

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu
Vidyut Ombudsman**

Dated: 17 -06-2011

Appeal No. 16 of 2011

Between

M/s.Pilkington Automotive India (P) Ltd.
Plot No.8, Non SEZ of APIIC,
Atchuthapuram Mandal,
Visakhapatnam Dist. - 531011

... Appellant

And

1. Senior Accounts Officer / operation / Visakhapatnam
2. Divisional Engineer/Operation/ Anakapalli
3. Superintending Engineer/ operation /Visakhapatnam

....Respondents

The appeal / representation dt.06.04.2011 (received on 08.04.2011) of the appellant has come up for final hearing before the Vidyut Ombudsman on 20.05.2011 at Visakhapatnam, in the presence of Sri G.S.V.Raja for the appellant and Sri D.V.R.Murthy, SE/O/Visakhapatnam, Sri S.Janardhan Rao DE/O/Anakapalli and Sri B.Srinivas, AE/Commercial/VSP for respondents present 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 the respondents have not considered their request on 06.08.2009 for deferment of the releasing the 2nd

phase CMD of 2500 kVA as applied and concluded in the agreement to that effect on 04.11.2008 rejected which the payment of minimum charges for a CMD of 4500 kVA instead of 2500 kVA is demanded and requested the Forum to redress their grievance.

2. The respondent No.3 filed his written submissions as hereunder:

"The consumer M/s. Pilkington Automotive India private Limited, Dupputu Village, Atchutapuram Mandal, Visakhapatnam District registered an application for extension of HT supply for a CMD of 4500 KVA (in phased manner) on 02.02.2008, accordingly feasibility was issued by the Chief General manager/O&CS/Corporate Office/ Visakhapatnam on dated 02.07.2008.

An estimate for a CMD of 4500 KVA to M/s Pilkington Automotive India Private Limited in phased manner was sanctioned on 27.08.2008. The CMD was sanctioned in the following phased manner.

- 1st phase CMD of 2000 KVA from the date of release of supply.*
- 2nd phase CMD of 2500 KVA ultimate CMD of 4500 KVA after 12 months from the date of release of supply.*

Consequently the consumer paid the intimated amounts and entered the HT Agreement on 04.11.2008 as per reference 5th cited above and service was released for 1st phase CMD of 2000 KVA on dated 06.11.2008 and 2nd phase CMD of 2500 KVA ultimate CMD of 4500 KVA was released on 06.11.2009 i.e. after completion of 12 months from the date of release of 1st phase CMD.

The consumer represented to continue with the 1st phase CMD of 2000 KVA on 06.08.2009 and we have intimated the consumer that the deferment of 2nd phase CMD is not considered as per GTCS Clause 5.9.4.3.

The consumer again represented for deration of 2500 KVA CMD out of the total load of 4500 KVA CMD on 04.08.2010 and consequently they have intimated the consumer that deration of 25.. KVA CMD is not considered as the 2nd phase CMD of 2500 KVA was released on 06.11.2009 and initial two years period was not completed hence the request of consumer was not considered.

The consumer represented to derate the CMD of 1900 KVA from the 1st phase CMD of 2000 KVA on dated 06.10.2010 and also represented in the same letter that the request of deration can be considered by taking their earlier representation as 3 months notice. Proceedings were issued for deration of 1900 KVA from 1st phase CMD 2000 KVA, and after deration, the ultimate CMD is 2600 KVA with effect from 04.12.2010 i.e. after completion of 3 months from consumer representation given on 04.09.2010.

The consumer represented to consider the deration from 04.11.2010 taking their earlier representation as 3 months notice, and as per the remarks of Senior Accounts Officer/Circle Office/ Visakhapatnam they have not considered the consumer request as the earlier representation is for deration of 2500 KVA, but not for deration of 1900 KVA, hence the consumer request not considered.

Consequently after issuing of proceedings, the consumer entered the revised HT agreement for deration of CMD on dated 29.11.2010 and the deration of CMD to 2600 KVA was effected on 04.12.2010 as per the test report of the Divisional Engineer/ Operation/ Anakapalli."

3. After hearing both sides and after considering the material placed before the Forum, the Forum observed as hereunder:

"After thorough verification of recorded evidences and GTCS, the revised Agreement and revised Test report against SC.No.VSP 686 for deration of CMD from 4500 KVA to 2600 KVA are in Order. Hence, the Complainant's request can not be considered and the case is dismissed with no costs."

4. Aggrieved by the said order, the appellant preferred this appeal questioning the same, that the same is liable to be set aside and his request for deferment or de-ration is not accepted in accordance with the request made by him and further they have not replied in time. If he is not entitled and if the same is informed, he would have submitted his application for de-ration as per entitlement as early as possible to avoid payment of minimum charges and this cannot be attributed to him and his request for de-ration at the earliest point of time may be taken into account and the benefit may be given to him accordingly by allowing his appeal.

5. Now, the point for consideration is, "whether the impugned order dt.08.03.2011 is liable to be set aside or modified ? If so, on what grounds?"

6. The appellant Sri G.S.V.Raja present before this authority on 20.05.2011 and represented his case. Whereas, Sri D.V.R.Murthy, SE/O/Visakhapatnam, Sri S.Janardhan Rao DE/O/Anakapalli and Sri B.Srinivas, AE/Commercial/VSP for respondents present and submitted their arguments and also the relevant papers.

7. It is an admitted fact that the appellant has obtained HT supply for a CMD of 4500kVA (in phased manner) on 02.02.2008. The CMD of 2000 kVA was released and the agreement was entered into on 04.11.2008 and the service was released on 06.11.2008. The second phase CMD of 2500kVA (total CMD of 4500 kVA) was

released on 06.11.2009 i.e, after completion of 12 months from the date of release of 1st phase CMD. Later, the appellant represented to continue with the first phase of CMD of 2000 kVA on 06.08.2009 and requested for deferment of 2nd phase CMD was not considered by the respondents as per GTCS 5.9.4.3. Later, the appellant represented for de-ration of 2500 kVA CMD out of the total load of 4500 kVA CMD on 04.08.2010. He was also informed that the de-ration of 2500 kVA cannot be considered as the 2nd phase of CMD of 2500 kVA was released on 06.11.2009 and the initial two years period was not completed. Again, the appellant represented on 06.10.2009 to derate the 1900kVA from out of 2000 kVA taken at the earliest point of time. The same was revised for 2600 kVA with effect from 04.12.2010. Later, the appellant represented to the respondents that the de-ration from 04.11.2010 may be taken as completion of three months notice reckoning from calculating with effect from 04.08.2010. This request was not considered and calculated the minimum charges for the total KVA.

8. It is clear from the record, that the appellant has addressed a letter for de-ration of 1900 kVA CMD on 04.09.2010, since there was delay in giving reply to the notice given by him on 04.08.2010. Had it been given at the earliest point of time, he would have benefited at least by 15 days. Taking into account about the request of the appellant from 04.08.2010 is concerned, it cannot be accepted as his request was only for de-ration of 2500 kVA, which was rightly rejected on the ground that the minimum period of two years was not completed. This reply was given on 28.08.2010. Had it been informed immediately, he would have advanced his request even prior to 04.09.2010 and he would have been benefited at least by 15 days, though not the entire month.

For Ex: If the reply is given on 9th or 10th he would have addressed a letter with rectification for de-ration in or around 20th or 21st from 2000 kVA released in the 1st phase. So that he would have been benefited at least by 15 days in advance and he would have saved minimum charges for 15 days.

9. In the light of the above said circumstances, I am of the opinion that the appellant is entitled for de-ration of 15 days minimum charges and the respondents are directed

to collect minimum charges for 15 days on the entire CMD. With this direction, the appeal is disposed accordingly.

10. The compliance of the order may be reported within 15 days from the date of receipt of this order.

This order is corrected and signed on this day of 17th June, 2011

VIDYUT OMBUDSMAN