

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu, Director (Law) and
Vidyut Ombudsman**

Dated: 17 -02-2010

Appeal No. 16 of 2009

Between

M/s. Thirumala Venkateswara Paper & Board (P) Ltd.,
Survey No. 50/A, SC No. ADB-263,
Andugulapet (V), Mandamarri (M),
Adilabad Dist

... Appellant

And

The Divisional Engineer / Operation / APNPDCL / Mancherial
The Senior Accounts Officer / Operation / APNPDCL / Adilabad

....Respondents

The appeal / representation dated 21.03.2009 of the appellant has come up for final hearing before the Vidyut Ombudsman on 29.01.2010. Ms.BJS Mrudulanjali, Sri Naresh Sharma and Sri Deepak Vyas for appellant and Sri T.Venkatesham ADE/Op/Mancherial for respondents are present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following:

AWARD

Aggrieved by the order passed by the Forum in C.G. No. 241/ 2009 of Adilabad District dated 24.02.2009, the present appeal is preferred on 21.03.2009.

2. The case of the appellant is that they have set up a Corrugated Kraft Paper Manufacturing Unit at Andugulapet (Village), based on waste paper recycling principle. They have taken HT Service No. ADB-263 for 500 KVA on 04.10.2008 from M/s. APNPDCL, Warangal. They did not receive actual

consumption bills regularly after commencement of supply. On their request, they received the bills for 3 months only on 29.12.2008 ie., October 2008 to December 2008. They were surprised to see the bill and Low Power Factor (LPF) penalty of Rs.4,32,594/- which is more than actual billed amount. They used electricity power for limited purpose only during the said three months period. Their production did not commence. They consumed very less energy and demand both are below minimum energy (50 units per billed KVA per month) and minimum demand (80% of contracted KVA per month). They appealed to the Superintending Engineer, Adilabad and also approached the Consumer Grievance Redressal Forum, APNPDCL for waiver of LPF surcharge. As per the orders of APTRANSCO, the consumer shall not be levied power factor surcharge. The Forum is erred in holding that they have used electricity for lighting load and welding purpose without using the factory load is also at fault as their consumption is very low during the 3 months period. The CGRF despite observing the fact that they have not received the bills in time, but erroneously rejected the claim made by the appellant.

3. In response to the complaint submitted by the appellant before the Forum, the Divisional Engineer, submitted his filings dated 24.01.2009 and the following grounds were mentioned in the said submissions: -

(i) the service was charged on 04.01.2008 but the service CT PT incoming and outgoing HG fuses were blown off frequently due to the failure of post type insulators of DP structure AB switches and faults on factory side they were rectified by the same on 13.10.2008 by replacing the defective insulator. On 14.10.2008, the meter was tested and they were submitted to the SE / O / Adilabad. The first month readings were taken on 21.10.2008. The power factor was 0.24 and the same was intimated to the consumer. The power factor for subsequent months 11/08 and 12/08 was 0.34 and 0.62 respectively. They were also informed to the consumer and recorded in the consumer register and he was also advised to improve the power factor to unity. The consumer intimated him that they have not received the CC bills and they were supplied as per his request through fax through circle office. The consumer utilized the power

supply for factory lighting, welding load and other erection works during the above said 3 months as reported by the ADE / O/ Mancherial.

(ii) The Divisional Engineer / O/ Mancherial has also submitted MRI data, HT Agreement, test report and meter reading register, etc, along with a copy of consumer letter wherein the consumer stated that they have used variable frequency drives instead of Star Delta or DOL Starters. The variable frequency drives come within built capacitors and always run on unity power factor. Hence, there is no need to install additional capacitors.

(iii) The Senior Accounts Officer / Operation Circle / Adilabad had also narrated the same which were submitted before the Forum.

(iv) The Divisional Engineer / MRT had also stated about the testing made by him on the meter and the errors are within the permissible limits.

4. After hearing both sides and after considering the material available before the Forum, the Forum is opined that the Power Factor recorded during the month is in order and no revision of bill is required and the complaint is not admitted.

5. Aggrieved by the said order, the appellant preferred this appeal by narrating the same grounds mentioned supra.

6. Now, the point for consideration is, "whether the impugned order dated 24.02.2009 is liable to be set aside or varied? If so, on what grounds?"

7. The appellant was represented by Ms.BJS Mrudulanjali, authorized representative of the appellant, Sri Naresh Sharma, brother of the appellant, Sri Deepak Vyas another brother of the appellant were present on behalf of the appellant and Sri T.Venkatesham, ADE/O/ APNPDCL was present on 29.01.2010 on behalf of the respondent and submitted their respective arguments in support of their respective cases.

8. The representative of the appellant stated that inspite of repeated replacement the capacitors were blown off very frequently and they were using

the power supply as the unit was not fully put up for working and that they did not send the bills month wise but they sent the bills for all the 3 months in the month of December 2008 and they levied heavily surcharge and their unit is a very small unit established in a remote and tribal area and unless the surcharge is removed or reduced, it is not possible for them to revive the factory and finding of the Forum on that aspect is liable to be set aside.

9. Whereas the representative of the respondents submitted that the appellant was asked to put capacitors and instead of directions, he did not make any effort to replace the same and that the surcharge is levied in accordance with the existing tariff order as there is low power utilization and they are liable to pay LPF surcharge and the Forum has rightly considered this aspect and there are no grounds to set aside or vary the same.

10. The representative of the appellant showed the order passed by this office in Appeal No. 38/2007 to the fact that the LPF surcharge was limited to billing month on 04/07 basing on actual energy and demand consumed during that month.

11. Though the respondents have submitted that they have been sending bills every month, but this aspect is not correct since the very bill submitted by the party discloses that the entire bill for Rs.8,04,523/- was issued in a consolidated form. If the bill has been sent for October 2008, the appellant would have set the things right or atleast made an effort to set right the things this important right is lost by the appellant due to in action or inefficiency of the respondents.

12. The appellant has also filed a memo addressed by the Chief Engineer that the LPF surcharge is not leviable in respect of HT consumers whose consumption bill is within the minimum charges and directed the SE / O / Khammam to implement the same to A.G.Audit accordingly. Whether it is acted or not, there is no record. Whether the intimation is sent to the AG Audit is not known.

13. However, this Vidyut Ombudsman is not competent to write about the surcharges as the law on that aspect is settled, but the power to limit the same is not taken away in exceptional circumstances. When an opportunity came to the party to rectify the same atleast by sending the bill for the month of October informing LPF it would have been rectified by the appellant by taking appropriate measures and rectified the same and saved the LPF for the other two months.

14. In the light of the above said facts and circumstances penalizing the appellant on the ground of LPF surcharge as imposed on minimum capacity is not correct but this Authority is of the opinion that it can be restricted to the actual energy and demand consumed during those 3 months.

15. From the foregoing discussion, it is evident that the appeal / representation made by the appellant is to be allowed in part with a direction to to restrict the LPF surcharge for these 3 months basing on actual energy and demand consumed during those 3 months and adjust the amount due to the appellant, if any, in the future CC bills. The respondents are further directed to submit compliance report at the earliest possible time preferably within 30 days from the date of receipt of this order.

16. In the result, the appeal is allowed in part and also with the above said observations in paragraph -15.

This order is corrected and signed on this day of 17th February 2010.

VIDYUT OMBUDSMAN