

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

This the 07th day of February' 2024

C.G.No.21/2023-24/Nellore 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

M's. Jagadeeswari Ice Factory, D.No.4/354,
Vijayagopalapuram, Nellore.

Complainant

AND

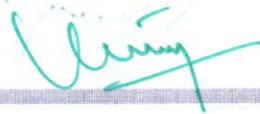
1. Assistant Accounts Officer/Nellore Town-II
2. Dy. Executive Engineer/O/Rammurthy Nagar
3. Executive Engineer/O/Nellore Town
4. Chief General Manager/R&IA/APSPDCL/Tirupati

Respondents

This complaint came up for final hearing before this Forum through video conferencing on 02.02.2024 in the presence of the complainant and respondents and having considered the complaint and submissions of both the parties, this Forum passed the following:

ORDER

01. The complainant filed the complaint stating that they have service connection SC. No. 3321306039060 and the respondents added interest on electricity duty to the CC charges in the bill from January'2021 without any reason and the complainant is not liable to pay interest on Electricity Duty (ED) and thereby requested to revise the bill.



02. The said complaint was registered as C.G.No.21/2023-24 and notices were issued to the respondents calling for their response. The respondents submitted their response stating that as per APERC proceedings, FSA amounts are included in the CC bills from February'2011 to June'2011 for the consumption during the months November'2008 to March'2009 and the complainant along with group of consumers filed W.P.No.2884/2011 before the Hon'ble A.P. High Court challenging the adding of FSA charges in the CC bills and the said Writ Petition was allowed by the Hon'ble High Court and the respondents preferred an appeal W.A. No. 14370/2015 before the Hon'ble Supreme Court and it is now pending and as such the present complaint is not maintainable under law. It is further submitted that the complainant is paying the amounts shown in CC bills excluding the FSA charges and surcharge and there is no possibility at this level for non-levying of interest on electricity duty.
03. Heard both the parties through video conferencing. The complainant submitted memo of arguments.
04. Now the point for determination is:

“Whether the petition is maintainable under Clause 10.2 of Regulation 03 of 2016 since the subject matter of the Appeal before the Hon'ble Supreme Court and this complaint are one and the same”?

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05. **Point:** According to the complainant, the Hon'ble High Court allowed W.P.No.2884/2011 filed by him against inclusion of FSA charges in the regular CC bills and set aside the action of the respondents in including the FSA charges in CC bills and the respondents against the said order of Hon'ble High Court preferred an appeal W.A.No.14370/2015 and the same is still pending before the Hon'ble Supreme Court and contrary to the judgment of the Hon'ble High Court, the respondents are claiming FSA charges and interest on it which amounts to contempt. The complainant demanded for separation of arrears of FSA amount from regular CC bills by showing the same under litigation subject to the final verdict of the Hon'ble Supreme Court in W.A.No.14370/2015.
06. The respondents submit that since the appeal is pending before the Hon'ble Supreme Court, this complaint is not maintainable under Law but however, subsequent to filing of the complaint, they effected changes in the software and now they are not showing the FSA charges and interest on ED, in the present bills.
07. We have considered the respective contentions of both the parties. It is an admitted fact that the complainant filed W.P. No. 2884/2011 before the Hon'ble A.P. High Court challenging the inclusion of FSA charges in CC bills and the said Writ Petition, was allowed by the Hon'ble High Court

Verifying

setting aside the order passed by the APERC and consequential demands made by DISCOMs claiming FSA charges. It is also an admitted fact that APSPDCL preferred an appeal W.A.No.14370/2015 against the order of the Hon'ble High Court and now the said appeal is pending before the Hon'ble Supreme Court.

08. The grievance of the complainant under this complaint is that inspite of the judgment of the Hon'ble High Court of A.P. in W.P. No.2884/2011 setting aside the claiming of FSA charges and during the pendency of the appeal W.A.No.14370/2015, the respondents are claiming FSA charges and interest on ED and the action of the respondents amounts to contempt of the judgment of the Hon'ble High Court and the respondents are to be directed to separate the alleged arrears of FSA charges from regular consumption charges bill.

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

"The Forum may reject the complaint at any stage 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 authority or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority".

10. In the case on hand, admittedly the complainant challenged inclusion of FSA charges in the CC bills by filing a Writ Petition before the Hon'ble

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A.P. High Court and it was allowed and the respondent's department preferred an appeal W.A. No. 14370/2015 before the Hon'ble Supreme Court and the said appeal is still pending for disposal. The subject matter of the Writ Petition was inclusion of FSA charges in the regular CC bills and the Hon'ble High Court set aside the inclusion of FSA charges but the respondent's department preferred Writ Appeal which is now pending before the Hon'ble Supreme Court. In the case on hand also the subject matter is inclusion of FSA charges and interest on arrears of the said charges by respondents. This Forum is of the considered view that since the appeal W.A.No.14370/2015 with regard to the same subject matter between the same parties is pending before the Hon'ble Supreme Court, this Forum cannot entertain the complaint for want of jurisdiction in view of Clause No.10.2 (a) of APERC Regulation.No.03 of 2016. Even otherwise, according to the respondents, previously because of the old software, the FSA charges and interest on the arrears were shown in the regular CC bills in a routine manner, but subsequent to the complaint, they made changes in the software and now the FSA charges and interest/surcharge are not shown in the present CC bills and the same will be realized subject to the result of the W.A.No.14370/2015 of the Hon'ble Supreme Court. Hence, if the complainant is still not satisfied with the action of the respondents and feel

Verity

that the respondents are acting against the judgment of the Hon'ble A.P. High Court, in view of pendency of the appeal before the Hon'ble Supreme Court, the complainant, if so advised, is at liberty to initiate contempt proceedings against the department and not by way of filing complaint before this Forum. Accordingly, the point is answered.

11. In the result, the complaint is rejected under Clause 10.2 (a) of APERC Regulation.No.3 of 2016. 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 07th day of February'2024.


CHAIRPERSON


Member (Finance)


Member (Technical)


Member (Independent)

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.

