

**BEFORE THE VIDYUT OMBUDSMAN**

:: Present ::

**C. Ramakrishna**

Date: 05-07-2014

Appeal No. 66 of 2013

Between

Sri K. Siva Prasad, M.N.V. Palem Village & Post, Chinaganjam Mandal,  
Prakasam District 522 006

**... Appellant**

**And**

1. The Asst. Account Officer, ERO, APSPDCL, Vetapalem, Prakasam Dt.
2. The Asst. Engineer, Operation, APSPDCL, Chinaganjam, Prakasam Dt. 523  
227
3. The Asst. Divisional Engineer, Operation, APSPDCL, Vetapalem, Prakasam  
Dt.
4. The Divisional Engineer, M&P, APSPDCL, Vetapalem, Prakasam Dt.
5. The Divisional Engineer, Operation, APSPDCL, Chirala, Prakasam Dt.
6. The Superintending Engineer, Operation, APSPDCL, Ongole, Prakasam Dt.  
523 001

**... Respondents**

The above appeal filed on 17-05-2013 has come up for final hearing before the Vidyut Ombudsman on 09-06-2014 at Ongole. The appellant, as well as respondents 1 to 6 above 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 he was assessed for back billing for no fault of his. The CGRF had not considered his complaint favourably.

3. The appellant stated in his appeal that the respondent AE, Operation issued a notice to him on 18-01-2013 informing him that the R&Y wires in the meter were interchanged in the CT chamber at the time of commissioning of the meter and demanded an amount of Rs. 5,51,407/- towards back billing; that the CGRF had not considered his complaint favourably; that the said defect in the meter was never noticed during any of the visits and inspections before 18-01-2013 and hence the defect is not there from inception as alleged; that therefore, demanding back billing amount from the date of installation of the meter is improper and illegal; that every visit of the respondent officers for meter reading purpose or for periodical inspection purpose were being carried out without his knowledge and that he is not aware of the tests / readings; that he was not put on notice when the testing that detected the defect was stated to have been found; that the meter is in good and perfect condition and that even if it is defective, he cannot be made liable or responsible for it; and that the claim of back billing made from the date of installation of the meter i.e., May, 2011 is unjust and unreasonable and is also illegal in view of the Hon'ble Supreme Court's

judgments. He prayed for setting aside the order of the CGRF.

4. The respondents were issued a notice for hearing the appeal. The respondent AAO submitted his written submission on 10-02-2014 stating that the service of the appellant was inspected by AE, CT Meters II, Ongole on 04-12-2012; that at the time of inspection, it was found that the R&Y phase potential wires of the meter were found interchanged in the CT chamber resulting in lower recording of energy; that the problem was rectified at a reading of 201403 kWh & 204641 kVAh; that the MRI data collected showed that the meter recorded 37.127% lower consumption and hence the shortfall units were assessed by the DE, Operation, Chirala and a demand for Rs. 5,51,407/- was raised on the consumer; and that the CGRF had given an order in their favour.

5. The respondent DE, Operation, Chirala, and AE, Chinaganjam also filed their written submissions, essentially reiterating the same points that are submitted by the respondent AAO. The respondent DE, M&P in his written submissions stated that there were no earlier visits by the CT Meters wing to the service connection; that this type of defect cannot be detected by meter readers at the time of meter reading and can only be traced when an Accucheck testing is done with consumer load by a competent authority; and that at the time of inspection on 04-12-2012, the son of the appellant herein was very much present but refused to sign on the test report prepared as he came to know that back billing will be proposed consequent to the test. He submitted copies of the correspondence written to the ADE, Operation, Vetapalem and the test report.

6. During the course of the hearings, the appellant submitted a copy of the reply given by the DE, M&P to one Sri. Bodapati Singaiah to the effect that the CT meters will be inspected by the M&P wing once in six months and that the Accucheck equipment allotted to them have never malfunctioned. The appellant contends that when the CT meters are checked once in six months, that too with Accucheck equipment which is functioning without any defect, there is no reason why the back billing assessment should go up to the date of installation of the meter. The appellant further relied on two judgments of the Hon'ble Supreme Court in Bombay Electric Supply case and M.P.E.B case to argue that the back billing assessment period cannot go beyond six months. He also relied on K. Sajjan Singh vs. The Andhra Pradesh State reported in AIR 1997 AP 279 in support of the same contention.

7. The appellant has further submitted that the CGRF failed to decide whether it is a case of defective meter or a case of negligence by the Department. His contention is that if it is a case of negligence by the Department, there is no provision in the GTCS to proceed against the consumer and the present proceedings of the respondent officers become liable to be quashed. But, if it is a case of defective meter, the respondent officers failed to show compliance to the provisions of the GTCS in as much as they did not serve the inspection report on him. He questioned the very existence of the test report and asserted that the report cannot be called a test report as per clause 7.5.1.2 of the GTCS. He further contended that the respondents were wrong in asking his son sign the report without serving a copy thereof on him in the first place. He contended that since the meter was properly tested at the time of the initial installation with an Accucheck

equipment and the respondents were satisfied with the accuracy of the meter, there is no basis for them to say that the meter is defective now.

8. The respondents contended that errors like the present one, which is a case of incorrect wiring in the meter at the time of installation cannot be detected at the time of regular visits for meter reading purpose; that they have followed the provisions of the GTCS in as much as the testing of the meter was done on the field only and not in the MRT lab; that what was done back in the lab is only an interpretation and formal communication of the results of the test after reading the MRI dumps; that the serving of the copy of the test report could not be done as the appellant's son refused to sign on the report in the first place; and that as Section 126 of the Electricity Act provides for assessment up to a period of twelve months preceding the date of inspection, their assessment should at least be permitted accordingly.

9. Let us now examine each of the contentions raised in the appeal and during the hearings. It is a fact that the R&Y wires in the meter were found interchanged in the CT chamber at the time of testing on 04-12-2012. The copy of the initial test report done on 11-05-2011 shows that the meter has been tested and found to be working satisfactorily at the time of installation. Interchanging of the R&Y wires in the CT chamber of the meter cannot happen without manual intervention. On this, there was nothing coming from either the appellant or the respondents. In so far as this interchanging is concerned either both the appellant and the respondents are hiding more than what they are revealing or it is a case of clear negligence on the part of the respondents. But the record produced before this authority shows that the

meter has been functioning correctly on the date of installation. There being no light on the developments that have led to the interchanging of the wires, the benefit of doubt / responsibility should be equally apportioned to the appellants as well as respondents.

10. Defects of wiring in the CT chamber of meters cannot be detected by meter readers at the time of meter reading. It is true that the meters are supposed to be tested periodically -- at least once in six months by the respondent officers. If they have not done it, it is their fault. The appellant also is wrong in assuming that all the tests / readings were happening without his knowledge. No visit of the respondents can happen to his premises without his knowledge. If he is not resident there and he prefers not to be there or keep somebody responsible there at the time of the visit of the respondent officers for any purpose, the appellant also should accept the blame for being ignorant of the findings / developments in so far as his service connection is concerned.

11. An inspection report would become complete only when the person present at the time of inspection appends his signature to the report. It is only after that, the question of serving it arises. The very fact that the appellant's son had refused to append his signature on the inspection report soon after the inspection, is reason enough for this authority to believe that the appellant had played truant in receiving the test report and its findings. Hence the appellant's contention that he was not put on notice about the defects noticed on testing is not acceptable.

12. In so far as the appellant's contention that the back billing assessment cannot go beyond six months preceding the date of finding of the defect is concerned, it is found acceptable. In cases where meter defects are noticed, as per clause 7.5.1.4.4 of the GTCS, the assessment of back billing cannot go beyond 6 months in case of consumers like the present appellant. The case law relied upon by the appellant also support this interpretation. As the rule position itself is very clear in this regard, no discussion on the case law cited by the appellant is found necessary.

13. As for the contention of the appellant that it has to be first decided whether the case is one of defective meter or one of negligence by the respondents, this authority finds that it is both. The meter is found to be defective due to the negligence of the respondents and the appellant had not done his bit to show compliance to the GTCS of the DISCOM in as much as he evaded the serving of the test report on him. There are errors / wrongs committed by both the sides in this case. Therefore, the appellant cannot adopt a 'holier than thou' attitude vis-a-vis the respondents in the present case.

14. The respondents are wrong in relying on section 126 of the Electricity Act, 2003 in support of their plea to allow back billing assessment at least up to one year preceding the date of noticing the defect. That one year mentioned by section 126 of the Electricity Act is with reference to cases of unauthorized use of electricity and cannot be imported to cases of defective meters. Hence their plea is ignored.

15. The CGRF's order on the complaint of the appellant herein is found to be inadequate in so far as it did not give clear findings on the contentions raised by the appellant. Hence, its order is liable to be set aside.

16. Therefore, it is hereby ordered that:

- the respondent officers shall modify their assessment, within 15 days from the date of receipt of this order, duly restricting the period of assessment to six months prior to the date of noticing of the defect in the meter i.e., 04-12-2012;
- the appellant shall pay the assessed amount accordingly; and
- the respondent officers shall report compliance within 30 days from the date of receipt of this order.

17. This order is corrected and signed on this 5<sup>th</sup> day of July, 2014.

**VIDYUT OMBUDSMAN**

**To**

1. Sri K. Siva Prasad, M.N.V. Palem Village & Post, Chinaganjam Mandal,  
Prakasam District 522 006
2. The Asst. Account Officer, ERO, APSPDCL, Vetapalem, Prakasam Dt.
3. The Asst. Engineer, Operation, APSPDCL, Chinaganjam, Prakasam Dt.  
523 227
4. The Asst. Divisional Engineer, Operation, APSPDCL, Vetapalem,  
Prakasam Dt.



5. The Divisional Engineer, M&P, APSPDCL, Vetapalem, Prakasam Dt.
6. The Divisional Engineer, Operation, APSPDCL, Chirala, Prakasam Dt.
7. The Superintending Engineer, Operation, APSPDCL, Ongole, Prakasam  
Dt. 523 001

**Copy to:**

8. The Chairperson, CGRF, APSPDCL, Behind Sreenivasa Kalyana  
Mandapam, Kesavayanagunta, Tirupati - 517 501.
9. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red Hills,  
Hyderabad - 500 004.