

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

On this the 30th day of January ' 2020

C. G. No: 130 /2019-20/Tirupati Circle

Present

Sri. Dr. A. Jagadeesh Chandra Rao
Sri. A. Ramdas
Sri. Dr. R. Surendra Kumar

Chairperson
Member (Finance)
Independent Member

Between

M/s. Indian Oil Corporation Limited ,
Southern Region Pipelines,
Chennai Begaluru Pipeline,
Chittoor pumping Cum Delivery Station,
Gudiyatham Road, Yadamarri Post,
Chittoor Dist.

Complainant

AND

1.Senior Accounts officer/O/Tirupati
2.Superintending Engineer/OTirupati
3.Executive Director/O/Cor.Office/Tirupati

Respondents

ORDER

1. The case of the complainant in brief is that their company is a government undertaking, Chittoor is an intermediate pumping station in the Chennai. Bangalore petroleum pipeline and was commissioned in May'2012. They have applied for HT Category under Industrial category (HT-I) on 12.01.2010. However respondents have been supplying power and charging in commercial category vide HT SC No. TPT 570.

Multiple petroleum products received from Chennai in a single pipe line are processed into individual products and stored in separate tanks of each product. The low pressure fluids are received through filters and separated from micro particles and sludge. These products are pressurized in order to reduce interface of different products flowing in the pipe line. These interfaced products are separated from each other and stored in tanks.

Ethanol blending is being carried out at Chittoor station to ensure that the specifications are met, the product EBMS – Ethanol Blended Motor Spirit is tested

DESPATCHED
DATE 03/02

in Lab regularly. By mixing ethanol with petrol, the octane number of fuel increases, thereby reducing engine knocking. As per the government norms bio diesel is blended at Chittoor station.

Xtra - premium petrol improves the engine performance of petrol vehicles, by reducing deposits at the fuel injector intake valve and combustion chamber and maintain the engine in near- original condition. To manufacture Xtra premium petrol, a Multifunctional Additive is added to petrol. To ensure that BIS standards are met. Xtra premium is regularly tested in Lab.

Kerosene has been used for both industrial purpose and domestic purpose. In order to differentiate the domestic kerosene from industrial kerosene blue dye is being added at Chittoor station. Facilities are available for interface products mixing with base products.

In the year 2017, an audit committee asked the reason for paying electricity tariff charges under commercial category, citing the fact that the activities taking place at Chittoor are industrial in nature and the remaining stations of IOCL across various states have been paying under industrial category. Operating stations of IOCL, Visakapatnam vide (HT SC No. VSP 016) and IOCL Rajahmundry (HT SC No. RJY 423) in Andhra Pradesh where similar activities take place as that of IOCL, Chittoor are being charged under Industrial Tariff Category (HT -III A) only.

As per Clause No. 4.3.1 HT Category-III (Industry) of the APERC tariff order for F.Y. 2019-20 and its previous orders, industrial tariff is applicable to the units where activities like manufacturing, processing/preserving goods for sale take place. Hon'ble High Court of Andhra Pradesh (W.P No. 23037 of 2012) had pronounced its verdict in favour of HPCL , Vijayawada in a similar case against APSPDCL. Hon'ble High Court of Gujarat in the matter of collection of electricity charges in a case between M/S. IOCL & M/s. PGVCL dt : 15.02.2015 settled that IOCL is an industrial undertaking not a service undertaking and accordingly settled that the power consumed by IOCL in each stations fall under the ' Industrial category'. Chittoor station has been registered under the factories, Act, 1948 vide license No. HO/MAH/1009/2013 dt: 04.1.2014. Cross country pipe lines is a major recognized Industry across the world. IOCL operates approximately 14,200 underground pipe lines across India with more than 85 pumping stations spread across 18 states. The tariff plan at these locations are of industrial category except in A.P. where we have only one station at Chittoor.

Despite of sufficient explanation submitted to APSPDCL their issue has not been resolved and still pending for more than 1 ½ year and they are claiming that the activities taking place at Chittoor installation do not fall under manufacturing /preserving / processing though they are aware of verdict pronounced by Hon'ble High Court of A.P.

The complainant is seeking the following prayers i.e.

1. Direct the APSPDCL to change the tariff category of IOCL, CTR installation from commercial to industrial retrospectively.
2. To refund the entire amount charges in excess in the name of commercial tariff and
3. To suggest APSPDCL to act to the request of customers in a time bound manner.

2. Respondent No.2 filed written submission, the averments in brief is that consumer has submitted representation to Executive Engineer/Rural/CTR duly requesting change of category from HT (Commercial) to HT-I Industrial. Executive Engineer informed the complainant that the petroleum storage points are not covered under HT Cat -1 A . Based on the representation of consumer, they instructed EE/Rural to submit a detailed report along with specific recommendations on the request of consumer for change of category. Accordingly, a report was submitted stating that consumer is using 96 % of load for filtration and pumping purpose and balance 4 % of load also for ethanol mixing with petrol purpose. Executive Engineer/Rural further confirmed that service comes under HT Cat-II itself and could not consider for HT Cat-I . Based on the representation of EE/Rural a report was submitted to Corporate Office for necessary instructions. Corporate Office addressed a letter to the Secretary/ Hon'ble APERC requesting for issue of clarification on the category under which oil/ gas pumping and filling stations could be classified and after receipt of clarification from APERC further action will be taken and intimated.

In view of the above instructions issued by Corporate Office the same was informed to the consumer. Hence the complaint may be dismissed.

3. A personal hearing was conducted on 26.11.2019. General Manager of complainant's company by name C.S Datta and Respondent No.1 and General Manager for respondent No.3 were present . Heard both parties reiterated their contentions.
4. Point for determination is whether the HT SC No.TPT 570 of the complainant is entitled to be charged under HT Category-I Industry instead of HT Category II Commercial?

The contention of the complainant is that they receive multiple petrol products from Chennai in a single pipe line and processed into individual products and stored in separate tanks of each product. The low pressure fluids are received through filters and separated from micro particles and sludge. These products are pressurized in order to reduce the interface different products following the pipe line. These interface products are separated from each other and stored in tanks. Blending of them with petroleum and blending of bio diesel with HSD (High speed diesel) is being carried out at Chittoor installation. They also manufacture premium quality petrol i.e. Xtra premium petrol and also blue dye addition is done for kerosene for differentiate the domestic kerosene from industrial kerosene. Facilities are also available for interface products mixing base products to maintain the quality as per the industrial quality control manual. According to the complainant the above activities will come under processing/ preserving goods for sale. The Hon'ble High Court also gave verdict in similar case to change the category against the APSPDCL.

According to the respondents that 96% of the loads is being utilized for filtration and pumping and balance of 4% of the load is utilizing for ethanol mixing with petrol, up gradation of petrol and mixing additives consumer is utilizing supply for pumping and delivery of oil and as per tariff conditions comes under HT Cat-II.

The Hon'ble High Court in W.P. No.23037 of 2012 dt: 08.10.2015 between Hindustan Petroleum Corporation Ltd., and APSPDCL held as :

“Thus through the processes undertaken such as mixing, blending and doping, the petroleum oils are undergoing ‘some change’, thereby satisfying the test applied by the Supreme Court in Chowgule and Co.Pvt. Ltd. (1-supra) and the Calcutta High Court in Om Prakash Gupta Vs. Commissioner of Commercial Taxes.

Thus, I have no doubt in my mind that the entire process of conveyance of POL from Visakhapatnam to Hyderabad involves deployment and usage of sophisticated technology, for which purpose the petitioner has been using electricity in order to maintain proper pressure in the pipe line. Hence, I am of the opinion that one of the activities undertaken by the petitioner in conveying petroleum products from its storage points at Visakhapatnam and Vijayawada involves ‘processing’.

On a careful consideration of the nature of operations, I have no doubt in my mind that the subject Unit of the petitioner is undertaking processing of petroleum products during their conveyance from storage points to the end destinations before they are sold to its bulk customers”.

Again in conclusion para it is held as:

”The question whether an activity which does not involve ‘manufacture’ of goods can still be considered as an industrial activity or not, depends upon the interpretation of the extant statutory provisions/notifications. Going by the language of the Tariff Order, it is clear that even if no manufacturing activity is undertaken. It is enough if a consumer carries on the activity of processing and/or preserving of goods for sale. From the undisputed facts pleaded by the petitioner and in the light of the discussion undertaken above, this court has no hesitation to hold that the petitioner has been utilizing power from the respondents for the activity of both processing and preservation of goods for sale and therefore it is entitled to be classified as a consumer falling under HT Category-I. The order of respondent No.3 cannot therefore be sustained and the same is accordingly set aside”.

In this case also respondents themselves admitted that the complainant’s installation at Chittoor is utilizing 4% of the load for mixing of ethanol with petrol, up gradation of petrol and mixing activities. Nowhere in the tariff order it is mentioned that a particular percentage of processing is required to treat the unit for categorization under HT Cat-I. Respondents also admitted that consumer is utilizing supply for pumping and delivery of oil. So this activity will come under ‘storage of goods’ . Respondents have also not given any explanation in respect of providing service connection by APEPDCL for operating stations of the complainant’s units at Visakapatnam and Rajamundry under HT Cat- I only. HT Category 1(A) (i) Industry General in tariff order for F.Y.2018-19 is re-categorized as HT Cat-III (A) Industry General in Tariff Order for the F.Y.2019-2020.

In view of the above reasons and relying on the above decision of the Hon’ble High Court of A.P, the contention of respondents is not tenable. Complainant is entitled for change of category to HT Cat-III (A) (Industry) in tariff order for F.Y. 2019-2020 from the date of complaint before this Forum i.e. 18.07.2019. The point is answered accordingly.

5. In the result respondents are directed to re-categorize the service connection of the complainant HT SC No.TPT 570 from HT Cat-II Commercial to HT Cat-I Industry from the date of filing of the complaint i.e. 18.07.2019. The excess amount if any paid by the complainant shall be adjusted in future bills and issue revised bills within 15 days from the date of receipt of this order and submit compliance report within 15 days thereon.

If aggrieved by this order, the Complainant may represent to the **Vidyut Ombudsman, Andhra Pradesh**, 3rd 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 30th January 2020.

Sd/-
Member (Finance)

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 3rd 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

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