



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

:: Present ::

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

Date: 13-12-2021

Representation No.28 of 2021-22

Between

M/s. NSL Textiles Ltd. Company, being represented by Sri M. Bujji Babu, Assistant General Manager, Kunchalavaripalem, Cherukupalli Mandal, Guntur Dist 522 301

.... Complainant

And

1. The Executive Engineer / Operation / APCPDCL / Bapatla, Guntur Dist
2. The Superintending Engineer / Operation / APCPDCL / Guntur, Guntur Dist
3. The Senior Accounts Officer / Operation Circle / APCPDCL / Guntur, Guntur Dist
4. The CGM (Finance) / Corporate Office / APCPDCL / Vijayawada, Krishna Dist
5. The CGM (Operation) / Corporate Office / APCPDCL / Vijayawada, Krishna Dist
6. The CGM (RAC) / Corporate Office / APCPDCL / Vijayawada, Krishna Dist

....Respondents

ORDER

The above representation came up for final hearing, by way of Video Conferencing, before me at the office of the Vidyut Ombudsman, Vijayawada on 07-12-2021. Sri M. Bujji Babu, Assistant General Manager for the complainant, and the respondents were present. Having considered the representation and submissions of the parties present, the Vidyut Ombudsman passed the following:

1. Having directly filed the Writ Petition bearing No.23656 of 2021 before the Hon'ble High Court of Andhra Pradesh at Amaravati against the dismissal **order dated 06-10-2021 in C.G.No.01/2021-22/Guntur**, passed by the **Forum for Redressal of Grievances of the Consumers in Central Power Distribution Company of A.P Limited, Vijayawada** and having followed the conditional order dated 16th August, 2021 passed

in the above writ petition, **the complainant** filed this representation under section 42(6) of the Electricity Act, 2003 against the above order of the Forum.

2. The relevant facts, in brief, are that the complainant, a Textile Industry (Limited Company), became a HT consumer of the APSPDCL (previous licensee) in the year of 2003 with the service a connection bearing Number GNT-3036 for a contract maximum demand (CMD) of 5000 KVA. As per the extant tariff conditions from 09-10-2018 onwards, the consumers with CMD up to 5000 KVA from 2501 KVA are entitled to avail power supply at the voltage of 33 KV and with CMD up to 10000 KVA from 5001 KVA are entitled to avail power supply through common feeder at the same voltage of 33 KV subject to technical feasibility or at 132 KVA. If the consumers are getting supply at voltage different from the declared voltage and want to continue taking supply at the same voltage, they shall pay voltage surcharge as prescribed in Tariff orders. The complainant gave the licensee an application prior to 19-03-2019 for availing an additional supply of 300 KVA over and above the existing 5000 KVA totaling to 5300 KVA at the same voltage of 33 KV. The complaint alleges that though the respondents sanctioned supply of additional demand of 300 KVA making the total CMD as 5300 KVA at 33 KVA vide Memo No.ED/O/DE/Comml/F-134342 D.No.381/29 dated 12-03-2019 after satisfying the technical feasibility, yet the 3rd respondent issued a bill dated 05-05-2021 asking the complainant to pay Voltage Surcharge for Rs.1,93,86,622.10 ps., including the arrears from December, 2019 onwards, and that as the above demand of Voltage Surcharge is totally illegal and without jurisdiction and as such, it has to be waived. The case of the respondents is that there was no technical feasibility at the time of releasing the additional contract demand to the complainant.

3. Exs.A1 to A4 and Exs.B1 to B6 were marked. After considering the material available on record, the Forum dismissed the complaint. The complainant, without filing the representation before this authority under section 42 (6) of the Electricity Act, 2003, approached the Hon'ble High Court and filed the writ petition. As per the orders of the

Hon'ble High Court, this representation has been filed. No evidence has been adduced before this authority.

4. Submitting the relevant facts stated supra, Sri M. Bujji Babu, Assistant General Manager of the complainant further submitted that In the month of July, 2019, the respondents issued a demand notice to the complainant for payment of Rs.19,40,418/- towards low Voltage Surcharge as the CMD exceeded 5000 KVA with 33 KV potential, and in response to the representation of the complainant, the 6th respondent directed the 2nd respondent to take action as per APERC amended orders, that the 3rd respondent issued orders dated 26-09-2019 withdrawing the demand of low Voltage Surcharge included in the bills for the months of July and August, 2019 amounting to Rs.40,55,593.96 ps., and thus, the demand of low Voltage Surcharge was settled by withdrawing the demand for payment of low Voltage Surcharge, that the Chief Engineer, Zone, APSPDCL, Vijayawada addressed a letter under Ex.A3 to the Executive Director(O) APSPDCL, Tirupati stating that proposal is technically feasible and recommending to accord necessary approval, that the order dated 12-03-2019 of the Executive Director, Operation, APSPDCL, Tirupati under Ex.A4 is very much clear and categorical that the additional 300 KVA was released over and above the existing CMD of 5000 KVA totaling to CMD of 5300 KVA at 33 KV potential under HT Category-I and that therefore, the relief claimed in the representation may be granted.

5.The 3rd respondent on behalf of all the respondents submitted that as per the provision of Condition No. 6.1 under chapter-X of the HT Tariffs- Terms and conditions of the relevant Tariff Order, a certificate regarding Technical Feasibility before increasing the CMD above 5000 KVA is necessary to claim exemption from payment of Voltage Surcharge and that as any certificate to the above effect was not given in this case to the complainant, the Voltage Surcharge amount is being legally claimed as per the Tariff Order and the agreement. In reply, it is submitted on behalf of the

complainant that the above condition does not contain any words to indicate that the certificate, as submitted by the 3rd respondent, is necessary.

6. The following point is framed for consideration:

Can this representation be upheld?

7.Point : The provision of Condition No. 6.1 of the HT Tariffs- Terms and conditions under the Chapter-X of Tariff Order does not contain any words to indicate that the certificate, as submitted by the 3rd respondent, is necessary. The only question to be answered in this case is whether the licensee extended the power supply of 5300 KVA at 33 KV supply voltage to the complainant. If it is answered in the affirmative, the representation is liable to be upheld, otherwise it is liable to be dismissed. It is for the complainant to prove the fact that the licensee extended the power supply of 5300 KVA at 33 KV supply voltage. All documents except Ex.B5 are not so important. The only crucial document marked in this case is Ex.B5, copy of revised Agreement for Supply of Electricity at High Tension executed at the time of releasing 300 KVA additional contracted demand over the existing 5000 KVA to the complainant. In view of Ex.B5, the submissions made on behalf of the complainant are neither primary nor relevant considerations for the purpose of this case, and there is no need to consider the above submissions in detail, as the respondents did not dispute them. Model form of 'Agreement for supply of electricity at High Tension' is given under Appendix II A of the GTCS-2006. The original of Ex.B5 is not in accordance with the prescribed form. Mentioning the voltage of supply in the revised agreement in this case is must and necessary. But the fact is that the voltage of supply is not mentioned in the above revised agreement, the original of Ex.B5. In the absence of the above fact being incorporated in the revised agreement, it is difficult to hold that the licensee extended the power supply of 5300 KVA at 33 KV supply voltage to the complainant. This question is answered in the negative. The case of the complainant cannot be upheld on the basis

of Exs.A3 and A4, though they may be true, in view of the original of Ex.B5. We do not know what happened between the date of Ex.A4 and the date of Ex.B5. Hence, I am helpless to redress the grievance of the complainant with respect to payment of voltage surcharge on the total contract demand on the basis of Exs.B3 and B4. For the above reasons, I am of the opinion that the representation cannot be upheld and is liable to be dismissed. This point is, thus, answered.

8. In the result, I dismiss the representation. There is no order as to costs .It is needless to mention that the remedy of the complainant on the basis of Exs.A3 and A4 is not before this authority.

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

This order is corrected and signed on this the 13th day of December, 2021.

Sd/- N. Basavaiah
VIDYUT OMBUDSMAN, AP

To

1. M/s. NSL Textiles Ltd. Company, being represented by Sri M. Bujji Babu, Assistant General Manager, Kunchalavaripalem, Cherukupalli Mandal, Guntur Dist 522 301
2. The Executive Engineer / Operation / APCPDCL / Bapatla, Guntur Dist
3. The Superintending Engineer / Operation / APCPDCL / Guntur, Guntur Dist
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6. The CGM (Operation) / Corporate Office / APCPDCL / Vijayawada, Krishna Dist
7. The CGM (RAC) / Corporate Office / APCPDCL / Vijayawada, Krishna Dist

Copy To:

8. The Chairperson, C.G.R.F., APCPDCL, 4th Floor, New Building, District Stores, Gunadala, Vijayawada – 520 004
9. The Secretary, APERC, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills, Hyderabad – 500 004.