

BEFORE THE FORUM
FOR REDRESSAL OF CONSUMER GRIEVANCES
IN SOUTHERN POWER DISTRIBUTION COMPANY OF A.P LIMITED TIRUPATI
On this the 09th day of March 2021
C.G.No:23/2020-21/ Tirupati 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

G.S. Mohana Krishna,
C/o. M/s. IT profound India Pvt Ltd,
3-2-55,Satyasai Colony,
Vidya Nagar,Peruru,
Chittoor -Dist

Complainant

AND

1.Assistant Accounts Officer/ERO/Chandragiri
2.Deputy Executive Engineer/Chandragiri
3.Executive Engineer/O/Tirupati Rural

Respondents

ORDER

1. The case of the complainant is that on 30.11.2019 Sri. G. Reddeppa DEE/ DPE/Tirupati inspected the service and issued notice for additional load for an amount of Rs.4,368/- under Cat-I . The notice was received by him on 02.12.2019 and he paid that amount. Again on 20.01.2020 he received show cause notice from EE/ Assessments/Tirupati, that the service was changed to Category - 2 and levied penalty of Rs. 97,214/- for a period of one year from 30.11.2018 to 30.11.2019. He sent rental agreement and copy of DEE/ DPE/Tirupati notice to EE /Assessments/Tirupati. But without inquiry the amount was included in the CC bill. They have commenced their company on 10.12.2019 and he has no objection to pay under Cat- 2 from Dec'19. The service was disconnected on the afternoon of 29.06.2020. Hence requested to do justice.
2. Interim orders were passed as per I.A. No. 04/2020-21 restoring the service connection on payment of ¼th disputed amount i.e. Rs.24, 310/- out of disputed

amount of Rs. 97,214/- within 7 days of the receipt of orders from the forum and that service connection shall not be disconnected for non -payment of disputed amount during the pendency of the case before the forum

3. Respondent No. 3 filed written submission stating that service connection No. 5424310003822 released under Cat -LT1(A) domestic is running in the name of M/s. IT Profound Pvt. Ltd (Present beneficiary) was inspected by Dy.EE/DPE/Tirupati on 30.11.2019 at 12.10 Hrs and it was found that consumer is utilizing the supply for the office of the software company. Subsequently the Provisional Assessment Order for malpractice was communicated to the consumer vide Lr No.1760/19 dt : 02.12.2019 and consumer has applied to Executive Engineer/Assessments/Tirupati on 24.02.2020 to revise the assessment, limiting from 01.11.2019 as per the rental agreement dt: 1.11.2019.

In this connection Executive Engineer/ Assessments along with AE/ Assessments has visited the consumer premises on 27.2.2020 at 17.25 Hrs and it was revealed on local enquiry that the software company was running from last one year. They have assessed that the consumer utilized 6586 units during malpractice period from 30.11.18 to 30.11.19. Subsequently Executive Engineer / Assessments has issued notice to the consumer for an amount of Rs.97,214/- Thereafter consumer had appealed to this forum. Consumer had paid the ¼ of assessed amount of Rs.24,310/- as per the orders of this forum and supply has been restored.

4. Personal hearing was conducted through video conferencing on 17.11.2020, Complainant was absent and written statement was not filed hence posted to 22.12.2020. Complainant was absent on 22.12.2020. Hence again called on 09.02.2021. Heard complainant and respondents. Both parties reiterated their versions. Complainant was informed that he is at liberty to prove additional documents to prove that the service is being utilized for commercial purpose from 10.12.2019 only and respondents are directed to furnish copy of the inspection notes. Complainant did not file any additional documents till today. Respondents furnished inspection notes prepared by Mr. G. Reddeppa DEE/DPE-II/Tirupati on 30.11.2019 at 12.10 P.M. at the premises of the complainant.

5. The point for determination is whether the assessment amount of Rs. 97,214/- for un- authorized use of service for the period from 30.11.18 to 30.11.19 is liable to be withdrawn?

According to respondents, DEE/DPE/Tirupati inspected the premises and found that the service obtained for domestic purpose is being used for office of Software Company. On 30.11.2019 the inspection notes prepared by the inspecting officer shows that G. Deepika Gavvagi was present and she represented that she is the manager. She also signed in the inspection notes. In the inspection notes it is mentioned that the complainant is utilizing the supply for the purpose other than the stipulated purpose. So inspecting officer registered the case under Section.126 of the Electricity Act, 2003. On appeal EE/Assessments/Tirupati has determined that complainant is liable to pay an amount of Rs.97,214/- for the period of one year.

The contention of the complainant is that he received notice for additional load only. It was represented by the inspecting officer that inspection was made for additional load only and obtained signatures and Deepika did not know the contents of the inspection notes. The inspection notes shows that consumers representative did not furnish any statement. So the contention of the complainant that his representative at the time of inspection did not know the contents of inspection notes and simply signed in it cannot be taken into consideration. Complainant only filed an un- registered lease deed to show that lease was commenced only on 1.11.2019 i.e. just 29 days prior to the date of inspection i.e. 30.11.2019. Section. 17 of Registration Act was amended in Andhra Pradesh in the year 1999 vide Registration (Andhra Pradesh Amendment) Act, 1999 (Act No. 4 of 1999) with effect from 01.04.1999 and as per the amended Section. 17 of Registration Act in A.P., lease deed is compulsory registerable document. So the un- registered lease deed filed by the complainant to show that lease was commenced only on 01.11.2019 cannot be taken into consideration for determination commencement of lease only on that and not prior to it. Complainant did not furnish any other document to show that the lease was commenced only on 01.11.2019.

Clause 9.3.2 of GTCS provides the procedure for assessment for cases of unauthorized use of electricity by LT consumers. The relevant provision for this case is Clause No. 9.3.2.9 of GTCS which is as follows:

“If the assessing officer reaches to the conclusion that Unauthorised Use of Electricity has taken place, the assessment shall be made for the entire period during which such unauthorised use of electricity has taken place and if, however, the period during which such unauthorized use of electricity has taken place cannot be ascertained, such period shall be limited to a period of 12 months immediately preceding the date of inspection in accordance with Section 126 (5) of the Act”.

So where the period of un -authorized use of electricity taken place cannot be ascertained such period shall be limited to a period of 12 months immediately preceding the date of inspection in accordance with Sec. 126 (5) . In this case as lease period could not be ascertained, the period for un - authorized use of electricity is taken for period of 1 year. Respondents have followed the above stipulated procedure.

The forum can reject the complaint at any stage as per Clause No. 10.2 (b) of Reg 03/2016 which is as follows:

- a)
- b) *In cases which fall under Sections 126,127,135 to 139 and 152 of the Act*
- c)
- d)

Since the case against the complainant is registered under Sec. 126 of the Electricity Act, 2003 and as assessment was made in accordance with rules and as there are no merits in the complaint, the complaint is liable to be dismissed both on merits and as well as on the aspect of maintainability of the complaint. The amount paid by the complainant as per orders issued in I.A No.4/2020-21 shall be adjusted towards the amount due by him.

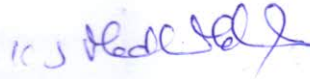
6. In the result the complaint is dismissed.

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 09th March'2021.

Sd/- Sd/- Sd/- Sd/-
Member (Technical) Member (Finance) 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 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.

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