

**BEFORE THE VIDYUT OMBUDSMAN**

::Present::

**C.Ramakrishna**

Date: 13-03-2014

Appeal No. 48 of 2013

Between

M/s. Lakshmi Modern Rice Mill,  
Prop. P. Satyanarayana,  
Naguladevunipadu,  
Denduluru Mandal,  
R/O. D.No.25-9-17, Tatannagari Street,  
Narasimharaopet, Eluru - 534 006.

... Appellant

And

1. The Assistant Divisional Electrical Engineer, Operation, APEPDCL, Ramakrishnapuram, Eluru.
2. The Divisional Engineer, Operation, APEPDCL, Ramachandrapuram Mandal, Eluru.
3. The Assistant Accounts Officer, APEPDCL, Eluru.

...Respondents

The above appeal filed on 16-03-2013 has come up for final hearing before the Vidyut Ombudsman on 05-03-2014 at Eluru. The appellant as well as the respondents were present. Having considered the appeal, the written and oral submissions made by the appellant and the respondents, the Vidyut Ombudsman passed the following:

**AWARD**

2. The appeal arose out of the grievance of the appellant that the adoption of multiplication factor ('MF' hereafter) of 2 instead of 1 is not the fault of the appellant and hence making him liable to pay for the past differential amount under short billing is not just and reasonable.

3. The appellant is a Rice Mill that was having an HT TVR meter that records consumption with an MF of 2, but at the time of installation (on 06-02-2010) of which the multiplication factor was recorded in the records of the respondent officers as 1. The appellant Rice Mill was issued bills for the period May 2010 to June 2012 by adopting a multiplication factor of 1 instead of 2, and this has resulted in the appellant paying far less C.C charges than otherwise were due. This wrong adoption of the multiplication factor was noticed by the respondent ADE in July 2012 and was promptly followed up with issuance of a short billing notice for the same.

4. In his appeal the appellant submitted that the assessment made taking multiplication factor as 2 was not supported by facts with reference to the physical status of the meter and name plate details; that the Electricity authorities regularly took the reading from the meter situated outside the premises of the consumer and served bills on him with the multiplication factor of one for the period May 2010 to June 2012 and the bills were promptly paid; that the DISCOM has not provided a pass book to the consumer containing meter reading record as required by clause 7.4.1 of GTCS and that because of this he was kept in dark about the recorded units and the multiplication factor that was adopted; that he strongly disputes the adoption of multiplication factor as 2 and the consequent calculation of bills; that it's the statutory responsibility of the DISCOM's authorities to establish the requirement of

adoption of multiplication factor of 2 through supporting material evidence; that the inspecting officer failed to follow the prescribed procedure as required by clause 7.5.11 of the GTCS and hence the appellant was deprived of submitting his objection or otherwise at the time of or soon after the inspection; that short billing on account of wrong adoption of multiplication factor is a case of defective meter for which a notice as prescribed in Appendix VII of the GTCS should have to be issued; that the consumer has fully paid the bills raised during the period May 2010 to June 2012; that the short billing amounts were arrived at by wrongly assuming multiplication factor as 2 and hence the appellant is not liable to pay an amount that was determined based on an unfounded assessment; that the demand for Rs.46,476/- for exceeding the contracted demand also is not correct; that the findings of the Forum are unjust and unreasonable as it did not discuss or contradict the specific objections raised by the appellant in his petition before it; that the CGRF has not granted any personal hearing to the appellant before passing its orders; and that a detailed examination of the issue may be carried out, the order issued by the CGRF set aside and the DISCOM be directed to refund the 50% amount that was paid consequent to the Honb'ble A.P High Court order.

5. A notice for hearing was issued directing the respondents to submit their written submissions, if any, duly serving a copy on the appellant. In their written submissions, the respondents stated that initially the then LT TVR meter was replaced with an HT TVR meter on 16-10-2008 and again that meter was replaced with a new one that works with a multiplication factor of 2 on 06-02-2010; that while recording the same in the EPIMRS the multiplication factor was entered incorrectly as 1 instead of 2; that this anomaly was detected on 18-07-2012 during the inspection undertaken by the respondent ADE; that

accordingly a short billing notice was issued for the period in question i.e., from May 2010 to June 2012; that the CGRF also visited the location and took a report from the DPE wing and satisfied itself that it was a case of wrong adoption of multiplication factor and accordingly disposed of the complaint filed by the appellant by directing him to pay the assessed amounts.

6. A perusal of the orders passed by the CGRF confirmed what the respondents have submitted in their written submissions. At the time of hearing, the appellant did not press regarding adoption of multiplication factor, as he had already paid the entire amount due subsequently. He appeared to have resigned himself to the fact that his contest does not hold much water in the light of the fact that the DISCOM's authorities had erred in adopting the wrong multiplication factor while giving the bills originally, and they had every right to correct such a clerical mistake at a later date. However he contested the levy of delayed payment surcharge.

7. A perusal of the entire record produced by the respondents at the time of hearing clearly showed that the multiplication factor was wrongly recorded as 1 instead of 2 and this has resulted in short billing against the service connection. The contention of the appellant that the short billing assessment is not supported by facts with reference to the physical status of the meter and name plate details is not tenable because on the inspection of the respondent ADE and the subsequent meter tests conducted, it is clear that a wrong MF was adopted. As it was rightly found out by the respondent ADE on his inspection, consequent serving of the notice and raising of the demand towards short billing is reasonable. Prompt payment of bills incorrectly raised for lower amounts is no insurance against correction by revision. The

contention of the appellant about non-issuance of pass book is correct. But, even if a pass book is provided, that does not prevent the respondent officers from undertaking short billing assessment. The presence of a pass book could have perhaps brought on record the periodical readings and notings thereon. The appellant's contention that the respondent officers do not have evidence which would sustain statutorily is also not correct. The inspection and test records are good enough evidence to uphold the assessment of short billing done in this case. The contention of the appellant that he was not given a fair opportunity of raising objection at the time of or soon after inspection also is not borne by record. The respondent ADE issued a notice and the same was served on the appellant giving him 15 days time to raise objections. The consumer in any case, has been afforded ample opportunity to contest the revision of the bill and in fact he had availed that opportunity in full measure by approaching all possible forums.

8. The next contention of the appellant that short billing on account of wrong adoption of MF is a case of defective meter and hence the present assessment does not stand is not correct. The present case is not a case of defective meter; but it's one of short billing that is noticed belatedly by the respondent officers. Forms are meant for the guidance of the officers. Wrong use of forms, though that is not the case here, does not make a proceeding illegal. What matters most is whether or not the irregularity or shortcoming noticed is corrected by affording reasonable opportunity to the person who is being affected by the proposed correction. This test is more than adequately passed in the present case.

9. Soon after receiving the demand notice for the assessed amount, as the appellant had approached the Hon'ble High Court and was expecting relief from there and/or from the appellate forums like the CGRF and the Vidyut Ombudsman, days and months ticked by and this has resulted in accumulation of delayed payment surcharge on the assessed amount. As nothing prevented the appellant to pursue his dispute before these authorities by duly paying the entire disputed amounts in time, his seeking relief from the levy of delayed payment surcharge cannot be entertained.

10. In so far as his contention that the CGRF had not granted him any personal hearing is concerned, it is upheld. The CGRF ought to have given an opportunity of personal hearing to the appellant before disposing of the complaint before it. However, what waters down this allegation of not being given an opportunity of personal hearing is the fact that the CGRF made a visit to the appellant's premises. When a statutory authority like the CGRF visited the premises, it is highly unlikely that the appellant would not have been afforded an opportunity to present his point of view.

11. In so far the contention of the appellant that details of RMD exceeding CMD have not been given is concerned, it is upheld. As RMD exceeded CMD in this case out of correct adoption of the MF on short billing assessment, the respondent ADE could have detailed the same month wise in the notice that was already served. Though this is a minor lapse, adequate opportunity should have been afforded to the appellant consumer to know the detailed workings.

12. In the result, the orders of the CGRF, Visakhapatnam are upheld and the appeal is disposed of with a direction to the respondent ADE to give

detailed month wise workings of the instances of RMD exceeding CMD so that the appellant is aware of the calculations for the amount of Rs.46,476/- that was mentioned in the short billing notice issued by him. Further, the DISCOM is directed to ensure that Pass Books are maintained invariably for all the consumers in accordance with clause 7.4.1 of the GTCS. Where, the DISCOM is unable to maintain Pass Books for the consumers, it shall be ensured that the details that are to be maintained in the Pass Book are made available to the consumers on their web sites and the consumers are made aware of such availability.

This order is corrected and signed on this **13<sup>th</sup>** day of **March**, 2014.

**VIDYUT OMBUDSMAN**

To

1. M/s. Lakshmi Modern Rice Mill, Prop. P. Satyanarayana,  
Naguladevunipadu, Denduluru mandal, R/o. D.No.25-9-17, Tatannagari  
Street, Narasimharaopet, Eluru - 534 006.
2. The Assistant Divisional Electrical Engineer, Operation, APEPDCL,  
Ramakrishnapuram, Eluru.
3. The Divisional Engineer, Operation, APEPDCL,  
Ramachandrapuram mandal, Eluru.
4. The Assistant Accounts Officer, APEPDCL, Eluru.

Copy to:

1. The Chairperson, CGRF, APEPDCL, 3rd Floor, New Building, Corporate  
Office, P & T Colony, Seethammadhara, Visakhapatnam - 530 013.
2. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhawavan, Red Hills,  
Hyderabad-04.