

**BEFORE THE FORUM**  
**FOR REDRESSAL OF CONSUMER GRIEVANCES**  
**IN SOUTHERN POWER DISTRIBUTION COMPANY OF A.P LIMITED TIRUPATI**  
**On this the 24<sup>th</sup> day of March' 2021**  
**C. G. No: 46 /2020-21/Ongole Circle**

**Present**

**Sri. Dr. A. Jagadeesh Chandra Rao**  
**Sri. R.M.M. Baig**  
**Sri. Y. Sanjay Kumar**  
**Sri. Dr. R. Surendra Kumar**

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

**Between**

P. Raghunath,  
M/s Mahadeva Granites  
P. Gudipadu(V),  
S.N. Padu (M),  
Prakasham Dt.

Complainant

**AND**

1. Assistant Accounts Officer/ERO/Ongole Rural
2. Deputy Executive Engineer/O/ Ongole Rural-1
3. Executive Engineer/O/ Ongole

Respondents

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**ORDER**

1. The case of the complainant is that he is running small scale unit in the name of M/s. Mahadeva Granites with ISC No. 4344322000555 under Cat-III P. Gudipadu Distribution, S.N. Padu section since 09.12.2016. All of a sudden a back billing notice was received for an amount of Rs. 9,70,506/- to be paid within 15 days due to multiplying factor from 0.5 instead of 1.0 for all consumed units from 07/2015 to 08/2020 and if he has any objections he has to present a representation within 15 days from the date of notice. Hence he has filed objections stating that he has purchased the unit from K. Sreenivasa Rao Proprietor M/s. Sai Granites on 19.12.2016. Since the date of transfer of their unit, he has been regularly paying CC bills every month. Back billing was issued since 2015 which is against the GTCS rules. No response was given by AAO and on the other hand added the said amount in CC bill of August'2020 is against the violations of GTCS and principles of natural justice. Hence requested to withdraw the amount.
2. Respondent No. 3 filed written submissions stating that service was released on 15.02.2010 with a contracted load of 49 HP in the name of M/s. Sai Granites, Proprietor K. Srinivasa Rao at P. Gudipadu. Later additional load of 25 HP was released in addition to the existing

load of 49 HP totaling to 74 HP on 21.03.2013 duly erecting HT side metering arrangement with Multiplication factor of 0.5 with 5/5 (A) CTPT Set. P. Ragunath and K. Vijay Dev purchased the property bearing service No. 4344322000555 with 74 HP contracted load on 26.05.2016. The name transfer was effected in favour of M/s. Mahadeva Granites from M/s. Sai Granites with effect from 12/2016. Consequent to replacement of failed 5/5 A metering CTPT set with 10/5A CTPT set due to non-availability of same capacity CTPT set at SPM in order to restore power supply to the prospective consumer on 16.6.2015. The MF for billing is changed to 1.0 from 0.5 from 16.06.2015. Due to over sight it was not entered in the master data and bills were issued with wrong MF 0.5 instead of 1.0 from 16.06.2015. The difference in billing due to wrong MF of 0.5 instead of 1.0 was observed during January' 2020 and back billing notice for the period from 06/2015 to 01/2020 was issued to the consumer for an amount of Rs.9,70,506/-. Later the amount is included in 7/2020 CC bills.

3. Complainant also filed an application for grant of stay of disputed amount. An order was passed directing the complainant, to pay Rs. 2,43,000/- being  $\frac{1}{4}$ <sup>th</sup> of the disputed bill amount within 7 days from the date of receipt of the order and on such payment respondents are directed not to disconnect the electricity supply during the pendency of the case for non-payment of disputed bill in IA No. 08/2020-21 dt :25.09.2020.
4. Complainant not satisfied with the interim orders passed by this forum preferred a representation to the Hon'ble Ombudsman. Hon'ble Ombudsman directed this forum to determine the complaint expeditiously as far as possible and not to disconnect the service connection by the respondents till the disposal of the complaint in appeal No.12/2020-21 dt: 29.10.2020.
5. Personal hearing was conducted through video conferencing on 15.02.2021. Heard both parties.
6. The points for determination are:
  1. Whether Respondents are entitled to issue back/supplementary bill for the period between 16.6.2015 and January'2020 on account of billing with MF 0.5 instead of 1.0 by mistake which was detected in the month of January'2020?
  2. Whether complainant is liable to pay back/supplementary bill prior to the transfer of service in his name in December'2016?

3. Whether respondents are entitled to disconnect the service connection for non-payment of back billing amount from 16.06.2015 to January'2020?

**Point No: 1 :**

Respondents filed a letter issued by Dy. EE/HT Meters -1/ Ongole to Dy. EE/ R1/ Sub Division/ Ongole on 24.01.2020 stating that while replacement of defective cubicle with healthy one for LT Service No.4344222000555, it was observed that the service is billed with MF 0.5 instead of 1.0. Hence requested that billing MF may please be corrected from 16.06.2015 ( replacement of cubicle CT Ratio from 05/5A to 10/5A ).He also filed meter test report which clearly shows that while changing the defective cubicle with healthy one the service was billed with MF 0.5 instead of 1.0 from 16.6.2015. Basing on the above report, Dy. EE/O/R-1/Ongole addressed a letter to AAO/Rurals/Ongole on 27.01.2020 with a request to revise the CC bill with MF 1.0 from 08/2015 to 01/2020 and also to change MF to 1.0 in billing software so as to give bills in MF 1.0 in future. Subsequently AAO/R/Ongole issued notice to the consumer. The Report of Dy. EE/ HT Meters clearly shows that wrong billing was done with multiplying factor 0.5 instead of multiplying factor 1.0 from August'2015 to January'2020 and the same was detected in January'2020 and a notice was issued after assessing back billing amount to the complainant. Complainant is liable to pay bills with multiplying factor 1.0, but due to mistake committed by the employees of the licensee wrong bills were served and detecting the mistake, respondents issued revised bills.

It was held by the Hon'ble Apex Court in :

*Assistant Engineer (D) Ajmer... Vs Rahamatuallah Khan Alias ...on 18 February, 2020*  
as :

*8."Section 56(2) however, does not preclude the licensee company from raising a supplementary demand after the expiry of the limitation period of two years. It only restricts the right of the licensee to disconnect electricity supply due to non-payment of dues after the period of limitation of two years has expired, nor does it restrict other modes of recovery which may be initiated by the licensee company for recovery of a supplementary demand.*

9. *Applying the aforesaid ratio to the facts of the present case, the licensee company raised an additional demand on 18.03.2014 for the period July, 2009 to September, 2011.*

*The licensee company discovered the mistake of billing under the wrong Tariff Code on 18.03.2014. The limitation period of two years under Section. 56(2) of the Electricity Act, 2003 had been already expired.*

*Section. 56(2) of the Electricity Act, 2003 did not preclude the licensee company from raising an additional or supplementary demand after the expiry of the limitation period under Section 56(2) of the said Act in the case of a mistake or bona fide error. It did not however, empower the licensee company to take recourse to the coercive measure of disconnection of electricity supply, for recovery of the additional demand.*

*As per Section 17(1) (c) of the Limitation Act, 1963, in case of a mistake, the limitation period begins to run from the date when the mistake is discovered for the first time.*

In *Mahabir Kishore and Ors. v. State of Madhya Pradesh*,<sup>1</sup> this Court held that :-

'Section 17(1)(c) of the Limitation Act, 1963, provides that in the case of a suit for relief on the ground of mistake, the period of limitation does not begin to run until the plaintiff had discovered the mistake or could with reasonable diligence, have discovered it. In a case where payment has been made under a mistake of law as contrasted with a mistake of fact, generally the mistake become known to the party only when a court makes a declaration as to the invalidity of the law. Though a party could, with reasonable diligence, discover a mistake of fact even before a court makes a pronouncement, it is seldom that a person can, even with reasonable diligence, discover a mistake of law before a judgment adjudging the validity of the law'.

In the present case, the period of limitation would commence from the date of discovery of the mistake i.e. 18.03.2014. The licensee company may take recourse to any remedy available in law for recovery of the additional demand, but is barred from taking

recourse to disconnection of supply of electricity under sub-section (2) of Section 56 of the Act”.

In this case, Respondents have clearly established that mistake has taken place in billing from the date of change of cubicle and the mistake was detected only in the month of January'2020. Since complainant is liable to pay CC charges as per the Tariff Orders issued by the Hon'ble Commission from time to time and respondents have established the period during which the wrong billing was made. Respondents are entitled to raise back/supplementary bill for the entire period. The point No.1 is answered accordingly.

**Point No: 2:**

Complainant stated that he purchased the unit and applied for transfer of service connection in their name in December'2016 and accordingly the name was transferred with effect from 12/2016. He has also filed copy of letter issued by AAO/ERO/Ongole to him on 09.12.2016. Complainant stated that it is clearly mentioned in the letter that he is responsible for all the dues that may arise in future from the date of the transfer of the service. So he is not liable for the amounts due by his previous owner.

It is specifically mentioned in the letter addressed by Respondent No.1 to the complainant dt : 09.12.2016 while transferring the service in the name of M/s. Mahadeva Granites from M/s. Sai Granites as:

***“ ISC No.4344322000555 Cat- III in P. Gudipadu (V) of S.N. Padu Section standing in the name of M/s. Sai Granites Managing Partner K. Srinivasa Rao P Gudipadu (V) of S.N. Padu section is here by transferred by the name of M/s. Mahadeva Granites, Proprietor P. Raghunath, P. Gudipadu Village of S.N. Padu section with effect from 12/2016 . Further he will be held responsible for all dues that may arise in future from the date of the transfer of service”.***

Respondents did not state in that letter that even after the transfer, the complainant is liable for any dues payable by the vendor prior to the transfer of the service.

It was held by the Hon'ble Apex Court in a case between Spl. Officer Com. North Vs M/s. Raghunath Paper Mills Pvt Ltd on 09.11.2012 (<http://indiankanoon.org/doc/50031036>) Held in para 18 to 21 as follows:

18) " It is also relevant to refer a decision of a three-Judge Bench of this Court reported in *Ahmedabad Electricity Co. Ltd. vs. Gujarat Inns Pvt. Ltd. and Others*, (2004) 3 SCC 587. This Court, after finding that the cases are of fresh connection, in para 3, held as under:-

3 .We are clearly of the opinion that in case of a fresh connection though the premises are the same, the auction-purchasers cannot be held liable to clear the arrears incurred by the previous owners in respect of power supply to the premises in the absence of there being a specific statutory provision in that regard..

19) In a recent decision, i.e. in *Haryana State Electricity Board vs. Hanuman Rice Mills, Dhanauri and Others*, (2010) 9 SCC 145, this Court, after referring to all the earlier decisions including *Isha Marbles (supra)* and *Paschimanchal Vidyut Vitran Nigam Ltd. (supra)* etc., summarized the position in the following manner which is as under:-

12. ( i) *Electricity arrears do not constitute a charge over the property. Therefore in general law, a transferee of a premises cannot be made liable for the dues of the previous owner/occupier.*

( ii) *Where the statutory rules or terms and conditions of supply which are statutory in character, authorize the supplier of electricity to demand from the purchaser of a property claiming reconnection or fresh connection of electricity, the arrears due by the previous owner/occupier in regard to supply of electricity to such premises, the supplier can recover the arrears from a purchaser.*

20) *In the light of the above discussion, specific factual details regarding the position of respondent No. 1 which purchased the said premises under court auction sale from the Official Liquidator on as is where is and whatever there is basis and in the light of the regulations quoted above, particularly, sub-clause 10(b) of Regulation 13, we hold that the request was not for the transfer from the previous owner to the purchaser, on the other hand, it was a request for a fresh connection for the Unit of*

*respondent No. 1 herein. We are in entire agreement with the decision arrived at by learned single Judge as affirmed by the Division Bench of the High Court.*

**21) *In view of the above, we find no merit in the appeal, consequently, the same is dismissed*".**

The relevant provision in respect of payment of the amount to the licensee is provided in Clause No. 8.4 of GTCS which is as follows:

**8.4: Transfer of Service Connection:**

*"The seller of the property should clear all the dues to the Company before selling such property. If the seller did not clear the dues as mentioned above, the Company may refuse to supply electricity to the premises through the already existing connection or refuse to give a new connection to the premises till all dues to the Company are cleared"*.

The relevant provision in respect of payment of bills on account of change of occupancy/vacancy is provided in Clause. No. 4.1.5 of Reg. No. 05/2004 which is as follows:

***Change of occupancy/vacancy of premises :***

*"It shall be the responsibility of the owner of the connection to get a special reading done by the licensee at the time of change of occupancy or on the premises falling vacant.*

- i. The owner/user of the connection may request in writing to the licensee for special reading at least 15 days in advance of the said vacancy of the premises by the existing user or change of the occupancy, as the case may be.*
- ii. The Licensee shall arrange a special reading to be done and deliver the final bill, including all arrears till the date of billing, at least 7 days before the vacancy of the premises. The final bill shall also include payment for the period between the date of special reading and date of vacancy of premises on prorata basis.*
- iii. Once the final bill is raised, the licensee shall not have any right to; recover any charge(s), other than those in the final bill, for any period prior to the date of such bill.*
- iv. The licensee may charge reasonable fee for the above service".*

Respondents in this case did not obtain any undertaking from the complainant prior to transfer that he will pay any due amount found in future payable by his vendor prior to the transfer of service in the name of complainant. Respondents did not furnish any provision which entitle them to issue a supplementary bill to the complainant for the dues found by his vendor prior to the transfer of service without obtaining any undertaking from the purchaser.

In the absence of specific provision, respondents are not empowered to compel the complainant to pay the supplementary bill that was given on account of mistake in calculation of electricity bill prior to the date of transfer of service in his name. The point No.2 is answered accordingly.

**Point No 3:**

Respondents claiming back billing from 16.06.2015 and issued notice to the complainant. After complainant raised objections without giving any finding on the objections raised by the complainant simply added in the bill. According to the complainant, respondents threatened to disconnect the service connection in case if he fails to pay the back billing amount which was issued for about four (4) and half years which is illegal and liable to be withdrawn.

In this case it is relevant to refer the Judgment of the Hon'ble Apex Court in :

*Assistant Engineer (D) Ajmer... Vs Rahamatuallah Khan Alias ...on 18 February, 2020*

7.3 *“Sub-section (1) of Section. 56 confers a statutory right to the licensee company to disconnect the supply of electricity, if the consumer neglects to pay the electricity dues.*

*This statutory right is subject to the period of limitation of two years provided by sub-section (2) of Section 56 of the Act.*

7.4 *The period of limitation of two years would commence from the date on which the electricity charges became “first due” under sub-section (2) of Section 56. This provision restricts the right of the licensee company to disconnect electricity supply due to non-payment of dues by the consumer, unless such sum has been shown*



*continuously to be recoverable as arrears of electricity supplied, in the bills raised for the past period.*

*If the licensee company were to be allowed to disconnect electricity supply after the expiry of the limitation period of two years after the sum became "first due", it would defeat the object of Section 56(2)".*

Respondents after detecting of the defect in the bill revised the bill and included it in the month of February'2020. The period of limitation of Two years will commence from February'2018. Relying upon the above decision, Respondents have got right to raise supplementary bill for more than 2 years but they are not entitled to disconnect the service connection for non-payment of the supplementary bill prior to February'2018. Respondents have got right to recover the arrears of supplementary bill prior to 2018 by way of other modes and not under threat of disconnection of the service. The point No.3 is answered accordingly.

7. In the result respondents are directed to issue revised bills by splitting the back billing into three (3) bills and issue bills separately:

1. Back billing from 16.06.2015 to November'2016 ( till the date of transfer in the name of the complainant)
2. From December'2016 (From the date of transfer) to January' 2018 and
3. From February'2018 to January '2020.

Respondents are entitled to disconnect the service connection for the back billing issued for the period from February'2018 to January'2020 if the complainant fails to pay the said amount after receipt of notice. Respondents are entitled to recover the back billing amount for the period from December '2016 to January'2018 by way of other modes other than under the threat of disconnection in accordance with Law. Respondents also have got liberty to recover electricity dues during the period between 16.06.2015 to 11/2016 from previous owner in accordance with law.


8. Accordingly the complaint is disposed off.

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 24<sup>th</sup> March'2021.

Sd/-                                      Sd/-                                      Sd/-                                      Sd/-  
**Member (Finance)    Member (Technical)    Independent Member    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 (Chief General Manager (O&M)/ Operation)/ CGRF/ APSPDCL/ Tiruati.

Copy to the Chairperson/CGRF/APCPDCL/Vijayawada

Copy submitted to the Chairman & Managing Director/APCPDCL/Vijayawada

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.