

STATE ELECTRICITY OMBUDSMAN

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REPRESENTATION No: P 110/09

Appellant : Sri K.O Abraham ,Partner
Supreme Steel Industries
Kallissery Chengannur 689124

Respondent: Kerala State Electricity Board
Represented by
The Special Officer (Revenue)
KSE Board VaidyuthiBhavanam
PATTOM Thiruvananthapuram

ORDER

Sri K.O Abraham , Partner, Supreme Steel Industries, Kallissery, Chengannur submitted a representation on 3.11.2009 seeking the following relief:

1. *Direct the Respondent KSEB to refund the Minimum Deposit Charges paid by the Applicant during the closure of the unit from 1/07 to 5/07 with cost to the Appellant*
2. *Set aside the order dated 30.09.2009 of the CGRF Ernakulam*

Counter statement of the Respondent was obtained and hearing conducted on 19.01.2010 M/s Supreme steel Industries Kallissery is an HT Consumer of KSEB. The above unit remained closed on two occasions : once between 10/2003 to 2/2006 and later between 31.12.2006 to 30.6.2007 . During the first spell of closure KSEB allowed waiver of Minimum Demand charges in accordance with GO (Rt) No 64/06/PD/dated 21.02.2006 adopted by KSEB vide BO (FB)No.210/2006(Plg.Com.4576) dated 12.04.2006. The GO (Rt)No 35/07/PD/dated 24.02.2007 adopted by KSEB vide BO (FB)No.965/2007 (Plg.Com. 4576/2007/391) dated 21.04.2007 had extended the scheme with cut off date of restarting as 30.6.2007 .But KSEB did not allow waiver of Demand charges for the second spell on the ground that the Board had approved the scheme to be made applicable for the last spell of closure only .

The Appellant approached the CGRF but did not get relief.

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 and connected documents and during the hearing are summarized below:

The BO dated 21.04.2007 and the GO dated 24.2.2007 under which the waiver is sought has no reference to any of the earlier orders and hence these orders are neither a part nor a continuation of the earlier or subsequent Government Orders or Board Orders . They are independent Orders promulgated to assist closed down units reopening on or before 30.6.2007. The two sets of orders of 2006 and 2007 are to be considered independently. The purpose and intention of the Government Orders can be correctly interpreted if the two sets of Orders are viewed as independent.

The GO dated 21.02.2006 alone is applicable to the Appellant since the exemption was granted on 24.3.2006 , that is , before the issuing of BO dated 12.4.2006. The condition that, the waiver shall be available for the latest closure only, had not been mentioned in the GO dated 21.02.2006

The KSEB can not include any conditions in a scheme promulgated by the Government through the GO.

None of the Orders state that a unit could avail for the exemption of MD charges only once in a life time

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

Being a statutory body constituted under the Electricity Act the KSEB has every right to fix any statutory criterion while allowing such concessions and reliefs. Only for excluding the possibility of misuse of the concessions allowed by the Government, the criteria that the waiver will be available for the latest closure was introduced.

The Appellant unit had worked for a short spell only in 2006 after availing the concession and the Respondent had issued notice to the Appellant calling for reasons for not withdrawing the concessions allowed.

The GO dated 24.2.2007 has reference to the GO dated 21.2.2006. The GO dated 2.8.2008 has reference to the GO dated 24.2.2007. The GO dated 6.7.2009 has reference to the GO dated 21.2.2006 ,24.2.2007 and 2.8.2008. The related Board Orders also refer to the concerned Government Orders . The statement of the Appellant on the matter is factually wrong and intended for misleading.

Discussion and Findings:

As pointed out by the Respondent the statement of the Appellant that the BO dated 21.04.2007 and the GO dated 24.2.2007 under which the waiver is sought has no reference to any of the earlier orders is factually incorrect. The Appellant had strongly presented this statement as well as the argument that these orders are neither a part nor a continuation of the earlier or subsequent Government Orders or Board Orders in the

CGRF as well as this forum. It is clear that all the arguments flowing out of the above wrong statement are devoid of merit.

Once the Government orders from 21.2.2006 to 6.7.2009 are perused it will be clear that the instructions were part of a *scheme* to provide a helping hand for revival of closed down units. The KSEB directive that last spell of closure only will be taken for granting waiver of MD charges is also reasonable especially in view of the fact the financial liability of the Licensee is not made up by the Government as provided in the Electricity Act 2003 .

It is true that the Orders do not state that the concessions will be available only once in life time. But is also true that a Unit can not expect the authorities to provide such *concessions* for every spell of closure simply because the concessions allowed a few years back had been allowed to continue by the Government for helping sick industries. The Appellant had been free to opt for the waiver for the last spell of closure as per the Orders. But that would not be a financially beneficial option for them.

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 19th day of February 2010 ,

P.PARAMESWARAN
Electricity Ombudsman

No P 110 /09/ 497 / dated 20.2.2010

- Forwarded to:
1. Sri K.O Abraham ,Partner
Supreme Steel Industries
Kallissery, Chengannur 689124
 2. The Special Officer (Revenue)
KSE Board VaidyuthiBhavanam
PATTOM Thiruvananthapuram

Copy to :

1. The Secretary,
Kerala State Electricity Regulatory Commission
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Thiruvananthapuram 695010
2. The Secretary ,KSE Board,
VaidyuthiBhavanam ,Thiruvananthapuram 695004
3. The Chairman , CGRF,KSE Board ,
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