

THE STATE ELECTRICITY OMBUDSMAN

Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,
Edappally, Kochi-682 024

www.keralaeo.org Ph: 0484 2346488, Mob: 91 9447576208

Email:ombudsman.electricity@gmail.com

APPEAL PETITION NO.P/057/2014

(Present: Sri. V.V. Sathyarajan)

Dated: 19th May 2015

Appellant : Sri Hashmin K.A.
M/S. Muhas Ice,
Nambiyapuram,
Palluruthy,
Kochi-6.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd.,
Palluruthy,
Ernakulam

ORDER

The appellant is a consumer with consumer No 10622 under Electrical Section, Palluruthy. The service connection was effected under industrial tariff for running 'Muhas Ice Plant'. On 29-10-2009, the APTS inspected the premises and found that supply was being used entirely for freezing and cold storage activity. The respondent, therefore, changed the tariff of the appellant to LT VII A, (Commercial Category) with effect from 01-12-2007 and issued a short assessment bill for Rs. 10,38,321/-. From the date of inspection (29-10-2009) the appellant was being billed for commercial tariff and the same was being remitted by him without any complaint. The appellant approached the CGRF challenging the short assessment bill amounting to Rs. 10,38,321/- for the preceding period (12/07 to 09/09). The Forum dismissed the petition. Though the appellant appealed against the order before the Ombudsman, the appeal petition was dismissed by the Ombudsman. Thereafter the appellant challenged the orders of CGRF and Electricity Ombudsman by filing writ petition before the Hon'ble High Court. The Hon'ble High Court upheld the change of tariff to LT VII A and at the same time quashed the short assessment bill demanded by the respondent. Against the single bench order of the Hon'ble High Court, the Board filed writ

appeal and the Division Bench, in its judgment, directed the appellant to produce materials before the CGRF for proving that sea food processing activity was being carried out for the period from 01-12-2007. Accordingly the appellant approached the CGRF once more. After examining the documents produced by the appellant, the Forum held that the appellant was liable to pay electricity charges under LT VII A from 01-12-2007 onwards and that the short assessment bill for Rs. 10,38,321/- was in order. Aggrieved against the said order, this appeal petition was filed.

Hearing of the case was conducted on 24-02-2015 in my chamber at Edappally, Kochi. Advocate Ziyad Rahman A.A. represented the appellant and Sri Sunil K.W., Assistant Executive Engineer appeared for the respondent. Subsequent to the constructive discussion held at the time of hearing, both parties agreed to rework the arrears so as to reach an amicable settlement and requested for further hearing in the matter. Thereafter the appellant's side submitted a memo dated: 12-05-2015 agreeing to settle the whole issue on condition that the period of short assessment be restricted to a period of 12 months immediately preceding the date of inspection. The appellant is also agreeable to pay interest at the rate of 6% per annum for the revised arrears. In the circumstances, this Authority is of the view that the matter can be settled as per Regulation 97 (5) of Supply Code, 2014. The said Regulation reads thus:

97 (5) If the actual period of wrong classification cannot be ascertained reasonably, the period shall be limited to a period of twelve months or a period from the date of last inspection of the installation of the consumer by the licensee whichever is shorter.

It appears that the actual period of wrong classification cannot be ascertained reasonably in the present case. The Hon'ble High Court (Division Bench) already found that the Board had not placed any material before them to show that the change of use of energy had been effected by the appellant from 01-12-2007. In the circumstances, it is just and proper to limit the period of short assessment for a period of 12 months as agreed by the appellant.

DECISION

In view of the above discussions, the respondents is hereby directed to issue a revised short assessment bill limiting the period to a period of 12 months immediately preceding the date of inspection. The appellant is liable to pay interest at the rate of 6% per annum on

the arrear amount so revised by the respondents. The payments already made by the appellants towards the short assessment will be credited to the revised assessment. The order of the CGRF is set aside. The appeal petition is disposed of as settled. No order as to costs.

ELECTRICITY OMBUDSMAN

No.P/057/2014/ _____ /Dated: _____

Forwarded to:

1. Sri Hashmin K.A., M/S. Muhas Ice, Nambiyapuram, Palluruthy, Kochi-6.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Palluruthy, Ernakulam

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram.
3. The Chairperson, Consumer Grievance Redressal Forum, Power House, Power House Buildings, Cemeterymukku, Ernakulam-682 018