



**BEFORE THE VIDYUT OMBUDSMAN
Andhra Pradesh :: Amaravathi**

:: Present ::

N. Basavaiah, B.Sc, B.L.

Date: 23-06-2020

Appeal No. 02 of 2020-21

Between

M/s Sri Venkata Jyothi Modern Rice Mill, Paddy, Rice & General Merchants, J.R.C.Puram (P.O), Kasibugga, Srikakulam District – 532 222
... Appellant- complainant

And

1. Assistant Engineer/operation/Kasibugga/APEPDCL
2. Assistant Accounts Officer/ERO-Kasibugga/APEPDCL
3. Assistant Divisional Engineer/operation/Palasa/APEPDCL
4. Divisional Engineer/operation/Tekkali/APEPDCL
5. Assistant Engineer / DPE/Srikakulam
6. ADE/LT CT Meters/Srikakulam

....Respondents

ORDER

The above appeal- representation came up for final hearing, by way of Video Conferencing, before the Vidyut Ombudsman at the office of the Superintendent Engineer (Electricity Operation), Vijayawada on 15-06-2020. The complainant and the respondents, except the second respondent, were present. Having considered the appeal-representation and the submissions of the above parties present, the Vidyut Ombudsman passed the following:

1. This appeal has been preferred by the appellant-complainant against the order **dated.14-10-2019 in C.G.No:378/2019/Visakhapatnam**, passed by the **Forum for Redressal of Consumer Grievances in Eastern Power Distribution Company of A.P Limited, Visakhapatnam**, whereby and where-under the above Forum directed the appellant complainant to pay the balance shortfall amount vide letter No.ADE/O/PAL/F.No./D.No. 416/19 dt: 15-10-2019 in two equal monthly installments commencing from May-2020.

2. There is no dispute that this is a case of short billing arising out of defective meter. That the fifth respondent, AEE/DPE/Srikakulam, inspected the rice mill of the complainant-consumer and found the electricity meter of the above rice mill defective, as per the original of Ex.B1, on 01-10-2019, on the representation of the consumer that the electricity meter of the above rice mill was defective, is not in dispute. That the complainant received a provisional assessment notice for short billing on 11-12-2019 for Rs. 3,48,224/-, being the revenue loss to the licensee for the meter defective period from 17.05.2018 to 09.10.2019, the date of rectifying the defect in the meter, with a default clause, under the original of Ex.B4, is also not in dispute. The complainant says that the above amount is abnormal and prays to examine the notice and do justice. The case of the respondents 1 and 6 is that the meter was tested with Accucheck , and 46.14% of negative error was noticed for the above period, that the units recorded in the meter are 60,061, that as per clause 7.5.1 of the GTCS, coupled with the formula given under the Annexure XII (VII) (C)(I) of the GTCS-2006, the units short billed for the meter defective period and the value of energy short billed are to be assessed and are assessed at 51,452 units and Rs. 3,48,324, respectively, as mentioned in Ex.B4, the short billing notice and that their claim is correct. During

the pendency of this case before the Forum, the complainant paid Rs. 1,04,500/- being 30 percent of the alleged shortfall amount, to the respondents, as per the interim orders of the Forum.

3. Ex.B1 to B4 were marked on behalf of the respondents. No oral or documentary evidence was adduced on behalf of the complainant. After considering the material available on record, the Forum passed orders as stated supra. Not satisfied with the above order, the complainant preferred this appeal representation. No further evidence had been adduced before this authority.

4. Both sides made their submissions as per their respective pleadings.

5. The following point is framed for consideration:

Whether the third respondent applying the guideline given under the Annexure XII (VII)(C) (I) of the GTCS for assessment of short billing in this case is not legal and correct?

6.Point: At the outset, I would like to say that there are no provisional assessment and final assessment notices for short billing and that there is only one assessment notice for short billing. In my view, applying the above guideline by the third respondent is not legal and correct as the alleged provisional assessment notice for short billing dated.15.10.2019 is silent why the assessing officer, the third respondent, preferred the third guideline to the remaining two guidelines given in the GTCS. The relevant clauses of the GTCS-2006 touching the point framed, run as follows:

7.5.1.4 When a meter is found defective during meter reading or on inspection or otherwise, the following guideline shall be followed for computation of the assessed units.

7.5.1.4.1 The number of units to be billed during the period in which the meter ceased to function or became defective, shall be determined by taking the average of the electricity supplied during the preceding three billing cycles to the billing cycle in which the said meter ceased to function or became defective provided that the condition with regard to use of electricity during the said three billing cycles were not different from those which prevailed during the period in which the Meter ceased to function or became defective.

7.5.1.4.2 If the conditions with regard to use of electricity during the periods as mentioned above were different, assessment shall be made on the basis of any 3 (three) consecutive billing cycles during the preceding 12 Months when the conditions of working were not different.

7.5.1.4.3 Where it is not possible to select any 3 (three) consecutive billing cycles consumption, as indicated in clause 7.5.1.4.1 or 7.5.1.4.2 above, or if there is no meter installed, the number of units shall be assessed on the basis of the Assessment Rules in Appendix XII herein. Industrial consumers shall be given due consideration for the production figures and conditions of working in the period under question. For all services/ equipment, which cannot be classified with the aid of the groupings under LT I, II, III, Annexure XII (V) of Appendix XII of the GTCS may be used for the calculations. Annexure XII (V) of Appendix XII is also applicable for services under LT IV, V, VI, VII and VIII.

7.5.1.4.4 Not necessary.

The words in the above clause 7.5.1.4.3 "Where it is not possible to select any 3 (three) consecutive billing cycles consumption, as indicated in clause 7.5.1.4.1 or 7.5.1.4.2" are to be noted with great significance. The above clause 7.5.1.4.1, the first preferable guideline to be followed in a case of this nature, says that the number of the units to be billed are to be determined by taking the average of the electricity supplied during the preceding three billing cycles as stated in the above clause, while the clause 7.5.1.4.2, the next guideline to be followed, says

that the assessment is to be made on the basis of any three consecutive billing cycles during the preceding 12 months as stated in the clause. The clause 7.5.1.4.3, the third guideline to be followed, says that if it is not possible to select either the above first guideline or the above second guideline, the number of units are to be assessed on the basis of Assessment Rules in Appendix XII. Since there is no material available on record that it is not possible to select any three consecutive billing cycles consumption, as indicated *in clause 7.5.1.4.1 or 7.5.1.4.2 above, assessment of number of units by the third respondent on the basis of Assessment Rules in the Appendix XII is not correct and legal.* Therefore, I decided this point in favour of the appellant against the respondents. This point is thus answered.

7. Since the above point is answered in favour of the appellant complainant and since the Forum dismissed the complaint without considering the above aspect, the order of the Forum, as well as, the alleged provisional assessment notice for short billing, under the original of Ex.B4, are liable to be set aside, and the appeal-representation is liable to be upheld.

8. In the result, I allow the appeal-representation, set aside the order of the Forum, as well as, the provisional Assessment Notice of the third respondent dated.15.10.2019 and direct the third respondent, being the designated officer, to issue assessment notice for short billing in this case afresh by following the prescribed guidelines for computation of the assessed units as per the clauses No.7.5.1.4.1.,7.5.1.4.2 and 7.5.1.4.3 of the GTCS-2006. It is needless to mention that Rs.1,04,500/ paid by the consumer as per the interim order of the Forum passed in I.A.No.48/2019 is to be taken into consideration while giving fresh

assessment notice for short billing to the consumer in this case. There is no order as to costs.

9. A copy of this order is made available
www.vidyutombudsman.ap.gov.in

This order is corrected and signed on 23rd June, 2020.

Sd/- N.Basavaiah
VIDYUT OMBUDSMAN

To

1. M/s Sri Venkata Jyothi Modern Rice Mill, Paddy, Rice & General Merchants, J.R.C.Puram (P.O), Kasibugga, Srikakulam District – 532 222
2. Assistant Engineer/operation/Kasibugga/APEPDCL
3. Assistant Accounts Officer/ERO-Kasibugga/APEPDCL
4. Assistant Divisional Engineer/operation/Palasa/APEPDCL
5. Divisional Engineer/operation/Tekkali/APEPDCL
6. Assistant Engineer / DPE/Srikakulam
7. ADE/LT CT Meters/Srikakulam

Copy To:

1. The Chairman, C.G.R.F., APEPDCL, P & T Colony, Seethammadhara, Near Gurudwara Junction, Visakhapatnam – 530 013.
2. The Secretary, APERC, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills, Hyderabad - 500 004

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