

A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.
-Mahatma Gandhi



TAMIL NADU ELECTRICITY OMBUDSMAN

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Before The Tamil Nadu Electricity Ombudsman, Chennai

Present : Thiru. N. Kannan, Electricity Ombudsman

A.P.No. 110 of 2022

M/s. WinTech Industries Pvt. Ltd.,
C/o. Oswin & Jacob Techno Legal Adviser,
BRIO Hall, No.4/23E, Kamaraj Nagar,
4th Main Road, Thiruvanmiyur,
Chennai – 600 041.

..... Appellant
(Rep. by Thiru N. Senthil Viswarooban, Advocate
& Thiru Franklin Stephen, Advocate)

Vs.

1. The Executive Engineer/ Kandamangalam, (R1)
Villupuram Electricity Distribution Circle,
TANGEDCO,
110/22 KV Substation Complex,
Villuppuram-Pondy Road,
Kandamangalam-605 102

2. The Assistant Engineer/ South/Tiruchitrambalam, (R2)
Villupuram Electricity Distribution Circle,
TANGEDCO,
110/22KV Sub-station campus,
Achrapattu, Irumbai Main Road,
Thiruchitrambalam, VanurTK-605 111.

3. The Chief Engineer/Commercial, (R3)
TANGEDCO,
No.144, Anna Salai, Chennai-2.

..... Respondents
(Thiru N.Sivaguru, EE/Kandamanagalam
Thiru E.Ragunathan, AE/Poothurai
Tmt. T.G. Jothi, SE/Commercial)

Petition Received on: 26-12-2022

Date of hearing: 09-03-2023

Date of order: 28-03-2023

The Appeal Petition received on 26.12.2022 filed by M/s.WinTech Industries Pvt. Ltd., C/o. Oswin & Jacob, BRIO Hall, No.4/23E, Kamaraj Nagar, 4th Main Road, Thiruvanmiyur, Chennai – 600 041 was registered as Appeal Petition No. 110 of 2022. The above appeal petition came up for hearing before the Electricity Ombudsman on 09.03.2023. Based on the request of the R3 to obtain more details from R1, the hearing was adjourned to 21.03.2023. Upon perusing the Appeal Petition, Counter affidavit, written argument and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

ORDER

1. **Prayer of the Appellant:**

The Appellant has prayed to set aside the Order dated 7.12.2022 issued by the CGRF of Villupuram EDC.

2.0 Brief History of the case:

2.1 Although M/S Wintech Industries (the Appellant as per this prayer) is not an agreement holder, it was revealed that M/s. P.S. Industries had an LTCT service connection under their name with AC No. 447-017-42, which was effected by the Licensee on 18th November 2013. Furthermore, M/s. P.S. Industries applied for an additional load of 36 KW, which was approved, bringing the total load to 148 KW.

2.2 Although M/s. P.S. Industries did not submit a plea in this appeal, the CGRF heard the Appellant's plea. M/s. Wintech Industries claims that they paid 1% Transformer loss based on the existing capacity of 500 KVA from June 2021 to July 2022, despite the non installation of a 200 KVA DT resulting in charges for 3600 units instead of 1440 units. As a result, they have requested a recalculation

of the charges and the refund of any excess amount collected, which could be adjusted against the existing service connection.

2.3 M/s.Wintech Industries approached the Respondent to refund the excess demand charges and excess charges for the average loss of distribution transformer.

2.4 Since the grievance was not settled with the Respondent, M/s.Wintech Industries (Appellant in this case) filed a petition with the CGRF of Villupuram EDC on 22.10.2022. The CGRF of Villupuram EDC issued an order dated 07.12.2022. Aggrieved by the order, the Appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Villupuram Electricity Distribution Circle issued its order on 07.12.2022. The relevant portion of the order is extracted below :-

“Conclusion:

The Consumer Grievance Redressal Forum, Villupuram concludes that for the LTCT service connection have the SC No. 447-017-048, the additional load has been effected only on request of consumer and the Distribution Transformer loss should be borne by the consumer only and the Distribution Transformer loss claimed by the respondent is found correct as per existing TNERC Orders.

With the above findings, the Petition No.27 of 2022 is finally disposed of by the Consumer Grievance Redressal Forum, Villupuram and at no costs.”

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the M/s.Wintech (referred as Appellant) and the Respondents to put forth their arguments a hearing was conducted on 09.03.2023 through Video conferencing. Based on the request of the R3, the hearing scheduled on 09.03.2023 was adjourned to 21.03.2023 through Video conferencing.

4.2 On behalf of the M/s.Wintech Industries, Thiru N. Senthil Viswarooban and Thiru Franklin Stephen, Advocates of C/o. Oswin & Jacob Techno Legal Adviser attended the hearing and put forth their arguments.

4.3 The Respondents Thiru N.Sivaguru, EE/Kandamanagalam, Thiru E.Ragunathan, AE/Poothurai and Tmt. T.G. Jothi, SE/Commercial of Villupuram EDC attended the hearing and put forth their arguments.

4.4 As the Electricity Ombudsman is the Appellate authority, only the prayers which were submitted before the CGRF are considered for issuing orders. Further, the prayers which require relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone are discussed hereunder.

5.0 Arguments of M/s.Wintech Industries (referred as appellant) :

5.1 M/s.Wintech Industries counsel (Appellant in this case) has stated that M/s. Wintech Industries having LTCT service connection with A/c No.447-017-48 at No.382/2,3 Manaveli main Road, Poothurai Village, Vanu, Villupuram- 605111 in the Jurisdiction of Villupuram Electricity circle of TANGEDCO having an existing load of 112kw applied for additional load of 36kw consequent to the implementation of the amendment to the supply code for availing LT Supply to a maximum load of 150kw under stipulated conditions, in the month 03/2021. Further, the appellant has paid all the necessary charges, deposits apart from providing an undertaking as stipulated in the regulations.

5.2 M/s.Wintech Industries counsel has stated that the above said additional load was sanctioned /extended from the existing 500KVA Transformer during the month of 06/2021 instead of erecting a separate 200 KVA Transformer as per the envisaged regulation. Because of such deviation by TANGEDCO, this consumer was forced to pay for a demand added @ 1% of the Distribution transformer rating (500 KVA instead of 200 KVA every month) and average loss units at the rate of 3600 units instead of 1440 units every month from 06/2021. Because of such higher rates and penalties this consumer was forced to reduce his production set up and reduced the load to its original during the month of 07/2022. In between

these periods right from 06/2021 to 07/2022 this appellant forced to pay excess demand charges/ penalties, excess charges for the average loss of distribution transformer as per the capacity rating. Such excess penalties cost for average loss based on capacity rating of transformer from which supply extended ran into lakhs of rupees, which TANGEDCO has to refund because of such violation deviation in regulation. In this regard this consumer has approached all the authorities in this regard and finally the Executive Engineer also negated the genuine request vide his 07.10.2022 and hence this appeal before this TNEO reposing much faith that the grievance will be redressed. Relevant documents are enclosed for the perusal of the respectful CGRF in this regard.

5.3 M/s.Wintech Industries counsel has stated that the Hon'ble TNERC was pleased to publish the G.O No.27 dated 01.07.2020 amending the regulation of Tamilnadu Electricity Supply Code, providing certain provisions for availing LT Supply to a maximum load of 150KW. The very purpose of the said amendment to the regulations is to provide major relief to small and medium scale industries raising the limit of electricity demand in the Low Tension category to 150KW from the erstwhile limit of 112KW. The salient features of the amendments as per the Hon'ble TNERC is as follows:

The industrial and other consumers can avail supply in the Low Tension category of supply for demand up to 150 KW, Provided they offer space for erection of a Distribution Transformer inside their premises and pay current consumption and demand charges as that of HT tariff.

5.4 M/s.Wintech Industries counsel has stated that the cost of Distribution Transformer and accessories along with the cost of their erection shall be borne by the Licensee. The cost of portion of HT and LT lines or cables to be erected inside the consumer premises shall be borne by the applicant. Wherever possible, the single pole type Distribution Transformer structure may be erected to save space and cost.

The principle of levy of excess demand charges for the consumers with demand up to 112 KW and for those with demand above 112 KW but less than or equal to 150 KW is same.

5.5 M/s.Wintech Industries counsel has stated that if the recorded demand exceeds the amended ceiling limit of 150KW for the third time or more, notice shall be issued to the consumers for conversion of their LT service to HT service. Prior to the amendment, consumers could avail supply under Low Tension category only up to 112 KW and were paying substantial penalty charges whenever the sanctioned demand exceeded the 112KW limit, for want of financial requirement to avail HT supply beyond 112KW. Also, erecting the Distribution Transformer at load end reduces technical loss to greater extent and improves the voltage profile and system stability. Further, reduced LT line length improves HT/LT line ratio and minimizes supply interruption to the consumers as well. The said amendment to the supply code further envisages as follows:

The fixed demand charges of electricity for the sanctioned demand shall be at the rates applicable to the relevant HT category.

The energy charges shall be the applicable LT Tariff rates. The losses in the distribution system shall be borne by these consumers of the LT category as per the formula prescribed in sub regulation (7) of Regulation 7 of this code.

The Sub regulation (7) of Regulation 7 of the supply code is as follows.

Wherever existing metering of the High Tension service connection is on the Low Tension Side i.e on the secondary side of the Transformer:

The average losses in the transformer shall be calculated as follows and added to the energy consumption indicated by the meter even when the recorded energy consumption is Nil.

Average loss = $(720 \times 1.0 \times C)/100$ where C is the KVA rating of the Transformer.

1% of the Transformer capacity of the transformer above 63 KVA will be added to the recorded max demand on the low tension side to arrive at the equivalent HT demand.

5.6 M/s.Wintech Industries counsel has stated that on the conjoint reading of the afore said regulations it is undoubtedly understood in case of LT consumer intends to continue with the same LT supply in case of sanctioned demand exceeds 112kw but less than 150kw, the consumer has to accede to pay the

demand and other charges as stipulated in the code apart from providing space for erection of distribution of transformer inside the premises or in the nearby vicinity and the distribution utility is obligated to extend the service by erecting a Distribution transformer.

5.7 M/s.Wintech Industries counsel has stated that while regulations stipulated so for erection of new Distribution transformer for extending supply under this provisions, the Distribution utility instead of incurring more expenditure by the way of erecting new transformers have taken their own decision to extend the additional load from the existing transformers having buffer loading capacity with the mind-set that the additional load of 10 to 40 Kw in the existing Transformer will not have much impact on the transformer.

Because of the said deviations in the stipulated regulations, the consumers are put to financial hardship unnecessarily as they are forced to pay the computed consumption of average losses and additional demand added to their MD based on the capacity rating of the transformer.

5.8 M/s.Wintech Industries counsel has stated that the Distribution utility while taking deviations from the stipulated regulations without getting appropriate clarification from the Hon'ble TNERC by extending the LTCT supply in the existing higher capacity transformer, it should have also considered the plight of the consumers because of the said wrong doings forcing them to pay higher charges based on the capacity rating of the transformer rather than the stipulated capacity needed for their additional demand. The distribution utility ought to have considered only the necessitated capacity of the transformer utilized for extending such load/service and arrive at the Transformer losses as per Sub reg.(7) of Reg.7 of TNE Supply code.

5.9 M/s.Wintech Industries counsel has stated that the above fact of arbitrarily collecting higher charges for Transformer losses contrary to the regulations has led to purported effect. The consumers are forced to pay double the time for (the units) arriving average loss and the demand added.

The very purpose of framing/enacting a regulation by the Hon'ble TNERC is for its effective implementation to ease out the difficulties and to have a strict compliance by both the utility & the consumers.

5.10 M/s.Wintech Industries counsel has stated that while TANGEDCO initiated immediate steps to implement the said orders and having its own interpretation on its implementation, which is beneficial for the utility, it should have considered the loss incurred by the consumers because of such deviation. The CGRF or the TNEO should take up the cause by entertaining this application declaring that there is absolute deviation in the regulation leading to incur much financial losses by the consumers. The TNERC regulations for CGRF & Electricity Ombudsman regulations 2004 is the only hope & recourse for the consumers in this issue by a suitable direction to the utility to refund the amount collected in excess.

5.11 M/s.Wintech Industries counsel has stated that in such a scenario of deviation from the existing regulation that too without the authorization of the Hon'ble TNERC and this consumer was forced to pay hefty penalty and losses arrived contrary to the regulations, the respectful CGRF was requested to take this issue on file and to direct the authorities concerned to rework the calculation done for arriving the average losses of Transformer and the MD added based on the capacity rating and to refund the excess amount collected by the adjusting the same in the existing service connection and to safeguard the interest of the consumers affected by the wrong doing of the distribution utility. However to the shock & surprise of this complainant, the appeal petition was dismissed without adhering to the regulations in this regard and without passing a speaking order. Therefore this complainant is forced to file an appeal before this Hon'ble Electricity Ombudsman.

5.12 M/s.Wintech Industries counsel has stated that in one way the order of the CGRF/Villupuram is against law, facts, rules, regulations & circumstances of the issue and will not sustain in the eyes of law and liable to be set aside. Hence this appeal is preferred before this learned Ombudsman reposing much faith & confidence that the appeal will be considered on genuine grounds & circumstances

and the prevailing regulations and the grievance redressed.

5.13 M/s.Wintech Industries counsel has prayed to set aside the order of the CGRF /Villuparam and to redress the grievance of the petitioner while declaring the action of the utility in this issue is contrary to the regulations and consumer should not be put to irreparable losses.

6.0 Counter submitted by the Respondent:

6.1 பூத்துறை பிரிவுக்கு உட்பட்ட மேட்டுபாளையம் பகிர்மானத்தில் மின் இணைப்பு எண் : 447- 017 - 48 கொண்ட M/s PS Industries என்ற தொழிற்சாலை வளாகத்தில் வாடகை ஒப்பந்தத்தில் M/s Win Tech Industries Pvt Ltd என்ற தொழிற்சாலை இயக்கப்பட்டு வருகிறது . தற்போது வரையில் மேற்கண்ட மின் இணைப்பு தொழிற்சாலை இடம் மற்றும் சிறு தொழில் பதிவு சான்றிதழ் யாவும் இடத்தின் உரிமையாளர் M/s PS Industries என்ற பெயரிலேயே உள்ளதாக எதிர்மனுதாரர் தெரிவித்துள்ளார்.

6.2 M/s PS Industries என்ற தொழிற்சாலை வளாகத்தில் வாடகை ஒப்பந்தத்தில் தொழில் நடத்தும் M/s Win Tech Industries Pvt Ltd -ன் மின் தேவை அதிகமானதால் மேற்கண்ட மின் இணைப்பின் அனுமதிக்கப்பட்ட மின் பளு 112 கி. வா லிருந்து 148 கி. வா உயர்த்துவதற்கு 30.04.2021 அன்று கூடுதல் மின் பளு 36.0 கி. வா வேண்டி விண்ணப்பம் பெறப்பட்டது . கூடுதல் மின் பளு வழங்க தனியாக மின்மாற்றி அமைக்க இடம் வழங்காத காரணத்தால் ஏற்கனவே மின்சாரம் வழங்கி கொண்டு இருக்கும் மேட்டுப்பாளையம் SS - 13, 500 கேவிஏ மின்மாற்றியில் போதிய மின்ப ளு இருந்த நிலையில் அதே மின்மாற்றியில் கூடுதல் மின் பளு வழங்கப்பட்டுள்ளதாக எதிர்மனுதாரர் தெரிவித்துள்ளார்.

6.3 மின்கழக உத்தரவு படி தாழ்வழுத்த மின் இணைப்பில் அதிகபட்ச அனுமதிக்கப்பட்ட மின்ப ளு 112 கி. வா - ற்க்கு பதிலாக 150 கி. வா ஆக உயர்த்தப்படும் போது - உயர்த்தப்பட்ட மின்ப ளுவிற்கு தாழ்வழுத்த மின்

இணைப்பு மின் கட்டணத்தின் நிலைக்கட்டணமானது உயர்அழுத்த மின் இணைப்பிற்கான விகிதத்திலும் மின் பயன்பாட்டிற்க்கான கட்டணம் தாழ்வழுத்த மின் இணைப்பிற்க்கான விகிதத்திலும் வசூலிக்கும் விதமாக வரையறுக்கப்பட்டள்ளதாக எதிர்மனுதாரர் தெரிவித்துள்ளார்.

6.4 அவ்வாறு வரையறுக்கப்பட்டுள்ள நிலை கட்டணத்தில் 1 கி. வாற்கு 350 ரூபாயும் மற்றும் மின் இணைப்புக்கு மின்சாரம் வழங்கும் மின்மாற்றியின் மொத்த மின் திறனின் ஒவ்வொரு 100 கி. வாடிற்கும் 720 Units என்ற முறையில் மின்மாற்றியின் மின்னிழப்பு கணக்கிடப்பட்டு அதற்கு 1 Unit -ற்கு 6 ரூபாய் 35 பைசாவும் வதலிக்கப்படுகிறது . மேலும் ஒவ்வொரு மாதமும் மின்மாற்றியின் மொத்தத் திறனில் 1 விழுக்காடு மின்மாற்றியின் மின்னிழப்பாக கணக்கிடப்பட்டு அந்த மின்னிழப்பு மின்பளுவை அத்தாழ்வழுத்த மின் இணைப்பின் மின் அளவியில் பதிவாகும் மின்பளுவுடன் சேர்த்தே அத்தாழ்வழுத்த மின் இணைப்பின் உட்சபட்ச மின்பளு கணக்கிடப்படுகிறது. அந்த கணக்கிடப்பட்ட உட்சபட்ச மின்பளு அனுமதிக்கப்பட்ட மின்பளுவை விட கூடுதலாக இருக்கும் பட்சத்தில் அதற்குண்டாண கட்டணம் வதலிக்கப்படுகிறது என எதிர்மனுதாரர் தெரிவித்துள்ளார்.

6.5 இதன் அடிப்படையிலேயே மின் இணைப்பு எண் 447 - 017 - 48 M/S PS Industries தொழிற்சாலைக்கு மின்சாரம் வழங்கும் மேட்டுப்பாணையம் SS - 13, 500 கேவிஏ மின்மாற்றியின் மின்னிழப்பு மின்பளு 5 கேவிஏ மற்றும் மின்னிழப்பு ஆற்றல் 3600 Units ஆகியவை கணக்கிடப்பட்டு மேற்கண்ட மின் இணைப்பில் 21.06.2021 அன்றிலிருந்து ஒவ்வொரு மாதமும் வசூலிக்கப்படுகிறது. மேலும் அம்மின்மாற்றியில் இருந்து LTCT Service இம்மின்இணைப்பு மட்டுமே வழங்கப்பட்டுள்ள நிலையில் மின்மாற்றியின் மின்னிழப்பு கட்டணம் நுகர்வோரிடம் வசூல் செய்ய நேர்ந்த தாக எதிர்மனுதாரர் தெரிவித்துள்ளார்.

6.6 மின்னணைப்பு எண் 447-017-48, M/S PS Industries க்கு கூடுதல் மின்பளு 36 கி. வா வழங்கப்பட்டு அதன் அனுமதிக்கப்பட்ட மின்பளு 112 கி.வா. லிருந்து 148 கி.வோ உயர்த்தப்பட்ட அடுத்த மாதத்திலேயே (07/2021) பயன்படுத்திய மின்பளு 149.84 கிவோ ஆக உயர்ந்திருந்தது கணக்கிடப்பட்டு அதற்கான அபராத கட்டணம் வசூலிக்கப்பட்டது . மேலும் அடுத்தடுத்த மாதங்களான ஆகஸ்ட்/2021, செப்டம்பர்/2021. அக்டோபர்/2021, டிசம்பர்/2021, ஜனவரி/2022. பிப்ரவரி/2022, மார்ச்/2022 மற்றும் ஏப்ரல் /2022 மாதங்களில் அத்தொழிற்சாலை பயன்படுத்திய மின்பளு முறையே 160.76 கிவா. 151.04 கிவா, 152.24 கி.வா.165.56, 162.68, கி.வா, 166.16 கி.வா மற்றும் 166.04 கி.வா இருந்தது. இதிலிருந்து அந்தொழிற்சாலை தொடர்ந்து அனுமதிக்கப்பட்ட மின்பளுவை விட கூடுதலான மின்பளு பயன்படுத்தியது கணக்கிடப்பட்டு அதற்குண்டான அபராத கட்டணம் (Excess Demand Charges) வசூலிக்கப்பட்டுள்ளதாக எதிர்மனுதாரர் தெரிவித்துள்ளார்.

6.7 கடந்த ஆண்டு நவம்பர் மாதம் தவிர்ந்து , செப்டம்பர் - 2021 -ம் மாதம் முதல் ஏப்ரல் - 2022 மாதம் வரை ஒவ்வொரு மாதம் கணக்கீடு மேற்கொண்ட போது மின் இணைப்பு எண் 447-017-48 M/S PS industries -ல் அனுமதிக்கப்பட்ட மின்பளு 148 கி. வா விட கூடுதலாக மின்பளு பயன்படுத்தப்பட்டது கண்டறியப்பட்டு அதற்கான கட்டணம் மின்கழக உத்தரவு படி வசூல் செய்யப்பட்டுள்ளது . மேலும் கூடுதல் மின்பளு பயன்படுத்தியதை முறைபடுத்த உயர் அழுத்த மின் இணைப்பு பெற்றுக்கொள்ளுமாறு இளமின்பொறியாளர்/இப/பூத்துறை அவர்களால் அறிவிப்பு கடிதம் வாயிலாக தெரிவிக்கப்பட்டுள்ளது. அப்பொழுது மின் நுகர்வோரான M/s PS Industries அவர்கள் உயர் அழுத்த மின் இணைப்பு பெறுவதற்கு போதிய இடவசதி இல்லை என்று வாய் மொழியாக தகவல் தெரிவித்தார் . மேற்கண்ட மின்இணைப்பு மின் நுகர்வோரான M/S PS Industries அவர்கள் உயர் அழுத்த மின் இணைப்பு பெறுவதற்கான விண்ணப்பம் வழங்கப்படாத நிலையில் வாடகை

ஒப்பந்ததாரரான M/s Win Tech Industries Pvt Ltd அவர்கள் கூடுதல் மின்பளுவை தொடர்ந்து தெரிந்தே பயன் படுத்தி வந்துள்ளார் . அதன் காரணமாகவே அவரிடம் இருந்து கூடுதல் மின்பளு பயன்படுத்தியதற்கான கூடுதல் அபராத கட்டணம் (Excess Demand Charges) வசூலிக்கப்பட்டதாக எதிர்மனுதாரர் தெரிவித்துள்ளார்.

6.8 தமிழ்நாடு மின் உற்பத்தி மற்றும் பகிர்மான கழகத்தில் தொழிற்சாலை மின் இணைப்பிற்கான மின்மாற்றியின் 'திறன் தேர்வானது 1 HP = 1 KVA ஆக உள்ளது. இந்நிலையில் அவர்களுக்கு கூடுதல் மின்பளு வழங்கப்பட்ட அடுத்த மாதத்திலிருந்து அவர்கள் பயன்படுத்திய அதிகப்படியான மின்பளு 200 HP அதிகமாகவும் மேலும் அவர்கள் பயன்படுத்திய உட்சபட்ச மின்பளு 222.73 HP (166.16 KV / March -2022) ஆகவும் உள்ளது. இதன்காரணமாக 22 KV network - ல் 200KVA/22KV மின்மாற்றிக்கு அடுத்த அதிக திறன் மின்மாற்றி 250 KV மின்மாற்றி அமைப்பதற்கு கண்டமங்கலம் கோட்டத்திற்கு உட்பட்ட அனைத்து துணைமின்நிலையங்களிலிருந்து 11KV உயர் அழுத்த மின்பாதை செல்லவில்லை. அடுத்து அதிக திறன் மின்மாற்றி 500KVA/22KV உள்ளது. ஏற்கனவே மேட்டுபாளையம் SS 13 500KVA/22KV மின் மாற்றியிலிருந்து மின் மாற்றி எண் 447-017-48 M/S PS Industries கூடுதல் மின்பளு 36 கி.வா வழங்கப்பட்டுள்ள நிலையில் அம்மின்மாற்றியின் மின் இழப்பு மின்பளு 500KVA மற்றும் மின்இழப்பு ஆற்றல் 3600 அலகுகள் ஆகியவை கணக்கிடப்படுவது மேற்கண்ட மின்இணைப்பில் ஒவ்வொரு மாதமும் வசூலிக்கப்பட்டது சரியானதாக உள்ளது. மேற்கண்ட மின்மாற்றியிலிருந்து LTCT Service மின் இணைப்பு பெற்ற மின் நுகர்வோர் M/S PS Industries (M/S Win Tech Industries Pvt Ltd) மட்டுமே இருந்த நிலையில் மின்மாற்றியின் இழப்பீட்டுத் தொகை வசூலிக்க நேர்ந்தது.

6.9 தொழிற்சாலைக்கு மட்டும் 200 கேவிஏ திறன் மின்மாற்றி நிறுவியிருந்தாலும் M/S PS Industries (M/s Win Tech Industries Pvt Ltd)

பயன்படுத்திய அதிக மின் பளு (166.16KW MD) காரணமாக அம்மின்மாற்றி பழுதாகியிருக்கும் என எதிர்மனுதாரர் தெரிவித்துள்ளார்.

6.10 M/S. Win Tech Industries Pvt Ltd நிறுவனமானது அதிக மின் சுமை பயன்படுத்துவது அறிந்தே உயர் அழுத்த மின் இணைப்பிற்கு செல்லாமல் தொடர்ந்து அனுமதிக்கப்பட்ட மின் பளுவை விட அதிக மின் பளு பயன்படுத்தியதனாலேயே TNERC Regulation படி TANGEDCO LT Billing Software மூலமாக மின் கட்டணம் கணக்கிடப்பட்டு செலுத்த நேர்ந்ததுள்ளது. மேலும் இம்மனுவானது 17.11.2022 அன்று நடைபெற்ற நுகர்வோர் குறைதீர்க்கும் மன்றத்தில் மனு வரப்பெற்று முடிவு பெறப்பட்டுள்ளது என எதிர்மனுதாரர் தெரிவித்துள்ளார்.

7.0 Counter filed by the Respondent (R3 CE/Commercial):

7.1 The Respondent has stated that the Industrial service bearing SC No.447-017-48 standing in the name of M/s.P.S.Industries, Poothurai village, Kandamangalam Division, Villupuram EDC was effected on 18.11.2013 with a sanctioned demand of 38 KW.

7.2 The Respondent has stated that M/s. Win Tech Industries is only a tenant and there is no registered document between the owner (M/s.P.S.Industries) and the tenant (M/s. Win Tech Industries) and such documents have not been produced by them.

7.3 The Respondent has stated that subsequently the additional load of 73 KW (total load 111 KW) was applied by the owner and the additional load was effected on 02.03.2015. They have exceeded the sanctioned demand two times. Hence, 112 KW has been fixed in the LT billing automatically.

7.4 The Respondent has stated that again the owner has registered an application for an additional load of 36 KW, (total load 148 KW) due to increase of connected load during 02/2021.

7.5 The Respondent has stated that the site inspection was carried out and there was no space in the consumer premises for erection of Distribution Transformer. Further, private land around 50m radius as per the TNERC norms was also not provided by the consumer since there was no space available nearer to the premises.

7.6 The Respondent has stated that if the consumer has provided space for erection of Distribution transformer, the additional load could have been effected by erecting a separate 200 KVA DT and the Transformer loss might be arrived as 1440 units instead of 3600 units. The consumer has urged to effect additional load from the 500 KVA Distribution Transformer (Mettupalayam SS-XIII) to avoid MD penal charges without giving any land for erection of Distribution Transformer as per Regulation 26 (1) (i) of TNE Distribution Code. Since, no space has been provided by the consumer, the additional load of 36 KW was effected from the existing 500 KVA Distribution transformer.

Subsequently, the consumer has reached the peak demand of 160.76 KW during 08/2021 and 166.16 KW during 04/2022.

7.7 The Respondent has stated that the consumer has filed a grievance petition before CGRF on 22.10.22. The CGRF/ Villupuram has also concluded that the additional load has been effected only on the request of the consumer to the LTCT service connection (SC No.447-017-048,) the distribution losses should be borne by the consumer only and the distribution losses claimed by the respondent (TANGEDCO) is found correct as per existing TNERC Orders. Once the CGRF has passed the Order in this case, it is not appropriate to submit the comments on the above subject.

7.8 The Respondent has stated that now, M/s. Win Tech Industries has filed a petition before Electricity Ombudsman and request to refund the amount towards Transformer loss by taking proportionate rate of Distribution Transformer capacity for arriving the Transformer loss. The request made by M/s. Win Tech Industries could not be considered since, M/s. Win Tech Industries is not a lawful

occupant and there was no registered document between the owner (M/s.P.S.Industries) and the tenant.

However, if the owner (M/s.P.S.Industries) provides the space for Distribution transformer as per TNERC Regulation and reduce the recorded demand within 150 KW, the Distribution transformer will be erected and appropriate Transformer loss will be levied as per the Rules and Regulations.

7.9 The Respondent has stated that the CGRF/ Villupuram on 07.12.2022 has given order that the distribution losses should be borne by the consumer only and the distribution losses claimed by the respondent (TANGEDCO) is found correct as per existing TNERC Orders since the additional load has been effected as per the request of the consumer and from the existing 500 KVA Distribution Transformer erected outside the premises and the individual has not offered any land for erection of Distribution transformer inside their premises.

8.0 Findings of the Electricity Ombudsman:

8.1 I have heard the arguments of both the Appellant and the Respondent. Based on the arguments and the documents submitted by them the issue to be decided is whether the claim of M/s.Wintech to rework the DT loss and refund the excess energy charges claimed against 1% DT loss of 500 KVA instead of 200 KVA and refund the same in the existing service connection charges is tenable?

8.2 M/s.Wintech Industries counsel had prayed to rework the DT loss charges collected on the basis of 1% during the period of 06/2021 to 07/2022 and insists to refund the excess amount collected by adjusting with the existing service connection.

8.3 The respondent (R1) claimed that the service connection 447-017-48 was exists in the name of M/s P.S industries. Further R1 asserted that till date the service connection place and Registration documents were exists in the name of M/s P.S.Industries.

8.4 The respondent (R3) stated that M/s. Win Tech Industries is not a lawful occupant and there was no registered document between the owner (M/s.P.S.Industries) and the tenant.

8.5 As per the consumer ledger card provided by Respondent 1, it appears that the service connection is in the name of M/s. P.S. Industries in Poothurai village, Kandamangalam Division, Villupuram EDC. But it seems from the arguments that M/s.P.S Industries have not transferred their rights under the agreement already executed with licensee. Therefore before going into the merits of the case, I would like to refer regulation 17 of TNE Supply Code which is given below:

“17. AGREEMENT WITH RESPECT TO SUPPLY: ISSUES ON RECOVERY OF CHARGES

(1) ***

(2) Notwithstanding the termination of the agreement, the consumer shall be liable to pay the arrears of current consumption charges or any other sum due to the Licensee on the date of disconnection and meter rent, if any, up to the date of termination of the agreement and Belated Payment Surcharge (BPSC) up to the date of payment.

*(3) The Licensee may require the consumer, who, at any time during the currency of the agreement, intends to sell or otherwise dispose of or **lease out** in whole or in part of the premises or business to which supply is given or has been contracted for, to give three months' notice of his intention to the designated authority of the distribution licensee and clear all dues up to the date of sale/ disposal/ lease. In the case of such notice, the agreement in so far as the consumer is concerned, will cease to operate with effect from the date specified in such notice, but without prejudice to any claim or right which may have accrued to the parties there under.*

*(4) If the consumer fails to give advance intimation as aforementioned of his intention to sell or **lease out** or otherwise dispose of the properties or business to which supply is given or contracted for, the Licensee shall have the right to recover the charges for consumption and other charges due to the Licensee under the agreement even beyond the date of sale or lease out or otherwise disposal of the properties or business.”*

8.6 On a plain reading of the above, it is noted that, the Licensee may require the consumer, who, at any time during the currency of the agreement, intends to sell or otherwise dispose of or lease out in whole or in part of the premises or business to which supply is given or has been contracted for, to give three months' notice of his intention to the designated authority of the distribution licensee and

clear all dues up to the date of sale/ disposal/ lease. In the case of such notice, the agreement in so far as the consumer is concerned, will cease to operate with effect from the date specified in such notice, but without prejudice to any claim or right which may have accrued to the parties there under. Further, the consumer fails to give advance intimation as aforementioned of his intention to sell or lease out or otherwise dispose of the properties or business to which supply is given or contracted for, the Licensee shall have the right to recover the charges for consumption and other charges due to the Licensee under the agreement even beyond the date of sale or lease out or otherwise disposal of the properties or business.

8.7 In the present case, the agreement holder of SC No.447-017-42 M/s.P.S. Industries who availed service connection had not intimated the license for their intension to lease out the service connection which is under concessional tariff Tariff IIIB based on SSI certificate furnished at the time of effecting service connection. M/s.Wintech Industries Pvt. Ltd is only the enjoyer of the said service connection without any lawful lease agreement. Further, if at all M/s.Wintech Industries Pvt. Ltd is the tenant, then the tenancy has to be established by way of lease agreement which is legally binding both the lessor and lessee. Since the lease agreement is not registered under section 17 (d) of the Registration Act, 1908, there exists no binding between the owner and the tenant. A written unregistered lease of immovable property, is inadmissible in evidence in view of Section 49 of the Registration Act, 1908 read with second para of Section 107 of the Transfer of Property Act, 1882 & second para of Section 4 thereof.

8.8 As the grievance raised in the appeal petition is not related to a service connection of the Appellant, I would like to refer the definition of complainant, complaint and consumer given in regulation 2(e), 2(f) and 2(g) of the Regulation for CGRF & Electricity Ombudsman. The same are extracted below :

“2(e) “complainant” means—

- (i) a consumer of electricity supplied by the Licensee including applicants for new connections;*

- (ii) any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force;
- (iii) the Central Government or any State Government - who or which makes the complaint;
- (iv) one or more consumers, where there are numerous consumers having the same interest;
- (v) in case of death of a consumer, his legal heirs or representatives.

(f) "complaint" means any grievance made by a complainant in writing on:-

- (i) defect or deficiency in electricity service provided by the licensee;
- (ii) unfair or restrictive trade practices of licensee in providing electricity services;
- (iii) Charging of a price in excess of the price fixed by the Commission for consumption of electricity and allied services;
- (iv) Electricity services which will be unsafe or hazardous to public life in contravention of the provisions of any law for the time being in force.

(g) "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person as the case may be."

8.9 On a careful reading of the definition the complaint means any grievance by a complainant and complainant means a consumer of electricity supplied by the licensee including applicants for new service connection and a consumer means any person who is supplied with electricity for his own use by a licensee.

8.10 On a conjoint reading of the definition of the complaint, complainant and consumer, the grievance of a consumer relating to supply of electricity for his own use shall be redressed by the CGRF and Electricity Ombudsman.

8.11 In this regard, it is also to be pointed out that the Secretary / TNERC has clarified as below :

"From the definition of 'consumer', 'complainant' and 'complaint' in Regulations for CGRF & Electricity Ombudsman 2004 and its Annexure-I the complaint format, it is implied that the grievances relating to supply of electricity for his own use shall only be redressed. xxxx xxx xxxx"

In view of the above, the complaints of a petitioner over other person service could not be admitted as complaint.

8.12 In the case on hand, M/s.Wintech Industries counsel had prayed to rework the DT loss charges collected on the basis of 1% during the period of 06/2021 to 07/2022 and to refund the excess amount collected by adjusting with the existing service connection. But, the agreement holder of SC No.447-017-42 M/s.P.S. Industries who availed service connection had not intimated the license for their intension to lease out the service connection which is under concessional Tariff IIIB based on SSI certificate furnished by them. The agreement holder of SC No.447-017-42 M/s.P.S.Industries have paid all the charges due to the licensee and has no grievance before the CGRF and Electricity Ombudsman. Further, M/s.Wintech Industries Pvt. Ltd has failed to prove beyond doubt that they are the lawful occupier of the said premises under registered lease agreement. A written unregistered lease of immovable property, is inadmissible in evidence in view of Section 49 of the Registration Act, 1908 read with second para of Section 107 of the Transfer of Property Act, 1882 & second para of Section 4 thereof. Therefore, the prayer of M/s.Wintech Industries Pvt. Ltd could not be entertained by the Electricity Ombudsman. Accordingly, the petition is dismissed.

9.0 Observation:

9.1 As per regulation 26(1)(b) of TNE Distribution Code, the existing consumers who want to avail supply above 112 KW but below or upto150 KW can avail supply subject to adhere to sub-clause (i) and (v) of said regulation 26(1)(b). Further, the Hon'ble Commission has given the following explanation in this regard.

“Explanation:- (i) Existing consumers i.e. LT consumers prior to the notification of amendment in the Government Gazette which is the effective date of coming into force of this regulation, whose demand exceeds 112 KW but less than or equal to 150 KW or who require additional demand over and above 112 KW may opt to avail supply under LT category subject to the above conditions in the above proviso to clause (b) of this sub-regulation. Existing LT consumers whose demand exceeds 112KW and who do not opt to avail supply as per the conditions in the proviso to clause (b) of this sub-regulation shall pay excess demand charges in accordance to clause (ii)(c)I in sub-regulation (2) of Regulation 5 of supply code.

(ii) New consumers who require demand above 112KW but less than or equal to 150KW and who are unable to comply with the conditions in the proviso to the clause (b) of this sub-regulation shall obtain supply under HT category. This is also applicable for existing consumers with sanctioned demand of 112 KW and below who require additional demand over and above 112 KW.”

9.2 However, it can be observed from the arguments and documents provided, the respondent had sanctioned an additional load to M/s. P.S. Industries without acquiring any space at free of cost for erection of DT either within the premises or at a private location within a 50-meter radius from the consumer's premises and thereby contravene the regulation 26(1)(b) of TNE Distribution Code. Therefore, it is necessary for the competent authority to investigate the circumstances under which the additional load was provided from the existing 500 KVA DT located outside to the premises of M/s P.S. Industries. Failure to address this deliberate mistake may lead to the opening of Pandora's box for similar occurrences throughout TANGEDCO.

10.0 Conclusion :

10.1 In view of my findings in para 7 above, the agreement holder of SC No.447-017-42 M/s.P.S. Industries who availed service connection had not intimated the licensee for their intension to lease out the service connection which is under concessional Tariff IIIB based on SSI certificate furnished by them. The agreement holder of SC No.447-017-42 M/s.P.S.Industries have paid all the charges due to the licensee and has no grievance before the CGRF and Electricity Ombudsman. Further, M/s.Wintech Industries Pvt. Ltd has failed to prove beyond doubt that they are the lawful occupier of the said premises under registered lease agreement. A written unregistered lease of immovable property, is inadmissible in evidence in view of Section 49 of the Registration Act, 1908 read with second para of Section 107 of the Transfer of Property Act, 1882 & second para of Section 4 thereof. Therefore, it is concluded that the grievance of M/s.Wintech Industries Pvt. Ltd could not be entertained by the Electricity Ombudsman and hence dismissed.

10.2 Accordingly the Appeal Petition No. 110 of 2022 is disposed of. No costs.

(N. Kannan)
Electricity Ombudsman

“நுகர்வோர் இல்லையேல், நிறுவனம் இல்லை”
“No Consumer, No Utility”

To

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