

STATE ELECTRICITY OMBUDSMAN

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REPRESENTATION No: P 102/09

Appellant : Sri C. Thomas, Chengalath House
Uppada(Po) Malappuram Dt

Respondent: Kerala State Electricity Board
Represented by
The Assistant Executive Engineer
Electrical Sub Division Edakkara Malappuram Dt

ORDER

Sri C. Thomas, Chengalath House, Uppada(Po) Malappuram Dt
submitted a representation on 6.10.2009 seeking the following relief :

*To declare that the tariff of Consumer number 4786 of Chungathara Section is
I(a) Domestic from the date of connection 25.1.2003 , revise the bills from
25.1.2003 onwards and to refund the amounts paid in excess .*

Counter statements of the Respondent was obtained and hearing of both the parties
conducted on 14.01.2010 .The Appellant submitted reply to counter affidavit on
14.01.2010.

The Appellant had obtained single phase connection to his building No:PPVI 591 under
Edakkara section with consumer number 9896C and connected load 1490W on
25.1.2003. The consumer was classified under LT VII A commercial considering the
building as Office cum Residence building. The Appellant did not pay current charges
protesting against classifying it as commercial. Mean while the connection was
transferred to Chungathara Section with consumer No: 4786. In 11/06 the Respondent
issued an arrear notice for Rs 72150/- Tariff was changed to Domestic on 7.3.2007 by
KSEB based on a request by the Appellant after clearing the arrears . Again the tariff was
changed to LT VIIA based on an inspection by a vigilance team on 7.8.2007 which was
subsequently reverted to Domestic by the Dy CE on 19.3.2008 with back effect from
7.8.2007 . In short the tariff of the service was Domestic from 7.3.2007.

The Appellant moved the CGRF to get the tariff changed to Domestic with effect from
the date of connection 25.1.2003 which was disallowed by the CGRF.

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

The Appellant claims that the building under question was a house constructed inside a remote plantation in Puthukkallu Panchayath where the Appellant cultivates Nutmeg, Coconut, Areacanut, Rubber etc. The premises were not being used for any commercial activities. It was being used for domestic purposes only. The owner is using the house for residing when he visits the plantation. The house is being used by the laborers also to live.

The Respondent states that the building was used as office cum godown for stacking agricultural products and for resting the laborers. Nutmeg and other produces was stacked in the building. The original service connection papers show that the Appellant had requested for connection for 'office' purposes. In the original estimate prepared at the time of service connection the purpose is shown as 'office/residence'. The building is actually used as godown for agricultural products, residence of laborers, etc. The request for change of tariff to domestic was received only on 7.3.07.

The Appellant counter these arguments by stating that the original application was meant for his house building for domestic purposes and the purpose 'office' was inserted by the staff of the Respondent. Stocking of his own agricultural products in a room in the house for a few days should not be construed as commercial activity. It is not true to state there is an office inside the building. No such activity is going on there. More over the load of the non-domestic activities in the house is less than 20% of the connected load. The Appellant had filed objection in classifying under commercial tariff as early as on 23.5.2003 and had referred the matter in the petition dated 18.11.2008.

The objection dated 23.5.2003 was filed before Assistant Engineer Edakkara but the arrear demand and subsequent communications came from Chungathara section due to transfer of the area to Chungathara section. It is possible that the original petition had been missing during transfer of records.

Discussion and Findings:

The service connection papers show that the purpose was shown as office in the test report prepared by KSEB staff. In the schedule to agreement purpose was noted as office and stroked out later. It is clear that these entries were not done by the applicant, nor does it establish any real purpose of using electricity. The real purpose had been noted in the various site reports, which shows that the house was used as residence by the owner on his visits, residence by his laborers and for stacking the agricultural products some times. Some portions of the building was used as the 'office' of the owner, even though not in the true sense of the word 'office'. The inspection report dated 1.3.2007 shows that connected load of the room used as 'office' by owner is less than 200W. The agricultural produces and tools are stocked in another room

I do not think it is fair to apply LT VII A which is 'tariff for commercial consumers' for such a service connection in view of the fact that the usage is more related to agriculture and domestic than to commercial purposes. The Respondent themselves have correctly classified it under domestic from 7.3.2007. The main reason stated by them for denying back effect was that they had received request for change of tariff only on 7.3.2007. But the claim of the Appellant that they had submitted objection in classifying under commercial tariff as early as on 23.5.2003 seems to be correct in view of the fact that he had again referred the objection letter in the petition dated 18.11.2008. The possibility of misplacing the records during the transfer of the area to a new section is also very high.

In view of the above, it will only be fair to allow the domestic tariff to the consumer from the date of connection it self.

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. *Allowing the plea of the Appellant, the consumer number 4786 of Chungathara Section shall be classified under I(a) Domestic from the date of connection 25.1.2003 ,and the invoices from 25.1.2003 onwards shall be revised and the amounts paid in excess shall be refunded by adjustment in Ten future bimonthly bills.*
2. *Interest shall not be payable for the excess amounts realized.*
3. *No order on costs.*

Dated this the 16th day of January 2010,

P.PARAMESWARAN
Electricity Ombudsman

No P 102/09/ 470 / dated 19.01.2010

Forwarded to:1. Sri C. Thomas,Chengalath House
Uppada(Po) Malappuram Dt

2. The Assistant Executive Engineer
Electrical Sub Division Edakkara Malappuram Dt

Copy to :

1. The Secretary,
Kerala State Electricity Regulatory Commission
KPFC Bhavanam, Vellayambalam,
Thiruvananthapuram 695010
2. The Secretary ,KSE Board,
VaidyuthiBhavanam ,Thiruvananthapuram 695004
3. The Chairman , CGRF,KSE Board ,
Gandhi road , Kozhikode

