

**VIDYUT OMBUDSMAN**  
**O/o: ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**  
**4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Hyderabad – 500 004**

Present

**K.Sanjeeva Rao Naidu**  
Vidyut Ombudsman

**Dated 04 – 03 - 2012**

**Appeal No. 4 of 2012**

Between  
M/s. Matrix Laboratories Ltd  
Unit 8, G.Chodavaram Village,  
Poosapatirega Mandal,  
Vizianagaram Dist – 535 204.

**... Appellant**

**And**

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

**....Respondents**

The appeal / representation filed on 26.12.2011 against the CGRF order of APEPDCL (in CG No.282/2011-12 dt.26.11.2011). The same has come up for final hearing before the Vidyut Ombudsman on 14-02-2012 at Hyderabad. Sri.J.Satish, Manager Electrical for appellant present and Sri G.Chiranjeevi Rao, DE/O/Vizianagaram, Sri Y.Kalidas, SAO/OC/Vizianagaram and Sri D.Satyanarayana, JAO/HT on behalf of respondents present, heard and having stood over for consideration till this day, the Vidyut Ombudsman passed/issued the following:

**AWARD**

The petitioner filed a complaint against the Respondents for Redressal of his Grievances. The case of the complainant is briefly as hereunder:

“The complainant has filed a complaint stating that the Voltage surcharge was levied for exceeded CMD and requested the Forum for withdrawal of surcharge.”

2. The 3<sup>rd</sup> respondent has filed his written submissions as hereunder:

“The HT Sc.No.VZM103 was released on 05-08-1994 in the name of M/s Matrix Laboratories Limited, G. Chodavaram, Pusapati Rega Mandal, Vizianagaram Dist with the CMD of 4400 at 33 KV potential under Cat-IA.

Regarding levy of voltage surcharge for the month of June-2011, as against contracted maximum demand of 4400 KVA, the demand was recorded as 5522.5 KVA at 33 Potential. As per the schedule of retail tariffs and terms and condition of tariff order dated 30-03-2011 of Andhra Pradesh Electricity Regulation commission for the year 2011-2012, HT consumers availing supply through common feeder should avail 33 KV supply from 1500 KVA to 5000 KVA, where as in this case the RMD was 5522.5 KVA and supply availed was 33 KV instead of 132 or 220 KV as per the rules in vogue.

The voltage surcharge of Rs.10,11429/- was levied as the consumer has exceeded the permissible limit of 5000 KVA at 33 KV potential in the month of 6-2011 at the rate of 12% extra over the normal demand charges and 10% extra over the normal energy charges.

The levy of voltage surcharges of above service is correct and consumer has to pay an amount of Rs.10,11,429/- as per the terms and conditions of supply and intimated to the consumer.”

3. No oral evidence is adduced by both parties. After hearing both sides and after considering the material placed before the Forum, the Forum passed the impugned order as here under:

- *“After through verification of records and written submission of respondents, the following order is herewith passed for implementation.*
- *The notice issued by the Assistant Divisional Engineer/Lines Sub-Division/ Vizianagaram, Dt.16/07/11 towards assessment of voltage surcharge for the month of June, 2011 against HT Sc.No.103, M/s Matrix Laboratories Ltd., G.Chodavaram, Vizianagaram is in order.*
- *Hence, the complainant is liable to pay the voltage surcharge as per the notice issued.*
- *Accordingly, the CG No.282/11-12 is disposed off.”*

4. Aggrieved by the said order, the appellant preferred this appeal mainly questioning the same on the following grounds.

The levy of voltage surcharge is not in accordance with the APERC tariff order 2011. The RMD has crossed the CMD due to the failure of the capacitor banks switch fuse unit and it was rectified immediately. They have paid the penalty charges for exceeding RMD levied in the CC bill of 06/2011 (i.e, Rs.14,23,474/- RMD exceeding penalty charges Rs.17,79,369/-). After paying the same, they were asked to pay voltage surcharge additionally to a tune of Rs.10,11,429/- by wrongly

interpreting the Tariff order 2011. They have also informed that in the Tariff order it is with regard to the supply arrangement more than one source. The said note is not applicable to the case of the appellant. Hence, the imposition of voltage surcharge may kindly be waived.

5. Now, the point for consideration is, “whether the impugned order is liable to be set aside? If so, on what grounds?”

6. The appellant Sri.J.Satish,Manager Electrical on behalf of the appellant appeared before this authority and argued that the Forum has wrongly interpreted the tariff order while imposing voltage surcharge, though the Tariff order does not speak about the same and therefore the appal preferred by the appellant is to be allowed by setting aside the impugned order.

7. Sri G.Chiranjeevi Rao, DE/O/Vizianagaram, Sri Y.Kalidas, SAO/OC/Vizianagaram and Sri D.Satyanarayana, JAO/HT present on behalf of the respondents and they have categorically stated with one voice that the impugned order passed by the Forum is in accordance with the Tariff order and the appeal preferred by the appellant is liable to be dismissed.

8. The appellant has filed the order of this authority dated 08.12.2011 in appeal no. 26/2011. This order is passed basing on Tariff order 2010-11 but not 2011-12. Hence, it is not directly applicable to the facts of this case.

9. The voltage surcharge is for the month of June 2011 on the ground that it has exceeded the CMD of 4400kVA.

The particulars of RMD from the month of June 2011 are shown in the following table.

Month	CMD	RMD
06/11	4400	5522.5
07/11	4400	4731.95
08/11	4400	3731.5
09/11	4400	4305.05
10/11	4400	3924.75
11/11	4400	3659.30

So, the RMD has exceeded the CMD in the months of 06/11 and 07/11.

10. It is an admitted fact that the appellant is having CMD of 4400 kVA. The contention of the respondents is that they have levied voltage surcharge for RMD in excess of CMD as per clause 1 (B) of General Conditions of HT supply of Tariff order and note thereunder.

11. It is also clear from clause 12.3.2 of GTCS that when the MD of HT consumer exceeds his contracted demand without prior approval of the company / licensee, the consumer shall be liable to compensate the company for all damages occasioned to its equipment or machinery if any, by reason of this default, and shall also be liable to pay the charges payable by him on account of such increase in demand or load and penalty as prescribed by the Commission from time to time.

12. The respondents have levied voltage surcharge on the ground that the appellant has exceeded the above voltages in excess to the CMD on the ground that 33kV common feeder would cause hazardous situation in the system. It is also clear from the record that voltage surcharge is levied under clause 1(B) of General Conditions of HT supply of tariff order which reads as follows:

**B. VOLTAGE SURCHARGE**

Sl.No	Contracted Demand with Licensee and other sources (in kVA)	Voltage at which Supply should be availed (in kV)	Voltage at which consumer is availing supply (in kV)	Rates % extra over the normal rates	
				Demand Charges	Energy Charges
(A) For HT Consumers availing supply through common feeders					
1	1501 to 5000	33	11	12%	10%
2	Above 5000	132 or 220	66 or Below	12%	10%
(B) For HT Consumers availing supply through independent feeders					
1	2501 to10000 kVA	33	11	12%	10%
2	Above 10000 kVA	132 or 220	66 or Below	12%	10%
<b>Note:</b> The FSA will be extra as applicable					

Note: In case of consumers who are having supply arrangements from one or more than one source, the RMD or CMD only with the licensee, whichever is higher shall be the basis for levying voltage surcharge.

As per clause 5 in the said Tariff order, the additional charges for maximum demand in excess of the contracted demand is as follows

<b>RMD over CMD</b>	<b>Demand charges on excess demand</b>	<b>Energy charges on full energy</b>
100 to 120%	2 times of normal charge	Normal
Above 120% and up to 200%	2 times of normal charge	1.15 times of normal charge
More than 200%	2 times of normal charge	1.20 times of normal charge

Incase of any damage caused to the machinery or equipment of the department as per the above said clause, the appellant has to reimburse the same. The above said clause does not enure the right of the company to collect charges not specified on account of such excess in RMD. It also provides a right to impose penalty as prescribed by the Commission from time to time, but it does not speak about the collection of voltage surcharge under this clause. Infact there is no wording about collection of 'voltage surcharge' in the above said clause. The respondents are at liberty to proceed either with the above said clause or in accordance with sub-clause 5 of Tariff order at page 165 as mentioned in the above said table.

13. The only interpretation that is made by the department is the note incorporated in the Tariff order. As per page 164, if HT consumers who are now getting supply at voltage different from the declared voltages and who want to continue taking supply at the same voltage will be charged as per the rates indicated below. Here, in this case no notice is given by the department as to whether he wants to continue taking of supply at the same voltage as received by him in the month of June and July 2011. At the same time, the appellant had not requested the respondents that he wants to continue the supply voltage different from the declared voltage.

14. So far as the note is concerned, in case of a consumer who is having arrangements from one source or more than one source the RMD or CMD only with the licensee whichever is higher shall be the basis for levy of voltage surcharge. So it is apparent from the above said note that if the consumer is having supply

arrangement from one or more than one source the RMD / CMD only with the licensees whichever is higher shall be the basis for levy of voltage surcharge.

15. The ambiguity is crept in the note, since it uses the scope of *one* or more than one source, the RMD or CMD with the licensee whichever is higher shall be the basis for levying voltage surcharge. It is repugnant to the main clause in the said clause of voltage surcharge. It cannot be given effect to, since the main clause itself says that the person who wants to continue taking supply at the same voltage will be charged as per the rates indicated.

16. The CMD of the consumer is 4400 kVA. The consumer is availing power supply at 33 kV and is within specified limit of 1501 to 5000 kVA (row one of 1(B) table). As per the 1(B) of General conditions of HT supply, voltage surcharge is applicable for the existing HT consumers who are now getting supply at voltage different from the declared voltages and who want to continue taking supply at the same voltage will be charged voltage surcharge. The present consumers' CMD is 4400 kVA which is less than 5000 kVA and hence, is not liable for levying voltage surcharge. As per clause 5(B), the consumer has to pay penal charges under the provisions stated in para 5 (page 165 of tariff order) of General Conditions of HT supply.

17. The respondents have not issued any notice as to whether he wants to continue the increased RMD or if he wants to continue the CMD of 4400 kVA either to change the feeder nor it is represented by the respondents to change feeder on the ground that he wants to continue at the increased RMD. Further more, it is not continuous period of increase beyond CMD and it is only on 2 occasions, the same has been happened. Hence voltage surcharge is not applicable to the appellants case since no notice is given by the respondents. The appellant has not at any time represented that he wants to continue at increased RMD nor notice issued by them whether he is willing to continue at the increased RMD.

18. In addition to the above discussion, it is very clear that the respondents have levied the penalty and also levied the voltage surcharge. This procedure is not

contemplated anywhere. Moreover, one cannot be punished twice for the single irregularity committed.

19. Hence, I am of the opinion that the imposition of voltage surcharge is not only against to the very tariff order, but also against to the principles of natural justice and the same is liable to be set aside.

20. In the result, the appeal is allowed to the extent of imposition of voltage surcharge and the impugned order issued by the Forum is hereby set aside. If any amount is paid by the appellant in the form of voltage surcharge the same shall be adjusted in future bills. No order as to costs.

This order is corrected and signed on this day of 4<sup>th</sup> March 2012

**VIDYUT OMBUDSMAN**