



BEFORE THE ELECTRICITY OMBUDSMAN

9/2,6th Floor, Mahalakshmi Chambers, M.G Road, Bangalore-560001

Present: B.R.Jayarama Raje Urs,IAS (Retd)
Electricity Ombudsman

Case No.OMB/B/G-208/2015

Dated: 30th June 2015

M/s. Vijaya Steels Limited,
84/1,Kallanayakanahalli,Anchepalya
Near 220 KV sub-Station, Kunigal
(By Mr.Sridhar Prabhu, Advocate)

... Appellant

V/S

1. The Assistant Executive Engineer(EI)
BESCOM,O&M Sub-Division, Kunigal
Tumukuru District
(By Sri G.Vinayak, Law Officer, BESCOM)

2. The Chairperson,CGRF,
Tumkur Circle Office,BESCOM,
Shivakumarswamy Circle,
Kothithopu Road,
Tumkur-572102

... Respondents

1. This is an appeal under clause 22.02 of KERC(CGRF& Ombudsman) Regulations,2004,against the orders passed by the CGRF, Tumukuru District,

Tumkuru (hereinafter referred to as the 2nd Respondent) vide its No. SES/SPA/TKR/14-15/10345-50 dated 12/3/2015 in regard to the complaint filed by the appellant company against the demand raised by the 1st respondent for Rs 1,04,79,225/ on the basis of audit report. The CGRF declined to interfere in the orders passed by the 1st Respondent. Aggrieved by the orders passed by the CGRF, the appellant company has submitted its case as under:

- (i) The appellant, M/s. Vijaya Steels Limited, situated at Sy. No.84/11,Kallanayakanahalli,Anchepalya,Near 220 KV station, Kunigal Taluk is a registered consumer of BESCO. Installation bearing RR No KEHT-1 stands in the name of the appellant company and was serviced on 03.02.2007 under HT-2a(ii) tariff category with a sanctioned load of 10500 KVA.
- (ii) The appellant company was paying Electricity bills regularly without any default. When things stood at this, the appellant company received a demand for Rs. 95,70,041/- from BESCO based on audit report. The appellant company disputed this claim dated 6.08.2012. However, BESCO reiterated its claim dated 14.08.2012. Thereafter, the 1st respondent issued one more demand dated 22.08.2012 claiming Rs. 1,04,79,225/- and also informing that he would adjust to the above arrears from out of the refundable amount of Rs. 41,43,155/- which was received from the Division Office Tumkuru through JV No 39 dated 16th July, 2012. Further advised the appellant company to pay the amount of Rs. 63,36,070/- within 15 days from the receipt of the letter to avoid unpleasant action. Aggrieved by this decision, the

appellant company filed a complaint before the CGRF which was registered vide No CGRF/179/2012/1970-75. The CGRF, after hearing the parties passed orders, setting aside the order passed by the 1st Respondent and directing the 1st Respondent to initiate action under clause 29.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. Pursuant to the above, the appellant company received a letter dated 12.10.2012 along with the bill for Rs. 1,04,79,225/-. The appellant company was invited to attend a meeting dated 18.10.2012 in the Office of AEE(EI) O&M Sub Division. However, the appellant company could not attend the meeting as it had been convened at a short notice and the appellant company further informed that the appellant company had engaged an advocate to represent the case and more over, there was no provisional assessment order from the 1st Respondent on which the consumer was required to file objections.

- (iii) Subsequent to the above, on 19.10.2012, the officials of the 1st Respondent visited the place of the appellant company under the guise of explaining the present situation to the officials without any notice. After discussions, the 1st Respondent obtained a signature from an official of the appellant company on the statement drawn in Kannada which language he was not fully conversant with and by explaining that it was only a formality. Subsequently, the appellant company received an order from the 1st respondent dated 19.10.2012 stating that he had assumed that the appellant company had agreed to their claims in regard to the TOD differentials. The appellant company challenged this demand

before the CGRF. However, CGRF passed order dated 27.04.2013 rejecting the pleas of the company. Aggrieved by this order, the appellant company filed an appeal before the electricity Ombudsman vide case No. OMB/G-150/2013/326. Hon'ble Ombudsman, after hearing the appeal, passed orders remanding the case to the 1st respondent to pass fresh orders following Clause 29.03 of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. Thereafter, the 1st Respondent wrote a letter dated 1.04.2014 terming it as a provisional assessment order demanding a sum of Rs 1,04,79,224/. This was disputed by the appellant company. Thereafter, nothing was heard from the 1st Respondent and the appellant company thought its representation had been accepted. Hence, the appellant company did not correspond any further. Nearly after 6 months, the appellant company received a letter purportedly the final order passed by the 1st Respondent. Aggrieved by the order, the appellant company approached CGRF and sought interim relief and the CGRF refused to pass any interim order and hence the appellant company filed this appeal.

2. The 1st Respondent's response was called vide this office letter No OMB/B/G-150/2013/326 dated 13.12.2014.

3. The 1st Respondent in his counter admitted the subject installation having been serviced on 03.02.2007 under HT-2a(ii) tariff schedule with a sanctioned load of 10,500 KVA in the name of the appellant company. Further, added that T.O.D tariff was applicable to the consumer where contract demand exceeded 500 KVA. The appellant company, in the instant

case, opted for Time of day tariff in the month of October 2010. Later in March, 2012, it was noticed that TOD bills issued from December, 2010 to March, 2012 had been erroneous. After correcting the TOD bills for the said period, revised short claims were made for Rs 1,04,75,225/- and the same was communicated to the company. Further, as per the directions of this Hon'ble authority, a provisional assessment orders with a calculation sheet had been issued to the company on 05.04.2014 calling for its objections, if any. In pursuance to this provisional order, the appellant company filed objection on 22.04.2014 claiming that it was not liable to pay the demand. Since the objections had not been valid, the same had been rejected and final assessment orders had been passed. The 1st Respondent submitted that the appellant company had not disputed the meter reading and the units of power consumed.

4. The 1st Respondent added that TOD bills were being generated as per KERC tariff order applicable to HT2(a), HT2(b) and HT2(c) i.e. "increase+/reduction(-) in energy charges over the normal tariff applicable". The normal tariff applicable in case of the appellant company was HT2(a) which includes slab rates. Hence, the contention of the appellant that slab rates were not applicable to it could not be accepted and hence the appellant company was bound to pay the TOD differential amount.

5. Case was taken up for hearing on 20.05.2015. On behalf of the appellant company, Mr. Shridhara Prabhu, Advocate was present and submitted that the appellant company had surrendered one installation belonging to it to BESCO and hence BESCO was liable to refund security deposit collected towards that installation i.e. Rs. 41,43,155/- along with interest. Further, the appellant company was prepared to forego interest on

this amount i.e. Rs.41,43,155/- provided BESCO too agreed to forego interest on the amount payable by the appellant i.e. Rs. 1,04,75,225/-.

6. Shri Vinayaka, Law Officer, who appeared for BESCO submitted that he had no objection to the offer made by the appellant company but BESCO needed some time to issue revised bill after adjusting the security deposit held by it relating to the other installation belonging to the appellant company against the current dues. This authority granted time till 29.05.2015 to sort out the issue.

7. On 29.05.2015, counsels for both parties appeared, and on behalf of the appellant company, Mr.Sridhar Prabhu, Advocate requested BESCO for grant of 24 instalment to pay the balance amount I.e Rs. 63,32,070/-. Shri Vinayaka counsel for BESCO sought time to place this issue before BESCO management and get appropriate orders. Time was granted and the case was adjourned to 08.06.2015. Later, several adjournments were granted as BESCO pleaded for more time to get clearance from their management.

8. Finally, on 29.06.2015 BESCO submitted that it was ready to grant 18 equal monthly instalments starting from July 2015 to the appellant to clear the arrears i.e Rs. 63,32,070/- along with interest. The appellant accepted the offer during the hearing.

9. In the light of the agreement reached between the parties, the following order is passed.

ORDER

In view of the settlement arrived between the appellant company and the 1st Respondent, the case is disposed in terms of the following:

- (i) The appellant company to pay the balance amount due to BESCO i.e Rs. 63,32,070/- in 18 equal monthly instalments starting from July 2015 along with interest.
- (ii) BESCO not to levy interest on Rs. 1,04,75,225/- due from the appellant company.
- (iii) The appellant company not to claim interest from BESCO on Rs. 41,43,155/- held by BESCO in connection with other installation belonging to it.


(B.R.Jayaramaraje Urs)
Electricity Ombudsman

1. Mr.Sridhar Prabhu, Advocate, Link Legal, No.10, 1st Floor, 12th Main Road, Palace Road, Bangalore – 560 052.
2. The Superintending Engineer & Chairperson, CGRF, Tumkur Circle Office, BESCO, Shivakumarswamy Circle, Kothithopu Road, Tumkur-572102.
3. The Assistant Executive Engineer(EI), BESCO,O&M Sub-Division, Kunigal, Tumukuru District.
4. Sri G.Vinayak, Law Officer, BESCO, Corporate office, K.R.Circle, Bangalore- 560 001.

5. Managing Directors of ESCOMs.
6. PS to Hon. Chairman, KERC
7. PS to Hon'ble Member (A), KERC
8. PS to Hon'ble Member (M), KERC
9. Secretary, KERC