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APPEAL PETITION No. P/041/2020  
(Present: A.S. Dasappan)  
Dated: 04<sup>th</sup> February 2021

Appellant : Sri. Nandakumar. N.,  
Lakshmi Bhavan,  
Thamarakulam, Kollam Dist.

Respondent : Asst. Executive Engineer,  
Electrical Sub Division, KSEB Ltd.,  
Veliyam, Kollam Dist.

### **ORDER**

#### **Background of the case:**

The appellant is a three-phase consumer of Electrical Section, Perumpuzha with consumer number 1145857000251. The connected load in the premises is 8700 watts and the tariff assigned was LT VIB. The APTS of KSEB Ltd. inspected the premises on 22-10-2019 and found that the premises was being used as private godown (business house). The tariff of the premises was changed from LT VIB to LT VIIA and issued a short assessment bill for Rs.16,372/- towards the difference in tariff for two years prior to the date of inspection. The appellant was given 10 monthly instalments and remitted two instalments on 16-12-2019 and 16-01-2020 and the balance amount to be remitted is Rs.13,363/-. Afterwards the appellant approached Consumer Grievance Redressal Forum, Southern Region, Kottarakkara and filed the complaint vide OP No.23/2020. The Forum disposed of the petition on 14-09-2020, allowing instalments for remittance of the amount and aggrieved by the order of the Forum, the appellant filed this appeal petition before this Authority on 03-12-2020.

#### **Arguments of the appellant:**

An assessment bill for Rs.16,372/- was issued by the respondent on 22-11-2019. The premises was vacant without any occupation for a long period. The former owner intended to give the godown on rent. The appellant

purchased the premises and nobody came to occupy the premises so far. The tariff of the premises was changed from LT VI to LT VIIA by KSEB Ltd. treated as private godown. The request of the appellant is to withdraw the demand of Rs.16,372/- by retaining the tariff under LT VI.

**Arguments of the respondent:**

The appellant had not approached any of the officials of the licensee, intimating premises was vacant. But the APTS of Kollam team found that the premises was being used as a private godown (business house) during their inspection on 22-10-2019. As per tariff order 8<sup>th</sup> July 2019, LT VIIA tariff is applicable to commercial and trading establishment such as shops, showrooms, display outlets, business houses etc. Based on the same, a short assessment bill for Rs.16372/- was issued to the appellant for a period of 24 months from 10/2017 to 09/2019 towards the difference between LT VI B and LT VIIA as per Regulation 152 of Kerala Electricity Supply Code 2014. The assessed amount is only the short assessment amount due to the change in tariff. No penalization was done and only the actual loss sustained to the licensee was demanded. The appellant has not requested for any change in the purpose of usage in the premises to the licensee.

The appellant was willing to remit the amount in instalments and 10 numbers monthly instalments were granted accordingly. After remitting two instalments, the appellant approached CGRF, Southern Region, Kottarakkara vide OP No. 23/2020 and the same was disposed of by the Forum on 14/09/2020, upholding the decision of the respondent and directed to allow suitable instalments.

**Analysis and findings:**

An online hearing of the case was conducted on 18-01-2021 with prior intimation and willingness of both the appellant and the respondent. Sri. N. Nandakumar, appellant and Sri. S.M. Rafi, Assistant Executive Engineer, Electrical Subdivision, Veliyam from the respondent's side attended the hearing. On examining the petition, the counter statement of the respondent, the documents attached and the arguments made during the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

According to the respondent, the tariff assigned to the appellant was found incorrect with regards to the activities and purpose of energy used in the premises while the inspection conducted by KSEB Ltd. The respondent argued that the tariff applicable to the premises of the appellant comes only

under LT VIIA, not under LT VIB. The appellant's argument is that the premises was vacant without occupied for a long period and nobody came to occupy the premises so far.

As per the schedule of tariff and terms and conditions for retailed supply of electricity by Kerala State Electricity Board Ltd. with effect from 18.04.2017, tariff applicable to business house is LT VIIA. The appellant was billed earlier under LT VIB tariff applicable to various purposes like offices of Kerala Water Authority, KSRTC, Other Corporations etc. The inspection team at the time of inspection found that there is no activity in the premises, so as to retain LT VIB tariff in the premises. Hence, the action of the respondent to reclassify the appellant's category under appropriate tariff on inspection is found in order based on the tariff notification. The inspection team had prepared a site mahazar on 22-10-2019, the date of inspection, observing the premises was being used for operating a private / contract basis godown. The mahazar was accepted and acknowledged by the Manager of the premises having the name "Sohana Logistics".

As per Regulation 134 of Kerala Electricity Supply Code 2014 "Under charged bills and over charged bills" states as follow: -

*"(1) If the licensee establishes either by review or otherwise, that it has undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill and in such cases at least thirty days shall be given to the consumer for making payment of the bill".*

Here the respondent had not produced any proof for the period of functioning of 'godown' in the premises. The argument of the appellant is that the premises was vacant for a long period. But, on verifying the consumption pattern for two years prior to the inspection, it is seen that there was consumption in the premises in between 175 units and 1050 units bimonthly. As such the argument of the appellant that the premises was vacant in the short-assessed billing period is not sustainable. The appellant had remitted the energy charge in this period under LT VIB.

The respondent issued the short assessment bill as per Regulation 152 of Kerala Electricity Supply Code 2014, which reads as follows:-

**152. Anomalies attributable to the licensee which are detected at the premises of the consumer: -**

*(1) Anomalies attributable to the licensee which are detected on inspection at the premises of the consumer, such as wrong application of multiplication factor, incorrect application of tariff by the licensee even while there is no change in the purpose of use of electricity by the consumer and inaccuracies in metering shall not attract provisions of Section 126 of the Act or of Section 135 of the Act.*

- (2) *In such cases, the amount of electricity charges short collected by the licensee, if any, shall only be realised from the consumer under normal tariff applicable to the period during which such anomalies persisted.*
- (3) *The amount of electricity charges short collected for the entire period during which such anomalies persisted, may be realised by the licensee without any interest:*

*Provided that, if the period of such short collection due to the anomalies is not known or cannot be reliably assessed, the period of assessment of such short collection of electricity charges shall be limited to twelve months:*

*Provided further that while assessing the period of such short collection the factors as specified in sub-regulation (8) of regulation 155 shall be considered:*

*Provided also that realisation of electricity charges short collected shall be limited for a maximum period of twenty-four months, even if the period during which such anomaly persisted is found to be more than twenty-four months.*

- (4) *The consumer may be given instalment facility by the licensee for a maximum period of twelve months for the remittance of such amount of short collection with interest at the bank rate as on the date of remittance of the amount of instalment.*

*The above clause (4) is amended as follows:-*

***“Sub-regulation (4) of Regulation 152 - The consumer may be given installment facility by the licensee for a maximum period of twelve months without interest for the remittance of such amount of short collection”.***

The point to be decided in the case is as to whether the tariff reassigned by the respondent on strength of inspection and period of reassessment is correct or not. The inspection team could not find any action which led to retain the tariff under LT VIB. Also, for 24 months of short assessment period, the energy was used in the premises in between 175 units and 1050 units. As such the appellant is liable to pay the amount.

**Decision: -**

In view of the above discussion, the instant appeal fails and is hereby dismissed. The order of CGRF in OP No. 23/2020 dated 14-09-2020 is hereby confirmed.

The appellant shall be allowed to remit the balance amount in instalments. No interest or surcharge is payable by the appellant during the petition pending period before the CGRF and this Authority and up to 30<sup>th</sup> day of this order, which is taken as the revised “due date” of the bill. The respondent is directed to issue an instalment allotment proceedings to the appellant, specifying the revised due date and instalment date as per this order.

Having concluded and decided as above, it is ordered accordingly. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/041/2020/ \_\_\_\_\_ dated \_\_\_\_\_.

Delivered to:

1. Sri. Nandakumar. N., Lakshmi Bhavan, Thamarakulam, Kollam Dist.
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Veliyam, Kollam.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Kottarakkara - 691 506.