

**BEFORE THE CONSUMER GRIEVANCES REDRESSAL FORUM
OF NORTHERN POWER DISTRIBUTION COMPANY OF A.P.
LIMITED: WARANGAL.**

15th Day of June, 2011.

Present : Sri. T. Sadarlal : Chairperson
Sri. G. Raveendranath : Member (Accounts)
Sri. K. Ramesh : Member (Legal)
Sri. A. Sudharshan Reddy : Co - Opted (Member)

C.G. No. 310/2011 of Khammam Circle

Between

Sri. M. Satya Prasad
Proprietor
M/s. Vijaya Lakshmi Tiles Factory
S.C. No. 254, Cat-III
Bayyaram-Post & Mandal
Khammam-Dist.
Pin Code No. 507211 (A.P.)

Complainant

AND

1. Assistant Divisional Engineer/Operation/Yellandu.
2. Assistant Accounts Officer/ERO/Yellandu.
3. Assistant Accounts Officer/ERO/Kothagudem.
4. Divisional Engineer/Operation/Kothagudem.
5. Senior Accounts Officer/Operation Circle/Khammam.
6. Superintending Engineer/Operation/Khammam.

Respondents

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Sri. M. Satya Prasad, Proprietor of M/s. Vijaya Lakshmi Tiles Factory, Bayyaram-Post & Mandal, Khammam-Dist., hereinafter called as the complainant in their complaint dated. 28-02-11, received and registered on 03-03-11, under Clause 5(7) of APERC Regulation 1 of 2004 read with Section 42(5) of Electricity Act 2003, stated the following :-

- i. That the S.C. No. 254, Cat-III of Bayyaram Distribution was released in favour of Ms/. Vijayalaxmi Tile Factory, with connected load of 70 HP on 18.04.1982.

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- ii. It is a Small Scale Industry which registered with Regd. 28 010 11 00103, Part-II of the Industries Department.
- iii. On 09.10.1985, the Assistant Divisional Engineer/DPE/Khammam has visited the premises of the Industry and stated that the load is exceeded to an extent of 4 HP and booked the service under malpractice making assessment for an amount of Rs. 3,216/- with supervision charges of Rs. 100/-. The assessed amount was paid without making any representation though there is no enhancement of load, since found the penalty was meager and the authorities of the Department made a threat of disconnection in case failure of payment.
- iv. Again the DPE unit was inspected the premises of the Industry on 12.05.1992, but not made any comments. But the ERO authorities raised the bills from 5/92 to 3/2008, for the 83 HP for which they could not identify the mode of billing, but made the payment of C.C. bills from time to time as issued by the Department.
- v. On observation of the mode of billing for the excess load, the matter has been brought to the notice of the Divisional Engineer/ Operation/Khammam on the excess billing, they had kind enough to reduce the load from 83 HP to 74 HP for the existing and actual utilization load as per the original sanction.
- vi. In the month of 2/2009, they had received a notice from the Assistant Accounts Officer/ERO/Yellandu to pay a sum of Rs. 1,07,359/- towards short fall which assessed by the Accounts Officer/Internal Audit for the Year 2006-2007, on account of revised billing of the service in HT Cat-I. Some of the subsequent bills were also revised and collected shortfall amount nearly to a tune of Rs. 85,000/- without giving any opportunity to make representation in the matter from their side but made threat of disconnection of supply to the service in case if the payment is made immediately. Therefore having no alternative, they made the payment to avoid disconnection of supply to the Industry.
- vii. Now, they had received a notice from the Assistant Accounts Officer/ERO/Yellandu vide reference cited, asking us to pay a sum of Rs. 4,94,832/- towards the shortfall amount assessed on account of the billing made in H.T. by the A.G.'S audit party in the month of 1/1997, for the year 1996-97 for the period from 12/1992 to 12/1996.
- viii. This is a Small Scale Industry and not being informed any thing during all these years and suddenly demanding to pay the said assessment amount. In fact that they had not enhanced or utilized any load more than the sanctioned load from the date of release of

supply to the Industry, but the departmental persons are issuing notices according to their means and convenience, for which they are putting to lot of financial hardship and finding abnormal financial dislocation for running the Industry for the irregular and unexpected financial crunches of the department.

- ix. It is therefore prayed to kindly to intervene in the issue immediately in the interest of justice and to safeguard the interest of the Small Scale Industries and order for :-
- i. Refunding of the amount collected enhancing the load from 74 HP to 83 HP for the period from 05/92 to 03/2008.
 - ii. Refund of the amount of Rs. 1,90,528/- collected on account of shortfall assessed by the Accounts Officer, internal audit for the Years 2006-07 without giving any notice or an opportunity for submission of their representation.
 - iii. Set-a-siding of the notice issued by the Assistant Accounts Officer/ERO/Yellandu demanding to pay an amount of Rs. 4,94,832/- being the shortfall assessed by the AG Audit billing the service in HT for the period from 12/92 to 12/96.
 - iv. Directing the departmental authorities not to disconnect the supply till the disposal of this representation.
 - v. Directing the authorities to protect the interest and the provisions provided to the Small Scale Industries.
- x. Prayed for favourable action in the matter in the interest of justice and for safe guarding the interests of the industries which are registered under Small Scale Industries.

2. As a sequel to the above complaint, Assistant Divisional Engineer / Operation/Yellandu, Assistant Accounts Officer/ERO/Yellandu, Assistant Accounts Officer/ERO/Kothagudem, Divisional Engineer/Operation/Kothagudem, Senior Accounts Officer/Operation Circle/ Khammam and Superintending Engineer / Operation/Khammam were directed to file their written submissions vide notice dated. 04.03.2011.

I. The Assistant Accounts Officer/Sub-ERO/Yellandu, in his filings received on 31-03-2011, stated the following :-

- i. The S.C. No. 254 was released under Cat-III with connected load 70 HP on 18.04.82 in favour of M/s. Vijayalakshmi Tiles Factory.
- ii. The service was inspected by the DPE using (Assistant Divisional Engineer/DPE/Khammam) on 09.10.85 and found that the consumer is utilizing the unauthorized additional load of 4 HP compare to the sanctioned load. The malpractice case was booked and the assessed amount of Rs. 3216/- + 100/- also paid by the consumer towards additional load charges.
- iii. The service was once again inspected by the DPE Wing on 12.05.1992 and the connected load of 83 HP was found by them. The malpractice case was booked and intimated to the consumer vide D. No. 394/92, Dt. 12.05.1992.
- iv. The C.C. bills have been issued to the consumer with the connected load of 80 HP up to 04/1992.
- v. From 05/1992 onwards the C.C. bills have been issued with 83 HP and the same were paid by the consumer.
- vi. In the Year/1997, the shortfall amount for Rs. 4,94,832/- was levied by A.G. Party due to change of mode of billing from LT to HT i.e., 75 HP to 83 HP for the period from 12/92 to 12/96. The additional load was already pointed by DPE Wing during their time to time inspections.
- vii. Based on the representation made by the consumer, the Assistant Engineer/Operation/Kothapeta has recommended to reduce the load from 83 HP to 74 HP vide his Lr. No. 428/08.03.08 duly counter signed and recommended by the Divisional Engineer/Operation/Kothagudem vide Memo. Dated. 29.03.08. Accordingly the load has been reduced from 83 HP to 74 HP in 04/2008.
- viii. But shortfall amount of Rs. 4.94 Lakhs levied by the A.G. Party for 12/92 to 12/96 which pertaining to prior period to this load reduction only.
- ix. As per the meter reading book verification, the consumer has exceeded from 74 HP to 77 HP as furnished below :-

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Sl. No.	Months	Amount
1	12/08	78.67 HP
2.	01/09	76.08 HP
3.	02/09	76.08 HP
4.	03/09	76.08 HP
5.	04/09	76.95 HP

- x. From the above the consumer is utilizing excess load more than sanctioned load. The same was intimated to the consumer vide D. No. 509/Dt. 06.02.09 this was acknowledged by the consumer on 06.02.09.
- xi. Again recently the exceeding of CMD also observed and intimated the consumer vide office letter dated. 112/04.03.11 and acknowledged by him. The RMD was recorded more than CMD from 11/2010 to 02/2011 as furnished below and shortfall for Rs. 49,723/-was raised vide R.JE. No. 102 of 03/11 as per the Tariff Terms and Conditions in force and intimated to the consumer for arranging of payment.
- xii. In view of the above the consumer was requested to pay the A.G. Audit shortfall amounted to Rs. 4.94 Lakhs along with latest short fall demanded for Rs. 49.723 towards exceeded CMD.

Sl. No.	Months	Amount
1	11/10	79.20 HP
2.	12/10	83.20 HP
3.	01/11	87.90 HP
4.	02/11	79.50 HP

II. The Assistant Accounts Officer/ERO/Kothagudem, in his filings received vide his letter dated. 30.04.2011, stated the following :-

- i. The S.C. No. 254, was released in favour of M/s. Sri. Vijayalakshmi Tiles Factory under cat-III with connected load 70 HP in Bayyaram Distribution and Mandal.
- ii. The Assistant Divisional Engineer/DPE/Khammam has inspected the premises of said service on 09.10.1985 at that time, the consumer is utilizing an un-authorized additional load for 4 HP as identified during the inspection, subsequently a case was booked for Rs. 3216.50 + 100/-. The amount was raised through RJE and the same was also paid by the consumer.
- iii. The said service was inspected by the DPE Wing 2nd time and malpractice case has been booked.

- iv. On verification of records/information it is come to notice that the load of the said service was reduced from 83 HP to 74 HP based on the information furnished by Assistant Engineer/Operation/Kothapeta, vide Lr. No. 428/08/Dt. 08.03.08.
- v. In immediate response to the same it was asked to Assistant Accounts Officer/ ERO/ Yellandu why has not been raised the shortfall amount calculated by the AG Audit.
- vi. It was clearly stated by Assistant Accounts Officer/ERO/Yellandu that as per the instructions issued by the Divisional Engineer/ Operation / Kothagudem vide his Memo. Dated. 29.03.2008, the work of raising of demand stopped out.
- vii. On submission of final replies to the Audit Paras out of Three One Para (Para No. VI of 1/1997-1995-96) was dropped by the A.G. authorities.
- viii. Further it is submitted the stoppage of demand was pointed out by the higher authorities and advise to issue a fresh notice to the consumer.
- ix. On implementation of said advise the Assistant Accounts Officer /ERO/Yellandu was informed vide Lr. No. AAO/ERO/KMM/ JAO/Estt. / D. No. 1099/10/ Dt. 02.02.11 to issue the fresh notice to the consumer of said service.
- x. After intimation of the above the action taken by the ERO has not come to the notice of the Assistant Accounts Officer/ERO/ Kothagudem.

3. Due to non submission of the reports by the respondents on the contents of the complainant petition, a hearing notice was proposed to conduct the hearing on 13.05.11 vide T.O. notice dated. 04.05.11. The hearing was attended by the respondents i.e., Assistant Accounts Officer/ERO/Kothagudem and Assistant Accounts Officer/ERO/Yellandu along with complainant and submitted their remarks as follows :-

I. The Assistant Accounts Officer/ERO/Kothagudem :-

- i. The Following Assistant Accounts Officer's of ERO/Kothagudem has worked the period as follows :-

Sl. No.	Name of the AAO's	Period of Working
1.	Sri. Ch. Chandraiah	1.04.1995 to 28.02.1997
2.	Sri. Ch. Madhava Rao	29.02.1997 to 11.04.1997
3.	Sri. V. Shekar Rao	12.04.1997 to 07.08.2000
4.	Sri. M. Naresh	08.08.2000 to 31.08.2002
5.	Sri. M. Krishnadvan	14.11.2002 to 30.06.2007

- ii. Sub-ERO/Yellandu bifurcated from ERO/Kothagudem to Yellandu during the Year of 10/98. All the relevant records were handed over to this new ERO at that time.
- iii. It was heard from the former staff of this office who worked at that time. He has joined as Assistant Accounts Officer/ ERO / Khammam on 28.12.07, in immediate response as per instructions of higher authorities the under signed has paid personal attention to submit actual status of para time to time.
- iv. Due to non availability of paras our staff members were deputed to Corporate Office for obtaining of copy of said paras. On receipt of same all the details of said service also obtained from ERO/Yellandu.
- v. At present there is no previous records available to this office against said services to produce the proof production to kind authorities.

II. The Assistant Accounts Officer/Sub-ERO/Yellandu :-

- i. Sub-ERO/Yellandu is formed during 10/98 by bifurcating from ERO/Kothagudem. The services was released with contracted load dt. 18.04.1982.
- ii. At that time the service is being billed at ERO Bhadrachalam the service was inspected by Assistant Divisional Engineer/DPE/ Khammam on 09.10.85 and found that the consumer is utilizing 4 HP additional load the Assistant Divisional Engineer/ DPE/Khammam has assessed malpractice amount Rs. 3216/- + 100/- and paid by the consumer. The C.C. bills from 11/85 to 01/88 are issued with 74 HP.
- iii. From 2/88 (As per manual ledger) the C.C. bills are issued for 80 HP. Again on 12.05,1992 the Assistant Divisional Engineer/ DPE/Khammam inspected the premises and found that the consumer is having 83 HP connected load, the Assistant Divisional Engineer/ DPE /Khammam has assessed malpractice amount Rs. 4010.70/- + Rs. 150/-.

- iv. The C.C. bills from 5/92 are being issued under LT Cat-III (A) for 83 HP.
- v. During 6/07 the Accounts Officer/Internal Audit has issued para by levying shortfall under HT Cat-I for the period from 04/06 to 05/07 for Rs. 1,24,008/-, the consumer paid the amount.
- vi. Again during 03/08 the Accounts Officer/Internal Audit has assessed shortfall under HT Cat-I for the period from 06/07 to 02/08 for Rs.73800/-, the consumer paid the amount.
- vii. As per Memo. No. DE/OP/KGM/AAE/Comml./D. No. 211/08/Dt. 29.03.08, the load was reduced from 83 HP to 74 HP during 03/08.
- viii. From 4/08 the service is running with contracted load of 74 HP.
- ix. But the consumer RMD is exceeding from 11/10 to 04/11.
- x. During 02/11 the Assistant Accounts Officer/ERO/Kothagudem has intimated the AG audit shortfall amount Rs. 4,94,832/- and requested to issue 15 days notice to the consumer.
- xi. As per Assistant Accounts Officer/ERO/Kothagudem letter (15) days notice was issued to the consumer requesting to produce any comments the amount was not included in the C.C. bill due to receipt letter from Consumer Grievances Redressal Forum, the matter of A.G. audit shortfall was levied to ERO/ Yellandu during 02/11.

III. The Complainant :-

- i. He has attended the hearing and requested to the Forum to redress his grievance in this regard.

Due to non submission of proper information by the respondents along with documentary evidence during the hearing conducted on the above said date, the hearing was posted to conduct on 30.05.11 at 3:30 PM accordingly it was communicated to the respondents as well as complainant through the letter dated. 20.05.11. But due to unavoidable circumstances, the hearing was not

conducted and the same was proposed to conduct on 03.06.11 accordingly the hearing was conducted on the said date, during the hearing conducted, the respondents and complainant have attended and made the remarks as furnished below :-

I. The Assistant Accounts Officer/ERO/Yellandu :-

- i. That the B.P. M. No. 149/Dt. 28.12.96 and B.P. Ms. No. 105/Dt. 28.02.98 will be obtained and reply will be submitted to the AG audit the copy of reply will be submitted to the Forum on or before 10.06.11.

I. In addition to the earlier report the Assistant Accounts Officer/ERO/Yellandu vide his letter dated. 25.05.11, the following are the remarks furnished stating as follows :-

- i. The Accounts Officer/Internal Audit has assessed shortfall amount for Rs. 1,24,008/- for the period from 04/06 to 05/07 due to revised billing under H.T. Cat-I. Due to non response from the consumer and report from the Assistant Engineer/Operation/Kothapeta.
- ii. During 03/08, the Accounts Officer/Internal Audit has assessed shortfall amount for Rs. 73,800/- for the period from 06/07 to 02/08.
- iii. Based on the consumer representation, the Assistant Engineer/Operation/Kothapeta has recommended to reduce the load from 83 HP to 74 HP vide his letter D. No. 428/Dt. 08.03.08 duly counter signed by ADE and recommended by the Divisional Engineer/Operation/Kothagudem vide DEE/KGM/D. No. 211/08/Dt. 29.03.08. Accordingly load has been reduced from 83 HP to 74 HP in 04/08.
- iv. The consumer has exceeded contracted load from 12/08 to 04/09.
- v. The respondents have requested the consumer to change the service from LT Cat-III (A) to HT Cat-I or LT Cat-III (B) since the RMD is exceeding (Letter dated. 06.02.09) the consumer acknowledged the letter on 05.03.09 and not responded for change of category.

- vi. Due to non response to the respondents letter, the audit shortfall amount for the period 04/06 to 05/07 for Rs. 1,24,008/- and 06/07 to 02/08 for Rs. 73,800/- total Rs. 1,97,808/- was included in C.C. bill vide T.O. J.E. No. 1 of 04/09, 20 of 05/09 and 69 of 12/09 and intimated to the consumer vide letter D. No. 58/09/Dt. 29.04.09. The consumer paid shortfall amount.
- vii. As per the request of Assistant Accounts Officer/ERO/Kothagudem and Assistant Accounts Officer/ERO/Yellandu has issued a 15 days notice to the consumer for payment of Rs. 4.94 Lakhs towards audit shortfall amount raised by the AG audit party for the period from 12/92 to 12/96 which pertaining to prior period to this load reduction only the same was acknowledged by the consumer on 25.02.11.
- viii. In addition to above, subsequently the connected load of the service has been exceeded from 74 HP to 77 HP which was recorded in field meter reading books. Also the revised bills under HT Cat-I were issued and paid by the consumer.

Sl. No.	Months	Amount
1	12/08	78.67 HP
2.	01/09	76.08 HP
3.	02/09	76.08 HP
4.	03/09	76.08 HP
5.	04/09	76.95 HP

Sl. No.	Months	Amount
1	11/10	79.20 HP
2.	12/10	83.20 HP
3.	01/11	87.90 HP
4.	02/11	79.50 HP

II. In addition to the earlier report the Assistant Accounts Officer/ERO/Kothagudem vide his letter dated. 31.05.11, the following are the remarks furnished stating as follows :-

- i. The S.C. No. 254 of Bayyaram, was made a representation to the Hon'ble Chairperson towards shortfall amount calculated by AG audit party based on load of said service at the time of audit.

- ii. In response to reply to message transmitted to him by the Chief General Manager, he has submitted the certain fact and figures based on available information at that time vide reference Lr. No. AAO/ERO/KGM/JAO-I/91/11/Dt. 30.04.11.
- iii. After submission of above report the lot of attention paid by their office to find out the supporting documents to submit the proof of action taken by this official at last they had found out a large amount of evidences on the above subject which has not submitted before Hon'ble Chairperson.
- iv. On verification of old records of their office the following fact of action taken by this office previous staff against AG Audit Party Number 1 has come to the notice.
- v. The details of such written correspondence made by their office are specified here under and also copies of the same are appended to this statement.
 - i. Lr. No. AAO/ERO/KGM/D. No. 1433/97/Dt. 21.01.1997, towards details of first reply submitted to AG audit party by their office.
 - ii. Lr. No. AAO/ERO/KGM/D. No. 916/97/Dt. 21.10.1997, towards correspondence on load of the said service called from field.
 - iii. Memo. No. SE/OP/KMM/D. No. 1644/07.Dt. 08.12.1997, towards instructions were issued to field for furnishing of load of the said service.
 - iv. Lr. No. AAO/ERO/KGM/D. No. 852/98/Dt. 13.09.1998, towards details of staff who allocated ERO/Yellandu.
 - v. Memo. No. SE/OP/KMM/D. no. 3638/2000/Dt. 06.05.2000, towards change of administration from ERO/Kothagudem to ERO/Yellandu.
 - vi. Lr. No. AAO/ERO/KGM/d. No. 952/97/Dt. 08.12.1997, towards submission of reply to AG audit paras in the period of Sri. V. Shekar Rao, Assistant Accounts Officer.
 - vii. Lr. No. AAO/ERO/KGM/D. No. 295/98/Dt. 11.06.1998, towards submission of reply to AG audit paras in the period of Sri. V. Shekar Rao, Assistant Accounts Officer.
 - viii. Lr. No. AAO/ERO/KGM/D. No. 1001/02/Dt. 29.01.2002, towards submission of reply to AG audit paras in the period of Sri. M. Naresh, Assistant Accounts Officer.

- ix. Lr. No. AAO/ERO/KGM/D. No. 138/03/Dt. 14.05.03. towards submission of reply to AG audit paras in the period of Sri. M. Krishnanandam, Assistant Accounts Officer.
 - x. Memo. No. SE/OP/KGM/D. No. 1601/03/Dt. 14.10.03, towards issuing of specific instructions for submission of AG audit replies by concerned EROs where the original para issued by audit.
 - xi. Lr. No. AAO/ERO/KGM/D. No. 1105/04/Dt. 24.02.04, towards submission of reply to AG audit paras in the period of Sri. M. Krishnanandam, Assistant Accounts Officer.
- vi. In the fact of the above it is brought to kind notice that the details of replies and information towards action taken by their office during his period has been already submitted to Hon'ble Chairperson in previous correspondence.

III. After hearing the Assistant Divisional Engineer/Operation/Yellandu, in his filings received on 25-05-2011, stated the following :-

- i. The S.C. No. 254 was released under Cat-III with connected load 70 HP on 18.04.82 in favour of M/s. Vijayalakshmi Tiles Factory.
- ii. The service was inspected by the DPE using (Assistant Divisional Engineer/DPE/Khammam) on 09.10.85 and found that the consumer is utilizing the unauthorized additional load of 4 HP compare to the sanctioned load. The malpractice case was booked and the assessed amount of Rs. 3216/- + 100/- also paid by the consumer towards additional load charges.
- iii. The service was once again inspected by the DPE Wing on 12.05.1992 and the connected load of 83 HP was found by them. The malpractice case was booked and intimated to the consumer vide D. No. 394/92, Dt. 12.05.1992.
- iv. The C.C. bills have been issued to the consumer with the connected load of 80 HP up to 04/1992.
- v. From 05/1992 onwards the C.C. bills have been issued with 83 HP and the same were pad by the consumer.

- vi. In the Year 01/1997, the shortfall amount for Rs. 4,94,832/- was levied by A.G. Party due to change of mode of billing from LT to HT i.e., 75 HP to 83 HP for the period from 12/92 to 12/96. The additional load was already pointed out by DPE Wing during their time to time inspections.
- vii. Based on the representation made by the consumer, the Assistant Engineer/Operation/Kothapeta has recommended to reduce the load from 83 HP to 74 HP vide his Lr. No. 428/08.03.08 duly counter signed and recommended by the Divisional Engineer/Operation/Kothagudem vide Memo. Dated. 29.03.08. Accordingly the load has been reduced from 83 HP to 74 HP in 04/2008.
- viii. But shortfall amount of Rs. 4.94 Lakhs levied by the A.G. Party for 12/92 to 12/96 which pertaining to prior period to this load reduction only.
- ix. As per the meter reading book verification, the consumer has exceeded from 74 HP to 77 HP as furnished below :-

Sl. No.	Months	Amount
1	12/08	78.67 HP
2.	01/09	76.08 HP
3.	02/09	76.08 HP
4.	03/09	76.08 HP
5.	04/09	76.95 HP

- x. From the above the consumer is utilizing excess load more than sanctioned load. The same was intimated to the consumer vide D. No. 509/Dt. 06.02.09 this was acknowledged by the consumer on 06.02.09.
- xi. Again recently the exceeding of CMD also observed and intimated the consumer vide officer letter dated. 112/04.03.11 and acknowledged by him. The RMD was recorded more than CMD from 11/2010 to 02/2011 as furnished below and shortfall for Rs. 49,723/-was raised vide R.JE. No. 102 of 03/11 as per the Tariff Terms and Conditions in force and intimated to the consumer for arranging of payment.
- xii. In view of the above the consumer was requested to pay the A.G. Audit shortfall amounted to rs. 4.94 Lakhs along with latest short fall demanded for Rs, 49.723 towards exceeded CMD.

Sl. No.	Months	Amount
1	11/10	79.20 HP
2.	12/10	83.20 HP
3.	01/11	87.90 HP
4.	02/11	79.50 HP

3. **Analysis of the Case :-**

The contention of the complainant is that the department has issued notice to him for payment of an amount of Rs. 4,94,832/- being the shortfall assessed by the AG audit on account of the billing made in HT during the AG audit conducted in the month of 01/1997 for the Year 1996-97 for the period from 12/92 to 12/96 due to exceeding the contracted demand by the consumer. He has also submitted that the demand note was issued by the department for exceeding the contracted demand based on the shortfall amount assessed by the Accounts Officer/Internal Audit for the Year 2006-07 for an amount of Rs. 1,90,525/-, without giving any notice or an opportunity for submission of his representation. Hence he has lodged a petition in the Forum requesting to refund the above amounts.

It is observed by the Forum during the hearing conducted based on the remarks raised by the complainant and respondents along with the reports submitted by them, the complainant is being frequently exceeded the contracted demand, so that the service has billed duly treating his service under HT category though it was sanctioned with connected load of 70 HP Category-III. Due to non regularization of the load by the complainant this problem is occurring and accordingly the demand notes were issued by the respondents for payment by the complainant. The complainant has also paid certain amounts for certain periods as per the demand notes served by the respondents.

Based on the records furnished by the respondents, the exceeding of RMD more than CMD against the S.C. No. 254, Cat-III of Bayyaram is found according to the sanctioned load of 70 HP as below :-

Sl. No.	Period	Load
1.	10/85 to 04/92	77 HP
2.	05/92 to 03/08	83 HP
3.	04/08 to 11/08	74 HP
4.	12/08 to 04/09	77 HP
5.	05/09 TO 08/10	74 HP
6.	11/10 to 02/11	77 to 79 HP

The following are the clauses indicated in General Terms and Conditions of Supply to follow up by the license and consumers in connection with additional connected loads of LT Services.

12.3.3. :-

Additional connected loads detected in LT services cases.

12.3.3.1 :-

Where the total connected load is 75 HP/56KW or 150 HP in cases of LT Cat-III (B) or below at the time of detection.

- i. One month notice shall be given to regularize the additional connected load for payment of required service line charges, development charges and consumption deposit, in accordance with the format prescribed in Appendix-IX.
- ii. Service of consumer who do not get the additional loads regularized, shall be disconnected immediately on expiry of notice period and these services shall remain under disconnection, until they are regularized.

12.3.3.2 :-

Cases where the total connected load is above 75 HP/56KW or :-

- i. These services shall be billed at the respective HT Tariff Rates from the consumption month in which the unauthorized additional load is detected. For this purpose, 80% of connected load shall be taken as billing demand. The quantity of electricity consumed in any month shall be computed by adding 3% extra on account of transformation losses to the energy recorded in LT meter.
- ii. The company may at its discretion, for the reasons to be recorded and in cases where no loss of revenue is involved, continue LT supply. If the consumer, however, makes arrangements for switch over to HT supply, the Company shall release HT supply as per the rules.

- iii. On month notice will be given for payment of service line charges, development charges and consumption deposit required for conversion of LT service into HT service.
- iv. Service of such consumers who do not pay HT tariff rates or who do not pay the required service line charges, development charges and consumption deposit shall be disconnected immediately on expiry of notice period and these services shall remain under disconnection unless the required service line charges, development charges and consumption deposit are paid for regularizing such services by conversion from LT to HT category.
- v. If the consumer where required, does not get the LT services converted to HT supply and regularized as per procedure indicated above within three months from the date of issue of notice, the Company entitled to terminate the agreement by giving required notice as per Clause 5.9.4 of the General Terms and Conditions of Supply notwithstanding that the consumer is paying bills at HT tariff rates prescribed in Clause 12.3.3.2 (i) above.

12.3.3.3. :-

Cases where the total connected load is above 75 HP/56KW or cases where the total connected load above 150 Hp under LT Category III (B). These service will be billed at the HT Category-I tariff rates from the consumption month in which the unauthorized additional load is detected till such additional load is removed and got inspected by the Designated officer of the Company.

Not following the above guidelines properly by the respondents, this discrepancy has arised during the audit conducted by the audit party against the above service connection raising the audit short fall for an amount of Rs. 4,94,832/- as penalty for payment by the consumer. It is clearly evident that, and amount is Rs. 4,94,832/- shortfall levied by the A.G. Audit in the month of 01/1997 has been issued notice by the respondent to the consumer for payment in the month of February 2011 after lapse of nearly (14) years.

The respondents were not taken timely action in connection with regularization of load by the complainant duly collecting necessary charges as per

the General Terms and Conditions of Supply. Further as per the Terms and Conditions of Supply, the service shall be billed at the respective HT Tariff Rates from the consumption month in which the unauthorized additional load is detected. But the respondents have failed to apply afore said Clauses of Terms and Conditions of Supply and to regularize the un-authorized load used by the consumer.

5. **ORDER :-**

It is clear that the Assistant Accounts Officer/ERO/Yellandu, has issued notice in the month of 02/2011 to the consumer for payment of shortfall amount of Rs. 4,94,832/- in connection with exceeding the contracted maximum demand based on the A.G. Audit report of 01/1997 after a long silenee of (14) years. During the hearing conducted both sides, the respondents have failed to produce the proof of evidence with related documents in connection with shortfall amount levied by the A.G. audit and also they have expressed that in as much as the subject is (14) Years back and records are not traceable.

So, in the absence of the proof of evidence of the material issuing the shortfall amount is the action of the respondents herein is untenable and not maintainable as per law. And the Electricity Act 2003, vide Section 56 (2) says that "Not-with-standing anything contained in any other law for the time being in force, no sum due from any consumer, under this Section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not be cut off the supply of electricity".

In the context and circumstances cited above, the respondents are directed to withdraw the notice issued to the consumer for payment of Rs. 4,94,832/- in connection with shortfall levied by the A.G. Audit in the month of 01/1997. In the

absence of related documents and in action of respondents it is not possible for this authority to order payment of the said amount as it is obligatory duty of the department to prove with material facts that the proposed audit shortfall amount is according to the Clauses of Terms and Conditions of Supply on the part of the complainant.

The complainant is requested to get regularized the un-authorized load by paying the amount as per the departmental rules immediately.

Due to non following the General Terms and Conditions of Supply/Clauses as said above this problem has arisen for which the departmental staff should be liable for initiating necessary departmental action according to the departmental procedures.

The respondents are directed to act as per the Clauses of Terms and Conditions of Supply and implement these orders and report compliance soon after redressal of the consumer grievance thereon within (15) days to the Forum.

6. **Reasons for Delay :-**

There is a delay of about 59 days in deciding the petition. The reasons for delay are :-

- i. Non-receipt of reports from respondents.
- ii. Insufficient information filed by the complainants.

7. If the complainant is aggrieved by the order of the forum he may represent to Vidyut Ombudsman, APERC, Singareni Bhavan, IVth Floor, Red Hills,

Hyderabad-500 004, within (30) days of receipt of this order as specified in clause (9) of Regulation 1 of 2004 of A.P. Electricity Regulatory Commission of A.P.

Signed on 15th day of June, 2011.

Sd/-	Sd/-	Sd/-	Sd/-
K. RAMESH	G. RAVEENDRANATH	A. SUDHARSHAN REDDY	T. SADARLAL
MEMBER (LEGAL)	MEMBER (ACCOUNTS)	CO - OPTED (MEMBER)	CHAIRPERSON

Endt. No./C.P./C.G.R.F/NPDCL/WGL/C.G. No. 310/2011-1 Dt. 15.06.2011.

Copy to :-

The General Manager (IT)/Corporate Office/NPDCL/Warangal.

(He is requested to place the order in the Company's Website).

Sri. Dr. A. Sudharshan Reddy, President, Centre for Environmental Studies,
H. No. 2-2-421, Kishanpura, Hanamkonda, Warangal-Dist.

The Stock file.

//FORWARDED BY ORDER //

Member (Legal)
Consumer Grievances Redressal Forum.