

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

**On this the 16<sup>th</sup> day of November' 2021**

**C.G.No.42/2021-22/Kurnool Circle**

*Present*

**Sri. Dr. A. Jagadeesh Chandra Rao**  
**Sri. Y. Sanjay Kumar**  
**Sri. K. Ramamohan Rao**  
**Sri. Dr. R. Surendra Kumar**

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

*Between*

T.V.R. Swamy,  
M/s. Arudhra Water Plant,  
D.No.16-39,  
Near Govt. College,  
Nandikotkur,  
Kurnool Dt.

Complainant

*AND*

1. Assistant Accounts Officer/ERO/Nandikotkur  
2. Deputy Executive Engineer/O/Nandikotkur  
3. Executive Engineer/O/Kurnool (R)

Respondents

\*\*\*\*\*

**ORDER**

1. The case of the complainant is that they are running water plant in the name of M/s. Arudhra water plant and having service No.8532213006952. On 10.08.2021 EE/DPE/Kurnool inspected their water plant and issued back billing notice for Rs.1,61,988/- dt : 04.09.2021. In the paper publication issued by the Hon'ble APERC, Industries (General) is shown in Category- III(A). But there was no mention about water plants. DPE in his report stated that their water plant will fall under Cat-II B and not under Cat-III on the

**DESPATCHED**

**DATE**

17/11

ground that the water plant is supplying mineral water and cool water. Nandikotkur Municipality issued trade license and MSME certificate .Government also granted trade license and labour license. Their service will come under Cat-III. Hence notice issued for back billing may be quashed.

2. Respondents filed written submission stating that EE/ DPE/Kurnool inspected the service Number. 8532213006952 of M/s. Arudhra Water Plant and imposed back billing amount of Rs.1,61,988/-. EE/DPE/Kurnool in his inspection notes stated that consumer selling mineral water with and without cool to the public. As per the guidelines issued by the Hon'ble APERC, the service shall be billed under Cat -II instead of Cat-III as the consumer selling cold mineral water to the public and not having agreement with local bodies.

According to EE/DPE/Kurnool, Cat- IIIA is applicable for mineral water plants, if they are having agreement with local bodies. The service initially existed under category-II. But the same was changed to Cat-III from Cat-II vide Memo No. DE/O/KNL/Coml/ F.No.:Doc/D.No.1913/17-18 Dt:28.06.2017, before issuing advisory by the Hon'ble APERC in April' 19. Consumer is having MSME registration during 2017 and also having local body (Municipal) trade license ROC No.01417-2021 Dt:26.2.2021. But consumer had not concluded any agreement with Nandikotkur Municipality for supply cold mineral water for public at reduced cost.

The Hon'ble APERC issued advisory for change of category of M/s. Water Health India Pvt. LTD from LT -II and LT VI to LT III (A) Industrial (General) on specific representation of M/s. Water Health India Private Ltd, for community water systems (CWS) /water health centers (WHC) being operating by them in agreement with local bodies.

3. Personal hearing through video conferencing was conducted on 23.10.2021. Both parties present and reiterated their version mentioned in the pleadings.
4. The point for determination is whether notice issued for payment of shortfall amount on account of change of category of the service from Cat –III A to Cat-II for an amount of Rs.1,61,988/- is liable to be set aside ?

According to the complainant on 04.09.2021, Mr. Ch. Rama Chandra Rao EE/DPE/Kurnool inspected the water plant and basing on that inspection, subsequently issued provisional assessment order for payment of Rs.1,61,988/- on the ground that their service has to be classified under Cat –II (B) and not under Cat-III (A) . He is having MSME certificate and other approvals and the service will come under Cat –III only and not under Cat – II, hence the provisional assessment order may be set aside.

According to respondents, EE/DPE/Kurnool inspected the service and found that consumer is selling mineral water with and without cool to the public and as per guidelines issued by Hon'ble APERC, the service shall be billed under Category –II instead of Cat –III as consumer is selling cool mineral water to public without having agreement with local bodies. The service was originally taken under Cat –II but it was changed to Cat- III vide Memo No. DE/O/KNL/Coml/F.No./Doc/D.No.1913/17-18 dt:28.06.2017 before issuing advisory by the Hon'ble Commission.

So according to the version of respondents, the complainant service was under Cat-II only but respondents re-categorized the service under Cat – III and now they again reclassified the category of the service to Cat - II.

The account statement shows that the service is in the name of Khasim Saheb whereas notice was served on T.V.R. Swamy (PB) i.e. complainant herein.

The Service was released under Cat-III on 28.01.1997 in the name Khasim Saheb. The service was re -classified under Cat –II in October' 13. Again it was re- classified to Cat –III in June' 17.

It is relevant to refer Clause. 3.4.1 of GTCS for re-classification of consumer category which is as follows:

- 3.4.1 *“Where a consumer has been classified under a particular category and is billed accordingly and it is subsequently found that the classification is not correct (subject to the condition that the consumer does not alter the category/ purpose of usage of the premises without prior intimation to the Designated Officer of the Company), the consumer will be informed through a notice, of the proposed reclassification, duly giving him an opportunity to file any objection within a period of 15 days. The Company after due consideration of the consumer’s reply if any, may alter the classification and suitably revise the bills if necessary, even with retrospective effect, the assessment shall be made for the entire period during which such reclassification is needed, however, the period during which such reclassification is needed cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.”*

It is not the case of the respondents that consumer has changed the usage of the service. Respondents themselves reclassified the service from Cat-II to Cat-III. According to the respondents, the classification of the service is not correct. Hence the service was reclassified and issued notice for payment of shortfall amount on account of re classification. Respondents if intended to reclassify the category, they have to follow the provisions of Cl. 3.4.1 of GTCS. Respondents did not file any material to show that a

notice was issued under Clause. 3.4.1 of GTCS before reclassifying the category.

Respondents can re-classify the service only after issuing notice as per the provisions of Cl. 3.4.1 of GTCS and after hearing the objections of the consumer only and not empowered to reclassify the service unilaterally.

The copy of the provisional assessment order shows that the Provisional assessment order is issued on a printed pro-forma. The inappropriate columns and sentences were not at all struck off. No material is placed to show that the calculation sheet for arrival of shortfall amount is furnished to the complainant under proper acknowledgment. The calculation sheet available in the file shows that shortfall amount was raised for the period between 4.08.2020 to 02.08.2021. It is needless to say that the correct classification of the category of the service was not made by the officers of the licensee only. When the mistake was committed by the officers of the licensee, they ought to have informed to the consumer about the mistake committed in classifying the category and ought to have offered installments liberally as it will be very difficult for any small entrepreneur to pay shortfall amount for a period of 12 months within a short period of 15 days that too when the mistake was committed by officers themselves. Had they are careful in classifying the services, this case would not have arisen at all. Since respondents have not followed the procedure while issuing provisional assessment order for shortfall amount, the same shall be liable to be set aside. The point answered accordingly.

5. In view of the above reasons, the provisional assessment order dt:19.08.2021 issued against the complainant for service No.8532213006952 served on the complainant herein is hereby set aside . Respondents are directed to issue notice to the complainant for the service No.8532213006952 as per the

provisions of Clause. 3.4.1 of GTCS and after hearing the objections of the complainant if any, shall pass a reasoned order and serve it under proper acknowledgment in accordance with rules.

6. Accordingly the complaint is disposed off.

Sd/-                                  Sd/-                                  Sd/-                                  Sd/-  
**Member (Technical)    Member (Finance)    Independent Member    Chairperson**

**Forwarded By Order**

  
**Secretary to the Forum**

**This order is passed on this, the day of 16<sup>th</sup> November'2021**

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.

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 , 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.