

STATE ELECTRICITY OMBUDSMAN

Pallikkavil Building, Mamngalam-Anchumana Temple Road
Opp: Kochi Corporation Regional Office, Edappally, Kochi-682 024
www.keralaeo.org Ph.0484 2346488 Mob: +91 9567414885
Email:ombudsman.electricity@gmail.com

Appeal Petition No: P/217/2011.

(Present T P Vivekanandan)

Appellant : M/s Oberon Edifices and Estates (P) Ltd.,
5th Floor, Oberon Mall, NH Bye Pass, Edappally, Kochi-24

Respondents : 1). The Deputy Chief Engineer,
KSEBoard, Electrical Circle, Ernakulum, Cochin 682018.
2). The Special Officer (Revenue), KSEB,
Vydyuthi Bhavanam, Pattom, Thiruvananthapuram-4.

ORDER.

Background of the Case: -

The appellant, M/s Oberon Edifices and Estates (P) Ltd, had applied for 3 Nos of HT Electric service connections for the Commercial Building Complex known as 'Oberon Mall' situated at Edappally Bye Pass, Kochi. The requirement of electric Load was, Contract Demand (CD) of 1570 KVA for the 'Oberon Mall', CD of 170 KVA for the 'Cinema theatres (multiplex) and CD of 500 KVA for the 'Food Court'.

1). Oberon Mall connection: - On 5.10.2009, the 1st respondent, Dy CE, Ernakulam, directed the appellant to deposit Rs. 80,97,000/- towards balance cash deposit for executing the HT agreement with a CD of 1570 KVA and Rs. 12,23,550/- as service connection charge for the total connected load of 2718.956 KW. The consumer deposited the amount required by way of Demand draft and bank guarantee, as per rules.

2). Multiplex Cinema Theatres Connection: - By the letter dated 29.3.2010, the Dy CE had directed the consumer to deposit Rs.26, 45,000/- as Cash deposit for executing the HT service Agreement with CD of 500 KVA and Rs. 1,14,750/- as service connection charges for the total connected load of 195 KW plus 60 KW for fire pump.

3). Food Court connection: - On 3/5/2010, the petitioner was called upon by the Dy CE to deposit Rs. 8,77,000/- as balance cash deposit for executing HT agreement with contract demand of 170 KVA and Rs. 1,14,750/- as Service connection charges for the total connected load of 254.96 KW.

While being so, the appellant filed requests to return the bank guarantees (BG) paid to KSEB as a part of Security Deposit (Cash Deposit), for getting the electric connection to the 3 units stated above, as he felt that the amount collected from him towards the security deposit were in excess than required as per rules. He argues that the Deposit collected from him comes to four times the probable current charges, whereas, as per rules and Terms & Conditions of supply, the KSEB could

collect only twice the amount of monthly electricity charges as Cash deposit. Since the request for refund of BG amount was turned down by the Licensee, the appellant filed the complaint before the CGRF, Ernakulum on 19.10.2010, requesting orders to refund the sum or to return the bank guarantees furnished. The CGRF has dismissed the Petition on the ground that the petitioner is not entitled to get any benefit as demanded by him in the petition and also found the Petition devoid of any merits. Aggrieved by this order, the appellant has submitted this Appeal petition before this Authority on 27.04.2011.

Arguments of the Appellant: -

The arguments of the appellant are based on the brief facts and circumstances of the case that is narrated above. Further, the appellant has adduced the following arguments.

According to the appellant, the impugned CGRF's order is opposed to law and facts. The order if allowed to stand would occasion travesty and irreparable hardships to the complainant. The appellant alleges non-application of mind and non-consideration of facts and circumstances of the case in the impugned order. The Forum has completely ignored the agreements executed between KSEB and the complainant, in respect of HT service connections, in the impugned order. For all the aforesaid three connections, KSEB had taken security deposit which is four times the possible current charges, which is illegal, arbitrary and in contradiction with the agreement.

In the agreement for the supply of HT energy (170 KVA) executed on 7th May 2010 between the KSEB and complainant, it has been clearly mentioned in clause no: 3 (b) that the complainant shall furnish security to the extent of two months probable monthly Electricity charges as fixed by the Deputy Chief Engineer, Ernakulum. This is fixed at Rs.9, 00,000/-. It is alleged that the security deposit fixed at Rs.9, 00,000/- is 4 times more than the possible current charges.

In the agreement for the supply of HT energy (1570 KVA) executed on 9th October 2009, the CD was fixed at Rs.83, 05,000/-. It is submitted that the security deposit fixed at Rs.83, 05,000/- is 4 times more than the possible current charges.

In the agreement for the supply of HT energy (500 KVA) executed on 7th July 2010, this is fixed at Rs.27, 12,000/-. It is submitted that the security deposit fixed at Rs.27, 12,000/- is 4 times more than the possible current charges.

It was wrong on the part of CGRF to conclude that only after getting the first four month's bill, the complainant knew the KSEB had collected 4 times cash deposit and that the complainant had remitted the deposit as requested by KSEB was to get the electric connection fast is unbelievable and misrepresenting. It is submitted that for getting electricity connection, it is mandatory to pay security deposit in advance as per KSEB Terms and Conditions of Supply 2005. Accordingly, the complainant paid the aforesaid security deposits while applying for each power connection (i.e. before receiving electricity bills from KSEB, aforesaid security deposits were already paid by the complainant). However, after issuing two/three month's electricity bills by the KSEB, Complainant realized that the security deposit levied by the KSEB were 4 times the said electricity bills.

Further the appellant argues that it was wrong on the part of Forum in the impugned order to arrive at a conclusion that the complainant's matter falls in the purview of Regulation 14 (4) of KSEB Terms and Conditions of Supply, 2005. He submits that the Regulation 14 (4) is applicable in case where the connection is taken by the tenant of the premises. The relationship between the complainant and Oberon Trading Corporation is not a tenant and landlord. It is further submitted

that the relationship is that of a builder and a property owner and hence the complainant is not a tenant of the premises. Thus, the Forum below has wrongly quoted the applicability of Regulation 14 (4) of KSEB T & C of Supply, 2005 without considering/understanding the above facts.

Another point is that the Forum in the impugned order has completely ignored the applicability of Regulation 16 of KSEB T & C of Supply, 2005. Since the complainant is not a tenant, the matter falls within the purview of Regulation 16 alone. In view of the Regulation 16 (1), all the applicants for new connections are required to pay in advance a security deposit equivalent to two months estimated electricity bills. Thus, it is clear that the KSEB can take security deposit equivalent to the two months estimated electricity bills only. However, for all the aforesaid three connections, the KSEB had taken security deposit which is four times the possible current charges, which is illegal, ultra vires and arbitrary in nature.

The reasoning given by the Forum in the impugned order is without any basis. For these reasons the appellant prays to set aside the impugned order of the Forum and allow the Appeal filed.

Later, on 21-12-2011, the appellant submitted an argument note by adducing some additional arguments in support of his petition. He submits that by virtue of aforementioned agreements executed between the appellant and the respondents, the respondent has waived its right (if at all anything exists) to collect more than two months probable monthly current charges as security deposit from the appellant. He argues that, it has been held by the Bombay High Court in (2008 (5) ALLMR 815), that "the right can be waived by the party for whose benefit certain requirements or conditions had been provided for by a statute subject to the condition that no public interest is involved therein". Further it is contended that the electricity connection has been provided by the respondents solely based on the aforesaid agreements. Hence the respondents ought to have complied the terms of the agreement in respect of the security deposit. It has been held by the Madhya Pradesh High Court in (AIR 1986 MP 143) that a "Person who receives or entitled to receive rent from tenant on his own account is absolute owner of that land". Further the Apex court in (AIR 1997 SC 2523) viewed that the owner is a person who is entitled to receive income from the property in his own right.

The respondent by its letter dated 14.12.2010 has categorically admitted that the appellant is the owner of the building. Still the Forum below had wrongly concluded that the respondents are entitled for four times probable monthly current charges as a security deposit from the appellant. It is argued that if a Company can be referred to as an owner of the premises, it cannot be called as the tenant of the said premises. This aspect has been completely ignored by the Forum.

Another point raised by the appellant is that the lease/license agreements executed between the licensee/lessee and the appellant for the said premises clearly reveal that the appellant is receiving rents from the tenants on his own account. Thus the appellant cannot be referred to as the tenant of the premises and hence Regulation 14 (4) of the terms and conditions of supply, 2005, shall not be attached in the above case. Section 2(3) of the Kerala Buildings (Lease and Rent) Control Act, 1965 defined Landlord as a "person who is entitled to receive the rent of a building whether on his own account or on behalf of another. Section 2(6) defined tenant "any person by whom or on whose account rent is payable for a building. It is reiterated that the lease/license agreements executed between the licensee/Lessee and the appellant for the said premises, reveal that the appellant is receiving rents from the tenants on his own account. Thus, it can be safely

concluded that the appellant, M/S Oberon Edifices & Estates (P) Ltd cannot be categorized as a tenant of the said building/premises and hence Regulation 14 (4) of the T & C of Supply, 2005, will not attract in the above cases so long as he is not a tenant. The appellant has cited the following Apex court judgments in this context. In 2011(4) KLTSN 74, the Apex court has held that both the establishments can be treated as one since both the establishments are run by the same persons under a common management. This is applicable to "Oberon Edifices & Estates Ltd" and "Oberon Trading Corporation" also. Both the establishments are run by the same persons under a common management.

The reliefs sought by the appellant- To set aside the impugned order of the Forum below and allow this appeal with consequential reliefs to the appellant in the interest of justice.

Argument of the Respondent: -

The Respondent has opposed the contentions of the Appellant in the Petition and raises the following arguments among other things included in the replies submitted and stated during the Hearings.

According to the respondent, M/S Oberon Edifices and Estates (p) Ltd, has executed 3 Nos of HT Agreements, for availing electric supply to 1) Oberon Mall, 2) Cinema Theatres and 3) Food Court. These agreements were signed by Mr. M A. Mohammed, Managing Director, M/S Oberon Edifices and Estates (P) Ltd, Edappally, in all the cases. The electric connections bear HT commercial tariff. The ownership of the Building stands registered in the name of 'M/S Oberon Trading Corporation' as per the Kochi Municipal Corporation records. As per rules, Special Cash deposit to the tune of twice the probable monthly electricity charges is to be collected from the applicant for the new electric connection, if he is not the owner, for the execution of agreement.

The ownership certificate produced by the applicant shows the owner as 'M/S Oberon Trading Corporation'. As per Regulation 14 (4) of the Terms & Conditions of Supply 2005 "if the intending consumer is not the owner of the premises to be electrified, he shall furnish a consent agreement in Form No4 from the owner. A special deposit equal to amount of security deposit is also payable whenever the service connections are effected to the occupier/tenant and not in the name of the owner. Also as per the 'Guideline No.5 'of Board Order (FB) No.2197/2008 (DPCII/T&C of supply, 02/2008-09) dated 02.09.2008, in case of application by tenant, tenant shall remit security deposit at twice the normal rate. Since the connection was availed in the name of M/s Oberon Edifices and Estates (P) Ltd and the ownership certificate produced by the consumer was in the name of M/S. Oberon Trading Corporation, Cash deposit to the tune of twice the normal rate was collected after obtaining 'consent letter' in Form.4 from the owner, as per rules.

Mr. M.A. Mohammed, MD, M/S. Oberon Mall have submitted an application for reconsidering the demand for return of cash deposit. In this regard, it was clarified from KSEBoard that since the owner (Oberon Trading Corporation) and the consumer M/S. Oberon Edifices and Estates (P) Ltd are different Firms and two legal entities, realizing the liability of one legal entity from another may lead to litigation and therefore, it can be considered only as two distinct ones. Hence in such situations, an electric connection taken on a different name than the owner's name, even though he may be a partner of both firms, has to be treated at par with a tenant. Security deposit at twice the normal rate shall be realized in such cases. The decision of the Board has been intimated to

the consumer M/S Oberon Edifices & Estates (p) Ltd, on 14.12.2010. The consumers and owner being separate legal entities, the provisions under Regulation 14 (4) hold good in all true spirit and the Security deposit collected is fully legal and the consumer is bound to remit the same.

Regulation 16 (i) of the Terms and Conditions of Supply, 2005, entitle the KSEB to collect 2 times of current charge as cash deposit. In the above cases, the Agreements has been executed by M/S Oberon Edifices and Estates (P) Ltd with the consent of the owner, M/S. Oberon Trading Corporation. Vide Regulation 14 (4) of Terms and Conditions of Supply ,2005 and ' Guideline No.5' of Board Order (FB) No.2197/2008 (DPCII/T&C of Supply 02/2008) dated 02.09.2008, entitle KSE Board to collect, special deposit equivalent to security deposit where the service connection is in favor of the tenant, with the consent letter of owner in Form No.4. Thus, the total amount to be deposited is calculated as, security deposit equivalent to two months electricity charges plus a special deposit of equivalent amount. Hence the amount collected is fully legal and as per relevant provisions of Kerala Electricity Supply Code. The consumer is bound to pay the said amounts.

The consumer has given consent letter in Form No.4 and is fully aware of the legal obligation under Regulation 14 (4) of Terms and Conditions of Supply, 2005 to pay Special Deposit and this Special Deposit plus the 2 times current charges has been collected as the cash deposit. The consumer after execution of agreement has raised the complaint that the owner and tenant are one and the same. This was the point of dispute of M/S. Oberon Edifices (P) Ltd. The petitioner had filed complaint before the CGRF regarding the same and the CGRF had heard the Case in detail and finding no merit has disposed the petition vide order dated 17.03.2011. Hence it is prayed that the consumer's request to refund is devoid of any merit and may be disallowed.

Analysis and Findings: -

The Hearing of the case was conducted on 21-12-2011 and 12-4-2012, in my chamber at Kochi (Edappally) and both parties attended. Sri. Shyam Prashanth, learned Counsel and Sri. K. Mathew Luke, General Manager, Oberon Edifices & Estates Pvt. Ltd represented the appellant's side and Sri. Kesavadas V, Dy. Chief Engineer, KSEB, Ernakulam, represented for the respondent, and they have argued the case on the lines stated above.

On perusing the Appeal Petition, the counter statement of the Respondent, the documents submitted, the averments raised in the hearing and considering the facts and circumstances of the case, I come to the following findings and conclusions, leading to the decisions thereof.

The appellant has executed separate agreements with KSEB, for obtaining 3 Nos of HT electric service connections in a Commercial Building complex known as "Oberon Mall". As directed by the KSEB, the appellant had paid; 1) total cash deposit Rs.83, 05000/- for HT service connection to Oberon Mall with contract demand of 1570 KVA 2) total cash deposit Rs.27, 12,000/- for a Food Court with contract demand of 500 KVA and 3) total cash deposit Rs.9, 00,000/- for a Multiplex Cinema Theatre with contract demand of 170 KVA, all under commercial tariff. The appellant was also forced to remit the Service Connection Charges for getting these 3 connections.

According to the appellant the amount collected as security deposit were high and comes to four times the possible current charges, whereas as per rules and conditions of supply, the KSEB could only collect twice the amount of current charges as deposit. On receipt of the electricity bills issued by the KSEB he realized that the Security deposit collected by KSEB were four times instead

of two times the monthly electricity bills. The appellant also argues that by executing the aforementioned agreements, the respondent has waived its right to collect more than two months probable current charges as security deposit from the appellant.

The point for decisions are;

1). Whether the Licensee KSEB has collected more amount than authorized by the Law in case of Security Deposits and

2). Whether the Service connection charges collected by the KSEB for the above 3 Nos of electric connections is against Law?

Since the appellant heavily relies upon Clause 14 (1) & (4) of the Kerala Electricity Supply Code 2005 and Clause 16(i) of KSEB Terms and Conditions of Supply, 2005, it reads as;

Clause 14. Initial Security Deposit—(1) All applicants for new connections shall pay in advance a security equivalent to the estimated two months/three months estimated electricity bills as the case may be. The estimated electricity charges shall include total charges to be supplied as per the tariff in force from time to time. The Licensee may collect the security towards meter rent on the same basis, if such meter is provided by the Licensee.

(4) The Licensee shall appropriately adjust the initial security deposit after effecting the supply, on the expiry of two months or three months, as the case may be, following the same procedure under clause 13(5) above.

Clause 16 (i) of the KSEB Terms and Conditions is the replica of the above referred Clause 14(1). This argument of the appellant is countered by the respondent by adducing the relevant provision in Clause 14(4) of the KSEB Terms and Conditions of Supply which reads as follows.

“If the intending consumer is not the owner of the premises to be electrified, he shall furnish a consent agreement in Form No. 4 from the owner of the premises. If he is unable to produce the consent agreement from the owner of the building, the service connection can be effected if the applicant executes an Indemnity Bond in Form No: 5. A special deposit equal to the amount of Security Deposit is also payable whenever service connection is effected to the occupier/tenant and not the owner.”

According to the respondent the argument of the appellant that the KSEB has collected Cash deposit at the rate of 4 times the current charges is not true. But the total Cash deposit collected include (a) two times the monthly electricity charges known as Security Deposit or Cash Deposit and (b) a special deposit equal to the security deposit under Regulation 14 (4) of the KSEB Terms and Conditions of Supply, and the Guideline no. 5 of Board Order (FB) No. 2197/2008 (DPCII/T&C of Supply 02/2008) dated 2-9-2008. Thus the total amount payable by the consumer will come to 4 times the probable monthly electricity charges, in the special case of tenants/ occupiers and not the owner taking the connection in their name. Thus the amount collected by KSEB is found to be done as per rules in force and therefore the respondent cannot be find fault with the collection of 4 times the monthly electricity charges as Security Deposit in such situations.

Then the appellant raised the argument that the owner and tenant are one and the same and hence there is no need for special deposit and this was another point of contention. The appellant has submitted a copy of the application for new electric connection as document, claiming to be filed by the consumer, while availing the service connection, which shows that the applicant is one among the partners of the Firm ‘M/s Oberon Trading Corporation’, who hold the ownership. He

argues that since one of the owners had applied for the Electric connection, there is no case of owner-tenant relationship that calls for execution of Form 4 Agreement and collection of special deposits thereof. But the respondent denies this version of the appellant. They argue that in all the three HT connections, the applicant is Sri. M.A. Mohammed, M D, M/s Oberon Edifices and States (P) Ltd, and the agreements were signed on behalf of M/s Oberon Edifices and States (P) Ltd and the ownership certificates were in the name of M/s Oberon Trading Corporation. Sri M.M. Asif, Managing Partner, Oberon Trading Corporation, has given consent to Mr. M A Mohammed for availing the electric connection as the consumer and hence the applicant is not the sole owner and hence it is similar to tenant-owner relationship which calls for additional special deposit. A verification of the documents, Form-4-Consent letter, produced by the respondent, reveals that 3 Nos of consent letters in Stamp paper worth Rs 50/- each, has been signed by Mr MM Asif, Managing Partner, authorizing Mr M A Mohammed, M D, to take connection as the consumer.

As per records, the owner of the premises rests with Oberon Trading Corporation and Mr. M M Asif is its Managing Partner vested with powers or the authorized signatory of the firm (Deed of Partnership executed on 01.04.2008). The appellant submits that 65% of the property of Oberon Trading Corporation belongs to him and the relationship between the appellant and Owner Firm is that of a builder and the property owner and states that he is not a tenant. The Counsel has cited the following Apex court judgments in this context. In 2011 (4) KLTSN 74, the Apex court has held that both the establishments can be treated as one, since both the establishments are run by the same persons under a common management. He points that this is same when "Oberon Edifices & Estates (p) Ltd" and "Oberon Trading Corporation" is concerned and both the establishment are run by the same persons under a common management and is squarely applicable here . But the above case of Apex Court deals with Employees Provident Fund and Miscellaneous Provisions Act, 1952 and held; "However, when we notice that they are run by the same family under a common management with common workforce and with financial integrity they are expected to be treated as branches of one establishment for the purposes of Provident fund Act. The issue is with respect to application of a welfare enactment....". So I believe that the above Judgment cannot be made applicable or can be considered favoring the argument of the counsel as it is not an identical one.

Another point of argument of the appellant is that " M/s Oberon Edifices & Estates (P) Ltd " cannot be categorized as a tenant of the said building/premises. In support of his arguments the appellant relies upon the definitions of the terms owner/landlord/tenant furnished in the Kerala Buildings (Lease and Rent) Control Act, 1965. The above definitions of 'owner', 'tenant' confines the limited scope of the Kerala Buildings (Lease and Rent) Control Act, 1965 and cannot be made applicable in the case of Electricity Laws.

On examining the documents produced by the appellant, it is revealed that Oberon Edifices & Estates (P) Ltd. is a company registered with shares issued to six persons including the appellant and his family members. M/s Oberon Trading Corporation is also a partnership firm consisting six partners who are the same persons holding shares in the earlier one. To prove his claim that he is not the tenant, he has produced a true copy of a Lease Agreement signed by the appellant as in the capacity of a 'Lessor'. In the Lease Agreement, it is clearly mentioned that the land owner is M/s Oberon Trading Corporation who entrusted the construction of the shopping mall to the builders Oberon Edifices & Estates (P) Ltd and also empowered the builders to enter into lease

agreements with those who are ready to take the entire commercial complex or portions of the complex. Though it is true that Oberon Edifices & Estates (P) Ltd, is not a tenant but he is also not the owner and can be considered as an occupier of the premises, as far as this case is concerned. In legal terms both Oberon Edifices & Estates (P) Ltd and Oberon Trading Corporation are separate entities.

An analysis of 14(4) of KSEB T & C of Supply, makes it clear that if the intending consumer is not the owner of the premises to be electrified, he shall furnish a consent agreement in Form No 4 from the owner of the premises and a special deposit equal to the amount of Security Deposit is also payable whenever service connection is effected to the occupier/tenant and not the owner. Since the appellant is not the owner in the legal sense, he is bound to pay special deposit, equal to the amount of security deposit.

Decision: -

From the analysis done above and the conclusions and findings arrived at, I take the following decisions.

Issue No.1: - Collection of excess Security Deposit;

The Hon: KSEB is vested with powers to frame Regulations, for the distribution of Electric power supply by the Licensees, within the State. The Electricity Supply code, 2005, and the KSEB Terms & Conditions of Supply 2005, stipulate the Regulations, norms and procedures for giving the Electric supply to consumers. It has been clearly stated vide Clause 13(4) of Electricity Supply Code that KSEB shall keep an amount equivalent to two month's electricity bill as security from all monthly billing consumers. Further, as per Section 14(4) of the KSEB T & C of supply, it is stated as; "If the intending consumer is not the owner of the premises to be electrified, he shall furnish a consent agreement in Form No.4, from the owner of the premises. -----A special Deposit equal to the amount of Security Deposit is also payable when ever service connection is affected to the **occupier/tenant and not the owner**".

In this case, the owner of the Building is 'M/s Oberon Trading Corporation' and the applicant for the Electric connection is 'M/s Oberon Edifices and Estates (P) Ltd' which are two different legal entities, even though the Partners of both entities are the same. In case of default, realizing the liability of one legal entity from another entity may not be a binding one and may ultimately lead to Litigation. This legal opinion has been duly informed to the appellant by the respondent when they filed the request for refund of special deposit. Further the Deed of Partnership dated 1.4.2008 shows the object of Partnership in the case of Owner, 'Oberon Trading Corporation' as 'Business of Whole sale and retail agents /stockists for Drugs/Pharmaceuticals' but the appellant is seen engaged (from the documents submitted) in renting out the Area for businesses like Ready made Garments etc which does not conform to the object of business of the Owner. Hence I am inclined to accept the opinion that the 'two legal entities are different in every sense'. Moreover, the composition of Directors, Members or Partners of any Firm (legal entity) may change at any time, if they so desire.

Here, the Managing Partner of the Oberon Trading Corporation, Mr M M Asiff (authorized by the Deed of Partnership agreement) has signed the Form 4- the Consent agreement (in stamp paper worth Rs 50/-) in favor of Mr M A Mohammed, the applicant for taking the 3 Nos HT electric

connections. Once he submits the Consent agreement in Form-4, the consumer is bound to remit an amount equivalent to Security Deposit as Special Deposit, payable by the applicant when he is not the owner of the premises where connection is required. The argument of the appellant that he is not a tenant will not hold good since even if he is not a tenant, the status of occupier (other than the owner) has to pay the Special deposit as per Section 14 (4). Here, unless the electric connection is taken in the name of M/s Oberon Trading Corporation (the real owner), the party is bound to produce a consent agreement and also remit the special deposit equivalent to Security Deposit. Thus the total amount payable in case of applicants, with out having the right of ownership of the premises, where the electric connection is required, is Security deposit plus the special deposit, totaling to 4 times the probable monthly electricity charges.

In the present case also, the respondent has collected 4 times the probable monthly charges, as required by the rules. The only anomaly noticed was that they have wrongly classified the total amount under Security deposit (Cash Deposit) instead of security deposit and special deposit. It is found that the total amount collected by the respondent as Cash deposit was correct, but needs proper accounting under the Heads of Security Deposit and Special Deposit. Hence the argument of the appellant is not sustainable and is rejected.

Issue No 2: - Refund of Service Connection Charges.

Prior to the introduction of the Kerala Electricity Supply Code in 2005, the Service connection charges (SCC) were collected by the Licensees for providing new electric service connections and additional load to consumers. In the Electricity Supply Code, 2005, there was no mention of any service connection Charges being payable by the consumers. Only the estimated cost of works required for giving the electric supply to the new consumers were authorized to be collected by the Licensee. But the KSEB used to collect the SCC charges as there was no specific bar against the collection, till it was brought to the attention of the Hon: Commission. The Hon: Commission has issued order dated 08.09.2010, in the Petition No DP-77 filed by 'The Kerala HT and EHT Industrial Electricity Consumers Association', that the collection of SCC by KSEB from 02.03.2005 onwards, the date from which the Kerala Electricity Supply Code, 2005, became effective, is not in order. Based on the same, KSEB has issued order to implement the direction of the Hon: Commission from the date of its order, i.e. 08. 09.2010. The Hon: Commission on a subsequent Petition, again conducted public hearings to decide on the issue of the SCC collected for the period, in between 02.03.2005 and 08.09.2010 and passed its order dated 30th April, 2012, as follows;
"..... 2). 'Service Connection Charges levied from HT/EHT consumers till 07.09.2010 and from LT consumers till 09.11.2011 need not be refunded since these amounts were already treated as revenue of the Licensee and tariff so adjusted'.

The question of refund of 'Service Connection Charges (SCC)' collected by the Licensees for the period of 02.03.2005 to 07.09.2010 has been decided by the Hon: Commission itself and hence there is nothing more to decide on this matter. The appellant has remitted the SCC through DD dated 5.10.2009 for 1570 KVA- Oberon Mall Connection, DD dated 4.5.2010 for 170 KVA- Multiplex Cinema theatres, and DD dated 28.06.2010 for their 500 KVA- Food Court connection. Since the payments towards the Service Connection Charges for all the three electric connections

were made prior to the Cut-off date of 07.09.2010, the same amounts are found to be not refundable by the Licensee, KSEB, as per the Order issued by the Hon: Commission, stated above.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant M/s Oberon Edifices and Estates (P) Ltd, is found devoid of merits and hence stands dismissed.

No order on costs. Dated the 17th of July, 2012,

Electricity Ombudsman.

Ref. No. P/ 217/ 2011/ 1316/ Dated 17.07.2012.

Forwarded to: - 1). M/s Oberon Edifices and Estates (P) Ltd,

5th Floor, Oberon Mall, NH Bye Pass,

Edappally, Kochi- Pin-682024

2). The Deputy Chief Engineer,

KSEBoard, Electrical Circle,

Ernakulum, Cochin- Pin-682018.

3). The Special Officer (Revenue)

KSEB, VydhyuthiBhavanam, Pattom, Thiruvananthapuram-4.

Copy to: -

1). The Secretary, Kerala State Electricity Regulatory Commission,

KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.

2). The Secretary, KSEB, Vydhyuthi bhavanam, Pattom, Thiruvananthapuram-4

3). The Chairperson, Consumer Grievance Redressal Forum, KSEB,

Power House Building, Cemetery mukku, Ernakulam-682018.