

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 31-03-2010

Appeal No. 7 of 2009

Between

M/s.Sree Astalaxmi Spinning Mills Pvt. Ltd
Survey No. 38, Light Industrial Area,
Adilabad – 504 001

... Appellant

And

1. Divisional Engineer / Operation / APNPDCL / Adilabad
2. Superintending Engineer/ Operation / APNPDCL / Adilabad

....Respondents

The appeal / representation received on 23.01.2009 of the appellant has come up for final hearing before the Vidyut Ombudsman on 26.03.2010 in the presence of Sri S.Surya Prakash, Advocate and Sri P.Veerasunder representative for the appellant present and Sri J.R.Chavan, DE/O/Adilabad present for respondents 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.239/2008 of Adilabad Circle dated 22.12.2008, the appellant preferred this appeal on 23.01.2009.

2. The complainant filed a petition before the Forum on the following grounds:

- (i) that the bill for July 2008, was received for Rs.23,13,547/- taking billed MD as 213 instead of 212 actual recorded MD as per reading sheet for July 2008, duly attested by the Divisional Engineer / Operation / Adilabad.
- (ii) That due to considering wrong MD, the difference in billing was Rs.20,660.25, towards incentive and Rs.2,340.00, towards difference in MD charges the bill issued is higher by Rs.23,000.25.
- (iii) As such an amount of Rs.22,92,547/- was paid on 09.08.2008, by cheque number 918718 of SBH, Adilabad, towards the CC bill for July 2008, duly reducing an amount of Rs.21,000/- towards the difference in incentive and MD charges.
- (iv) That Superintending Engineer/Operation/Adilabad, has neither disconnected the supply nor called for the balance payment. Hence they construed that the payment of Rs.22,92,547/- holds good and treated as accepted, the payment.
- (v) That the bill for August 2008, was received showing Rs.21,000/- as arrears, without allowing incentive though eligible.
- (vi) That immediately they represented the matter to the Superintending Engineer/Operation/Adilabad, requesting to allow the incentive on 09.09.2008, duly enclosing a copy of bill and reading sheet.
- (vii) That in response to their letter, the Superintending Engineer/Operation/Adilabad, informed "that the eligibility for incentive is subject to the condition that the consumer should not have any outstanding dues. But the SC No. ADB-167, is having arrears of Rs.21,000/- as on the date of issue of 08/08 bill" and stated that the service is not eligible for incentive in 08/08, bill and advised to pay the bills within stipulated time for getting incentive in future bills.

- (viii) That the Superintending Engineer/Operation/Adilabad, has made no comment/clarification in regard wrong issuance of bill for 213 MD against 212 recorded MD.
- (ix) That on receiving the letter they paid the entire amount including the arrears of Rs.21,000/- by cheque number 9181893 dt.09.09.08, to avoid further complications.
- (x) That they are paying the bills regularly since the date of release of supply.

ultimately requested to do justice and to allow incentive for the month of August 2008.

3. The DE/O/Adilabad stated in his statement as herein:

- (i) the MD recorded for July 2008, is as follows.
Meter display MD 212, the same was recorded in the consumer record book.
- (ii) While calculating the difference of CMD, it is
CMD for June 2008 - 10934
CMD for July 2008 - 11147
Difference - 213
- (iii) Hence the same was recorded for issuing electricity consumption charges bill for 07/2008.

4. The SAO/O/Adilabad stated in his statement as herein:

- (i) the bill pertaining to SC No. HT-ADB-167 for 07/08, was issued by taking the MD as 213 and the consumer has paid Rs.22,92,547/- against Rs.23,13,547/-.
- (ii) Soon on receipt of payment seven days notice was issued to the consumer for payment of balance of Rs.21,000/- through notices dated 13.08.08 and 11.09.08.
- (iii) The consumer represented on 09.09.08, regarding MD and incentive.

- (iv) After confirmation of reading from Divisional Engineer/operation/Adilabad, the consumer was intimated on 12.09.08, that incentive was not allowed due to non-payment of arrears of Rs.21,000/-.

5. The Divisional Engineer was asked to clarify why there was a difference in MD displayed and MD calculated and also to submit the MRI data for the past one year. The MRI data printout consisted the data of MD reset mechanism and MD registers from December 2007 to October 2008. The MD register data for January 2008 and June 2008, is not available. The DE did not clarify the issues raised in letter dated 27.11.2008 and also not submitted for justification for adopting the MD of 213 for billing purpose.

6. The DE recorded in the consumer's record for the month of July 2008 the MD as 212 and the meter reading sheet submitted to the circle office for billing the cumulative MD for June and July 2008, the difference of which worked out to 213, as calculated by the DE/O/Adilabad. While analyzing the same, the Forum observed that the reason for different MD in consumer book and for billing purpose is not known and the DE/O/Adilabad has not bothered to bring the same to the notice of SE/O/Adilabad or the Forum. The MRI data available by the DE/O/Adilabad, it is seen that the MD registered on 11.07.08 is 212.3. Therefore, the MD of 213 in July 2008 CC bills appears to be erroneous. Even if the consumer contention on MD is treated as correct there will be a short payment of Rs.17,271/- in July month CC bill and ultimately there were arrears in the complainant's CC charges account as on the date of issue of next month CC bill. They are not entitled to get incentive for the next month. The Forum ultimately ordered that CC charges bill for July 2008 is to be revised based on MD of 212.3 registered in the meter and accordingly incentive shall be recalculated if eligible i.e, if there are no arrears incentive for next month August 2008 may be allowed. The excess amount if paid is to be adjusted in the next bill and compliance to be reported.

7. Aggrieved by the said order, the appellant preferred this appeal questioning the same.

8. When the bill of August 2008 received showing Rs.21,000/- as arrears without allowing incentive though eligible, immediately they represented the matter to the SE/O/Adilabad. The SE informed that there were having arrears of Rs.21,000/- and rejected their incentive and advised to pay the bills within the stipulated time to get incentive in future bills. On receiving the letter they paid entire amount including arrears of Rs.21,000/-by cheque no. 9181893 dated 09.09.08 to avoid further complications. The CC charge bill for July 2008 is to be revised as per orders of the Forum by taking MD of 212.3 registered in the meter and accordingly incentive shall also be recalculated. The less payment of Rs.21,000/- made against July 2008 bill is only due to wrong MD furnished by the DE/O/Adilabad. At any rate, the difference in bill would work out to Rs.3729/- instead of Rs.21,000/- as the calculation was made by them basing on the MD of 212. It is only due to wrong adoption of MD as such, it should not be treated as outstanding dues and withholding of incentive is against to the principles of natural justice and they are entitled to more than 2 lakhs incentive in the month of August 2008.

9. Now the point for consideration is, whether the impugned order dt.22.12.2008 is liable to be set aside. If so, on what grounds.

10. The Learned Advocate Sri S.Surya Prakash submitted that the calculation made by wrong MD assessed by the DE/O/Adilabad and even if calculation is made a meager amount is there and when there are latches on the part of the department and calculation is made on account of wrong information on MD, they cannot be deprived of claiming incentive and the Forum has also observed to recalculate and pay the incentive if the consumer is entitled. It is not the case of

dues, it is only wrong calculation and on the wrong information furnished, so he is entitled for incentive as claimed.

11. The respondents are represented by Sri J.R.Chavan, DE/O/Adilabad stated that actual MD was 212.3 but not 213 and even if there are no arrears they are not entitled for incentive. It is clear from the record and the material placed before the Forum, that the original MD recorded as 212.3 but they have calculated as 213 and demanded Rs.21,000/- more and the appellant has calculated it as 212 and paid entire amount. Had it been treated and accepted as 212.3 they would have paid the amount, as nobody keeps small amount of Rs.3000 or Rs.4000, having paid Rs.22,92,547/- on 09.08.08. When they have represented and the same is rejected by SE/O/Adilabad they have paid the entire amount as demanded when the very MD recorded is at variance and when the appellant has taken the less recording and paid the amount, it cannot be said that there are arrears of amount. On that ground, he cannot be deprived of the incentive since he is entitled as per rules. Here, in this case, non-payment of amount on account of wrong calculation that too, on the information furnished by the DE/O/Adilabad and the appellant cannot be deprived of his right to claim incentive.

12. In the light of the above said discussion, the order dated 22.12.2008 is liable to be set aside and the respondents are directed to calculate the incentive to which the appellant is entitled to.

13. In the result, the appeal is allowed, but no order as to costs.

This order is corrected and signed on this day of 31st March 2010.

VIDYUT OMBUDSMAN