

## STATE ELECTRICITY OMBUDSMAN

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### REPRESENTATION No: P 146/10

Appellant : The Resident Manager  
Madhyamam, Statue Road, Thiruvananthapuram 1

Respondent: Kerala State Electricity Board  
*Represented by*  
The Assistant Executive Engineer  
Electrical Sub Division, Puthenchantha, Thiruvananthapuram

### ORDER

The Resident Manager, Madhyamam, Thiruvananthapuram submitted a representation on 5.7.2010 seeking the following relief :  
*To declare that the Tariff applicable to the Complainant for its Newsroom connection, Consumer Number 6804 is LT IV and not LT VIIA and to set aside or direct the withdrawal of the bill dated 26.9.2009 for an amount of Rs 8,16,507/- for short assessment of electricity charges from 9/06 to 7/09.*  
Counter statements of the Respondent was obtained and hearing conducted on 15.9.2010. The Appellant submitted an argument note on 6.10.2010.

The complainant is running the daily news paper Madhyamam. The Thiruvananthapuram office has three electric connections. Consumer no: 6799 is for operating the lift, 6803 is the office of the Resident Manager and 6804 is News Room. The printing of the news paper is done somewhere else. The Respondent changed the tariff of Con.No: 6804 News Room from LT IV to LT VII with effect from 09/2006 in accordance with a clarification issued by KSEB on 04/08/2006. The Respondent also issued a short assessment bill for the period from 09/2006 to 07/2009 amounting to Rs 8,16,507/-

The consumer agitated against the change of tariff and short assessment bill and moved the CGRF. The CGRF upheld the change of tariff and short assessment bill.

The KSEB had issued an order on 04/08/2006 clarifying that all media offices without printing presses are to be classified under LT VII tariff. The Board clarified that since no

printing activity is carried out in these premises and only the offices are functioning there LT VII A shall be the appropriate tariff. So also the printing presses are included under LT IV Industrial tariff in the Tariff Notifications.

The contention of the Appellant is that the activities of Desk Top Publishing (DTP) and printing carried out in the complainant premises is more closely connected with printing press in LT IV tariff than with any other category in any other tariff prescribed by the Electricity Regulatory Commission. The Appellant also allege that KSEB has mis-interpreted the term printing press, since now a days printing presses are functioning with latest technology in the world. The traditional printing press in which there was composing, type setting, proof printing, final printing etc have all been replaced by desk top publishing. Printing is a composite process consisting of pre-press, press and post press activity. Type setting, copy editing, markup, proofing, screening, manufacturing of plates etc are some of the pre-press activities. When the plates are made they are put on a rotating cylinder and then paper is fed to the press. The folding , binding, packing, delivery etc come under post press activities. Thus the Appellant argues that the editorial, DTP and News Room are part of printing works and these works cannot be segregated from printing press. Hence these activities are to be included under LT IV tariff according to the Appellant.

The Appellant also pointed out that the Respondent waited for three long years to inform about the dues. There is no explanation why the tariff was not re-classified immediately after the Board order dated 04/08/2006. The Respondent had not issued a demand notice and heard the objections before making unilateral classification.

The Appellant also argues that short assessment is barred under Section 56(2) of the Electricity Act 2003.

The Respondent KSEB informed that the consumer was put under LT IV tariff earlier on the wrong information that they were engaged in software development. The tariff was changed in to LT VII A after a detailed inspection by KSEB officials in July 2009. Objections were called for on the demands and the consumer had filed objections against the bill. The objections were disposed off by the Assistant Engineer after hearing the consumer. As per clause 37(5) of the KSEB Terms & Conditions of Supply the KSE Board is empowered to recover the under charged amounts from the consumer if the Board establishes that the consumer had been undercharged. Section 56(2) of the Electricity Act 2003 is not relevant in this case. The Section become operative only after a valid bill is issued and the amount become due. This view had been upheld by several court judgments.

The Respondent pointed out that the bill had been issued for the actual amount that became due under LT VII tariff. No interest or any penal charges have been demanded.

#### Discussion and Findings:

The most important question to be decided in this case is whether the pre-printing activity including the news room of a daily news paper, excluding the printing press, can be classified under LT IV tariff. The tariff notification included printing presses under LT

IV tariff. The clarification issued by the KSE Board on 04/08/2006 specifies that the media offices *without printing presses* are to come under LT VII A.

The attempt of the Appellant to integrate the activities in news room ,editorial, DTP, manufacturing of plates etc, even if executed in different premises, to the concept of 'printing press' do not stand the test of logic, reasoning and common sense. All such activities may be conceived as integral part of publishing a news paper. But only 'printing press' is coming under LT IV tariff and hence the pre-press and post-press activities executed in some other premises cannot be integrated to or interpreted as 'printing press'.

As pointed out by the Respondent the Licensee is entitled to recover the short assessment once the under recovery is established. The fact that the service connection No: 6804 was functioning as Media Office from 2006 onwards is undisputed and hence under recovery has also been established.

The applicability of Section 56 (2) of the Electricity Act 2003 in such cases has been discussed on several occasions. As per the clause 56(2) the claim shall be barred by limitation after the period of two years from the date when such sum became *first due* unless such sum has been shown continuously as recoverable as arrear of charges. It is also seen that the Section 56(2) speaks about the sum due from any consumer "under this section". Section 56 as a whole deals with the sum which any person *neglects to pay*, with the course of action specified in Section 56(1) and certain limitations on the Licensee specified in 56(2).

The consumer would be able to pay any amount to Licensee only when a demand is raised by the Licensee and the question of negligence comes up only when a demand note or Invoice is issued to the consumer. The only conclusion one can reach under this situation is that the Section 56(2) is related to the sum which a licensee has raised as demand and which a consumer neglects to pay. In other words the Clause 56(2) as well as Clause 56(1) becomes operative only if the Licensee raises a demand and issues an Invoice to the Consumer. And obviously the clock of Limitation starts ticking from the due date of such invoice or demand note, that too when the licensee fails to continuously record the sum as recoverable as arrears. The only conclusion one can arrive is that the limitation of time under Section 56(2) of Electricity Act 2003 commences only after the Licensee raises a demand or issues an invoice to the consumer for any sum liable to be recovered from him. The contention of the Appellant that the demand attracts limitation as per Section 56(2) is not acceptable.

Under the above circumstances the changing of tariff of the consumer from LT IV to LT VII A and consequent demands are to be upheld .

#### 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 29th day of October 2010 ,

P.PARAMESWARAN  
Electricity Ombudsman

No P 146 /2010/ 692 / dated 30.10.2010

- Forwarded to: 1. The Resident Manager  
Madhyamam, Statue Road, Thiruvananthapuram 1
2. The Assistant Executive Engineer  
Electrical Sub Division, Puthenchantha, Thiruvananthapuram

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 , Kottarakkara

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