

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 29-04-2010

Appeal No. 39 of 2009

Between

M/s. OM Siva Sai Quarry-Tech
10-128-14, V.V.Nagar,
Tiruchanoor, Tirupati

... Appellant

And

The Asst. Accounts Officer / ERO / APSPDCL / Puttur
The. Divisional Engineer / Opt / APSPDCL / Puttur
The Superintending Engineer / Opt / APSPDCL / Puttur

....Respondents

The appeal / representation received on 12.11.2009 of the appellant has come up for final hearing before the Vidyut Ombudsman on 23.04.2010 at Tirupathi in the presence of Sri K.R.Naidu, husband of the proprietor of the appellant. Smt.K.Jayapradamma, SAO and Sri G.Natesh lingam, AAO/ERO/Puttur present for respondents and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

The appellant filed a complaint before the Forum stating that M/s. OM Siva Sai Quarry-Tech; SSI unit is a sick industry and the same is not in operation due to seizure of APSFC and revenue department. From February 2008 onwards, the billing was made in HT category due to exceeding the contracted load. The

complainant is unable to pay the bills in HT category due to sick unit and finally appealed to issue in LT category till the declaration/sanction of HT/III(B) category.

2. The AAO submitted the following remarks:

(i) the ADE/O/Puttur issued notice to the complainant in Lr.No.ADE/O/Puttur /2756/06, dt.01.02.2006 for regularization of the additional load of 45.5HP (119.5HP-74HP) detected by ADE/DPE-II/Tirupati during his inspection on 16.11.2006.

(ii) the SE/O/Tirupati has accorded approval for execution of the work for converting the LT service into HT service under turnkey basis vide Memo. No.SE/O/TPT/ADE/Comml/AAE/1703/dt,01.11.2007.

(iii) again the SE/O/Tirupati also confirmed in his letter SE/O/TPT/Comml/3076/08 dt.25.09.2008 (addressed to the complainant) that the execution of the work had not been completed.

(iv) the additional load of 46HP was regularized on payment of Rs.69,000/- towards development charges vide DD No.1543 dt.23.08.2008 as confirmed by the AAE/ERO/Puttur in Lr.No.AAO/ERO/PTR/JAO-II/1655/dt.27.11.2008.

3. After reviewing the remarks of the respondents and after hearing both sides, the Forum disallowed the complaint on the following grounds:

(i) As per the clause 12.3.3.2 and 12.3.3.3 of GTCS approved by the APERC HT-Tariff will be applicable from the consumption month in which the unauthorized additional load is detected till such month additional load is removed and got inspected by the designated officer of the company.

(ii) In this case, the consumer has regularised the additional load only during 8/08 (i.e) on payment of development charges of Rs.69,000/- on 23.08.2008.

(iii) In view of the above, the opinion of the Forum is that the action of the AAO/ERO/Puttur in issuing the bills under HT Cat-I till 23.08.2008 is sustainable in terms of the clause 12.3.3.2 & 12.3.3.3 of GTCS approved by the APERC.

4. Aggrieved by the said order, the appellant preferred this appeal questioning the same that that her unit is not in operation and they have requested the competent authority for refund of excess collected monthly bill charges and transformer hire charges. It is also mentioned in the grounds of appeal that the unit was under seizure since 19.06.2006 by the Government of A.P. / Revenue Department, as such the bills may be collected as per agreement under LT category i.e, excess CC bills of MF,PF, DTR hire charges & HT/III(B) fixed charges with interest may be paid to them.

5. Now, the point for consideration is, "Whether the impugned order dt.28.11.2008 is liable to be set aside? If so, on what grounds?"

6. The main ground mentioned in the grounds of the appeal is that the unit is sick unit. The collection of CC bills is to be made on LT category and the excess amount has to be refunded. The other ground mentioned is that she has purchased the transformer but they are collecting hire charges and the same has to be refunded. The bills filed by the authorized agent / husband of the complainant clearly proved that they purchased the transformer and the hire charges collected have to be refunded.

7. The other point urged before this authority is, that it is a sick unit and he is liable to pay LT charges only and the excess charges paid by him may be refunded.

8. The Superintending Engineer submitted his written arguments to the effect that the appellant has an industrial service and that the same was inspected on 16.11.2006 by the ADE/DPE/SPDCL/TPT and found that the connected load for service was 119.5 HP whereas the sanctioned connected load for the service was 74 HP. The ADE/O/Puttur had given one month notice to the consumer for regularization of unauthorized additional load and they issued the bills under HT billing category-I tariffs from 02/08 to 07/2009 as per

clauses 12.3.3.2 and 12.3.3.3 of GTCS approved by APERC. The appellant regularized the additional load by paying additional load charges on 23.08.2008

9. The appellant has submitted the proceedings of the Government to prove that it is sick unit and stated that his unit does not come under the purview of the BIFR which is meant for heavy industries.

10. It is true that the unit was seized by the APSFC and there is a dispute about the land, etc. There is no regulation in APERC to exempt the sick units for waiver or to treat it as LT category. Having found that there is additional load than the sanctioned load, there is no other option except issue the bills accordingly.

11. 12.3.3.3 of GTCS reads as follows:

“Cases where the total Connected Load is above 75 HP/56kW or Cases where the total connected load is above 150 HP under LT Category III (B). These services will be billed at the HT category I tariff rates from the consumption month in which the un-authorised additional load is detected till such additional load is removed and got inspected by the Designated officer of the Company.”

12. There is no exemption in any manner to the units which are treated as sick units even otherwise, the documents filed by her do not establish the factum of sick unit except the letter dt.21.01.2009. If she proves and establishes that it is a sick unit and entitle for any benefit she can approach the authorities by placing the relevant material claiming exemption provided under the rules and terms and conditions accept the same.

13. In the absence of the same, it is not possible for this authority to decide basing on an insufficient material, since the appellant is having a connection and the same is being used and it is not disconnected and therefore, she is liable to pay the same. The very payment for regularization of additional lends supports the very theory profound by the respondents.

14. I do not find any reason to interfere with the order for the refund of the excess bills of MF,PF and the same is rightly rejected but she is entitled for refund of the hire charges.

15. In the result, the appeal is partly allowed directing the respondents to refund the hire charges of the DTR by adjusting the same in future CC bills and the claim for refund of the other CC bills is rejected. No order as to costs.

This order is corrected and signed on this day of 29th April 2010

VIDYUT OMBUDSMAN