



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 First Day of March 2016

Appeal No. 6 of 2016

Preferred against Order Dt. 23.12.2015 of CGRF In

CG.No: 382/2015 of Ranga Reddy South Circle

Between

Smt. T. Virupakshi, H.No. 16-11-737, Gaddiannaram, Dilsukhnagar, Hyderabad.
500 060. Cell No. 98493 47997.

... Appellant

AND

1. The AE/OP/Bairamalguda/TSSPDCL/RR District.
2. The ADE/OP/Vanasthalipuram/TSSPDCL/RR District.
3. The AAO/ERO/Champapet/TSSPDCL/RR District.
4. The DE/OP/Champapet/TSSPDCL/RR District.
5. The SE/OP/ RR South Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 23.01.2016 coming up for hearing before the Vidyut Ombudsman, Telangana State on 08.03.2016 at Hyderabad in the presence of Sri. Vikranth- On behalf of the Appellant and Sri. D. Rajender - ADE/OP/Vanasthalipuram, Sri. Ch. Nagi Reddy - AE/OP/Bairamalguda, Sri. Mohd. Moulana - AAO/ERO/Champapet 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 No. 552100225 with 74 KW under LT Category-II by the date of inspection on 29.5.2015 by AAE/DPE. He found that the service was being billed under LT Category though the contracted load was 74KW, instead of HT Category Tariff. The Appellant claimed that though the contracted load was 74 KW, the RMD of the service never exceeded 50 KW during the period from

1.4.2014 to 30.4.2015. The Appellant received a demand notice for payment of Rs 92,898/- towards short billing during the noted period on the ground that for the earlier period, the consumption was billed under LT Category-II and that when the load is more than 56 KW, the billing has to be done under HT Category-II. Against this demand, the Appellant preferred a complaint before CGRF.

2. The 1st Respondent/AE/OP/Bairamalguda submitted before the CGRF through his letter dt.13.11.2015 that the sanctioned load of the Appellant was 74 KW and billed under LT Category -II and that when the sanctioned load is more than 56 KW, it has to be billed under HT Category -II and therefore, the service was back billed. He claimed that the Appellant represented that the consumption never exceeded 50 KW and that therefore the billing should be under LT Category. The Appellant stated that on her request, the contracted load was derated from 74 KW to 54 KW subsequently and being billed under LT Category.

3. The Appellant stated before the CGRF that the consumption never exceeded 40 KW and the service used to be billed under LT Category II and that the back billing resorted to has to be waived, because they have not availed 74 KW, at any time and that their service was derated at their request from 74 KW to 54 KW on 30.6.2015.

4. The 2nd Respondent claimed that the DPE wing has inspected the premises of the Appellant and found that instead of HT billing for CMD of 74 KW, LT Category billing was being done and therefore, he issued a back billing notice for the period from 1.4.2014 to 30.4.2015 for Rs 92,898/-. He admitted that deration of the load was effected in the month of October,2015 and the bills were issued with derated load in the month of November,2015.

5. Having heard and on consideration of the material on record, the CGRF directed deration from 74 KW to 54 KW from 1.7.2015 and withdrawal of the excess amount paid towards fixed charges etc duly affecting the billing in LT from 1.7.2015 and at the same time, upholding the backbilling of HT service from 1.4.2014 to 30.4.2015 on the ground that for CMD of more than 56 KW/75 Hp has to be billed as per HT tariff under Clause 5 part B of Retail Supply Tariffs FY 2015-16, through the impugned orders.

6. Aggrieved and not satisfied with the impugned orders upholding the back billing, the Appellant preferred the present Appeal on the ground that they are entitled to waiver of short billing charges and that though their connected load was 74 KW, their RMD was never more than 50 KW.

7. The 3rd Respondent through his letter dt.25.2.2016 stated that for the contracted load of more than 56KW/75 Hp, the billing has to be done as per HT tariff on the basis of Clause 5 of part B of Retail Supply Tariffs for FY 2015-16 and after deration of the load, the billing is been done in the Category of LT from 1.7.2015.

8. The 2nd Respondent submitted a copy of assessment notice stating that the service was inspected on 29.5.2015 by the AAE Sri. P. Raja Narsingh Rao, who found that the sanctioned load of the Appellant was 74 KW, but was being billed under LT Category-II instead of HT Category -II and therefore, the energy consumption during the period of wrong category/wrong M.F caused loss of revenue and then resorted to back billing giving the details of assessment as shown below:

Assessment period	: From 1.4.2014 to 30.4.2015
Connected load	: 74,000 watts
Contracted load	: 74,000 watts

and thus he assessed the loss due to LT billing as follows:- Bill for Rs 8,60,599.51 based on HT billing, which is found higher than LT billing Amount Rs 7,67,702/-, with the difference of Rs 92,898/- representing the back billing amount.

9. Efforts at mediation failed to succeed, because there is no middle ground for the parties to agree and therefore, the matter is being disposed of on merits.

Heard Arguments

10. The following issues arise for determination on the basis of the material on record:

- i. Whether the back billing resorted to by the DISCOM for the period from 1.4.2014 to 30.4.2015 based on Clause 5 of part B HT Tariffs FY - 2015-16 is sustainable and legal?
- ii. Whether the Appellant is entitled to installments on the ground of no fault on her part in the previous CC bills?
- iii. Whether the impugned orders are liable to be set aside?

ISSUES 1 & 2

11. The contracted load of the Appellant was 74 KW under LT category - II. The Appellant claimed that through the contracted load was 74 KW, her consumption never exceeded 50 KW and therefore, she claimed that her consumption was billed under the LT Category - II which is proper and justified. On the other hand, the Respondents claimed that the Contracted load of the consumer was 74 KW and that it

does not matter whether the consumption was as low as 50 KW on a continuous basis, the billing has to be made on the basis of contracted load of 74 KW. They admitted that at present, at the request of the Appellant, the contracted load was derated from 74 KW to 54 KW and the consumption is being billed under LT category, about which there is no controversy.

12. The Respondents claimed that on 29.5.2015 AAE/DPE/RR South inspected the service connection and found that the sanctioned load of the consumer was more than 56 KW and therefore, the Appellant ought to have been billed under HT Tariffs as per Clause 5 of part B of the Retail Supply Tariffs for FY 2015-16. After the power was derated, as per the directions of the CGRF, LT Billing is being done w.e.f 1.7.2015. This deration of load and LT billing from 1.7.2015 is not subject matter of the present dispute.

13. The claim of the Appellant is that though the contracted load was 74 KW, the RMD never exceeded 50 KW and therefore, she is entitled to be billed under LT Category - II Tariff and not under HT Tariff. The Respondents, by relying on the contracted load of 74 KW, asserted that the Category whether it is HT or LT tariff would be determined on the basis of the connected load and not on the basis of the lower RMD. The Appellant having claimed that the actual consumption should be taken as basis for determining the category whether HT or LT for billing purpose, is not supported by any provision in the Tariff Order for the year 2013-14, 2015-16 or in the Regulations. On the other hand, the claim of the Respondents that Clause 5 of HT Tariffs in part B FY 2015-16 applies to the present back billing. The Clause is extracted here for clarity:

Clause 5 HT Tariffs of part B FY 2015-16.

“These Tariffs are applicable for supply of Electricity to H.T. Consumers, having loads with a contracted demand of 70 KVA and above and/or having a contracted load exceeding 56 KW/75 HP excluding LT-III industrial categories. For LT-III Industrial category having contracted load more than 100 HP, the HT Tariffs are applicable.”

14. Even the Tariff Order 2013-14 which is also applicable for the FY 2014-15 is of similar nature which is as follows:

Clause 5.1 HT Tariffs:

“ These Tariffs are applicable for supply of Electricity to H.T. Consumers having loads with a contracted demand of 70 KVA and above and/or having

a contracted load exceeding 56KW/75 HP excluding LT-III Industrial categories.”

15. H.T. billing would be based on the contracted demand and not on the actual recorded Maximum demand, which is lower than the contracted demand in the present matter. As per Clause 7(4) of HT Supply specific conditions FY 2015-16, the billing would be based on Maximum Demand recorded during the month or 80% of the contracted demand, whichever is higher. Even if the consumptions in the present case is less than 50KW, the billing would be based on the 80% of the contracted demand. Therefore, there can not be any billing on LT Category - II based on consumption never exceeding 50 KW when contracted demand was 74 KW.

16. The claim of the Appellant that since the consumption has never been more than 50 KW, the billing should be done in LT Category - II irrespective of the contracted load and that the actual consumption that is less than 50 KW alone has to be taken into consideration and that the billing should be done in the LT Category -II, cannot be sustained in view of the fact that the Contracted load was 74 KW and when it is so, as per the clause 5 of part b HT Tariffs during the relevant years, the billing should be based on HT Tariff as rightly claimed by the Respondents.

17. Whether the Appellant has any role in getting the billing in LT category -II during the relevant years? There is faulty and negligent billing on the basis of the reading by the concerned officials, and thus the proper billing in HT tariff was not resorted to causing loss to the DISCOM. The Appellant is innocent of this negligence on the part of the Respondents and therefore, the Appellant cannot be burdened to pay Rs 92,898/- at one time. The amount shall not carry any delay payment charges. The Appellant under the circumstances is found entitled to pay the amount due in 12 equal installments as permitted under clause 9 of Regulation 7 of 2013 @ Rs 7741.50 ps per month starting from the CC bill of April,2016. Any default in payment of this amount in any month shall make the entire balance amount payable at one time. The issues 1 and 2 are answered accordingly.

18. The impugned orders have not elaborated about the role of the Appellant and the role of the officials of the DISCOM resulting in the back billing. Without examining whether the Appellant is entitled to any installments, since she is found not at fault, the impugned are passed. However, the finding regarding the back billing is found to be valid. The impugned orders are therefore confirmed to the extent indicated. The issue No.3 is answered accordingly.

19. In the result, the Appeal is disposed of directing:

- a. The back billing resorted to by the DISCOM as per Clause 5 of Part B HT Tariffs 2015-16 for the period from 1.4.2015 to 30.4.2015 is upheld.
- b. The Appellant is granted 12 monthly equal installments @ Rs 7741.50ps to clear the back billing amount of Rs 92,898/- (which shall not carry delayed payment charges) starting from the CC bill of April, 2016. In case of any default in any month by the Appellant to pay the installment, the entire balance amount would fall due, recoverable in a lump sum.

20. 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 21st day of March, 2016.

Sd/-

VIDYUT OMBUDSMAN

1. Sri. T. Virupakshi, H.No. 16-11-737, Gaddiannaram, Dilsukhnagar, Hyderabad. 500 060. Cell No. 98493 47997.
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Copy to:

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