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APPEAL PETITION No. P/028/2021

(Present: A.S. Dasappan)

Dated: 17th September 2021

Appellant : **Sri. Jamsheer. A.,**
Proprietor,
International Pet Industries,
Pachapoika, Koothuparamba,
Kannur Dist. 670 643

Respondent : Assistant Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Pinarayi, Kannur Dist.

ORDER

Background of the case:

The appellant is a consumer of Electrical Section, KSEB Ltd., Vengad with consumer number 1166786011170 with LT IVA tariff and running an industry by name “International Pet Industries” at Pachapoika, Koothuparamba. The industry started functioning in 2004. The connected load in the premises is 125 kilowatts and Contract Demand is 75 kVA. The appellant remitted Rs.1,41,894/- towards “other charges” specified in the regular monthly bills from 01-11-2018 to 02-11-2020. As per respondent “other charges” mentioned in bills are low power factor penalty. The appellant approached Assistant Engineer, Electrical Section, Vengad; Assistant Executive Engineer, Electrical Sub division, Pinarayi and Deputy Chief Engineer, Electrical Circle, Kannur for the refund of “other charges” from 01-11-2018 to 02-11-2020. Since no action was taken by the Officers of KSEB Ltd., the appellant filed petition in Consumer Grievance Redressal Forum (CGRF), Northern Region, Kozhikode vide OP No. 126/2020-21 and the Forum in its order dated 02-03-2021 rejected the request of the appellant. Not satisfied

with the decision of the Forum, the appellant filed this appeal petition before this Authority.

Arguments of the appellant:

The appellant was unaware of the defectiveness of the capacitors installed in the premises till the information received from the contractor who took the new works for the industry. The defective capacitors were replaced with new ones, but KSEB Ltd. realized the amount in the defective period of the capacitor under the head “other charges” for the last two years. The appellant was not informed about the defectiveness of the capacitors and in the electricity bills the amount is shown as “other charges”, no mentioning about “power factor penalty”. As per section ‘5’ of the Tariff Order notified by the Kerala State Electricity Regulatory Commission on 08-07-2019, the respondent has to inform the consumer about the defectiveness of the Capacitors and its replacement. The appellant received such a notice only on 11-02-2021, after filing petition in Consumer Grievance Redressal Forum, Northern Region on 04-01-2021.

The observation of the Consumer Grievance Redressal Forum is that the reason for the low power factor penalty is the non-installation of sufficient capacitors and for which notice is not required. But actually, the appellant replaced the defective capacitors. The argument of the respondent before the Forum was as follows:

“The entry of ‘other charges’ in the electricity bill, instead of ‘power factor penalty’ is made by the ‘Billing machine software’. The appellant’s industry is a ‘well established firm’ and hence, the KSEB bills are being verified by the Accounting Unit regularly. Since heaters and compressor having capacity 20 kW and 20 HP respectively are installed in the premises, an Electrical Supervisor was posted by appellant and he is well aware of the ‘low power factor’.” The above observation is not at all sustainable. As per Section ‘5’ of General Conditions in the Tariff Order, the Sub Engineer who takes the meter reading had to inform the Section Office about the status of Capacitor and the responsible officer had to intimate the appellant through a notice. The appellant received notice only on 11-

02-2021 and the appellant requested to refund the “other charges” remitted from 01-11-2018 to 01-11-2020.

Arguments of the respondent:

Being an LT Industrial consumer regular monthly bill was issued to the appellant and the electricity charges were paid by the appellant regularly. Regular monthly reading was taken from the appellant’s premises and bill was issued, electricity charges were calculated based on the prevailing regulation and the Kerala State Electricity Regulatory Commission tariff order. Due to the low power factor existing within the appellant’s premises power factor penalty was imposed on the electricity bill and was as per the tariff order of the Hon'ble Regulatory Commission. The appellant has approached the CGRF, stating that penalty imposed by the KSEBL is not as per regulation and amount collected to be reimbursed.

The amount collected from the appellant was as per the prevailing tariff order and nothing has been done in violation of the tariff order. It is clearly mentioned in the tariff order the method of calculating power factor penalty as well as the incentive and the bill to the appellant was issued as per this method only.

The point raised by the appellant is that it is not clearly mentioned in the electricity bill about low power factor penalty, but it may be noted that normally spot bill is issued to the consumer by the Sub Engineer using portable billing machine and the print out from the billing machine software shows the power factor penalty as other charges. The bill issued by the Sub Engineer is only a spot bill and normally demand cum disconnection notice is issued from the section office through e-mail and the bill issued by the section office clearly shows the penalty and the point raised by the appellant that he is unaware of the power factor penalty is not acceptable. Being a well-established firm, they have accounting unit within the company itself and may have verified KSEBL bill regularly. The

meter readers already mentioned the low power factor issue to the site supervisor available at appellant's premises.

If the low power factor exists in the system, it will lead to voltage regulation problems as well as transmission losses and considering all these factors, tariff order incorporated the power factor penalty. Considering all the points as above, the respondent requests to dismiss the appeal petition.

Analysis and findings:

An online hearing of the case was conducted at 4 PM on 01-09-2021 with prior intimation to both the appellant and the respondent. Sri. P.K. Purushothaman attended the hearing for the appellant and Sri. K.P. Sunilkumar, Assistant Executive Engineer, Electrical Subdivision, KSEB Ltd., Pinarayi from the respondent's side attended the hearing. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The appellant argued that sufficient capacitors were installed in the industrial premises, but defectiveness, if any, of the capacitors were not known to the appellant. The appellant received monthly electricity bills from 01-11-2018 to 02-11-2020, in which an amount under the head "other charges" was included. The appellant noticed the defectiveness of the capacitors only when the contractor carrying out new works for the industry. Also, the respondent had to intimate the appellant about the defectiveness of the capacitors and its replacement while taking meter readings. As such the appellant is eligible for the refund of penalty remitted for two years.

The respondent argued that though low power factor penalty was being included under the head "other charges" while issuing bills in the spot, detailed bill was issued stating the "other charge" as "power factor penalty". Penalty was imposed as per the tariff order of Hon'ble Kerala State Electricity Regulator

Commission. The respondent had collected the amount as per the prevailing tariff order and nothing has been done in violation of the tariff order. Hence, the appellant is liable in remitting the amount and the request of the appellant for the refund of power factor penalty is not sustainable.

At this point, it is to be decided whether the appellant is eligible to get the refund of “low power factor penalty” or “power factor disincentive” for the period of two years from 11/2018 to 11/2020.

The industry started functioning in the year 2004 and the appellant requested the refund of “power factor disincentive” remitted by the appellant under the head “other charges” as per appellant or “power factor penalty” as per the respondent. As per Clause (3) of General Conditions in Part A – Low Tension (LT) Tariff of the Schedule of Tariff and Terms and Conditions for retail supply of electricity by Kerala State Electricity Board Ltd. and all other Licensees with effect from 18-04-2017, the fixed charge and energy charge shall be higher by 20% of the tariff applicable to the respective categories if LT industrial and agricultural consumers, who have not installed capacitors with ISI Certification of specific value. Similarly, as per Clause (4) of the same tariff order, 30% will be the higher rate if consumers are using welding sets without installing capacitors of specific value. In this case, no such argument is seen furnished by the respondent.

The appellant had remitted Rs.1,41,894/- towards “power factor disincentive” and which is the total of 24 months from 11/2018 to 11/2020. But as per the statement of respondent, the amount remitted is Rs.1,35,350/-. For the month of 08/2020, the appellant was given “incentive” for maintaining power factor above 0.95.

As per Schedule of Tariff and Terms and Conditions for Retail Supply of Electricity by KSEB Ltd. and all other Licensees with effect from 18-04-2017, consumers who maintain power factor in between 0.9 and 1.0 are eligible for power factor “incentive” and power factor ‘disincentive’ goes to the consumers having power factor below 0.9. But in the Tariff order dated 08-07-2019, consumers who maintain ‘power factor, in between 0.95 and 1.0 are eligible for power factor ‘incentive’ and power factor “disincentive” goes to the consumers having power factor below 0.95.

It is important to note that the incentive of introducing “power factor incentive” and “power factor non-incentive” is for improving the power factor in the electrical network by installing static capacitors with rated KVAR to the induction motors and welding transformers as mentioned in the tariff order. It is also important to maintain the KVAR rating by proper and periodical checking of the capacitors. The power factor incentive or ‘disincentive’ computed on monthly basis and varies and the variation depends on the functioning of capacitors and energy consumption in the premises.

On analyzing the electricity bills from 11/2018 to 02/2021, the variation of power factor is not slight. For example, in 08/2020 the appellant was given power factor ‘incentive’ for a consumption of 13947 units, in 09/2020 it was power factor ‘disincentive’ for Rs.15,223/- for a consumption of 11564 units and in 10/2020 a power factor ‘disincentive’ for Rs.886/- for 13833 units.

The argument of the respondent that the amount collected from the appellant was as per the prevailing tariff order and nothing has been done in violation of the tariff order, which is not an acceptable and sustainable argument. In the same tariff order, clause (5) of General Conditions pertaining to Low Tension (LT) tariff says, the responsibility of the Officers of the Licensee in ensuring the proper functioning of the capacitors. The respondent had not taken any action in accordance with the above clause and silent in their statement furnished before this Authority. This Authority is of the view that the Officers entrusted by the Licensee is to be more responsible than the consumers to maintain good power factor in the electricity supply system. “Power Factor” is not a factor for the financial benefit to the Licensee or to the consumers. Consumers are also responsible to ascertain the correctness of the amount furnished in the electricity bills which are to be paid by them, and if any doubt, which has to be clarified with the Licensee or other competent authority.

In this case, there are lapses on both sides in taking timely action for maintaining the rated values of capacitors.

Decision: -

From the analysis done and the findings and conclusions arrived at, which are detailed above, this Authority take the following decision: -

There are lapses on the part of appellant in maintaining the rated values of capacitors to avoid power factor disincentives and lapses on the part of respondent to intimate the subject of low power factor to the appellant as per rules. As such, it is decided to refund the power factor penalty realized from the appellant for 12 months from 11/2019 to 11/2020, by limiting the period of refund requested by the appellant. The respondent shall refund the amount realized under “other charges” or “power factor penalty” from the appellant from 11/2019 to 11/2020 within 45 days from the date of order or adjust in the future bills.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is allowed to this extent and the petition stands disposed of accordingly. The order of Consumer Grievance Redressal Forum, Northern Region, Kozhikode vide No.126/2020-21 dated 02-03-2021 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/028/2021/_____ dated _____.

Delivered to:

1. Sri. Jamsheer. A., Proprietor, International Pet Industries, Pachapoika, Koothuparamba, Kannur Dist. 670 643
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Pinarayi, Kannur Dist.

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, Gandhi Road, Kozhikode