VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: **R. DAMODAR**

Monday, the Nineteenth day of October 2015

Appeal No. 43 of 2015

(Old Appeal No. 88 of 2014)

Preferred against Order Dt. 05.08.2014 of CGRF In

CG.No: 176/2014 of Ranga Reddy South Circle

Between

M/s Aware, represented by Sri. G Manzoor, Director Administration, 5-9-24/78
Pragathi Bhavan, Lake Hill Road, Hyderabad - 500 063. Cell 900801042

…….. Appellant

AND

1. The AE/OP/Maheshwaram/TSSPDCL/RR Dist.
2. The ADE/OP/Mamidipally/TSSPDCL/ RR Dist.
3. The AAO/ERO/Champapet/TSSPDCL/ RR Dist.
4. The DE/OP/Champapet/TSSPDCL/ RR Dist.

……. Respondents

The above appeal filed on 23.12.2014 came up for final hearing before the Vidyut Ombudsman, Telangana State on 27.08.2015 at Hyderabad in the presence of Sri. Gulam Manzoor Ahmed - Appellant and Sri. P Hanumanth Reddy - ADE/OP/Mamidipally and Sri. D Bhupal Reddy - AAO(I/C), for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant is stated to be a non profit, non governmental development organisation working for the uplift of SC and ST communities in rural and tribal arrears for the last 39 years. The Appellant established a campus to provide training and development in the areas of agriculture and other programmes at Mohabbat nagar village, Maheshwaram mandal, RR district. The Appellant claimed that they have 13 agriculture service connections and Out of them, for 9 Service Connections the borewells dried up before 2003 leaving only 4 borewells.

There has been no farming activity ever since. These 13 agriculture service connections remained in the records of the respondents, who have been demanding payment of arrears. No regular bills have been received by the Appellant from the Respondents for all the Agriculture Service Connections. The Respondents have disconnected all the service connections and also the link services existing in the name of the Appellant for non payment of arrears.

2. The Appellant claimed that for the 4 working borewells, it paid an amount of Rs 64,318/- on 30.6.2012 against agriculture service connection nos 2320 00175, 2320 00176, 2320 00177 and 2320 00178. The Appellant claimed to have agreed to pay Rs 1,13,774/- representing dues arrived at in the month of August, 2007 for the 9 non working agriculture service connections and Rs 50,897/- representing dues for 4 agriculture connections, in the month of July, 20113 and this amount was paid on 28.08.2013. The Appellant, while paying this amount, claimed that it was towards full settlement and this was not responded to by the Respondents.

3. The Appellant claimed that out of working 4 borewell service connections, 2 services i.e 2320 00176 and 2320 00177 (for short 176 and 177) were billed under free category and they require to be converted to paid category. The Appellant asserts that this conversion has to be done w.e.f 23.10.2013, the date of recommendation of AE/OP/Maheswaram and whereas, this conversion was done w.e.f April, 2006 (back billing). On conversion of these 2 services, the Respondents have raised a demand for Rs 1,05,626/- each against these 2 services totalling 2,111,252/- from April,2006 at an average consumption of 625 units per month and the request of the Appellant to consider the conversion from October, 2013 was not considered by the Respondents. The Appellant sought a direction to the effect that a settlement was mutually arrived at with regard to 9 not in use services for payment of Rs 1,13,774/- being used till August, 2007 and to withdraw conversion of 2 services with retrospective effect i.e April,2006.

4. The 2nd Respondent filed written submission admitting that the Appellant had 13 agriculture service and 14 domestic service connections. The Appellant, by letter dt. 30.6.2012, represented that only 4 agriculture connections were used by them and the rest 9 numbers bearing numbers 2320 00054,2320 00057,2320 00058, 2320 00086, 2320 00087, 2320 00007,2320 00055, 2320 00169, 2320 00170 were not in use and requested for their dismantlement. As per the proposal of the

AE/O/Maheshwaram, the 3rd Respondent kept these 9 services under bill stop status w.e.f from November,2012. The 1st respondent inspected the Appellant service connections in August, 2013 and discovered that the Agriculture service connections 2320 00 176 and 2320 00 177 were billed under free category instead of paying category. He got the **meters fixed to these 2 services** and sent proposals to the 3rd Respondent to raise demand from April 2006 to October 2013 by taking an average consumption of 625 units per month.

5. The 2nd Respondent claimed that the VRO had certified that the 9 Services Connections were was not in use since, 2008. Out of the 9 Service Connections, he claimed that the Appellant paid all the arrears against the 3 services as on August, 2007 and part amounts to the balance services indicating that the Appellant has been getting the bills regularly.

6. The 3rd Respondent through a letter dt. 17.7.2014 submitted about the proposal sent by the 1st Respondent for dismantlement of 9 agriculture service connections mentioning the date of disconnection as August, 2007 and also about conversion of free category service connection numbers 232 000176 and 232 000177 into paying category and about the 1st Respondent sending proposals to raise the demand from April, 2006 by taking an average consumption of 625 units per month and about the demand raised accordingly.

7. The CGRF, after hearing both sides and on consideration of the material on record, found on the basis of the Energy Billing System statement of the Appellant's services, that the Appellant had requested for dismantlement, the Respondents have been raising bills every month with an average of 625 units without fixing meters and without physically verifying whether the Appellant has been availing supply or not under paying category. Further Agriculture services under paying category shall be metered from April, 2005 and billed monthly based on the consumption recorded, as per the rules. The CGRF further found that the Respondents in the present case, have not fixed the meters, have not served the bills and instead raised bills with an average of 625 units per month which is not tenable, that the Respondents issued notice to the Appellant duly raising bills against the 2 services under paying category retrospectively from April, 2006 without following the clause 3.4.1 of GTCS for conversion of category and as per this clause, the Respondents can only bill the agriculture services retrospectively

for 3 months, while reclassifying the consumer category and so finding, issued the following directions:-

i. Respondents to dismantle 9 agriculture services considering disconnection w.e.f August, 2007 as per the recommendation of the 1st Respondent on completion of 4 months from the date of disconnection against 9 services which the Appellant requested for dismantlement.

ii. To consider the reclassification of consumer category from free to paying category against SC numbers 176 and 177 from 3 months before the date of inspection and fixing of meters i.e from May, 2013 and revise the bills, through the impugned orders.

8. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal.

9. The 2nd Respondent submitted a detailed reply to the effect that the premises of the Appellant was inspected again and found that the 13 services spread over in 50 acres of land was without any activity except in a limited area. A major part of the area was covered by wild growth and a person cannot freely move to the service connections. The 2nd Respondent further claimed that due to oversight, the Respondents have stated before CGRF that the meters were fixed to SC Nos 23220 00176 and 2320 00177 in May, 2013 which is not correct and that these meters were fixed actually to SC NOs 2320 00178 and 2320 00179 prior to 2006 as per the statement of the old staff. Basing on this information, he (R2) recommended to R3 to raise demand by changing the category from free to paying, based on the meter reading and to issue final bill for remaining 9 services to be dismantled. In view of the meter reading available to service connections 176 and 177 which were fixed prior to 2006 and found on verification, reported vide letter addressed to this institution on 17.07.2015 and also the fact that the Appellant utilised the power supply, steps were taken to revise the bills to avoid revenue loss to the DISCOM.

10. The 3rd Respondent AAO/ERO/Champapet submitted a reply dt. 17.7.2015 additionally stating that the CGRF has not passed any orders to waive the penalty on the arrears as on the date of disconnection and has directed to consider reclassification of the services from free to paying. **The 2 services in question 176 and 177 had meters fixed from the date of supply** and the consumer has been

utilising the power supply and therefore, it may not possible to consider reclassification from October, 2013.That the final bills were prepared and penalty on outstanding arrears against 9 services to be dismantled has been calculated and bills were raised. The request of the Appellant for waiving penalties on the dismantled services and also the converted services is not justified.

11. The 2nd and 3rd Respondents filed a common detailed report stating additionally that the 2nd Respondent conducted physical inspection along with Respondent No. 1 of the Service Connections on 30.08.2015 and found 9 service connections were not in use and 4 service connections were in use with 2 service connections having meters being billed under paying category since 2005 while the other 2 service connections were billed under free category **with meters available since 2005**. Since there was no access to the meters in view of wild growth, the services remained unbilled and they are Service Connection No. 2320 00 177 meter no 348 550, make HPL CAP 10-40A, check reading 24162.30 and SC No. 2320 00 176, METER NUMBER 348 880 MAKE HPL Cap 10-40A, check reading 34246.50 as on 30.8.2014. They claimed that these 2 service numbers were wrongly converted to free category in the year 2005 (**DUE TO MIGRATION OF SOFTWARE ENERGY BILLING SYSTEM)** and these 2 service connections were being billed under free category and therefore, the meter reading was not taken by the billing staff and thus the reading (consumption) got accumulated and there was no ready access to the meters. They claimed that for these 2 service connections, from April, 2005 to August, 2014, bills were generated by converting into paying category with check reading on meters for an amount off Rs 52,006/- as against SC No. 2320 00176 and Rs 36,699/- as against SC No. 2320 00177.

12. The 1st and 2nd Respondents further claimed that since the appellant had consumed the power, back billing was resorted to from the date of fixing of meter to the date of check reading and that the Appellant has requested for waiver of surcharge raised against arrears pending as on the date of disconnection, which is against the tariff orders and GTCS and that the request of the Appellant to limit back billing for 6 months, is against the terms of GTCS.

13. In view of the stated position of both parties, efforts to bring in settlement by way of mediation could not succeed and therefore, the matter is being disposed

off on merits.

14. Heard Both sides.

The following points arise for determination.

i. Whether the meters were fixed to SC Nos 2320 00176 and 2320 00177 prior to 2006 and whether the Appellant is liable to pay consumption charges based on the meter reading?

ii. Whether the Appellant is not liable to pay delay surcharge payment on the Service Connections having arrears as on date of disconnection?

iii. Whether the impugned orders are liable to be set aside?

ISSUES 1 to 3

15. The Appellant submitted a representation dt. 28.7.2012 for dismantlement of 9 agricultural services which were in disuse. It claimed that out of the four agricultural services in use, meters were fixed in June, 2013 and bills were raised as per the consumption recorded in the meter. No consumption was recorded against the free category services bearing no 232 000176 and 232 000177 which were recommended for conversion into paying category on 28.10.2013. The 1st Respondent, the AE/OP/Maheshwaram had physically inspected the premises of the Appellant on 23.10.2013 and found 9 agriculture services in disuse, 4 similar services were in use out of which 2 services were billed in agriculture free category. He recommended for dismantlement of 9 services, taking the date as August, 2007 and at the same time, change of category from free to paying taking the average assessed consumption of 625 units per month from April, 2006 to October 2013. The CGRF directed the Respondents to revise the bills from 3 months before the date of inspection. It was about 2 years later, the 2nd Respondent conducted physical inspection on 30.08.2015 along with Respondent No.1 and found that SC No. 176 and 177 infact had meters and they were fixed prior to 2006. He claimed that the 2 service connections designated as free services were wrongly converted into free category in the year, 2005 due to migration to software (Energy Billing System). It is claimed by the Respondents that the reading was not taken by the billing staff **BECAUSE THERE WAS WILD GROWTH AND WITHOUT ANY ACCESS TO THE METERS.**

16. When questioned about what steps were taken to gain access to the meters, there was no satisfactory response from the Respondents. They could have reminded the Appellant to clear the way and get access to the meters. Everything has been done in a laid back manner creating the present dispute. There was total inaction on the part of the billing staff to get access to the meters for long. They have not reported the matter to the Respondents or complained against the Appellant saying that they were denied access to the meters.

17. Originally when these two service connections 176 and 177 were released the Respondents have no record. They merely state that their staff revealed that they were released earlier to 2006. This is the state of affairs. The Respondents billed the two service connections for Rs 1,05,626/- each from April, 2006 onwards taking 625 units as average monthly consumption. Now the 3rd Respondent AAO has raised billing on the two service connections from April, 2005 to August, 2014 for an amount of Rs 52,006/- on SC No. 176 and Rs 36,699 on SC No. 177 based on the report submitted by the ADE wherein it was stated that meters were available and readings were accumulated, billing staff had not taken the readings since long due to no access to the meters. The Appellant is now questioning the back billing on the ground that average consumption should be taken from May, 2013 to August, 2014 based on the units consumed by two running connections 175 and 178 (not the disputed Service Connections) at the rate of Rs 831/- per month. When the meter readings are available, only the readings have to be taken and not the assumed average. Therefore the billing has to be based on the consumption recorded in the two meters of SC Nos 176 and 177. Hence the question of back billing based on clause 3.4.1 and in its amended version of GTCS does not arise.

18. The Appellant sought an order to the Respondents not to raise surcharge on the ground that the 9 service connections had no dues and therefore, surcharge claimed by the Respondents is untenable and is liable to be set aside.

The CGRF on this aspect directed the Respondents to dismantle 9 service connections w.e.f August, 2007 as per the recommendation of the 1st Respondent on completion of 4 months from August, 2007. There is no order on billing surcharge. The Respondents are specifically claiming that since there is no order to waive surcharge by the CGRF, they were billing surcharge. There were dues against 6 service connection as given in the table:

SL NO	SERVICE NO	Balance AS On 08/2007	Minimum charge for 3 months	S/C 08/2014	Amount paid	Net to be paid
1	2320 00054	15219	120	14863	3846	26356
2	2320 00055	15220	120	14863	3846	26357
3	2320 00057	36153	120	37464	3846	69891
4	2320 00058	15220	120	15819	3846	27313
5	2320 00086	14223	120	13559	3846	24056
6	2320 00087	14223	120	13559	3846	24056
7	2320 00176	0	0	0	0	46586
8	2320 00177	0	0	0	0	31277

19. The above table clearly shows that there were dues against items 1 to 6 Service Connections as on date of disconnection. It also shows that they were no dues against three service connections which are not shown in the table. The dues against SC Nos 176 and 177 are shown as nil. The Appellant was not issued the bills for payment as against Sl Nos 1 to 6 apparently and there was no payment. Why the bills were not issued is not satisfactorily explained by the Respondents to these services. Hence the Respondents cannot burden the Appellant with delay surcharge payment.The SE/OP to enquire into the matter, fix responsibility on the billing staff who were negligent in not reading consumption, issue of demand notice, recover the amount representing delay payment surcharge on the above mentioned 6 Service Connections with promptitude.

Issues 1 to 3 are answered accordingly

20. In view of the findings on issues 1 to 3, the Appeal is disposed of directing as follows:

a. The meters were found fixed prior to 2006 and available to SC Nos 176 and 177 which came to light only after re-verification by the 2nd Respondent as disclosed in his letter dt 17.07.2015. The Respondents shall bill these two services as per the readings available, without

imposing delay payment surcharge.

b. There was miscommunication to CGRF that the meters were fixed to SC No 176 and 177 in May, 2013 and whereas, actually these meters were fixed to SC No 178 and 179.

c. The Appellant is not liable to pay delay surcharge payment on arrears over SC Nos at Sl Nos 1 to 6 shown in the table above.

d. The SE/OP to enquire into the matter over not taking reading of the meters on the allegation of no access, not billing the consumption, non issue of demand notice, non collections of bills and arrears and inconsistency in making representation before CGRF, and fix the responsibility and recover the amount representing the delay payment surcharge from those found responsible.

e. The Appeal is allowed partly and the impugned orders are confirmed to the extent indicated.

Corrected, Signed & Pronounced on this the 19th day of October, 2015.

Sd/-

VIDYUT OMBUDSMAN

1. M/s Aware, represented by Sri. G Manzoor, Director Administration, 5-9-24/78 Pragathi Bhavan, Lake Hill Road, Hyderabad - 500 063. Cell 900801042.

2. The AE/OP/Maheshwaram/TSSPDCL/RR Dist.
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5. The DE/OP/Champapet/TSSPDCL/ RR Dist.

Copy to:

6. The Chairperson, CGRF,Greater Hyderabad Area, TSSPDCL, Vengal Rao Nagar, Hyderabad.
7. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad.