

CONSUMER GRIEVANCES REDRESSALFORUM
SOUTHERN POWER DISTRIBUTION COMPANY OF A.P LIMITED,
TIRUPATI

This the 01st day of December' 2023
C.G.No.37/2023-24/Anantapur Circle

CHAIRPERSON **Sri. V. Srinivasa Anjaneya Murthy**
Former Principal District Judge

Members Present

Sri. K. Ramamohan Rao	Member (Finance)
Sri. S.L. Anjani Kumar	Member (Technical)
Smt. G. Eswaramma	Member (Independent)

Between

Sri.K. Subramanyam, Sy.No.56/8, T. Chukkalur Road,
Tadipatri (M) Anantapur District. Complainant

AND

1. Assistant Accounts Officer/ERO/Tadipatri
2. Dy. Executive Engineer/O/Tadipatri
3. Executive Engineer/O/Gooty Respondents

This complaint came up for final hearing before this Forum through video conferencing on 16.11.2023 in the presence of the complainant's son and respondents and having considered the complaint and submissions of both the parties, this Forum passed the following:

ORDER

01. The case of the complainant in brief is as follows :

The respondents released electrical service connection
SC.No.7231129001737 under LT Category-III with contracted load



of 100 HP to the industrial unit of the complainant on 09.01.2015. Since then the complainant has been paying the CC charges regularly. Suddenly the Respondent No.2 issued a provisional assessment order (PAO) to the complainant without inspecting the unit on 23.06.2019 for Rs. 4,21,138/-. The complainant challenged the said PAO before this Forum but his complaint was dismissed on which he preferred a representation before the Hon'ble Vidyut Ombudsman, Vijayawada but the same was also dismissed. Then respondent No.1 issued notice Dt.29.07.2021 demanding the complainant to pay Rs.3,91,229/- along with pending arrears amount making total dues of Rs.7,76,423/-. Against the said order the complainant filed W.P. No. 16562/2021 before the Hon'ble A.P. High Court in which the Hon'ble High Court on 10.08.2021 issued interim orders directing the respondents to restore power supply subject to depositing 50% of the amount covered by PAO. In spite of the said interim order, the respondent No.1 issued notice Dt:19.08.2021 demanding the complainant to pay Rs.6,62,431/-. Since the complainant has no other option, he paid that amount and later the respondents issued regular HT bills and collected the same. While so the respondent No.2 issued letter Dt.29.11.2022 demanding



the complainant to pay Rs.80,218/- for the additional connected load towards development charges and to regularize the service from the connected load 100 HP to 140 HP. Accordingly, the complainant paid the same and got additional load of 40 HP in addition to the sanctioned load of 100 HP. As per the interim orders of the Hon'ble High Court of A.P, the respondents have to collect only 50% of the provisional assessment order amount of Rs. 4,21,138/-, but they have collected Rs.4,76,762/- along with 50% of PAO amount in 5 instalments and thereby they have collected excess amount of Rs.4,76,762/- and also suppressed another payment of Rs.1,00,000/- from the complainant. The AAO collected regular CC charges in HT category since August'2021 till January'2022 instead of LT category without any authority. The respondents have collected excess amount from the complainant against the interim orders of the Hon'ble High Court of A.P.

02. The said complaint was registered as C.G.No.37/2023-24 and notices were issued to the respondents calling for their response. The respondents submitted their response and the brief averments of the same are as follows:



Originally the electrical service connection to the unit of the complainant was issued on 09.01.2015 under LT Category-III with contracted load of 100 HP. The said service was exceeded recorded maximum demand (RMD) over contracted maximum demand (CMD) and issued auto generated case notice on 28.05.2018. The complainant paid case amounts in September'2018 for additional load and then the load need to enhance to 79.7 KW and service convertible to HT service or until the conversion in ERO has been billed under HT tariff bill. In May'2019 the DE/DPE/Anantapur inspected the service and booked a short billing case for Rs.4,21,138/- and accordingly the respondents raised demand of shortfall amount in consumer ledger but the complainant did not pay the said amount and filed the complaint before this Forum vide CG No.281/2019-20 in which this Forum passed an order on 24.09.2020 directing the respondents to issue revised back billing for a period of 12 months prior to the date of inspection/18.05.2019. Accordingly the respondent No.3 revised the assessment and issued notice Dt.08.10.2020 to the complainant demanding him to pay Rs.5,98,973/- but the complainant did not pay the said amount but filed a representation before the Hon'ble Vidyut Ombudsman vide



Appeal No.19/2020 and the said appeal was allowed and the matter was remanded to this Forum for fresh disposal of the complaint C.G.No.281/2019-20/Anantapur Circle. Accordingly this Forum restored the complaint in C.G.No.281/2019-20 and after conducting fresh enquiry dismissed the same on 02.06.2021. Then the respondents issued notice Dt:15.06.2021 to the complainant demanding him to pay Rs.3,91,229/- relating to 12 months reassessment amount and Rs.3,32,170/- towards unpaid regular bills (Total Rs.7,23,399/-). The complainant again preferred a representation No.10/2021-22 challenging the order of this Forum Dt: 02.06.2021 before the Hon'ble Vidyut Ombudsman and the same was dismissed. Then the respondents issued notice Dt: 29.07.2021 demanding the complainant to pay Rs.7,76,423/-. The complainant did not pay the said amount, but he filed a writ petition before the Hon'ble High Court of A.P. vide W.P. No.16562 /2021 in which the Hon'ble High Court issued interim order directing the complainant to pay Rs.2,10,569/- which is 50% of the provisional assessment order amount of Rs.4,21,138/-. Accordingly the respondents issued notice to the complainant demanding him for payment of Rs.6,62,431/- and the said amount is arrived at as under :



Details	Rs.
50% of Provisional assessed amount	2,10,569-00
Less the amount paid by the complainant as per the orders of Hon'ble Vidyut Ombudsman on 29.10.2020	4,25,000-00
Balance	1,85,569-00
Regular bills dues	4,76,762-00
Total	6,62,331-00
Add RC fees	100-00
Total amount presently payable as per Court Order for restoration of supply	6,62,431-00

The complainant requested the respondents to permit him to pay the above said amount in instalments. Accordingly, the complainant was allowed to pay the amount in 5 instalments and he paid the said amount and the service is in live status. The Writ Petition W.P.No.16562 /2021 is still pending before the Hon'ble A.P. High Court. The complainant is continuously exceeding the contracted load of 140 HP as per the recorded maximum demand every month. Presently the total load of the service connection of the

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complainant is 146 HP. As per Clause No.12.3.3.2 of GTCS the service connection of the complainant shall be billed under HT tariff and it is to be convertible to HT service. As the service was not converted to HT category in the ERO, every month HT tariff bills were issued upto January'2023. As per Tariff Order F.Y.2022-23 and 2023-24 the industrial consumers are permitted to continue in LT billing with exercising advanced option. In January'2023 the complainant gave option for running of his industry under LT billing upto 150 HP as per new tariff order. Hence, from February'2023 onwards the bills were issued under LT tariff only and the said details were communicated to the complainant on his request vide letter Dt: 07.07.2023. The notices and bills were issued as per GTCS and tariff order and the complainant is liable to pay the said amounts. No additional bill amount was collected from the complainant.

03. Heard both the parties through video conferencing.
04. Now the points for determination are:

(1) "Whether the subject matter of this complaint and the subject matter of W.P.No.16562 of 2021 pending before the Hon'ble High Court of A.P. are one and the same?"



(2) *“Whether the complaint is maintainable in view of the bar under Clause.10.2 (a) of Regulation.No.03 of 2016?”*

05. POINT Nos.1 and 2 : Perused the entire record. It is the claim of the complainant that the respondents released industrial service connection with 100 HP load under LT category, that he was paying regular monthly CC charges but without inspecting their unit the respondent No.2 issued a provisional assessment order on 23.06.2019 demanding him to pay Rs.4,21,138/- assessing the charges under HT category instead of LT category against which he filed a complaint before this Forum which was dismissed and he preferred representation before the Hon'ble Vidyut Ombudsman and the same was also dismissed and then he preferred W.P.No.16562 of 2021 challenging the provisional assessment order (PAO) before the Hon'ble A.P. High Court in which an interim order was passed directing the respondents to restore power supply subject to payment of 50 % of provisionally assessed amount of Rs.4,21,138/- but the respondent No.1 has collected more than 50% of PAO amount violating the Interim Orders of the Hon'ble High Court of A.P.



06. On the other hand, the contention of the respondents is that the Hon'ble High Court in its interim order while directing them to restore the power supply to the complainant's service connection on payment of 50% of PAO amount of Rs.4,21,138/-, has stated that the complainant shall clear the other arrears and also continue to pay the monthly bills and as per the said order only they have collected the CC charges besides 50% of the above referred PAO amount and they have not violated the directions of the Hon'ble High Court of A.P.
07. Admittedly, the respondents issued provisional assessment order (PAO) demanding the complainant for payment of Rs.4,21,138/- on the ground that the complainant utilized additional load than the contracted load and as such the CC charges are calculated under HT category instead of LT category for the period from May'2018 to May'2019. Admittedly, the complainant challenged the said order before this Forum as C.G.No.281/2019-20 and this Forum after considering the plea of both the parties on 24.09.2020 partly allowed the complaint directing the respondents to issue a revised back billing for a period of 12 months prior to the date of inspection/18.05.2019. Admittedly, the complainant filed a representation/Appeal No.19/2020-21 before the Hon'ble Vidyut Ombudsman challenging



the order of this Forum and the said appeal was upheld and the matter was remanded to this Forum for fresh adjudication. Then this Forum restored the complaint C.G. No.281/2019-20 and conducted an enquiry afresh and disposed off the same reiterating its earlier order Dt:24.09.2020. The complainant preferred a representation No. 10/2021-22 against the said order and the said representation was dismissed confirming the order of this Forum. Then the complainant filed W.P. No.16562 of 2021 challenging the provisional assessment order (PAO) before the Hon'ble High Court of A.P. on the ground that one month notice as contemplated in Clause.12.3.3.2 (iii) of General Terms and conditions of Supply (GTCS) was not issued and in the said Writ Petition in I.A.Nos. 01 and 02 of 2021 the Hon'ble High Court issued an interim order as under:

“It is submitted by the learned counsel for the petitioner herein that the action of the respondent authorities is contrary to Clause.12.3.3.2 (iii) of the General Terms and Conditions of Supply. It is further submitted by the learned counsel that, having categorically found that one-month notice, as contemplated in the said Clause, was not given to the complainant, the Ombudsman/first respondent



herein ought to have considered the request of the petitioner herein.

On the other hand, it is submitted by Sri. Y. Nagi Reddy, learned Standing Counsel for the respondents, that, having utilized the excess load, it is not open for the petitioner herein to maintain the present complaint.

It is also brought to the notice of this Court that, pending proceedings before the Consumer Grievances Redressal Forum and the Ombudsman/first respondent herein, respondents herein continued to supply the electricity to the petitioner and after filing the present Writ Petition, on 07.08.2021, respondents have disconnected the power supply.

The issues raised by the learned counsel for the petitioner require consideration of this Court after filing counter, but having regard to the facts and circumstances of the case, this Court deems it appropriate to pass equitable order in the interest of justice.

In view of the above, there shall be a direction to the respondents to restore power supply to the petitioner's Service Connection No. 7231129001737, subject to the petitioner paying half of the provisionally assessed amount of Rs.4,21,138/-. It is made clear that the petitioner



herein shall clear the other arrears, if any, and shall also continue to pay the monthly bills. It is further made clear that the amounts, if any, paid by the petitioner herein, pursuant to the provisional assessment order Dt.23.06.2019, shall be given credit to the above said amount. This order will ensure to the benefit of the petitioner herein in the event of the petitioner complying with all the above requirements and, if the petitioner herein fails to adhere to any one of the conditions stipulated above, it is open for the respondents herein to take action as per law”.

08. On perusal of the earlier orders of this Forum in C.G.No.281/2019-20, Appeal No.19/2020 and representation No.10 of 2021-22 of the Hon'ble Vidyut Ombudsman and the interim order of the Hon'ble High Court in IA Nos.01 and 02 of 2021 in W.P. No. 16562 of 2021, this Forum opines that the issue already decided by this Forum and the Hon'ble Vidyut Ombudsman in the earlier proceedings and which is the subject matter of W.P.No.16562 of 2021 before the Hon'ble High Court and the issue in the present complaint are one and the same. Because, here the present complaint was filed on the allegation that the respondents issued the provisional assessment order (PAO) contrary to Clause 12.3.3.2 (iii) of GTCS which was already considered and



rejected by this Forum in the earlier proceeding in C.G.No.281/2019-20 which was upheld by the Hon'ble Vidyut Ombudsman while dismissing the representation of the complainant and the complainant aggrieved by the order of the Hon'ble Vidyut Ombudsman challenged the provisional assessment order (PAO) by filing W.P. No.16562 of 2021 which is now pending before the Hon'ble High Court for consideration. The present complaint is filed alleging that the respondents have collected more than 50% of the PAO amount contrary to the interim orders of the Hon'ble High Court. But, the Hon'ble High Court in the interim order itself clearly stated that the complainant shall clear the other arrears and shall continue to pay the monthly bills and accordingly the respondents issued the demand notice for the CC charges besides 50% of the PAO amount which was under challenge. Hence, this Forum is of the opinion that the issue which is the subject matter of W.P.No. 16562 of 2021 and the issue which is the subject matter of this complaint are one and the same and between the same complainant and the respondents.

09. *Clause.10.2 (a) of Regulation No.03 of 2016 reads as follows:*

The Forum may reject the complaint at any stage under the following circumstances:



“In cases where proceedings in respect of the same matter and between the same Complainant and the Licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority”

10. Since the subject matter of the complaint filed by the complainant before this Forum and the subject matter of W.P.No. 16562 of 2021 pending before the Hon'ble High Court of A.P. are one and the same, we have no hesitation to hold that this complaint is not maintainable and is liable to be rejected under Clause.No.10.2 (a) of Regulation 03 of 2016. If, the complainant think that the respondents have collected the amounts contrary to the interim order passed by the Hon'ble High Court in W.P. No.16562 of 2021, if he is so advised, he can initiate action against the respondents for violation of the interim orders of Hon'ble High Court of A.P. but he cannot raise the same issue before this Forum by filing this complaint when the subject matter of this complaint is seized by the Hon'ble High Court of A.P. in pending W.P. No.16562 of 2021. Accordingly, these points are answered.

11. ***In the result***, the complaint is rejected. There is no order as to costs.



12. The complainant is informed that if he is aggrieved by the order of the Forum, he may approach the Hon'ble Vidyut Ombudsman, 3rd Floor, Plot. No.38, Adjacent to Kesineni Admin Office, Sriramachandra Nagar, Mahanadu Road, Vijayawada-08 in terms of Clause.13 of Regulation.No.3 of 2016 of Hon'ble APERC within 30 days from the date of receipt of this order and the prescribed format is available in the website vidyutombudsman.ap.gov.in.

Typed to dictation by the computer operator-2 corrected and pronounced in the open Forum on this 01st day of December'2023.

Venky 01/12/2023

CHAIRPERSON

R. Ramesh Babu
Member (Finance)

S. Srinivasulu Reddy
Member (Technical)

G. Eswaranna
Member (Independent) *1/12/2023*

Documents marked

For the complainant: Nil

For the respondents: Nil

Copy to the

Complainant and All the Respondents

Copy Submitted to

The Chairman & Managing Director/Corporate Office/APSPDCL/ Tirupati.

The Hon'ble Vidyut Ombudsman, 3rd Floor, Plot No.38, Sriramachandra Nagar, Vijayawada-08.

The Secretary/Hon'ble APERC/Hyderabad-04.

The Stock file.

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