The clause says that In case the consumer does not pay the bill by the due date mentioned in the bills, additional charges for delayed payment of bills shall apply as per the tariff orders issued from time to time.

The Bills were stated to be erroneous in the present case, in view of discrepancies in the MRI data. This was admitted by the respondent No.2 in his letter dt 8.8.2014 . Hence LPS(late payment charges) shall be levied from the date of the revised bill date as per Clause 4.7.3 of the Regulation 5 of 2004 which specifies a “revised due date of payment”.

LPS shall be based on the no.of days delayed from the due date, and should not be based on the whole of the month for calculation of surcharge. The issue is answered accordingly.

27. Issue No III .Demand charges normal rate: Whether they were revised as per the procedure?

As per clause 19(a) of R&C orders vide proceedings dt. 1.11.2012, the billing demand shall be the maximum recorded demand during the month and clause 213.6.(6) of the Tariff Order shall not apply during these R&C measures. For consumers who opt for 18 days supply, the demand charges shall be billed on pro rata basis i.e @ 18/30 of the prescribed rate.

If we take the billing month of March 2013 as an example, the procedure adopted for billing R&C bills is shown below :-

Demand charges normal rate:

	KVA OFF PEAK	KVA PEAK	DAYS
Power on days	1438.8 KVA	183 KVA	16
Power off days	1378.2 KVA	50.4 KVA	13
Power on days billing	= 1438.8 X 250 X 16/29 = 198455		
Power off days billing	= 1378.2 X 250 X 13/29 = <u>154453</u>		

35290

Demand charges penal rate:

Power off day's quota: 151 KVA

Power off days usage : 1378.2 KVA

Excess over quota : 1227.2 KVA

Penal charges billing : $1227.2 \times 250 \times 13/29 \times 5 = 687655$.

It is important to note that the Appellant is not calculating on 1378.2 KVA relating to power off days having consumed 1227.2KVA in excess over quota of 151 KVA

Further, the above given statement clearly shows that pro rata given procedure was adopted. The claim of the Appellant stating that billing was done without pro rata is not correct. The issue is answered accordingly.

28. Issue No IV: Demand charges penal rate: Excess demand rate for penal charges levied for the months 09,10, 12/2012, 01, 02, & 03/2013 for an amount of Rs. 8,99,854/- even though there is no excess demand?

As per the clause 14 ,HT-I continuous process industries (claims by the Appellant) of R&C proceeding Dt 1.11.2012, To avail supply under this category, the consumers have to take prior approval from the respective CMD of the DISCOMS duly furnishing the details of their manufacturing process and end product.

Consumers who fall under this category will also give their option in writing either for option 1 (or) for option 2 mentioned below to the concerned SE/OP with a copy to the CMD of the DISCOM.

The DISCOM shall regulate the supply to the consumer under this category as per the option indicated by the consumer.

Under this category, HT-I continuous process industries, there were two options allotted:

OPTION 1: Restricted CMD over total days of the month i.e 60% of CMD during OFF PEAK and 20% of CMD during PEAK.

OPTION 2: 18 Days power supply at a stretch and power holiday of 12 days. During 18 days power supply 100% CMD during OFF PEAK and 20% CMD during PEAK hours is

permitted. During power holiday period of 12 days, 10% of CMD is permitted for maintenance. If we examine with one of the month billing data for 24 hours, example April 2013.

RECONCILIATION OF PENAL DEMAND CHARGES:

Sl.No	MONTH	QUOTA (AS PER ERC PROCEEDINGS)		RMD IN KVA AS PER THE BILL ISSUED		AS PER APPELLANT / CONSUMER ANALYSIS OF EXCESS DEMAND			EXCESS DEMAND AVAILED AS PER DISCOM	
		PDL OFF PEAK(60%) in KVA	PDL PEAK (30%) in KVA	PDL OFF PEAK (60%) in KVA	PDL PEAK (30%) in KVA	PDL OFF PEAK (60%) in KVA	PDL PEAK (30%) in KVA	EXCESS AMOUNT CLAIMED AS REFUND IN Rs	PDL OFF PEAK (60%)in KVA	PDL PEAK (30%)in KVA
1	Sep,12	906	453	1495	735	40 hours (Excess used)	200 hours (Excess used)	130282	589	283
2	Oct, 12	906	453	1186.8	607.2	0	154.2	185137	280.8	154.2

Sl.No	MONTH	QUOTA (AS PER ERC PROCEEDINGS)		RMD IN KVA AS PER THE BILL ISSUED		AS PER APPELLANT / CONSUMER ANALYSIS OF EXCESS DEMAND			EXCESS DEMAND AVAILED AS PER DISCOM	
		PDL OFF PEAK in KVA	PDL PEAK in KVA	POWER ON DAYS	POWER OFF DAYS	POWER ON DAYS	POWER OFF DAYS	EXCESS AMOUNT CLAIMED AS REFUND IN Rs	POWER ON DAYS	POWER OFF DAYS
3	Dec,12	1510	151	1512.6	928.8	2.6	0	506161	2.6	777.8
4	Jan, 13	1510	151	1506.6	195.6	1.7	0	25282	6.6	44.6
5	Feb,13	1510	151	1461.6	167.4	0	0	11903	-	16.4
6	Mar,13	1510	151	1438.8	1378.2	117.1	0	41091	-	1227.2
	TOTAL							899854		

* For the month of Sep & Oct, 2012 there were no options in R&C proceedings.

The above given table shows the comparison of the Appellant and DISCOM billing data. The major difference found between them is the billing of the excess demand recorded during power OFF days is not being taken into consideration by the Appellant which is not in line with the ERC proceedings on R&C measures. Hence, the claim of the Appellant that the Respondents have wrongly levied the charges is untenable. The reliance placed by the Appellant on a decision in Appeal No. 154/2013 Dt 27.10.2014 of Vidyut Ombudsman, AP and Telangana on the present issue is not

tenable in view of the usage pattern and the fact situation. The issue is answered against the Appellant

29. Issue No V: Energy Charges: For the months of March & April, 2012, the open access consumption purchased was taken into consideration and excess of Rs 1,94,244 was claimed?

Reconciliation of open access drawn units: Against the claim of the Appellant stating billing including OA units.

Main Meter No: 15687885

OA KVAH: 47985

Period: 20 March, 2013 to 19 April, 2013

Total actual drawn in KVAH:2,24,640

Inter state OA schedule in KWH/KVAH OFF PEAK : 54,000

PEAK :3,520

Under drawn (less than agreed) energy after ISOA (INTER STATE OPEN ACCESS SCHEDULE) in KVAH:

OFF PEAK:(-)6,765

PEAK:(-)2,770

NET:=-47,985

Energy drawn from DISCOM with in PCL = OFF PEAK: 1,16,206 / PEAK: 28,650

Energy drawn from DISCOM over PCL (Permitted Consumption Level) in =
OFF PEAK: 31, 797 / PEAK: 0

Total units actual drawal in KVAH=31,797+28,650+1,16,206+47,985=2,24,640

The April, 2013 billed KVAH units is 2,24,640(KVAH)-OPEN ACCESS UNITS 47,985 = 1,76,655 units drawn and billed. Thus there is no billing for Open Access Consumption of 47,985 KVAH units. Hence, the claim of the Appellant on billing KVAH units including open access drawn units is not correct. There are no Open Access drawn units levied during the month of March, 2013 also as per the bill issued for this month. The issue is answered against the Appellant.

30. Issue No VI:Peak Energy charges: L&F charges @5.82/KVAH was levied instead of Rs 4.37/KVAH. The Appellant Claimed that the Respondents have charged peak energy charges, without excluding L&F consumption and then they have claimed an amount of Rs 52,619 in excess?

According to the Appellant the Respondents claimed L&F charges @ 5.82/KVAH as against the prescribed Rs 4.37/KVAH.

The Appellant stated to have paid Rs 1.45 more on L&F quantity, peak energy charges of Rs 1/KVAH, without adjusting the units amount towards L&F Rs 52,619/-.

As per the tariff order 2012-2013, clause 213.5.1(c) the consumption of energy for Lights & Fans(L&F) for the 33KV load of supply, the prescribed charges are Rs 5.82/ KVAH.

Peak energy charges for time of day tariff @ Rs 1.00 /KVAH leviable on energy consumption during 06:00 pm to 10:00 pm, in addition to the normal energy charges at respective voltages as per clause 213.5.1. The meter available for measuring L&F charges, if provided, are generally without time of day features, as they are LT Voltage meters. Hence, there is no relation between peak energy charges and L&F charges consumption. The levying of L&F charges are briefly enumerated below as per the clause 213.5 1(c) 1&2 of the Tariff Order 2012-13.

1. Case of segregation of fans and lights:

The consumption of energy of Lights and Fans in the factory premises in excess of 10% of total consumption shall be billed at the respective voltage wise tariff provided lights and fans consumption in the units is separately metered.

2. Case of non- segregation of fans and lights:

In case of non segregation of lights and fan loads, 15% of the total energy consumption shall be billed at the respective voltage wise tariff and the balance KVah shall be charged at the corresponding energy tariff under HT category-I(A).

Further the Tariff of L&F charges was made equal to normal corresponding category tariff from the FY 2013-14. The issue is answered against the Appellant.

31. Issue No VII:R&C penalty: Whether the Revised bill of April, 13 month towards R&C penalty for an amount of Rs 1,20,281 is wrong, as per the provision of R&C order?

The basic difference in calculating R&C penalties by the Appellant vis a vis the DISCOM is in not taking into account of excess demand recorded during power

holidays. For April, 2013, RMD of 164 KVA was recorded during power holidays and consumption of 31,797 units was drawn in excess from DISCOM over PCL during Off Peak period. Hence the R&C penalty of Rs 1,20,281/- is levied on 31,797 units and 164 KVA. Thus the revised bill of April, 2013 is as per the procedure under R&C measures. The issue is answered against the Appellant.

32. Issue No VIII: Adjustment of FSA & C.C charges payment whether violates the interim Orders of the Hon'ble Supreme Court: Every month, the Appellant used to pay original bill leaving FSA, LAC & ACD surcharges. These amounts were adjusted against the credit amount found in view of revised R&C bills?

The Appellant claims that the Respondents revised R&C bills finding credit balance and this amount so arrived at was adjusted towards the FSA, LAC & ACD surcharges. The Appellant further claims that The FSA charges were adjusted from October, 2012 to May, 2013 ignoring the orders of the Hon'ble supreme court. Consequently, the Appellant claims that an amount of Rs 20,51,654 were to be adjusted into cc arrears amount from FSA account

The Respondents Pointed out that the Hon'ble supreme court passed interim orders to the effect that "No coercive action for recovering the FSA charges for the term April'10 to June'12 shall be taken".

The Respondents claim that towards the amount Rs 22,73,490 (levied from Dec'12 to July'13), the consumer has paid amounts towards FSA charges, along with regular CC bills without protesting.

The FSA amount in dispute, the Appellant claims is Rs 20,51,654 which was levied during the period from Oct,2012 to May, 2013 pertain to the term April, 2010 to June, 2012 (during this period no coercive action shall be taken as per the Hon'ble Supreme Court Order). The Respondents claim that FSA amount for this period is Rs 22,73,490/-. The order of the Hon'ble Supreme court in SLP.No 15245 and 5270/2014 Dt 23-06-2014 directs no coersive steps for recovery of FSA charges for the term April 2010 to June 2012. By the date of the order of the Hon'ble court (23-6-2014) the Appellant paid FSA charges as per the record till August, 2013 for the period upto February, 2011, which covers a part of the period of the order of the Hon'ble Supreme Court. Thereafter, there was no recovery of FSA charges by the Respondents, because the supply was disconnected on 30.10.2013 and there was no payment on any account by the Appellant. Hence there is no question of

violation of the order of the Hon'ble Supreme Court. The Issue is answered accordingly.

33. Additional point: The Appellant had relied on a decision rendered in *M/s Raymond Limited & anr vs. Madhya Pradesh Electricity Board and others (AIR 2001 SC 238)* of the Hon'ble supreme Court in support of the Appellant regarding the "minimum guaranteed charges vis a vis irregular supply of electricity. The Hon'ble Supreme Court observed as follows.

"But in the light of our conclusion that, as the matter stands, on the basis of the existing clauses in the contract as well as the Tariff notification the minimum guarantee assured was of the monthly consumption equivalent to 40% load factor of the contract demand which obligated the board also to ensure supply at least to that extent to insist upon the payment of the minimum charges, it becomes necessary to undertake an exercise, to decide in individual cases, the question of actual supply said to have been made in order to find out whether the units of energy to the extent of minimum of 40% of the contract demand has been made available for consumption. For this purpose, these cases have to be necessarily and are hereby remitted to the High Court for being restored etc...."

There is no Issue raised and decision sought in the present case regarding the minimum guarantee charges. Hence the decision is found not applicable to the facts in the present case and not relevant.

Findings

- 1 (a) As per the ERC proceedings, ACD surcharge is not leviable during R&C measures. Hence an amount of ACD surcharge levied Rs 1,90,454/- is set aside as not legal and should be withdrawn.
(b) In the event of deration of CMD from 1510 KVA to 150/75 KVA, if the security deposit is found to be more than 10% of the required SD, the excess shall be refunded by way of adjustment against the outstanding dues.
2. The Penalty of Rs 8,99,854/- is not excessively levied as contended by the Appellant.

3. The billing was done on pro rata basis and there is no substance in the claim of the Appellant otherwise.

4. There was no levy on open access drawn units during the month of March, 2013 and April, 2013 as per the bill issued.
5. There is no relation between the peak energy charges and Lights and Fans charges consumption as the meters available for measuring L&F charges are generally without time of day features. Further the rate applicable as per the Tariff Order 2012-13 for L&F consumption is Rs 5.82 ps per KVAH. Hence there is no substance in the allegation that excess charges are levied.
6. R&C penalty of Rs 1,20,281 /- has been levied, because of the Appellant availing supply during power off days amounting to 164 KVA RMD and 31,797 KVAH units over the permitted consumption level. Hence the levy is tenable.
7. There was no coercive action taken for collecting the amount towards FSA dues.
8. The impugned orders are found to be wanting in proper examination of facts and evaluation, apart from being arbitrary. Thus, the impugned orders are found to be laconic and set aside as being devoid of reasons.

Corrected, Signed & Pronounced on this the 20th day of November, 2015.

Sd/-

VIDYUT OMBUDSMAN

1. M/s Hariyana steel center Pvt. Ltd, Represented by its Managing Director - Ravindra Kumar Agarwal, 6-4-454/3, Bolakpur, Secunderabad - 500 080.
2. The ADE/OP/TSSPDCL/Bibinagar/Nalgonda Dist.
3. The SAO/OP/TSSPDCL/Nalgonda/Nalgonda Dist.
4. The DE/OP/TSSPDCL/Bhongir/Nalgonda Dist.
5. The SE/OP/TSSPDCL/Nalgonda circle/Nalgonda Dist.

Copy to:-

6. The Chairperson, Consumer Grievance Redressal Forum - Rural, TSSPDCL, Vengal Rao Nagar, Erragadda, Hyderabad - 500 045.
7. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapool,Hyd.