



TAMIL NADU ELECTRICITY OMBUDSMAN

19- A, Rukmini Lakshmipathy Salai, (Marshal Road),
Egmore, Chennai – 600 008.

Phone : ++91-044-2841 1376 / 2841 1378/ 2841 1379 Fax : ++91-044-2841 1377

Email : tnerc@nic.in

Web site : www.tneo.gov.in

Present : Thiru A. Dharmaraj, Electricity Ombudsman

Appeal Petition No. 35 of 2015

M/s.Hindustan Steel and Alloys
67, Avarampalayam Road,
K.R. Puram,
Coimbatore – 641006.

..... Appellant
(Rep by Thiru. C. Varadarajan,
Dy. General Manager)

Vs.

The Superintending Engineer,
Coimbatore EDC / North,
TANGEDCO,
Tatabad, Coimbatore .

..... Respondent
(Rep by Thiru S. Sridhar,
Asst. Accounts Officer)

Date of hearing : 23.7.2015

Date of Order : 7.8.2015

The Appeal Petition dated 02.04.2015 filed by M/s.Hindustan Steel and Alloys, Coimbatore-6 was registered as Appeal Petition No.35 of 2015. The above appeal petition came up for hearing before the Electricity Ombudsman on 23.07.2015. Upon perusing the appeal petition, counter affidavit and after hearing both sides, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the appellant:

The Appellant prayed to issue necessary direction to the Superintending Engineer to effect the new service connection at the earliest.

2. Brief history of the case:

- 2.1. Appellant has purchased the premises owned by M/s Sri Ramakrishna Steel Industries Ltd., They have taken over the possession of the above premises thro official liquidator, High Court of Madras on 16.2.2006.
- 2.2. M/s Sri Ramakrishna Steel Industries Ltd., had obtained a HT service connection bearing No.26 in the above premises and the service was disconnected for non payment of CC charges for the month of February 1998 and the outstanding due is Rs.14,15,190/-
- 2.3. M/s Hindustan Steel and Alloys who purchased the said premises have requested for an LT service connection in the said premises
- 2.4. The Respondent refused to effect a new LT service connection in the said premises as the outstanding due was not paid either by the Appellant or by the official liquidator.
- 2.5. The CGRF of Coimbatore EDC/North has also dismissed the petition stating that only on payment of the arrears either by the Appellant or by the official liquidator service could be effected in the said premises.
- 2.6. Aggrieved by the order of the CGRF, the Appellant filed this appeal petition before the Electricity Ombudsman.

3. Contentions of the Appellant:

- 3.1. The existing Sri Ramakrishna Steel Industries was in liquidation and as per the court order dated 13.12.2001 made in CP No.251/2001 the official liquidator has taken position of the assets and effects of the said company and as per the court order dated 18.5.2005 made in CA 1594/2004 confirmed the sale of land and building of the said company in favour of her, new purchaser and executed the necessary sale deed in favour of Hindustan Steel and Alloys.
- 3.2. They have applied for a new LT supply connection to prevent theft of machineries and the materials.
- 3.3. TANGEDCO demanding to pay the pending arrear amount of Rs.14,15,190/- for effecting the new supply in the same premises.
- 3.4. As per the sale tender notice terms and condition given in page no.4 column No.18 the arrears of municipal tax, land tax betterment levy if any should be paid by the purchaser in respect of immovable property of the company in liquidation and all other liabilities such as ESI, PF, Sales Tax, Electricity and others will be settled by the Court only.
- 3.5. In this connection the claim of arrears amount of Rs.14,15,190/- pertaining to M/s Sri Ramakrishna Steel Industries has been pending with official liquidator, High Court of Madras and the Board has filed Form No.66 before the official liquidator. In a similar case of M/s Sri Visalakshi Private Limited Madurai arrears amount pending with official liquidator High Court of Madras the TNEB legal cell opined that it is not a bar to proceed with the request of the intending consumer. The legal advisor has also issued a opinion as above to Additional Chief Engineer, Coimbatore EDC/North, Coimbatore.
- 3.6. For the arrear of the Electricity charges they have also collected the form 66 from the SE/CEDC/North Coimbatore vide their office letter No.Nil dated 22.1.2010.
- 3.7. That also acknowledged by the official liquidator vide their letter No. 493/2002/CRS dated 23.2.2010 and they replied that "the form No.66

- claimed have been originally filed by you on 28.1.2006 and it is hereby informed that your claim will be attended to by this office, on merits”
- 3.8. As per TNERC Act, if any party defaulted to pay the EB dues and the property sold to some other persons the arrear amount may be collected from other services of the existing owner's (seller's). They have not purchased the property directly from M/s Sri Ramakrishna Steel Industries and they have taken from the official liquidator, High Court of Madras and they are not at all directly connected with the existing owner of M/s Sri Ramakrishna Steels Industries. They also would like to inform that in a similar case in Coimbatore EDC/North the supply was effected to the purchaser of M/s South India Viscose Limited, Sirumugai. who have taken the property thro official liquidator, High Court of Madras.

4. Contention of the Respondent in the Counter Affidavit

- 4.1 In the above said premises, previsouly a HT service in the name of M/s Sri Ramakrishna Steels and Industries was existed.
- 4.2 The HT SC No.26, M/s Ramakrishna Steel Industries was disconnected on 19.3.1998 for non payment of current consumption bill for the month of 2/1998. The termination of agreement notice was issued to the consumer on 18.6.1998. The accounts of the service was closed on 21.5.1999. The outstanding dues to the TANGEDCO from the consumer was Rs.14,15,190/- and the same has been intimated to the consumer.
- 4.3 However, the consumer has not paid the outstanding dues to the TNEB. Further, notices under RR&RD act has been issued to the consumer towards recovery of dues.
- 4.4 Later the above company came under liquidation in the Hon'ble High Court of Madras. Necessary form 66 has been filed by the Respondent and sent to official liquidator on 10.1.2005. The official liquidator has sold the said property to M/s Hindustan Steel and Alloys. Further, M/s Hindustan Steel and

Alloys was also intimated by this office for settlement of dues of Rs.14,15,190/- So for the outstanding amount has not been settled by the official liquidator/buyer.

4.5. The Appellant M/s Hindustan Steel & Alloys has approached the TANGEDCO during 2009 for a new LT supply in the same premises for lighting purposes with a connected load of 10HP.

4.6. The Appellant was informed several times by this office that the application for new LT service connection can be considered only after the settlement of outstanding dues to the board.

4.7. It is submitted that as per the TNERC Supply Code 17(9)(a) , it is specifically mentioned as follows :

In case of service connections in a premises, which have been disconnected / dismantled for defaults in payment of dues whatsoever and if such service connections are to be reconnected or new service connections are to be obtained by other persons in such premises either by purchase or transfer or lease basis, the Distribution Licensee shall reconnect such service connections or effect new service connections, as the case may be, in such premises only after payment of dues attributed to such premises by the applicant :

Provided that in cases such premises have legally been sub-divided, the outstanding dues attributed to such premises shall be divided in proportion to the area covered by that sub-division. A new service connection to any of such sub-divided premises shall be given only after the share of outstanding dues attributed to such sub-divided premises, is duly paid by the applicant. The Distribution Licensee shall not refuse connection to an applicant of such sub-divided premises only on the ground that, dues attributed to the other portion(s) of such sub-divided premises have not been paid, nor shall the licensee demand record of last paid bills of such other portion(s) from such applicants.

4.8. It is submitted that the Hon'ble CGRF has issued final orders on the above petition as follows :

Considering the TNERC Supply Code No.17(9)(a) and the outstanding dues to the Board has not been settled by the official liquidator in spite of filing form 66 and sending several reminders. The forum has rejected the request of the petitioner for giving new service connection since the act will be against the above TNERC clause.

5. Hearing held by the Electricity Ombudsman

5.1 In order to enable the Appellant and the Respondent to putforth their arguments in person, a hearing was conducted before the Electricity Ombudsman on 23.07.2015.

5.2 Thiru. C. Varadharajan, represented the Appellant and putforth his arguments.

5.3 Thiru.S. Sridhar, Assitant Accounts Officer/HT section has attended the hearing on behalf of the Respondent and putforth his arguments.

6. Arguments putforth by the Appellant's representative on the hearing date :

6.1 Thiru.C. Varadharajan who has represented the Appellant reiterated the contents of the Appeal Petition.

6.2 The Appellants representative argued that they have not purchased the property directly from M/s Sri Ramakrishna Steel Industries Ltd., they purchased the property thro Hon'ble High Court as per the order dt.16.2.2006 and hence argued that they are not liable for the liabilities of the erstwhile owner of the property. He further argued that denying a service connection for want of settlement of arrears due from the previous owner is against natural justice.

6.3 The Respondent is also aware that M/s Sri Ramakrishna Steel Industries Ltd., is in liquidation and have also filed the necessary form 66 to claim the amount that is due to them and the official liquidator informed that the claim of respondent will be considered on merits. In the above circumstances claiming the same amount from the Appelant is not justiable.

6.4 As per the terms and conditions of tender invited for disposal of the above property, the liabilities such of ESI, PF, Sales Tax, Electricity and others will be settled by the Court only. Hence, the respondents claim of dues from the purchaser of the property is against the tender condition.

6.5 The Appellant's representative citing regulation 17(8) of the Supply Code, argued that the licensee shall include the above arrears amount pending in other services of the previous service owner and take action to collect it from them.

6.6 He also informed as they have planned to start a new medical college or an Engineering Industry in that premises the Electricity Supply is essential to removes the existing machinaries and to start a new business.

7. Arguments putforth by the respondent on the hearing date:

7.1 Thiru.S. Sridhar, Assitant Accounts Officer / HT section who represented the Respondent reiterated the contents of the counter affidavit.

7.2 As the official liquidator has not settled the electricity dues, the intening consumer has to pay the dues so as to get the new service connection.

7.3 He also informed that there is no service in their circle in the name of M/s Sri Ramakrishna Steel Industries Ltd., so as to include the arrears amount in that service CC bills and to collect the amount.

7.4 He also informed that in the case of M/s South India Viscose Ltd., the service was effected based on the direction of court after duly obtaining legal opinion from the Board's legal cell.

7.5 The AAO citing regulation 17(9)(a) of the Supply Code argued that as per the above regulation, new service could be effected in a premises where electricity charges are pending only after collecting the said dues from the intending consumer. Hence, as per the above regulation, the service could be effected only after receipt of the arrears of CC charges attributable to the premises.

8. Findings of the Electricity Ombudsman :

8.1 I have heard the arguments of both Appellant and Respondent. On a careful consideration of the rival submissions the issue to be decided is whether that LT service connection could be effected in the premises of the Appellant where in CC arrears of the previous owner is due ?

8.2 The Appellant informed that they have purchased the premises not directly from the premises owner namely M/s Sri Ramakrishna Steel Industries Ltd., but have taken over the property thro Hon'ble High Court as per the order dated 1.2.2006 passed in CA No.39/06 in CP No.3 & 36/1998 and 168/91 and 251/2001. The Appellant therefore argued that CC arrears of the previous owner is not binding on them.

8.3 The Appellant informed that as per the tender specification issued for sale of the above property, the liabilities such as ESI, PF, Sales Tax, Electricity and others will be settled by the court only and the arrears of Municipal Tax, land taxes betterment levy if any alone shall be paid by the purchaser. Hence, he argued that the arrear of Electricity consumption charges are to be collected only from the court and they are not responsible for the electricity dues of the previous owner of the premises.

8.4 The Appellant argued that the licensee have already filed a claim for Rs.14,15,190/- in form 66 with the official liquidator and the official liquidator has also informed that the claim of the licensee will be considered on merits vide letter dt.23.2.2010. As the Respondent has already filed a petition for claiming the amount insisting the Appellant to pay the amount to effect service is not justiable.

8.5 In a similar case the licensee has effected supply without collecting the dues from the purchaser M/s South India Viscose Ltd, Sirumugai. Hence, argued that applying the same analogy the service has to be effected to their premises also.

8.6 The Appellant argued that as per regulation 17(8) of the Supply Code, the licensee can include the CC arrears of a service to another service owned by the same consumer. Pointing out the above provision, the appellant argued that the Respondent shall collect the dues by including the same in any one of the services owned by the erstwhile owner of the service (viz) M/s Sri Ramakrishna Steel Industries Ltd.,

8.7 The Appellant argued that during 2009, the legal cell of the Board gave opinion to effect the supply to them, but the Respondent have not effected the supply.

8.8 The Respodent argued that though they have claimed the Electricity dues from the official liquidator the arrears was not paid by them, even after filing the claim in form 66 and sending reminder. As the amount is still pending, they are insisting the service seeker for clearing the dues which is conforming to regulation 17(9)(a) of Supply Code.

8.9 Citing, regulation 17(9)(a), the Respondent argued that as per the above regulation, a new service connection could be effected in a premises in which electricity due is pending only after payment of the dues attributed to such premises by the applicant. Hence, he argued that service could be effected on payment of dues either by the official liquidator or by the Appellant.

8.10 The Appellant informed that a new service connetion was effected in case of M/s South India Viscose Ltd based on the direction of High Court. Hence, the above can not be compared with the present case.

8.11 The Appellant's representative informed that in their circle, no other service is existing in the name of M/s Ramakrishna Steel Industries Ltd., and hence, there is no possibility to claim the arrears from the other services as pointed out by the Appellant.

8.12 As the Respondent has cited regulation 17(9)(a), of the Supply Code, the same is extracted below :

In case of service connections in a premises, which have been disconnected / dismantled for defaults in payment of dues whatsoever and if such service connections are to be reconnected or new service connections are to be obtained by other persons in such premises either by purchase or transfer or lease basis, the Distribution Licensee shall reconnect such service connections or effect new service connections, as the case may be, in such premises only after payment of dues attributed to such premises by the applicant :

Provided that in cases such premises have legally been sub-divided, the outstanding dues attributed to such premises shall be divided in proportion to the area covered by that sub-division. A new service connection to any of such sub-divided premises shall be given only after the share of outstanding dues attributed to such sub-divided premises, is duly paid by the applicant. The

Distribution Licensee shall not refuse connection to an applicant of such sub-divided premises only on the ground that, dues attributed to the other portion(s) of such sub-divided premises have not been paid, nor shall the licensee demand record of last paid bills of such other portion(s) from such applicants.

8.13 On a careful reading of the said regulation 17(9)(a) of the SupplyCode, it is noted that in a premises if the existing service connection was disconnected/dismantled for default in payment of dues and if the purchaser/transferee/lessee wants to reconnect the service or to get a new connection, then the licensee shall reconnect such service or effect a new service connection as the case may be only after payment of all dues attributed to such premises by the applicant.

8.14 As it has been specifically stated in regulation 17(9)(a) of the Supply Code that the applicant for service connection has to make payment of all dues attributed to such premises, I am of the view that the Appellant, being the applicant for the new service connection has to pay the arrears due to the Board, to get a new service connection in the above said premises.

11. Conclusion :

11. In view of my findings in para 8.14, I am unable to interfere with the order of CGRF of Coimbatore Electricity DistributionCircle/North.

10.4 With the above findings the A.P.No.35 of 2015 is finally disposed of by the Electricity Ombudsman. No costs.

(A. Dharmaraj)
Electricity Ombudsman

To
1) M/s.Hindustan Steel and Alloys
67, Avarampalayam Road,
K.R. Puram,
Coimbatore – 641006.

2) The Superintending Engineer,
Coimbatore EDC / North,
TANGEDCO,
Tatabad, Coimbatore .

3) The Superintending Engineer,
Coimbatore EDC / North,
TANGEDCO,
Tatabad, Coimbatore .

4) The Chairman & Managing Director,
TANGEDCO,
NPKR Malaigai,
144, Anna Salai,
Chennai – 600 002.

5) The Secretary
Tamil Nadu Electricity Regulatory Commission
No.19A, Rukmini Lakshmi pathy Salai
Egmore,
Chennai – 600 008.

6) The Assistant Director (Computer) - **FOR HOSTING IN THE TNEO WEBSITE PLEASE**
Tamil Nadu Electricity Regulatory Commission,
No.19-A, Rukmini Lakshmi pathy Salai,
Egmore,
Chennai – 600 008.