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REPRESENTATION No: P 76/09

Appellant : M/s Bell Foods (Marine Division)
Pallichal Road Cochin 5

Respondent: Kerala State Electricity Board
Represented by
The Assistant Executive Engineer
Electrical Sub Division Thoppumpadi Cochin

ORDER

M/s Bell Foods (Marine Division, Consumer Number 5562012511) Pallichal Road, Cochin 5 submitted a representation on 20.5.2009 seeking the following relief :

1. *Set aside the order no: CGRF-CR/Comp.66/08-09/807/dated 11.5.2009 of CGRF Ernakulam*
2. *Direct that the complainant may be continued to be charged under LT IV Industry Category*

Counter statements of the Respondent was obtained and hearing of both the parties conducted on 4.8.2009 .

The Appellant have two electrical connections Consumer Number 7952 and 12511 under Electrical Section Thoppumpady. The connections were under LT IV Industrial tariff upto 11/2007. The tariff of these two connections were changed to LT VII A from 12/2007 in accordance with the Tariff notification dated 27.11.2007. Later KSERC in the order dated 29.8.2008 in DP 39 of 2008 clarified that all sea food processing units are to be classified under LT IV tariff and freezing/cold storage units are to be categorized under LT VII A. Accordingly Cons: No: 7952 was put under LT IV and Cons:No: 12511 under LT VII A tariff. Aggrieved by this the Appellant approached the CGRF. Again the KSERC in the order dated 23.4.2009 in clarification petition 1/08 on DP 39/08 clarified that if separate connection is taken for cold storage/freezing it shall be put under

LT VII A. Hence the CGRF dismissed the complaint against categorizing the connection no: 12511 under LT VII A and the Respondent is billing the above consumer under LT VII A.

The representation with the pleas noted above is submitted to the under signed in the above back ground.

The contentions/arguments/points raised by the Appellant in the representation , during the hearing and in the Argument Note are summarized below:

1. The Appellant is a firm engaged in sea food processing and export .
The Appellant has a processing plant and cold storage in the very same compound at Pallichal Road Cochin and have two separate connections 7952 and 12511 with two door numbers.
2. There is sea food processing in both the units and they are interconnected.
3. The cold storage alone can not be segregated on the reason that it has separate connection. In the said building also sea food processing activities are carried out. It can only be treated as a single unit for all purposes.
4. The Appellant connection 12511 can not be treated as cold storage and where as it is one unit of the sea food processing unit and processing activities are also carried out in the said premises.
5. No material is kept or stored other than manufactured by the petitioner's own unit and is an integral part of the processing unit.
6. In both the units activities like procuring of raw materials washing, icing, beheading, etc up to freezing are carried out . In fact the petitioner is having the activity of sea food processing in both the premises in one compound and in two electrical connections. The Appellant can not be treated as an independent cold storage unit. All the activities of processing are done in both the units.
7. Both the units are having processing hall , freezing plant, and cold storage and both units are sea food processing plants.

The contentions/arguments/points raised by the Respondent in the counterstatement and during the hearing are summarized below:

1. Consumer no: 7952 was given to M/s Bell Foods for conducting sea food processing in the door no: 18/1555 .Consumer number 12511 was exclusively given to M/s International Merchandising Company on 2.4.1994 for running cold storage units in the portion of the building no: 18/1553 with connected load 56.696KW which was enhanced to 102.567KW in June 2001.
2. The Appellant now argued that he has two sea food processing plants and cold storages attached to it in the very same premises having separate electrical connections. A site inspection was carried out on 11.6.2009.During the inspection it was seen that the Appellant had altered the installations without the knowledge of KSEB in order to fabricate a favorable situation for claiming industrial tariff. The installations have been changed from the premises plan and the connected

load statement of consumer number 12511 submitted by the petitioner at the time of regularization in June 2001.

3. In the petition dated 24.11.2008 to the CGRF the Appellant himself had stated that the company have two LT connections with consumer no: 7952 and 12511 in the same compound for the processing plant and cold storage respectively. Now they have changed the argument that sea food processing activities are carried out in both the premises and the activities are interconnected. The Appellant has deliberately changed their argument to mislead this authority.

Discussion and Findings:

1. The issues to be decided in this case is whether the service connection number 12511 had been a sea food processing unit with cold storage or whether it had only cold storage/freezing plant units in it. If it had been a sea food processing unit with cold storage it would be eligible for LT IV tariff. If not it would be under LT VII.
2. The contention of the Respondent that the consumer number 12511 was given exclusively to M/s International Merchandising Company on 2.4.1994 for running cold storage units in the portion of the building no: 18/1553 has not been contradicted by the Appellant.
3. The wiring plan produced by the Respondent, submitted by the Appellant in connection with connecting up of an additional load in 2000, show that there are two cold storage rooms and one machine room in the plan. No processing hall or similar provisions being connected up from this service are shown in it.
4. Subsequent to the Tariff revision in 2007 and the order of the KSERC dated 29.8.2008 the Appellant had sent one letter dated 22.11.2008 to the Assistant Engineer Thoppumpady. In the letter the Appellant said: '*We are having a processing plant and cold storage in the very same premises in a compound at Pallichal road Kochi and is having separate LT connection as Consumer No: 5562007952 for the processing plant and Consumer No: 5562012511 for the cold storage*'. The Appellant also claimed that the processing, freezing and cold storage activity of a sea food processing unit was an integral activity which can not be segregated. They also claimed that the cold storage is a part of the sea food processing unit having 2 connections and they cannot be segregated.
5. In their petition to CGRF on 24.11.2008 also the Appellant had stated 'the petitioner is having a processing plant and cold storage in the very same compound at Pallichal road Cochin and is having separate connection as consumer no: 5562007952 and Consumer number 5562012511'. They stated that 'the cold storage alone can not be segregated *on the reason that it has separate electricity connection*'. They also pointed out that the connection can not be discriminated on the reason that it is having *separate electricity connection* when the activity carried out by the petitioner is a continuous connected activity.
6. The Appellant was one of the parties (serial number 3) who had submitted the clarification petition 1/08 on DP39/08 to the KSERC wherein the Petitioners had

inter-alia pointed out that ‘freezing and cold storage being intrinsic and integral part of the sea food processing industry it can not be segregated on the ground that they are *having two different electric connections or it is placed in two different buildings* and two different premises’(KSERC Order). They had also argued against ‘treating *the electrical connection to the cold storage as independent* stand alone cold storage which are either situated adjacent or in the opposite side of the road and only because they are having separate door number - --- etc’. The Commission ordered on 23.4.2009 that if a separate connection is taken for the purpose of cold storage /freezing it shall be deemed to be billed under LT VII A commercial.

7. It is interesting to note that the Appellant had put forward the contention that activities like procuring of raw materials washing, icing, beheading, etc up to freezing are carried out in Cons: No: 12511 also only after the above order dated 23.4.2009 of the KSERC. I have not come across any documents or statements dated prior to 23.4.2009 wherein the Appellant claims that such activities are carried out in the premises of Cons: No: 112511 also. Had it been the case earlier, that is, if the sea food processing activities were going on in the premises of Cons: No: 112511 earlier, they need not have approached the KSERC with the clarification petition .
8. Under the above circumstances I am inclined to concur with the view expressed by the Respondent that the Appellant has put up this contention, now before the undersigned, only for claiming benefits of LT IV tariff from this forum. Hence having considered all aspects of the matter I conclude that the Consumer Number 12511 of the Appellant had only cold storage/freezing plant when the Tariff revision of 2007 came into effect and the action of the Respondent in having applied LT VII A tariff from 12/2007 to the service connection is in order.
9. The Appellant now claims that they have sea food processing activities also in the premises of the cons: no: 12511. They have every right to commence such activities in this connection also since it is conceived as separate ‘premises’ with independent door number. As per the Supply Code 2005 Amendment IV , ‘premises include any land building, structure or part of it , situated in an immovable property , details of which have been *specified in the applications or agreements prescribed for grant of electric connection*’. But the company will have to stop the present practice of running both units as an ‘integrated’ entity and to keep the activities of both connections separate in all respects: separated functionally, electrically and both units keeping separate and independent records of all transactions. If the Appellant completes all the above formalities, obtain approval from the concerned statutory authorities and approaches the Respondent with necessary installation modification documents to the satisfaction of the respondent , the Respondent shall allocate LT IV tariff to the connection .Until then the applicable tariff shall continue to be LT VII A.
10. But as a relief to the consumers to mitigate the effect of tariff shock the respondents are directed to allow installments for the payment of arrears and interest liberally, provided they pay the regular monthly charges under the LT VII A tariff regularly

Orders:

Under the circum stances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellant and Respondent on the matter, the representation is disposed off with the following orders:

1. *The arguments/claims/points raised by the Appellant in support of the reliefs sought for are devoid of merit and hence the reliefs are not allowed and the representation is dismissed*
2. *No order on costs.*

Dated this the 21st day of August 2009 ,

P.PARAMESWARAN
Electricity Ombudsman

No P 76 /09/332/ dated 24.08.2009

- Forwarded to:
1. M/s Bell Foods (Marine Division)
Pallichal Road Cochin 5
 2. The Assistant Executive Engineer
Electrical Sub Division Thoppumpadi Cochin

Copy to :

1. The Secretary,
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3. The Chairman , CGRF,KSE Board ,
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