



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

:: Present ::

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

Date: 10-12-2019

Appeal No. 34 of 2019-20

Between

M/s. Kamadhenu Industries, Plot No.90/23, D-Block, Autonagar,
Visakhapatnam-530012.

... Appellant

And

1. Assistant Engineer/operation/**Autonagar.**
2. Assistant Divisional Engineer/operation/**Autonagar.**
3. Assistant Accounts Officer/**ERO-Gajuwaka.**
4. Divisional Engineer/operation/**Zone-II.**
5. Divisional Engineer/DPE/**Visakhapatnam.**

...Respondents

ORDER

The above appeal- representation has come up for final hearing before the Vidyut Ombudsman on 05th-December-2019 at Visakhapatnam. The proprietor of the complainant, along with his advocate, Sri. N.Trivikrama Rao, as well as the respondents except the respondents 1 and 4, was present. Having considered the appeal-representation and the submissions made by the above persons present,

the Vidyut Ombudsman passed the following:

1. This appeal has been preferred by the appellant-complainant against the order **dated.24-10-2019 in C.G.No:420/2018/Visakhapatnam circle**, 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 determined the complaint filed by the complainant seeking redressal of grievance against the distribution licensee billing his LT service category-III at the HT category-I tariff rates on the ground of detecting additional connected load as per the clause 12.3.3 of the GTCS, by setting aside the revised short billing notice dated.30-11-2018 for Rs.12,67,105/ towards the difference of tariff between LT Cat-III and HT Cat-I for the period from 02/16 to 07/2018, directing the respondents to issue revised proceedings of assessment for the period from 12.09.2016 to 11.09.2018 in terms of the clause 12.3.3.2 of the GTCS without any penal charges and giving two equal monthly installments to the complainant to pay the amount due as stated supra.

2. The complaint alleges that the distribution licensee of the respondents gave supply of electricity with service connection number 1113260502000987 with a contracted load of 50 KW under the LT category -III: a small scale industry, to the premises i.e., plot number.90/23,D-Block,Autonagar,Visakhapatnam, belonging to the complainant, on its application and that the 2nd respondent visited the above premises in the month of February,2016, prepared an inspection report mentioning the details of the connected load, left the above premises without serving a copy of the inspection report upon the complainant at the end of the inspection, that the third respondent sent a letter dated

12-07-2018 informing that the above service was to be billed under HT Category-I from 02/16 to 06/18 because the connected load was above 75KW, and demanding to pay Rs.12,67,105 as shortfall amount, that a reply was sent stating that the average recorded maximum demand never exceeded the contracted maximum demand except on one occasion and as such, the third respondent was requested to withdraw the demand, that thereafter, no correspondence was made, that the respondents issued the cc bill dated 12.08.2018 showing the above amount as arrears as the difference of tariff charges between LT Category and HT Category for period from 02/2016 to 06/2018 , that thereafter, as per the interim orders of the Hon'ble High Court in the Writ Petition, the respondents issued a notice dated.16.10.2018 as per the clause 3.4.1 of the GTCS and the complainant, who received the above notice, sent objections by way of reply and that the third respondent, without properly appreciating the objections, revised bills for the same amount as stated earlier. According to the complainant, the above revision of bills is unjust and illegal, and the notices dated.16.10.2018 and 30.11.2018 are liable to be set aside.

3. The case of the respondents is that the then AE/DPE/Visakhapatnam inspected the above service connection premises on 5.2.2016 and detected connected load of 82.756 KW, and as such, notice dated.20.2.2016 was issued to the consumer, asking to pay development charges etc., and get the additional load regularized, but the complainant ,without getting the additional load regularized, only paid development charges and security deposit along with application fee and that the claim of the respondent is in accordance with the clause 12.3.3.2(i) of GTCS and is legal.

4. No oral evidence was adduced on behalf of both parties. Exs. A1 to A6 are marked by consent. The Forum, after considering the material available on record, determined the complaint as stated supra. Not satisfied with the above order, the complainant preferred this appeal representation.

5. The Counsel for the appellant complaint has submitted that the writ petition filed on behalf of the complaint had been withdrawn, that as per Ex. A2, inspection report of the 4th respondent, the connected load was only 16 KW as on 25-08-2018, that the claim of the opposite party is barred by time as per section 56 (2) of the Electricity Act, 2003, as notice was issued beyond two years from the date of inspection, that the complainant is not in a position to pay the amount claimed by the Distribution Licensee and that if his above contention on limitation is negated by this authority, the complaint may be given 15 monthly installments to pay the alleged arrears due to the Licensee. The respondents present submitted supporting the order of the Forum and they did not make any submission contra to the submission made on behalf of the complainant regarding the payment of arrears by installments.

6. The following point is framed for consideration :

whether the claim of the opposite party is barred by time as per section 56(2) of the Electricity Act, 2003 ?

7. The Distribution Licensee claimed difference of tariff from LT Category to HT Category for the period from February, 2016 to July, 2016 by way of short billing notice dated: 12-07-2018, and it gave a revised notice dated 16.10.2018, following the direction of the Hon'ble High Court, and a short billing notice dated 30.11.2018 after the objections of the complainant were considered. The

Forum set aside the notice and directed the respondents to recover the arrear amount towards difference of tariffs from LT Category to HT Category for the period from 12-09-2016 to 11-09-2018 without any penal charges. The order of the Forum shows that the additional connected load was removed on 25/08/2018, and the consumer is liable to pay the shortfall amount up to 25/08/2018, but the Forum directed the respondents to calculate the shortfall amount beyond 25/08/2018.

8. Point: Section 56 (2) of the Electricity Act, 2003 runs as follows :

"(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

A reading of the above section 56(2) of the Electricity Act, 2003 goes to show that it only bars the distribution licensee to recover the past arrears for more than 2 years preceding the date of demand when the consumer had already paid the bills for the corresponding period and does not bar to recover past arrears for two years. So, I am unable to accept the argument on the above aspect. Considering the facts of this case coupled with provision of law stated supra, we can say that the Licensee is entitled to recover the arrear amount towards difference of tariff from LT Category to HT Category for a period of two years only prior to 16-10-2018, the date of valid notice after the order of the Hon'ble High Court, and that the period would be from 17-10-2016 to 16-10-2018.

Additional load was removed on 25.08.2018. Therefore, the licensee is entitled to recover the arrears from 17-10-2016 to 25-08-2018. This point is thus answered.

9. In result, I direct the respondents to issue revised short billing notice for the period commencing from 17-10-2016 to 25.08.2018, the date of removal of additional load. The appellant complainant is granted seven equal monthly installments to pay the amount due commencing from 1st January, 2020. This representation is, thus, disposed of confirming the order of the Forum with the above modification as to the period of claim of the distribution licensee and the number of installments. Each party is directed to bear their respective costs.

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

This order is corrected and signed on 10th December, 2019

s/d. N.Basavaiah
VIDYUT OMBUDSMAN

To

1. M/s. Kamadhenu Industries, Plot No.90/23, D-Block, Autonagar, Visakhapatnam-530012.
2. Assistant Engineer/operation/**Autonagar.**
3. Assistant Divisional Engineer/operation/**Autonagar.**
4. Assistant Accounts Officer/**ERO-Gajuwaka.**
5. Divisional Engineer/operation/**Zone-III.**
6. Divisional Engineer/DPE/**Visakhapatnam.**

Copy To:

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

//CERTIFIED :: TRUE COPY//

//FORWARDED :: BY ORDER//