



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present: Thiru. S. Devarajan Electricity Ombudsman

Appeal Petition No. 62 of 2017

M/s Harihar Alloys Private Ltd.,
1/43, Race Course Road,
Kajamalai,
Trichy .

. Appellant

(Rep by Thiru. A. Rajagopalan/Manager/Legal
Thiru. & K.Narasimhan, Advocate)

Vs

1) The Superintending Engineer,
Trichy Electricity Distribution Circle/Metro,
TANGEDCO,
Mannarpuram,
Trichy 620 020.

2) The Chief Engineer,
Trichy Region,
TANGEDCO,
Mannarpuram, Trichy 620 020.

. Respondents

(Rep by Thiru R.M. Padmanaban, EE/General/Trichy EDC/Metro
Thiru. K. Anbuselvan, AEE/Thennur,
Thiru. H. Thirumavalavan, EE/General/Pudukottai EDC,
Thiru. A. Selvam, Accts Supervisor/Pudukottai EDC &
Thiru. R. Radha, AEE/Development/Trichy EDC/Metro)

Date of hearing : 18.1.2018

Date of Order : 18.05.2018

The Petition dt. 25.9.2017 filed by M/s Harihar Alloys Private Ltd., Trichy was registered as Appeal Petition No.62 of 2017. The above appeal petition came up for

hearing before the Electricity Ombudsman on 18.1.2018. 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 quash the order of the Honble CGRF in Petition No.1/A of 2017-18.

2. Brief History of the case:

2.1 The Appellant states that the Appellant is in the business of manufacturing alloy steel casting and forgings and that the Appellant's company is classified as a High Tension Industry. The Appellant has a HT Service connection No.171 at the Appellant's manufacturing unit at S.F. No.421 & 671, Trichy, Thuriyur Main Road, Musiri Taluk, Trichy District.

2.2 The Appellant requested the respondents to reduce the sanctioned demand from 1650 KVA to 1250 KVA to its HT Service Connection No.171.

2.3 The respondents delayed the same for which the appellant was forced to pay excess demand charges claimed by the respondents.

2.4 Therefore the appellant approached the CGRF, Trichy with a prayer to direct the first respondent to give effect to the reduction in load from 27.08.2015. CGRF has issued its order on 10.07.2017. Aggrieved over the orders, the appellant filed this appeal petition before Ombudsman.

3. Orders of the CGRF :

3.1 The CGRF of Trichy Electricity Distribution Circle/Metro issued its order on 10.7.2017, the relevant portion of the order is extracted below :-

“ Forum Conclusion :

On enquiry in the forum on the both sides and as per the conclusion and members of forum, it is hereby ordered that prayer of the petitioner cannot be considered and the forum decides that the official procedure carried out for the reduction of demand from 1650 KVA, 1250 KVA to a tune of 400 KVA in HTSC No.171 standing in the name of necessary Harihar Alloys Private Ltd is in order and the TANGEDCO need not refund the amount paid by the consumer.

With these findings, the petition is disposed.”

4. Arguments of the Appellant furnished in the Appeal Petition:

- 4.1 Under the provisions of the Electricity Act 2003 and the Electricity supply code framed there under, the Respondents are the authorities empowered to reduce sanctioned demand of high tension industries.
- 4.2 Appellant is in the business of manufacturing alloy steel casting and forgings and that the Appellant's company is classified as a High Tension Industry. The Appellant has a HT Service connection No.171 at S.F. No.421 & 671, Trichy Thuriyur Main Road, Musiri Taluk, Trichy District, HT Service Connection No.123 at S.F. No.229/2 & 4B, Lakshmanampatti Village, Kulathur Taluk, Pudukottai District and HT Service connection No.121 at S.F. No.80 and 82 Vellore Village, Illupur Taluk, Viralimalai, Trichy. The Appellant states that they are paying an amount of over Rs.5.00 crores every year for the three units mentioned above and has been very regular in payments.
- 4.3 The Appellant states that following paucity of orders which had resulted in a conspicuous lack of demand due to which the Appellant had decided to reduce the sanctioned demand from 1650 KVA to 1250 KVA to its HT Service Connection No.171.

- 4.4 The Appellant states that by their letter dated 14.07.2015 bearing No. HAPL/TNEB/2015-2016, the Appellant company had sent a letter to the First Respondent requesting to reduce the sanctioned demand from 1650 KVA to 1250 KVA.
- 4.5 The Appellant states that in response to their letter dated 14.07.2015, the First Respondent vide their Lr.No.SE/TEDC /Try /AEE/DEV /AE F.HT.SC.171/D.194/15 dated 27.08.2015 has approved for reduction of demand and informed to pay necessary fees and other charges amounting to a sum of Rs.1,04,940/- along with Form 8 agreement duly executed by the Director.
- 4.6 The Appellant had accordingly took immediate steps towards compliance of the above conditions and submitted a sum of Rs.1,04,940/- along with Form 8 agreement duly executed by the Director vide their letter dated 31.08.2015 which was personally handed over to the First Respondent on 01.09.2015.
- 4.7 The Appellant submits that the First Respondent had inordinately taken a long time of 44 days for replying to a simple request for reduction in sanctioned demand. It is to be noted that in a similar case of reduction of sanctioned demand for their Pudukottai unit the same was completed within a fortnight.
- 4.8 The Appellant states that as requested by the Appellant the reduction in demand was not effected even after payment of the necessary fees and compliance of conditions set out in the letter dated 27.08.2015. Therefore a representation was sent to the Chairman and Managing Director of TANGEDCO on 09.09.2015 along with copies to the First and Second Respondent.
- 4.9 The First Respondent sent a letter dated 15.9.2015 stating that reduction of demand will be considered after the payment of arrears of Rs.3,48,30,690/- pertaining to HT SC No.111. The Appellant further states that this letter is said to

be issued based on Memo No. CE/D/Tech/AEE/DEV/F.HT/C.818/14 dated 10.09.2015 by the Second Respondent. I humbly state that HT SC No.111 in respect of which there is audit arrears of Rs.3,48,30,690/- is not a unit of Harihar Alloys (P) Ltd.

4.10 The Appellant states that it belongs to M/s.Sabari Industries (P) Ltd. and falls within the jurisdiction of Pudukottai Electricity Distribution Circle and surprisingly no notice has been issued to Sabari Industries (P) Ltd directly till date of issue of notice to the Appellant. The Appellant further states that the Respondents are very well aware that the said Sabari Industries (P) Ltd has changed hands/ownership after being sold by the Appellant to the M/s.Sabari Industries (P) Ltd..

4.11 The Appellant humbly submits that the Respondents are aware that the arrears belong to M/s. Sabari Industries Private limited and not of the Appellant as billing had started in the name of M/s. Sabari Industries Private Limited from 31.12.2009 even though M/s. Sabari Industries had applied for name transfer in the month of August 2009 itself and audit observations pertains to 07/2009 to 03/2013.

4.12 The Appellant states that they were totally taken aback by this letter as till that day they had not received any request for payment of audit arrears even from the Pudukottai Electricity Distribution Circle and for that matter the Pudukottai Electricity Distribution Circle had obliged their request for reduction of demand faster than the First Respondent.

4.13 The Appellant further states that for the two HT SC services of Harihar Alloys which are located within the jurisdiction of Pudukottai Electricity Distribution Circle, reduction in demand as requested by the Appellant company was effected within 32 days from the date of receipt of application.

4.14 The Appellant states that on receipt of the letter dated 15.09.2015 the Appellant had sent another letter dated 17.09.2015 wherein the Appellant had clearly

explained that there were no arrears in any units of the Harihar Alloys (P) Ltd and the alleged HT SC No.111 is no way related to the Petitioner's company. The Appellant further states that the actions of the Second respondent clearly show their malafide intention in linking the unconnected HT Service connections with appellants company.

4.15 The Appellant states that the Appellant challenged the order of the First Respondent in Lr.No.SE/TEDC/ Try/AEE/DEV/ AE/DEV/ F.HT.SC.171/ D.224/15 dated 15.09.2015 and further requested to consider the Appellant's representation dated 09.09.2015 before the Hon'ble High Court bench at Madurai and the same was numbered W.P. 18668 of 2015. The Hon'ble High Court had granted interim stay on 13.10.2015. Only after granting of stay by the Hon'ble High Court Madurai bench the Petitioner's request for reduction in demand was effected on 17.11.2015.

4.16 The Appellant states that the Appellant's company has not exceeded their demand beyond 1250 KVA (90% of the reduced demand) requested by Appellant from 15.09.2015 onwards. However the TANGEDCO is charging based on the full sanctioned demand. The Appellant further states that they have already paid Rs.50,400/- over the amount which ought to have been paid by them for the month of August 2015. For the month of September 2015 also this excess amount demanded is Rs.1,26,000/-.

Refund of Excess amount claimed by TANGEDCO from August-15 to November-15

August-15	50400	- from 15.08.2015
September-15	126000	
October-15	126000	
November-15	<u>85357</u>	- upto 16.11.2015
	<u>Rs.387757</u>	

Reduction of load implemented on 17.11.2015.

- 4.17 The Appellant states that the above records will clearly establish that the Appellant's company never exceeded the reduction of demand request sent by them on 14.07.2015 and approved by the First Respondent on 27.08.2015. However the same was implemented only on 17.11.2015. The Appellant states that the Respondents have wontedly delayed the same with ulterior motive so that the Appellant may be forced to pay excess demand claimed by them.
- 4.18 The Appellant states that based on the approval given by the First Respondent the Appellant's company never exceeded the reduced sanctioned demand. However they were regularly charged under the original sanctioned demand due to which the Appellant had to pay sum of Rs.3,87,757/- (Rupees Three lakhs Eighty Seven Thousand Seven hundred and fifty seven only) which was claimed in excess by the First Respondent.
- 4.19 The Appellant states that the charging of excess amount of Rs.3,87,757/-- based on the original sanctioned demand is completely illegal and should be set aside. The Appellant therefore approached the Hon'ble CGRF Trichy and filed a complaint before them on 21.01.2016 with a prayer to direct the First Respondent to give effect to the reduction in load from 27.08.2015 (when the reduction in demand was approved) instead of 17.11.2015 and refund the excess claimed in the bills of August 15, September 15, October 15 and November 15 along with an interest @ 18% p.a. from the date of collection of the amount.
- 4.20 The Appellant states that the Hon'ble CGRF vide its letter dated 29.01.2016 received by the Appellants on 03.02.2016 refused to register the compliant citing that the related case W.P. No.(M.D.) 18667 of 2015 & M.P. (M. D.) No.1 of 2015 was pending before the Hon'ble High Court.
- 4.21 The Appellant states that the Appellant sent reply on 18.02.2016 along with copy of order of Hon'ble High Court, Madurai Bench where it has been clearly mentioned that the case was being withdrawn with liberty to approach Hon'ble Consumer Forum for appropriate remedy.

- 4.22 The Appellant states that once again the appellant received another letter dated 27.02.2016 stating that the case W.P. No.(M.D.) 18667 of 2015 & M.P. (M.D.) No.1 of 2015 was pending before the Hon'ble High Court. Hence the complaint cannot be registered.
- 4.23 The Appellant states that on 07.03.2016 the Appellant had sent reply stating that the prayer sought for in W.P. (M.D) 18667 of 2015 filed before Hon'ble High Court Madurai bench is not connected with the present petition being filed before the Hon'ble CGRF. They are two separate issues and are not inter linked with each other.
- 4.24 The Appellant states that as complaint was not being registered by CGRF, Trichy as informed by the Respondent the Appellant withdrew the W.P. (M.D) 18667 of 2015 filed before Hon'ble High Court Madurai bench and approached the Respondent to register the complaint and finally complaint before CGRF was registered as Complaint No.01/A of 2017-2018.

5.0 Arguments of Respondent furnished in counter:

- 5.1 The CGRF/Metro/Trichy's order has been issued considering (as per TNERC Guidelines /TANGEDCO) instructions in force.
- 5.2 All the pending TANGEDCO dues can be recovered from any sister concern. By this rule, the Chief Engineer/Distribution/Trichy has issued the order to recover the same.
- 5.3 Board of Directors of the Appellant's company and of M/s.Sabari Industries are same. Moreover during R&C implementation period transfer of demand /Energy were done, between these two industries during that tenure.
- 5.4 Application was Registered on 01.09.2015 and as per the procedure in vogue for the approval to process, the same was submitted to the Chief Engineer/ Distribution/Trichy. The Chief Engineer/Distribution/Trichy who will monitor the

HT service in both the districts has directed to collect the arrear amount from the individual and hence notice issued.

- 5.5 Audit arrears amount Rs.3,48,30,690/- is pending only in Pudukottai/EDC. As per rules in force no pending arrears amount in Trichy EDC at the time of registration of application for effecting the reduction in demand. And while processing the application only, the pending arrears were found by the Chief Engineer/Distribution/Trichy. As per the Memo No:CE/Coml/EET/AEE2 /F.Consumer with arrears/ D.28/13, Dated;23.01.2014, the Notice was issued to pay the arrears amount and hence there is no violation of rules.
- 5.6 Further, there is no un-due delay. Official routine procedure has been carried out. The HT application for the reduction of demand in HT.SC.No.171 was received on 20.07.2015. After obtaining the field report from the concerned division office and approval to process from the Chief Engineer / Distribution/ Trichy, notice for the registration fees and other charges was issued to the consumer on 27.08.2015. After remittance of the above charges the application was registered on 01.09.2015
- 5.7 As per Board instruction whenever there is any case pending in any court, the individual request could not be considered until the outcome of the case.
- 5.8 There is no delay in effecting the reduction of demand and hence there is no question for excess amount. All Open Access consumer have given undertaking to recover audit amount if will arise in future and as per this procedure, it is not a penalised one and if it claimed later it has to be respond.
- 5.9 The history of the HT SC No.171 is only available at this office. The details of the other service connection related to the consumer is not available in this office. While the proposal was submitted to the Chief Engineer/Distribution/Trichy as controlling officer of Pudukottai and Trichy/EDC has informed to this office to collect the above said audit amount.

5.10 Reason for not processing the application to effect the reduction of demand:

- i) TNERC's Distribution code 27- 1(3) (Provision incorporated vide Notification No.TNERC/DC/8-I/dated 22.11.2005 W.e.f.07.12.2005)"Provided that the licensee will refuse to supply electricity to an intending consumer who had defaulted payment of dues to the licensee in respect of any other service connection in his name".
- ii) Memo. No. CE/ Coml/ EET/AEE.2/F. Consumers with arrears/D.28/13, dt.23.01.2014
"When the consumers having outstanding dues approach TANGEDCO for their various requests such as new, additional demand, dedicated feeder, etc. and if there is no order of stay by court against collection of outstanding amount from the consumers, action may be taken to realize the pending amount from the consumer before processing their request".
- iii) From the above it is clear that, routine procedure were carried out for processing the application and there is no intension to make delay in TANGEDCO side to effect the reduction of demand and there is no negligence in TANGEDCO service and all the process are done properly as per rules in vogue.
- iv) The reduction in demand charges can be made only from the actual date of effecting the reduction of demand.

5.11 The request of the petitioner "to effect the reduction of demand from 21.06.2016 instead of 10.01.2017 and refund of the excess claimed in the bills of from June-16 to January-17 along with an interest @ 18% p.a. from the date of collection of amount" should not be considered and the process adhered for the reduction of 300 KVA demand from 1650 KVA to 1250 KV A to HT.SC.No.171 by the respondent (1) is in order & as per the regulations and instructions in force. As per TNERC regulation there is no time frame for effecting the reduction of demand and also the effecting of the reduction of demand for the petitioner was without any undue delay, the claim by the petitioner is groundless. Hence it is requested that the Appeal Petition.62/2017 shall be dismissed.

6. Rejoinder to the Counter filed by the Respondent :

6.1 The Appellant states that all the notices are wrongly being issued as Harihar Alloys Private Limited HTSC No.111 whereas the same should be in the name of Harihar Power and Alloys Private Limited which was taken over by the M/s. Sabari Industries Private Limited and was registered with Registrar of Companies in the year 04.06.2009. Therefore the Appellant Company is not liable for any amount due during that period. We are enclosing the copy of Registrar of Companies Tamil Nadu Chennai showing that Harihar Alloys Private Limited is a separate entity in existence since 1995.

6.2 Till date the Respondents have not produced any authentic proof to show that Board of Directors of both the companies are same. We are enclosing a copy of 15th Annual General Meeting held on 20.08.2010 showing the list of Board of Directors and addresses of the factories in the name of Harihar Alloys Private Limited. The same prove that the M/s. Sabari Industries Private Limited is a separate entity and the factory address of the same is also different and the same does not form part of Harihar Alloys Private Limited.

6.3 The Appellant states that as per norms the file should have been approved by Superintending Engineer himself as he has power to sanction upto 500 KVA. Therefore the Appellant states that there was no necessity to take approval from the Chief Engineer/ Distribution/ Trichy in the present case.

6.4 The Appellant states that a demand notice dated 15.9.2015 was issued stating that reduction of demand will be considered only after the payment of arrears of Rs.3,48,30,690/- pertaining to HT SC No.111 was received. Till that date no demand notice was issued which is clear violation of rules as First demand notice for the period pertaining to July,2009 to March,2013 was being issued on 15.09.2015 after a lapse of more than two years.

6.5 The Appellant states that there are no dues with reference to Harihar Alloys Private Limited pertaining to HTSC 171 for which request for reduction was

requested by the Appellant, therefore question of not considering the request does not arise at all.

6.6 The Appellant states that the reduction demand request sent by them on 14.07.2015 and approved by the First Respondent on 27.08.2015. However the same was implemented only on 17.11.2015. Therefore there is inordinate delay of 120 days from the date of application.

6.7 The Appellant once again states that audit arrears are wrongly being demanded by the Respondent from Harihar Alloys Private Limited whereas the dues should be recovered from Sabari Industries Private Limited which is not a sister concern of Harihar Alloys Private Limited as being alleged by the Respondents.

6.8 The Appellant has extracted the Notification No. TNERC/DC/8-1/ dated 22.11.2005 for the ready reference of this Hon'ble Court which states as follows:

"Under Regulation 27, below the sub regulation (1), the following proviso is incorporated:

"Provided that the licensee will refuse to supply electricity to an intending consumer who had defaulted payment of dues to the licensee in respect of any other service connection in his name." ---

The Appellant once again states that the is provision clearly states that the licensee will refuse to supply electricity to an intending consumer who had defaulted payment of dues to the licensee in respect of any other service connection **"in his name"**.

6.9 Here the connection is in the name of M/s. Sabari Industries Private Limited which is a separate legal entity therefore this provision does not apply to the present case. Moreover the Respondent though alleges that both are same he has not enclosed any proof for the same. At the same time the Appellant has attached proof to show that M/s.Sabari Industries Private Limited is a separate legal entity. Therefore the Respondent is responsible for the inordinate delay.

7. Hearing held by the Electricity Ombudsman :

- 7.1 To enable the Appellant and the Respondent to put forth their arguments in person a hearing was proposed on 28.11.2017 & 12.12.2017. As prayed by the Appellant the above hearings were postponed to 18.1.2018.
- 7.2 Thiru, A. Rajagopalan/Manager/Legal and K.Narasimhan, Advocate have attended the hearing and put forth their side argument on both the days.
- 7.3 Thiru.R.M. Padmanaban, EE/General/Trichy EDC/Metro, Thiru.K.Anbuselvan, AEE/Thenur, H. Thirumavalavan, EE/General/Pudukottai EDC, Thiru. A. Selvam, Accts Supervisor/Pudukottai EDC & Thiru. R. Radha, AEE/Development/Trichy EDC/Metro have attended the hearing and put forth their side arguments.

8.0 Arguments putforth by the Appellant's Advocate on the hearing dates :

- 8.1 Appellant's representative Thiru K.Narasimhan, Advocate reiterated the contents of the Appeal petition.
- 8.2 The Appellant stated that in compliance of the respondent's letter, they have paid a sum of Rs.1,04,940/- along with Form 8 – Agreement, to reduce the sanctioned demand from 1650 KVA to 1250 KVA to their HT Service Connection No.171. But, the Respondent had inordinately delayed to effect the reduction in sanctioned demand.
- 8.3 The First Respondent sent a letter dated 15.9.2015 stating that reduction of demand will be considered after the payment of arrears of Rs.3,48,30,690/- pertaining to HT SC No.111 of M/s.Sabari Industries of Pudukottai EDC which is not a unit of Harihar Alloys (P) Ltd.
- 8.4 The Appellant further stated that for the two HT SC services of Harihar Alloys which are located within the jurisdiction of Pudukottai EDC reduction in demand as requested by the Appellant company was effected within 32 days from the date of receipt of application.

- 8.5 Further it is stated that the Appellant's company has not exceeded their demand beyond 1250 KVA (90% of the reduced demand) requested by Appellant from 15.07.2015 onwards. However, the TANGEDCO has charged based on the full sanctioned demand until reduction of load which was implemented on 17.11.2015. Therefore, the excess amount of Rs.3,87,757/-- (Rupees three lakhs eighty seven thousand seven hundred and fifty seven only) based on the original sanctioned demand is completely illegal and requested refund of excess amount claimed in the bills of August 15, September 15, October 15 and November 15 along with an interest @ 18% p.a. from the date of collection of the amount.
- 8.6 The Appellant stated that all the notices were wrongly issued as Harihar Alloys Private Limited HTSC No.111, whereas the same should be in the name of Harihar Power and Alloys Private Limited which was taken over by the M/s. Sabari Industries Private Limited and was registered with Registrar of Companies in the year 04.06.2009. Therefore the Appellant Company is not liable for any amount due during that period.
- 8.7 The Appellant argued that as per norms the Superintending Engineer himself has power to sanction upto 500 KVA and there was no necessity to take approval from the Chief Engineer/ Distribution/ Trichy in the present case.
- 8.8 The Appellant further argued that Regulation 27(1)(3) is not applicable since defaulted payment of dues to the licensee in respect of the other service connection is not in their name but in the name of M/s. Sabari Industries Private Limited which is a separate legal entity.

9.0 Arguments put forth by the Respondent on the hearing dates:

- 9.1 The respondents have reiterated the contents of their counter affidavit. It is argued by them that all the pending TANGEDCO dues can be recovered from any sister concern.

- 9.2. There is no un-due delay on the part of respondents, only official routine procedure has been carried out. The HT application for the reduction of demand in HT.SC.No.171 was received on 20.07.2015. After obtaining, the field report from the concerned division office and approval to process from the Chief Engineer / Distribution/ Trichy, notice for the registration fees and other charges was issued to the consumer on 27.08.2015. After remittance of the above charges the application was registered on 01.09.2015
- 9.3 As per Board instruction whenever there is any case pending in any court, the individual request could not be considered until the outcome of the case. Further TNERC's Distribution code 27- 1(3) (Provision incorporated vide Notification No.TNERC/DC/8-I/dated 22.11.2005 W.e.f.07.12.2005)"Provided that the licensee will refuse to supply electricity to an intending consumer who had defaulted in payment of dues to the licensee in respect of any other service connection in his name".
- 9.4 Reduction of demand effected from 1650 KVA to 1250 KV A to HT.SC.No.171 by the respondent (1) is in order & as per the regulations and instructions in force. As per TNERC regulation there is no time frame for effecting the reduction of demand.

10. Findings of the Electricity Ombudsman:

10.1 On a careful consideration of the arguments put forth by the Appellant and the Respondent, the following is the issue to be decided;

- i) whether the contentions of the respondent for effecting the reduction of demand from 17.11.2015 is correct?

11. Findings on the issue:

- 11.1 The Appellant argued that they have given letter bearing No. HAPL/TNEB/2015-2016, to the First Respondent requesting to reduce the sanctioned demand from 1650 KVA to 1250 KVA on 14.07.2015. Further in response to their letter, the First Respondent vide their Lr.No.SE/TEDC /Try / AEE/DEV /AE F.HT.SC.171/D.194/ 15 dated 27.08.2015 has approved the reduction of demand and informed to pay necessary fees and other charges amounting to a sum of Rs.1,04,940/- along with Form 8.
- 11.2 Accordingly, the Appellant had took immediate steps towards compliance of the above conditions and paid a sum of Rs.1,04,940/- along with Form 8 agreement duly executed by the Director vide their letter dated 31.08.2015 and the same was handed over to the First Respondent on 01.09.2015.
- 11.3 Since there was no response to their request letter, a representation was sent to the CMD of TANGEDCO on 09.09.2015 along with copies to the First and Second Respondent. Only after that the First Respondent sent a letter dated 15.9.2015 stating that reduction of demand will be considered after the payment of arrears of Rs.3,48,30,690/- pertaining to HT SC No.111 of M/s.Sabari Industries Pvt Ltd. Because of this, the respondents have wantonly delayed their request and reduction in demand was implemented only on 17.11.2015.
- 11.4 Further, the appellant argued that the respondents have collected excess amount of Rs.3,87,757/- in the bills of August 15, September 15, October 15 and November 15 (upto 16.11.2015) based on the original sanctioned demand without considering their request is completely illegal and should be set aside.
- 11.5 Respondents have stated that when the application was Registered on 01.09.2015, there was no pending arrears amount in Trichy EDC and while processing the application only the pending arrears pertaining to the Pudukottai EDC were found by the CE/D/ /Trichy and hence Notice was issued to pay the arrears amount.

- 11.6 The respondents have further argued that there was no un-due delay on their part, only official routine procedure has been carried out. After receipt of the HT application for the reduction of demand in HT.SC.No.171 on 20.07.2015, the field report from the concerned division office and approval to process from the Chief Engineer / Distribution/ Trichy, notice for the registration fees and other charges was issued to the consumer on 27.08.2015. After remittance of the above charges the application was registered on 01.09.2015
- 11.7 Further TNERC's Distribution code 27(1)(3) "Provides that the licensee will refuse to supply electricity to an intending consumer who had defaulted in payment of dues to the licensee in respect of any other service connection in his name".
- 11.8 The Appellant argued that as per norms the Superintending Engineer himself has power to sanction upto 500 KVA and there was no necessity to take approval from the Chief Engineer/ Distribution/ Trichy in the present case. Further argued that Regulation 27(1)(3) is not applicable since defaulted payment of dues to the licensee in respect of the other service connection is not in their name but in the name of M/s. Sabari Industries Private Limited which is a separate legal entity.
- 11.9 Respondents argued that the reduction of demand from 1650 KVA to 1250 KV A to HT.SC.No.171 is in order & as per the regulations and instructions in force. Further as per TNERC regulation there is no time frame for effecting the reduction of demand.
- 11.10 The respondents have stated that the reduction of demand from 1650 KVA to 1250 KV A to HT.SC.No.171 is in order & as per regulation 27(1)(3) of TNE Distribution code. Appellant argued that regulation 27(1)(3) is not applicable since defaulted payment of dues to the licensee in respect of the other service connection is not in their name. To have clarity, I would like to refer Regulation 27(1) of TNE Distribution code which is reproduced below:

"27. Requisitions for Supply of Energy:

(1) The provision regarding the duty of Licensee as detailed in section 43 of the Act to supply electricity on request is reproduced below:

*"(1) ******

Provided that the licensee will refuse to supply electricity to an intending consumer who had defaulted payment of dues to the licensee in respect of any other service connection in his name."

11.11 On a careful reading of the above, it is noted that the above regulation prescribes the duty of Licensee as detailed in Section 43 of the Act to supply electricity on request. Under the above regulation the licensee shall refuse to supply electricity to an intending consumer who had defaulted payment of dues to the licensee in respect of any other service connection in his name. This provision is applicable for an intending consumer who requires supply of electricity.

11.12 In the case on hand, the appellant is an existing consumer and requires reduction in sanctioned demand for which there is separate provision in TNE Supply code. In this connection I would like to refer Regulation 5(2)(III)(iv) of TNE Supply code which is reproduced below:

" 5. Miscellaneous charges

(1) ****

(2) Excess demand charge:

(III)

(iv) No addition or reduction of load in case of LT service and no addition or reduction of demand in case of HT service, may be sanctioned unless the outstanding dues in the same service connection had been paid."

- 11.13 On a careful reading of the above, it is noted that for the existing consumer, no addition or reduction of load in case of LT service and no addition or reduction of demand in case of HT service may be sanctioned unless the outstanding dues in the **same service connection had been paid.**
- 11.14 In the case on hand, there is no outstanding dues in the appellant's HT Service Connection No.171 of Trichy EDC for which reduction of demand has been applied. Hence, I am of the considered opinion that there is no bar in sanctioning the reduction of demand for the appellant's HT SC No.171 since there is no due outstanding for same service connection.
- 11.15 Further, the respondents have argued that as per TNERC regulation there is no time frame for effecting the reduction of demand. In this connection I would like to state that even though there is no time frame specified in the distribution standards of performance, the time frame for effecting new service connection involving no extension or improvement work can be taken i.e. preferably within a week but not exceeding 30 days.
- 11.16 On a careful consideration of the foregoing paras, I am of considered opinion that there is no bar for effecting reduction of demand for the appellant's HT SC No.171 since there is no due in the same service connection. Further the reduction of demand should have been effected within 30 days from the date of application. In the present case, the application was submitted on 14.07.2015, and the same was approved by the Respondent on 27.08.2015 vide Lr.No.SE/TEDC/M/Trty/AEE/Dev/F.HT SCNo.171/D.194/15, dt.27.08.2015. The appellant has also requested the respondent to give effect to the reduction of demand from 27.08.2015 (i.e. when the reduction of demand was approved).

11.17 Therefore, as per findings in para 11.16 above, the respondents are directed to refund the excess demand charges collected from the Appellant's HT SC No.171 for the period from 27.08.2015 to 16.11.2015 with interest as applicable for security deposit till the date of payment or at the option of the consumer the same may be adjusted in the future current consumption charges of appellant's HT Service connection A/c. No.171.

12. Observation :

12.1 The application for reduction in demand has been submitted by the Appellant on 14.07.2015, approved on 27.8.2015 and registered on 01.09.2015. But the Respondent took almost 45 days to register the application which is abnormal. Further, the reduction of demand was effected only on 17.11.2015 i.e. 4 months after receipt of application. I am optimistic that the same will not happen in future.

13. Conclusion :

13.1 In view of my findings in para 11 above, the respondents are directed to refund the excess demand charges collected from the Appellant's HT SC No.171 for the period from 15.08.2015 to 16.11.2015 with interest as applicable for security deposit till the date of payment or at the option of the consumer the same may be adjusted in the future current consumption charges of appellant's HT Service connection A/c. No.171 within 30 days from the date of receipt of this order.

13.2 A compliance report in this regard shall be furnished within 45 days from the date of receipt of this order.

13.3 With the above findings the AP. No 62 of 2017 is finally disposed of by the Electricity Ombudsman. No Costs.

(S. Devarajan)
Electricity Ombudsman

To

1) M/s Harihar Alloys Private Ltd.,
1/43, Race Course Road,
Kajamalai,
Trichy .

2) The Superintending Engineer,
Trichy Electricity Distribution Circle/Metro,
TANGEDCO,
Mannarpuram,
Trichy 620 020.

3) The Chief Engineer,
Trichy Region,
TANGEDCO,
Mannarpuram, Trichy 620 020.

4) The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai,
Chennai -600 002.

5) The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmi pathy Salai,
Egmore, Chennai – 600 008.

6) The Assistant Director (Computer) – **For Hosting in the TNEO Website please**
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