

THE STATE ELECTRICITY OMBUDSMAN

D.H. Road & Foreshore Road Junction, Near Gandhi Square,
Ernakulam, Kerala-682 016

Ph: 0484 2346488, Mob: 8714356488

Email: ombudsman.electricity@gmail.com

Appeal Petition No. P/034/2025 (Present A. Chandrakumaran Nair) Dated: 17-07-2025

Appellant : The President,
Lions Club Muvattupuzha,
Lions Club Rd., Murikkal,
Muvattupuzha, Ernakulam dt.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division, KSE Board Ltd,
Muvattupuzha, Ernakulam (dt)

ORDER

Background of the case

The appellant is the President of Lions Club, Muvattupuzha. A connection with Consumer No. 1155912012018 having availed for the Lions Club situated at Murikkallu, Muvattupuzha. The LT 3 phase connection is coming under the Electrical Section, Muvattupuzha of the Licensee. The connection was originally included in the tariff VII B General and later changed to LT VI B. During April 2024, Regional Audit Officer of the Licensee has conducted an inspection of the premises of the Lions Club, Muvattupuzha. It was noticed that the building is a two story building having different facilities like a hall, multigym facility, meeting room, entertainment area and a small office. Around 15 split airconditioners, and other fittings like fans and lights are installed in the Club. After the inspection the tariff was changed from VI B to VI C by the Licensee. A short assessment was prepared with effect from 2012 for Rs. 1,26,161/-. The appellant filed petition to Hon'ble High Court of Kerala. The Court directed the Licensee to hear the petitioner and take a decision. Accordingly the Licensee has conducted a hearing and issued the order. Aggrieved with this order the appellant filed the petition to CGRF. CGRF issued order on 25/03/2025 on completing the procedures. This petition is filed as the appeal petition to CGRF order.

Arguments of the Appellant

The Hon'ble High Court, found that the petitioner - Lions Club of Muvattupuzha is a social and charitable organisation committed to the welfare of the society and to help the deserving and needy. So, the appellant ought to have been treated by the respondent as a social organisation coming under the LT-VI (B) - General (B). Part of the said club building is used for office purpose as well as for recreational activities. Moreover, main club hall is used for conducting charitable functions. The members of the club are also using the main hall as badminton court; part of the building is also being used as health club. None of the above functions will not change the character of the club which is a social organisation coming under LT-VI (B) - General (B). Hence the respondent ought to have treated the electricity connection to the Lions Club of Muvattupuzha as coming under LT-VI (B) - General (B).

The respondent erred in finding that the office room of the club is only to be treated under LT-VI (B) - General (B). The finding that representative of the club was present during the inspection is absolutely false. None of the office bearers or the members of the club was present during the alleged inspection. The temporary assessment of Rs. 1,26,161/- is calculated based on the schedule of tariff for previous years of 2023 also. The electricity tariff relied by the respondent is based on 2023 tariff for the previous years of 2023, which is perse illegal.

The temporary assessment of Rs. 1,26,161/- is illegal and unjustified. 8. The findings of the respondent are largely depended upon surmises, suppositions and conjectures in arriving at his conclusion, which has prejudicially affected the appellant. For these and other grounds to be urged at the time of hearing it is most humbly prayed that this Hon'ble forum may be please to allow this appeal.

Arguments of the Respondent

The electric connection bearing consumer No. 12018 was given on 6.4.1998 in the name of Sri. Cyriac George, President, Lions Club, Muvattupuzha for construction purpose of the building with tariff VII (A) under Electrical Section, Muvattupuzha. After construction of the building connected load was unauthorizly increased to 5000w which was detected during surprise inspection. The matter was intimated to the complainant and requested to regularise the same, But the consumer had regularized the load only on 27-12 2003 by remitting Additional Cash Deposit of Rs. 3,700/-. No application for change of tariff was submitted at this office and hence charged under VII A Commercial tariff.

At the time when the construction is completed, the consumer should submit an application before the competent authority requesting change of tariff. The authority shall satisfy himself the bonafides of the request and record the reasons while permitting change of tariff. The consumer submitted an application for change of tariff during 9/04 and the same was changed to LT VI B with effect from 01.09.2004. As per W.P.(C) no.5533 of 2005 judgement dated 7 th day of March 2012,"the respondents (KSEBL authorities) are directed to pass appropriate order at the earliest". As per the judgement, The Executive Engineer,Electrical Division, Muvattupuzha issued proceedings as per order no.GB1/cases/WP(C)5533 of 2005/HC of Kerala/12-13/dt 23.07.2012 .Last para of the proceedings of The Executive Engineer states that "if the practice of renting out of the hall is sti continuing, the party is advised to segregate the electrical wiring of rented out portion and the club building, and to avail separate VII(A) connection for the rented out area for avoiding future disputes".

In view of the Regional Audit Office, Perumbavoor, the authorized staff of Electrical Section, Muvattupuzha No.1 along with the Assistant Accounts Officer, Regional Audit Office, Perumbavoor inspected the consumer premises on 20.04.2024 and prepared site mahazar. Findings recorded as per site mahazar: A two storied building with ground floor of about 80X30 feet hall with 9 air conditioners and 8 fans for indoor shuttle court and a seating arrangement for approximately 100 persons, besides a stage of approx 100 square feet. An office room with 1 air conditioner and dining hall with 2 air conditioners and 2 fans was also seen in the ground floor. First floor having a room with 2 air conditioners and 3 fans,conference room with 1 air conditioner and 2 fans, 1 TV,a hall with facility for using as multi gymnasium,club related activities like chess, caroms, card play is also noticed. No change in connected load is seen in the premises.

As per tariff notification of KSERC, tariff VI (B) is for offices of social service organizations. Here in this case majority of the connected load is for multi functional activities like gymnasium, club related activities, indoor sports activities and auditorium compared to the connected load in office room. As per tariff gazette any other LT categories not included anywhere in the schedule of tariff notification should be billed as per VI(C) of tariff notification. Convinced during the inspection on 20.04.2024 that the tariff given to the consumer was VI (B) instead of VI(C). Since the existing tariff VI (B) is seen wrongly fixed and billed to the consumer, as per Kerala Electricity Supply Code regulation 134,152 short assessment bill was prepared and served to the consumer on 08/08/24. The provisional bill is finalized after conducting hearing of the consumer on 28/09/24 at Electrical Section, Muvattupuzha No.1and finalized the short assessment bill which was served to the consumer accordingly on 15/10/24.

The consumer approached Assistant Executive Engineer, Electrical Sub division, Muvattupuzha to revise the bill on 13.12.2024 and accordingly a

hearing was conducted on 21.12.2024 and finalized the short assessment bill already given which was served to the consumer on 28/12/24.

The consumer approached Consumer Grievance Redressal Forum (CGRF), Central Region and accordingly a hearing was conducted on 04.03.2025. After conducting a joint site inspection by CGRF, finalized the short assessment bill already given as per no. CGRF-CR/OP No.109/2024-25/535 dt 25.03.2025.

Counter Argument of the Appellant

The statement in paragraph 4 of the statement of facts filed by the KSEB is not fully correct and is hence denied. Actually the respondent KSEB admitted that the Lions Club of Muvattupuzha is a social and charitable organisation committed to the welfare of the society and to help the deserving and needy and is liable to be charged under the category LT VIB. But it was charged on the higher side. So the Lions Club of Muvattupuzha filed an application before the Executive Engineer KSEB Muvattupuzha and he passed an order changing the tariff to LT VIB. But the benefit of change of tariff was given effect from 9/04 only and the same was not extended from February 1998 onwards. During the hearing of the case before the Hon'ble High Court, the Standing Counsel appearing for KSEB submitted that the Board will re-look into the matter and adjust the excess payment, if any, made by the petitioner towards its future bills.

The Hon'ble High Court directed the Board to reconsider the matter in view of changing the Tariff and pass appropriate order at the earliest. The entire exercise shall be concluded from the date of receipt of the copy of the judgment dated 07-03-2012. But the KSEB did not comply with the order of the Hon'ble High Court. The KSEB did not mention for which period the short assessment bill dated 8-8-2024 is issued. Actually the KSEB did not comply with the order of the Hon'ble High Court till this time.

For these and other grounds to be urged at the time of hearing it is most humbly prayed that this Hon'ble forum may be please to accept these remarks.

Analysis and findings

The hearing of the appeal petition was conducted on 10/07/2025 at 11:30 am in the KSEB IB, Pallom, Kottayam(dt). The hearing was attended by the appellant representative Adv. A.C.Thomas and the respondent Smt. Sindhu M.N, Asst. Executive Engineer, Electrical Sub Division, KSE Board Ltd.,Muvattupuzha, Ernakulam (DT).

The Lions Club is an International Organisation executing various charitable Projects for the concerned localities. The Lions Club, Muvattupuzha has constructed a Club House at Murikkallu, Near Muvattupuzha town. They

have availed power on 06/04/1998 in the name of then, President, Lions Club. Initially the power connected was for construction purpose and accordingly tariff applied was LT VIII A. On completion of the construction, the connected load was increased to 5KW. The load was regularised by the appellant on 27/12/2003 and the tariff was continued on VII A Commercial. The appellant applied for a tariff change during 09/04 and accordingly tariff changed to LT VI B with effect from 01/09/2004.

Then the appellant filed petition to Hon'ble High Court of Kerala vide WP©/5533/2005 for passing the order for the tariff change to LT VI B with effect from the original date of connection. The Hon'ble Court directed the Licensee to hear the petitioner and pass appropriate orders vide order dated 07/03/2012. Then the Executive Engineer had conducted a hearing and issued order dated 31/07/2017. Stating that the tariff change is only applicable with effect from 01/09/2004. Also stated in the order that the power is to be segregated between office area and other facilities like meeting hall, dining hall, gymnasium etc. and to avail separate connection under tariff LT VII A. The appellant has not complied with these directions.

The Licensee has conducted an audit on 20/09/2024 and found that the tariff applied to this building is wrong. Other than offices of Lions Club, the facilities like an auditorium to accommodate around 100 to 150 persons. Side by the auditorium there is a small dining hall. In the first floor, there is board room, Multi Gym facility and a recreation area. All the facilities airconditioned except the gym totalling to 15 airconditioner and fans and fittings. Then the auditors found that the appropriate tariff is not LT VI B and it should be VI C. The short assessment bill for Rs. 1,26,181/- and sent a demand notice. Challenging the tariff change, and short assessment bill the appellant filed petition to CGRF. CGRF issued order stating that the petitioner is bound to pay the short assessment bill.

Here the first question is that which is the appropriate tariff applicable for this Clubs. The tariff order issued by the Hon'ble KSEERC had introduced a tariff under the category LT VI B. LT VI B is applicable for (ix) Offices of Social Welfare Organisation and Offices of Service Pensioners Association. Here in this case, the office of this organization is a small portion connected with one air conditioner, lights and fans. The club building is having a hall, dining hall, Gym, meeting room etc. fitted air-conditioners. It is already checked with tariff applied for similar clubs in and around Ernakulam. It is noted that most of them are availing power in LT VII A. But LT VII A is a commercial tariff applicable for the following LT VII Commercial (A) {LT VII A}.

LT- VII-Commercial (A) [LT- VII (A)]

The tariff under LT-VII (A) category is applicable to commercial and trading establishment such as,

(i) shops, showrooms, display outlets, business houses,

(ii) hotels and restaurants (having connected load exceeding 2000 Watts),

(iii) house boats

(iv) private lodges, private hostels, private guest houses, private rest houses, private travellers bungalows,

(v) freezing plants, cold storages, milk chilling plants for the purpose of marketing the milk and milk products.

(vi) shops selling confectioneries, sweetmeat, breads and such other eatables without manufacturing process,

(vii) petrol/ diesel/ LPG / CNG bunks, LPG bottling plants,

(viii) automobile service stations, computerized wheel alignment centres,

(ix) marble and granite cutting units,

As this facility is not a commercial establishment coming under the above categories. They have informed that the Hall or Other facilities are not rented out. It is utilized only for the purpose of the members and also for certain meeting / training connected with charity services. As such VII A may not be applicable.

Then LT VI B can be applied for the office portion not for other portion. Then LT VI C for other purposes such as

LT- VI GENERAL (C)

The tariff under this category is applicable to:—

(i) Offices or institutions under Income Tax or Central Excise and Customs Departments,

(ii) Offices under Motor Vehicles Department or Sales Tax department or Excise Department; Sub-Registry offices; and such other tax earning departments under State or Central Government (other than Local Self Government Institutions);

(iii) banking and / or financing institutions (excluding micro financing institutions registered and functioning as per the guidelines issued by Reserve Bank of India);

(iv) ATM counters including the ATM counters of post offices.

(v) offices of Airport Authority of India except airports; (vi) Insurance companies,

(vi) Offices of the Goods and Service Tax (GST)

(vii) Microfinancing Institutions,

(viii) Offices of the LIC Agents

(ix) Offices of the pawn brokers; and

(xi) any other LT categories not included anywhere in this schedule.

Then the tariff applicable for other portion could be LT VI C as this is not coming under LT VI B & LT VIII A.

Then the sustainability of the short assessment has to be examined. This was a wrong tariff application. As such the relevant regulation applicable is 152 of Kerala Electricity Supply Code 2014.

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 installment facility by the licensee for a maximum period of twelve months without interest for the remittance of such amount of short collection.

This is an incorrect application of tariff. The Licensee had raised the bill for a period of 11 years and 8 months. The regulation 152 (3) states that the realization of electricity charges short collected shall be limited to 24 months, even if the period during which the anomaly persisted is found to be more than 24 months. As such the Licensee is entrusted to charge the short assessment only for a period of 24 months.

Decision

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. The short assessment bill demanded from the appellant by the Licensee is hereby quashed.
2. The Licensee has to raise a fresh demand for 24 months.
3. The appellant is liable to pay the amount as per revised demand which will be raised as per decision(2)
4. If the appellant requests, the Licensee shall grant 12 monthly installments for clearing the amount without interest.
5. Tariff applicable for the club building is LT VI C for entire load or LT VI B for the office portion and LT VI C for the remaining portion.
6. No other costs ordered.

ELECTRICITY OMBUDSMAN

No. P/034/2025/_____ dated: 17/07/2025.

Delivered to:

1. The President, Lions Club Muvattupuzha, Lions Club Road, Murikkal, Muvattupuzha, Ernakulam Dt.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Muvattupuzha, Ernakulam (dt)

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, 220 kV Substation Compound, HMT Colony P.O., Kalamassery, Pin- 683503.