

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO.P/090/2015

(Present: Sri. V.V. Sathyarajan)

Dated: 20th July, 2015

Appellant : Sri Joseph Jacob,
Managing Director,
M/s POABS Enterprises Pvt. Ltd,
Kuttoor P.O.,
Pathanamthitta 689106

Respondent : The Assistant Executive Engineer,
KSE Board Ltd
Electrical Sub Division,
Vandiperiyar
Idukki

ORDER

Background of the Case: -

The appellant is the Managing Director of M/s POABS Enterprises (P) Ltd having service connections with consumer Nos. 14415, 14526, 14949 and 15574 under Electrical Section, Vandiperiyar. The appellant made a request vide letter dated 4/3/2014 before the Assistant Engineer to change the tariff wrongly assigned by the respondent i.e. from LT VII A - commercial to LT IV A industrial. According to the appellant, as the service connections are being used for various industrial purposes like cardamom drying unit, tea packing unit, workshop and water pumping station, the tariff applicable is LT IV A. But the respondent has not taken any action on this regard, hence the appellant filed a complaint before the CGRF (Central Region), Ernakulam on 12/08/2014, which was disposed as follows:

“Forum finds that the Petitioner is unable to substantiate his claim that formal application was submitted 04/03/2014 and the respondent was reluctant to accept the same. As such, there is nothing to prove deficiency of service on the part of the respondent.

In the above circumstances, respondents are directed to process petitioner's application for change of tariff as per rules, once petitioner submits the formal applications with necessary documents and remits the application fees."

Aggrieved by the Order No. 80/2014-15 dated 27/11/2014 of CGRF, the appellant has submitted the appeal dated 17/12/14 before this Authority.

Arguments of the Appellant: -

The appellant contented that M/s Poabs Enterprises (P) Ltd has taken over some of the estates with tea factories which were under the control of RBT Group during 2008. The service connection to Consumer Nos. 14415(cardamom drying unit), 14526 (tea packing unit), 14949(workshop) and 15574 (water pumping station) were availed after 2008 and which are presently being invoiced under LT commercial/domestic tariff. The appellant is eligible for LT IV A Industrial tariff by virtue of Tariff Order for 2013-2014 dated 30-04-2013 of the KSERC applicable with effect from 1-12-2007.

The classification of LT IV industrial Tariff as per the tariff order is as follows:
"LT IV (A) Industry:-

Tarff applicable for general purpose industrial loads (single or three phase) viz. grinding mills, flour mills, oil mills, rice mills, saw mills, ice factories, rubber smoke houses, prawn peeling units, tyre vulcanizing / retreading units, workshops using power mainly for production and /or repair, pumping water for non agricultural purpose, public water works, power laundries, screen printing of glassware or ceramic. printing presses, bakeries (where manufacturing process and sales are carried out in the same premises) diamond cutting units, stone crushing units, book binding units with allied activities, garment making units, SSI units engaged in computerized colour photo printing, audio/video cassette / CD manufacturing units, seafood processing units, granite cutting units (where boulders ore cut info sheets in the some premises), cardamom drying and curing units, and units carrying out extraction of oil in addition to the filtering and packing activities carrying out in the same premise under the same service connection, manufacturing rubber sheets from latex, telemetry stations of KWA, processing of milk by pasteurization, storage & pocking , granite slabs manufacturing units."

The appellant in his letter dated 04-03-2014, has requested the respondent to change the tariff of the above connections to industrial tariff. But no action has been taken by the respondent; a complaint was filed before the Hon'ble CGRF, Ernakulam to get the tariff wrongly assigned to the appellant by the respondent. The appellant's contention is that they have requested change of tariff to LT IV A as the service connections are being used for industrial purpose instead of reassigning LT IV A tariff

as per tariff rules. Under the above circumstances, the appellant sought for the following relief.

1. The consumer is eligible for Industrial Tariff from the date of connection by virtue of the tariff order of the KERC. The purpose each of the service connection is available in the service connection application.
2. The Licensee to assign correct tariff vide our letter dated 04-03-2014
3. To reassign the tariff of the consumer from the date of connection or from the date the Hon'ble Ombudsman thinks suitable and to refund or adjust the excess amount collected with interest.

Arguments of the respondent:

The respondent has stated that the appellant is a leading tea planter and producer having many electric connections in various tariffs under Electrical Section, Vandiperiyar. According to the respondent the appellant's contention that the tariff applied for the following service connections are erroneous, is not correct.

| Sl. No. | Consumer No | Purpose | Present Tariff |
|---------|-------------|------------------|----------------|
| 1 | 14415 | Cardamom drier | LT VII A |
| 2 | 14526 | Tea Packing Unit | LT VII A |
| 3 | 14949 | Workshop | LT VII A |
| 4 | 15574 | Water Pumping | LT 1 A |

Further the respondent argued that the appellant requested the tariff change to LT-IV A for the above connections citing the tariff order issued by the KERC and unilaterally requesting the change of tariff without observing the official formalities. The contention of the respondent is that for changing tariff, the appellant has to submit application in the concerned Electrical Section with all relevant papers and to remit application fee. Instead, the appellant filed petition before Hon'ble CGRF-CR vide Comp 80/2014-15 dated 16/08/2014 for changing the tariff.

The respondent stated that an application for tariff change was received only on 08/01/2015 in the Electrical Section Office, Vandiperiyar and only after verification the genuineness, the request of the tariff change can be accorded. The respondent also stated that as the purpose of the connection taken at the time of availing connection is not known, suo-moto change in tariff category, as demanded by the appellant, cannot be accorded because the date of change of purpose to the present category is not known.

Analysis and Findings: -

The Hearing of the case was conducted on 2/6/2015, in my chamber at Edappally, Kochi. Sri P. Raghuvaram represented the Appellant's side and Sri Tony M.

Keeranchira, Assistant Executive Engineer, Electrical Sub Division, Vandiperiyar represented the respondent's side. On examining the petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing all the documents and considering all the facts and circumstances of the case, this Authority comes to the following conclusions and findings leading to the final decisions thereof.

The main contention of the appellant is that there was a delay in reclassification of tariff application submitted on 08-01-2015. The respondent's contention is that sufficient documents such as license from local body, SSI registration etc. were not produced by the appellant which attributes the delay in reclassification of tariff. It is not known that respondent has given any written direction to the appellant to submit the required documents. As per the standard of performance the maximum time limit prescribed for rendering service by the licensee in the case of transfer of ownership and change of category is "within 14 days of receipt of application in complete shape". Though the appellant failed to submit the required documents, the respondent had not acted on it properly at the time of receipt of the application.

It is pertinent to note that the procedures to be followed in the case of tariff change application are clearly specified in the Supply Code, 2014.

As per Regulation 98 of Supply Code, 2014

(1) If a consumer wishes to change his consumer category he shall submit an application to the licensee in the format given in Annexure 10 to the Supply Code and the licensee shall process the application as per the relevant provision of the Code.

(2) The licensee shall conduct site inspection within 7 days from the receipt of application and record the meter reading at the time of inspection.

(3) If on inspection, the request of the consumer for reclassification is found genuine, change of category shall be made effective from the date of inspection and a written communication shall be sent to the consumer to this effect within 15 days of inspection.

(4) Arrear or excess charge, if any, shall be determined based on the actual period of wrong classification and the account of the consumer shall be adjusted accordingly.

(5) If the actual period of wrong classification cannot be ascertained reasonably, the period shall be limited to a period of 12 months or a period from the date of last inspection of the installation of the consumer by the licensee whichever is shorter.

(6) If the licensee does not find the request for reclassification genuine, it shall inform the applicant in writing giving the reason for the same, within 7 days from date of inspection.

(7) For the period in which the application of the consumer for reclassification is pending with the licensee the consumer shall not be liable for any action on the ground of unauthorized use of electricity.

The appellant further contended that even though there is provision for suo motu reclassification of consumer category by the licensee under Regulation 97 of the Kerala Electricity Supply Code, 2014, the respondent has not taken any action. The appellant's argument is that they are eligible for LT IV industrial tariff by virtue of KSERC Tariff Order for 2013-14 dated: 30-04-2013.

Regulation 97 of Kerala Electricity Supply Code, 2014 which reads as

- (1) *"If it is found that a consumer has been wrongly classified in a particular category of the purpose of supply as mentioned in the agreement has changed or the consumption of power has exceeded the limit of that category as per the tariff order of the Commission or the category has changed consequent to a revision of tariff order, the licensee may suo motu reclassify the consumer under appropriate category.*
- (2) *The consumers shall be informed of the proposed reclassification through a notice with a notice period of thirty days to file objections, if any.*
- (3) *The licensee after due consideration of the reply of the consumer, if any, may reclassify the consumer approximately.*
- (4) *Arrear or excess charges shall be determined based on the actual period of wrong classification and the account of the consumer shall be suitably adjusted.*
- (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."*

On a perusal of the contentions and the documents of both sides it is found that there is lapse on the part of respondent in dealing with a reclassification of consumer category. Regulation 97 and 98 clearly defines the procedure to be followed in the case of reclassification of consumer category by the licensee. As per the above regulation it is the responsibility of the licensee to deal with the tariff change application in a time bound manner. So in this case, I direct the respondent to conduct an inspection on the appellant's premises and if the request is found genuine on inspection, reclassification shall be effected to the appellant with retrospective effect from 08-01-2015 i.e. the date of application.

Decision

In view of the above findings, it is decided to reclassify the tariff of the appellant with retrospective effect i.e. from the date of application (08-01-2015) if the request of the appellant found genuine on inspection. And if so, the amount, if any, remitted in excess by the appellant shall be refunded to him or adjusted in the future bills. The respondent shall take urgent steps to conduct inspection in the appellant's premises at

any rate within a period of 7 days from the date of receipt of this order. The appeal is disposed as above. No order as to costs.

ELECTRICITY OMBUDSMAN

Appeal Petition No. P/090/2015/ /Dated: _____

Forwarded to:

1. Sri Joseph Jacob, Managing Director, POABS Enterprises Pvt. Ltd, Kuttoor P.O., Pathanamthitta 689106
2. The Assistant Executive Engineer, KSE Board Ltd., Electrical Sub Division, Vandiperiyar, Idukki

Copy to:

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