

**BEFORE THE FORUM**  
**FOR REDRESSAL OF CONSUMER GRIEVANCES**  
**IN SOUTHERN POWER DISTRIBUTION COMPANY OF A.P LIMITED TIRUPATI**

**On this the 9<sup>th</sup> day of December' 2020**  
**C.G.No:120/2019-20/Nellore Circle**

**Present**

**Sri. Dr. A. Jagadeesh Chandra Rao**  
**Sri. V. Venkateswarlu**  
**Sri. Dr. R. Surendra Kumar**

**Chairperson**  
**Member (Technical)**  
**Independent Member**

***Between***

P.Bhaskar Rao,  
C/o. M/s. Srinivasa Ice Factory,  
Narayanareddypet,  
Nellore –Dist.

Complainant

***AND***

1. Assistant Accounts Officer/ERO/Nellore Rurals
2. Assistant Executive Engineer/O/Nellore Rural 1
3. Deputy Executive Engineer/O/Nellore Rurals
4. Executive Engineer/O/Nellore Rurals

Respondents

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**ORDER**

1. a) The case of the complainant is that he is having service No. HVSC. No. 1201. He is regularly paying CC charges from 2011 to 2019. He received a notice from AAO/Rural/Nellore that he has to pay an amount of Rs.50,633/- and surcharge of Rs.71,807/-. AAO/ERO/Nellore Rural also stated in the notice to pay the remaining amount of CC bill but monthly statement or ledger copy was not enclosed. He had paid all the CC charges without any arrears and the due amount pertains to FSA and LP charges. There is a court case pending in respect of FSA amount of Rs.50,633/-. AAO/ERO/Nellore Rural i.e. respondent No.1 stated

**DESPATCHED**

**DATE**

10/12

that the interest on the above said amount is Rs.71,807/-. But according to audit report the interest is Rs.2,24,648/-. Hence he is requesting to determine the exact CC charges payable by him.

- b) Complainant also enclosed a letter addressed by AAO to him dt: 19.06.2019 stating that FSA amount from 10/2008 to March'2009 (6 months) pending before the Hon'ble Supreme Court for Rs. 50,633.28 and interest amount thereon is Rs. 71,807.60 P total outstanding amount of FSA of the service till date is Rs.1,22,440.88 . The outstanding charges amount on the service to end of 06/2019 is Rs.2,61,804.80 after deducting of outstanding FSA amount , complainant is liable to pay Rs.1,39,663.92 towards CC charges along with re connection charges of Rs.100/-.
2. Respondents filed written submission stating that complainant is having service No.3511201001201 in the name of M/s. Srinivasa Ice factory N.R. Pet, Rurals - 1 and it was released on 4.11.1993. CC charges regularly paid up to Jan'2011. In Jan'2011- June'2011 FSA charges of 2008- 09 3<sup>rd</sup> and fourth quarter amounting to Rs. 47,666.28 was included in CC bills. Consumer and other Rice Mill Association consumers approached the Hon'ble High Court against levying FSA charges for that period in W.P. No.2884 of 2011.( Complainant is the first petitioner). But the consumer had paid all FSA amounts up to 2008-2013 and as per the account copy there is a minus balance in Aug'2014 for Rs. 24,821.20. As per account copy 08/2014 to 11/2018 consumer paid the part amount and the bill was generated in live status. In 12/2018 AEE/O/Rurals-1/Nellore disconnected the service due to non-payment of CC charges. Consumer fell in arrears of Rs.4,79,650.80 . In May'19 consumer paid an amount of Rs. 2,60,500/- through online and approached for reconnection and made a representation dt : 31.05.2019 stating the balance amount is that of FSA charges of F.Y. 2008-09 and requested for reconnection order and the same representation was submitted to Superintending Engineer/O/Nellore.

A letter was addressed to SLA for clarification whether FSA pertaining to F.Y. 2008-09 is pending in the Hon'ble Supreme Court or not but no reply was received. Reply was given to consumer that FSA amount is Rs.50,633/- and interest amount Rs.71,807.60 (01/2011 to 06/2019) total amount is Rs.1,22,440.80 and balance amount Rs.1,39,363.92 plus Rs.100/- is to be paid for reconnection. Again consumer approached CGM/Revenue/ Tirupati for reconnection order and he gave instructions order and presently the service is in live status.

Again additional written statement was filed on 04.07.2020 stating that as per account copy 08/2014 to 11/2018 consumer paid that part amount and the bill was generated in live status. In 05/2019 consumer paid the amount through online of Rs.2,60,500/- and approached AEE for reconnection, AEE represented the complainant to pay the amount for reconnection then consumer approached ERO and submitted representation dt :31.05.2019 that the balance amount of FSA of 2008-09 and requested reconnection order and the same representation was submitted to Superintending Engineer/Operation/Nellore, SE/O/Nellore gave instruction to finalize the case in consultation with SLA and also addressed a letter to SLA for clarification. Complaint represented that case in Hon'ble High Court was disposed in his favour . But instructions were not received by higher authorities. Department filed petition in the Hon'ble Supreme Court vide Civil Appeal No.14370-14522/2015. On verification of online court cases, it was found that consumer had not filed any appeal and no FSA case is pending against this service.

A letter along with Account copy was addressed to the consumer stating that FSA amount of Rs.47,666.38 and interest amount of Rs.79,350/- (01/2011 to 6/2020) total of Rs.1,27,016.38 and balance amount of Rs. 1,39,363.92 plus Rs. 100/- is to be paid for reconnection.

Complainant approached CGM/Revenue/Tirupati for reconnection and instructions were given by CGM to reconnect the service connection on payment of Rs.50,000/-. Consumer service is in live status. Arrears against his service is Rs.4,03,920/- as on 30.08.2018.

After reconnection, complainant paid regular bills in part amount only and closing balance as on 04/2020 is Rs.6,72,882/-. AEE/ Rural-1/Nellore made efforts for disconnection due to non-payment of regular CC charges. Then complainant approached Superintending Engineer/O/Nellore for installments for total closing balance and he was granted 4 instalments. After complainant paid Rs.1,71,945/- on 11.05.2020 and got reconnection and after that consumer paid an amount of Rs.1,71,844/- on 25.06.2020. Complainant not paid the balance installments and not submitted any documents showing that case is pending in the Hon'ble Supreme Court for the FSA amount of F.Y. 2008-09. The arrears are Rs. 4,06,579/-

3. Personal hearing was conducted on 17.10.2019, 13.02.2020, 16.06.2020 and 10.11.2020. At first instance both parties have not filed documents to show that a case is pending before the Hon'ble Supreme Court in respect of FSA amount pertaining to F.Y. 2008-09. Since complainant is disputing about the account statement furnished by the respondents, he was directed to file his calculations and copies of the judgment.

Accordingly he filed his calculations stating that FSA amount for the F.Y. 2008-09 is Rs.50,633.28 and interest compounded up to Aug' 2020 is Rs.2,13,929.56.

At the time of personal hearing, respondents again filed additional written submission stating that complainant did not pay the remaining 2 installments and again approached Superintending Engineer/O/Nellore for sanction of instalments. The balance against the service is Rs.6,38,904/- based on the representation, Superintending Engineer /Operation/Nellore sanctioned 3 instalments and

complainant paid Rs.2,95,764/- dt: 29.08.2020 as 1<sup>st</sup> installment and represented on 15.09.2020 that the balance amount of 2 instalments is the amount of FSA for F.Y.2008-09 along with surcharge of Rs.2,64,592.84.

On verification of records, complainant paid FSA amount of F.Y. 2008-09 which was included in CC bills (Jan'2011 to June' 2011) in the period of 08/2014 and got minus balance of Rs.24,821.20 and the same was continued up to 11/2014. The same fact was intimated to the consumer. Consumer is having total arrears of Rs.5,07,267/- as on dt: 05.11.2020 and this amount pending of regular CC charges along with surcharge and not FSA charges of F.Y. 2008-09.

According to the complainant, he along with several other persons filed writ petition questioning the proceedings dt : 05.06.2010 issued by Hon'ble APERC determining and approving the Fuel Surcharge Adjustment (FSA) for the F.Y. 2008-09 as illegal, arbitrary and contrary to the provisions of Reg. 01/2003.

Complainant herein is the first petitioner in W.P. No. 2884/2011.

The Hon'ble High Court in W.P No. 2884/2011 passed orders on 11.02.2011 as:-

***“In view of pendency of batch of cases and grant of interim orders in all those cases there shall be interim suspension of proceedings Dt: 05.06.2010, issued by respondent No.1 pending further orders”***

Learned single judge of the Hon'ble High court set aside the impugned order passed by the Hon'ble Commission determining and granting FSA to the licensees and the consequential demands made by the DISCOM. His Lordship further held as: -

***“Since this court has set aside the impugned order passed by the Commission and the consequential demands made by DISCOMs, it is open to the licensees i.e. DISCOMS to file application afresh claiming FSA, and if any such applications are filed by the Licensees the commission shall consider and decide them in accordance with law, and in the light of the observations made***

*by this Court recorded herein above, and pass appropriate orders, expeditiously”.*

Against the orders of the learned single judge M/s. Jairaj Ispat Ltd (In writ appeal No.858/2011) & others filed batch of writ appeals, Division Bench of the Hon’ble High Court held as :-

***“In the result, we hold that the Andhra Pradesh Electricity Regulatory Commission has no power under Reg. 59 of the business regulations to enlarge the time stipulated in Reg. 45 –B (4) thereof for the purpose of entertaining applications from DISCOMS for determination of FSA. Such claim by the DISCOMS for the F.Y. 2008-09 are there by hopelessly time barred.***

***Writ appeals are accordingly allowed. Parties shall bear their own cost”.***

Aggrieved by the orders passed in the batch of writ appeals referred above, DISCOMS preferred SLP before the Hon’ble Supreme Court of India in SLP. No. 13785 to 937 of 2012.

According to the version given by both parties, complainant did not choose to prefer writ appeal against the orders passed in batch of writ petitions by the learned single judge. DISCOMS also did not implead the present complainant as one of the parties to the SLP filed by them against the orders passed by the Division Bench of Hon’ble High Court in the above said batch of writ appeals.

According to the complainant, DISCOMS have no right to include FSA charges of the F.Y. 2008-09 in the CC bills and collect during the pendency of SLPs before the Hon’ble Supreme Court of India. So he need not pay this amount and he is only liable to pay regular CC charges only.

According to respondents, FSA amount was included in CC bills. Complainant paid the amount and there is minus balance of Rs.24,821.20 in 08/2014 and the same was continued till 11/2014.

4. The point for determination is whether this forum is empowered to determine the FSA amount and surcharge thereon included in CC bills against the service

No.3511201001201 and collected by the respondents during the pendency of appeals filed by the Licensee before the Hon'ble Apex Court of India?

The account statement furnished by the respondents and as well as the additional written submissions dt : 09.11.2020 filed by the respondents shows that FSA charges for the month of October'2008-March'2009 were included in the months of Jan'2011 to June'2011 . The details of FSA charges included for the service No.3511201001201 is as follows:-

Month	Units	Unit rate of FSA	Amount in Rs.	Included Month
Oct'2008	21070	0.4	8428.00	01/11
Nov'2008	14970	0.9	13473.00	02/11
Dec'2008	5888	0.9	5299.20	03/11
Jan'2009	14015	0.9	12613.50	04/11
Feb'2009	13635	0.36	4908.60	05/11
Mar'2009	8178	0.36	2944.08	06/11
	<b>Total FSA</b>		<b>47666.38</b>	

The above statement shows that FSA charges were included in the CC bills from January'2011 to June'2011 for an amount of Rs. 47,666.38/-. But as per the first written submission filed by respondents shows that FSA charges payable by the complainant is Rs.50,633/-. Complainant also stated the FSA amount for the F.Y.2008-09 is Rs.50,633/-. Both parties did not give details for the difference amount of Rs.2,966.62 (Rs.50,633-Rs.47,666.38) and this amount should be presumed as surcharge levied on FSA amount of Rs.47,666.38.

The data in the account statement of this service No. as on Jan'2011 shows that there is an outstanding balance due by the complainant is Rs. 64,819/-. The FSA charges amount of Rs.8,428/- pertaining of FSA of Oct'2008 was included in the CC bills of Jan'2011 and the total demand including the above said FSA was Rs.29,062/- and the complainant has paid Rs.55,000/- leaving an outstanding balance of Rs.38,881/- the outstanding balance continued till 07/2014. During 08/2014 the

account statement reveals a negative balance of Rs.24,821.20P and the minus balance continued till Nov'2014. From Dec'2014 onwards the arrears are continued till to date. The above account statement clearly shows that complainant was never regular in paying CC bills and he was paying the amounts in instalments.

The method of adjustment of the amounts paid by the consumer to be followed is given in Clause 4.5 of Reg.05/2004 which is as follows:-

***“Adjustment of amount paid: -The amount paid by the consumer shall first be adjusted as per the priorities stated hereunder:***

***a) Arrears as on 31<sup>st</sup> March of previous financial year.***

***b) Arrears accrued from 1<sup>st</sup> April of the current financial year till the date of bill.***

***c) Current month Consumption charges”***

In this case FSA amounts for the months of Oct'2008 to Mar' 2009 were included in CC bills from the months of January'11 to June'2011. Admittedly the Hon'ble High Court in W. P. No. 2884/2011 granted stay on 11.02.2011. Licensee ought to have issued directions to the field officers not to include FSA amount for the remaining months for the F.Y. 2008-09 immediately after stay was granted. Had this precaution was taken, this issue would not have arised at all.

According to the account statement there is an outstanding balance payable by the complainant was Rs.58,095/- as on 31.03.2011. Complainant did not state in his complaint that he has given directions to the respondents to adjust the amounts paid by him towards CC charges. In the absence of any specific directions by the complainant in respect of method of adjustment of payments made by him, it appears Respondents adjusted the amounts paid by the complainant as per the above Clause No. 4.5 of Reg. No. 05/2004.

Complainant also did not raise objection for including FSA charges in the CC bills of Feb'2011 to June'2011. Complainant did not raise any dispute in respect of adjustment of the amount immediately after the amount was adjusted. Complainant has not filed any documentary evidence to show that he made any representation to



the respondents after stay was granted in writ petition No.2884/2011. The written statement of the respondents shows that complainant made representation to them on 31.05.2019. The complaint of the Complainant was registered by this forum on 05.07.2019. Complainant did not give any explanation as to why he approached the forum after 8 years of stay granted by the Hon'ble High Court that the FSA amount included in the CC bills and the same has to be withdrawn along with surcharge.

Complainant also filed a calculation memo before this forum stating that FSA amount for the F.Y.2008-09 is Rs. 50,663.28 and interest accrued on the above said amount up to August'2020 is Rs.2,13,929.56 and total amount Rs.2,64,592.84. The contention of the complainant is the said amount i.e. FSA amount along with surcharge is included in the CC bills and he need not pay this amount. But the account statement shows that already FSA amount was included in CC bills from January'2011 to June'2011 and adjusted out of the amount paid by the complainant. Admittedly as per the account statement of this service No. clearly shows that the FSA amount of Oct' 2008 to Dec'2008 included in CC bills up to 31.03.2011 is Rs.27, 200.20 and total outstanding balance as on 31.03.2011 is Rs.58,095/- .So it clearly shows apart from FSA charges complainant is liable to pay CC charges also as on that date.

The account statement of this service No. showing the payments made by the complainant and outstanding balance is as follows:-

Month	Payment	Outstanding
January' 2011	Rs.55,000/-	Rs.38,881/-
February'2011	-	Rs.95,514/-
March'2011	Rs.1,15,450/-	Rs.58,095/-
April '2011	Rs.25,000/-	Rs.91,670/-
May'2011	Rs.79,000/-	Rs.93,548/-
June'2011	Rs.35,000/-	Rs.1,56,051/-

The outstanding balance continued till 07/2014 and there is minus balance of Rs.24,821.20 as on 31.08.2014. Since the amount paid by the complainant were adjusted as per Clause No. 4.5 of Reg. No. 05/2004, the arrears of FSA charges deemed to have been adjusted at first instance and remaining balance is only towards present CC bills. So the contention of the complainant that respondents are levying surcharge on FSA amount of F.Y.2008-09 till to date and included in the CC bills is not apparently correct.

Admittedly Licensee has preferred a SLP before the Hon'ble Apex Court of India against the orders of the Division bench of Hon'ble High court in batch of appeals. The right of collection of FSA charges for the F.Y. 2008-09 by the Licensee lies on the outcome of the appeals.

The facts of this case clearly shows that respondents adjusted FSA amounts of Oct'2008 to March'2009 against the payments made by the complainant in between F.Y. 2011-12 to F.Y.2014-15. Complainant is now seeking for re-adjustment of amount in the year 2019 i.e. after 8 years of inclusion of that amount in CC bills and after collection that too when SLPs are pending before the Hon'ble Apex Court of India. This forum is not competent to pass any orders in this case when the case is pending before the Hon'ble Apex Court of India. There are no merits in the complaint. The point is answered accordingly.

5. In the result complaint is dismissed.

If aggrieved by this order, the Complainant may represent to the **Vidyut Ombudsman, Andhra Pradesh**, 3<sup>rd</sup> Floor, Sri Manjunatha Technical Services, Plot No:38, Adjacent to Kesineni Admin Office, Sri Ramachandra Nagar, Mahanadu Road, Vijayawada-520008, within 30 days from the date of receipt of this order.


This order is passed on this, the day of 9<sup>th</sup> December 2020.

Sd/-  
Member (Technical)

Sd/-  
Independent Member

Sd/-  
Chairperson

Forwarded By Order

  
Secretary to the Forum

To

The Complainant

The Respondents

Copy to the General Manager/CSC/Corporate Office/ Tirupati for pursuance in this matter.

Copy to the Nodal Officer (Executive Director/Operation)/CGRF/APSPDCL/TPT.

Copy Submitted to the Vidyut Ombudsman, Andhra Pradesh , 3<sup>rd</sup> Floor, Sri Manjunatha Technical Services, Plot No:38, Adjacent to Kesineni Admin Office, Sri Ramachandra Nagar, Mahanadu Road, Vijayawada-520008.

Copy Submitted to the Secretary, APERC,11-4-660, 4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Lakdikapool, Hyderabad- 500 004.