

Argument of the appellant: -

The present Petition of the consumer is that, as per tariff order dated 27.11.2007, it is clearly specified that the 'demand charges' can be raised only for 75% of the agreed Contract Demand or the recorded maximum demand, whichever is higher, with effect from 1/12/2007. Further, he has executed agreement with KSEB, for reducing the Contract Demand of his HT connection to 50 KVA on 26. 11.2008 and this has been given effect from 1.2.2008 onwards. As such, he is bound to pay 75% of the contract demand of 50 KVA only i.e. for 38 KVA, as his unit was locked up during the disputed period. But he was charged for 50 KVA all these period. So if the tariff order dated 27.11. 2007 is applied, the consumer is eligible to get a refund for 12 KVA demand charges per month with interest.

Argument of the Respondent: -

The petitioner's letter dated 1.3.2011 is not received. AS per tariff rules the HT consumer has to pay 75 % of CD as per agreement or the recorded maximum demand whichever is higher. The CD has been reduced to 50 KVA from 110 KVA w.e.f 1.2.2008. Hence the consumer is eligible for refund at the rate of Rs. 350/- x 12 KVA = Rs. 4200 per month. On 21.1.2009, the consumer got orders from Electricity Ombudsman giving the reduction in CD to 50KVA with effect from the date, 1.11.2005 onwards and KSEB has challenged the same order in Hon High Court vide WP No. 34609 of 2009 and is pending for decision. Hence the refund of excess MD charges collected from the consumer from 2/08 onwards shall be considered along with the disputed period pending before the Hon High Court and after getting the verdict in the same, accordingly.

Analysis and Findings: -

The Hearing of the case was conducted on 24.4.2012 at Thiruvananthapuram. The appellant, Sri Reji Varghese, and Sri. P K Gopinathan, the SO (R) represented for either sides. This Forum asked the KSEB to intimate why the excess MD collected during the period from 2/08 to 12/09 should not be released as it is not coming under the Case filed before the Hon High Court? It was also directed to get instructions and report the same with in 15 days. Moreover if Board is agreeable to the refund, it shall also be made without delay. Accordingly, the KSEB by its submission dated 23. 5. 2012 has stated that the Board has agreed to refund the excess MD collected during the period from 2/2008 to 12/2009, as per the tariff notification dated 27/11/2007.

Now the dispute pending is regarding the period of 1/11/2005 to 1/2/2008 only. The CGRF dismissed the petition in OP No. 635/2011, as the issue contains reduction of contract demand to 50 KVA with effect from 1/11/2005 and refund of excess MD charge collected thereof. The subject matter is pending before the Honourable High Court of Kerala, and hence it is not maintainable before it. The same rule applies to Electricity Ombudsman also and a Case pending before any other Hon Court of Law is debarred from the purview of CGRF and Electricity Ombudsman.

During the Hearing done on 24.4.2012, the appellant has stated that since the request for Contract Demand reduction to 50 KVA, with effect from 11/05 is pending before the Hon High Court, he is pressing for the period limited to 2/08 onwards only, which is agreed (Contract Demand of 50 KVA from 1.2.2008) to by the KSEB also and hence the same may be allowed now.

Decision : -

The Case filed before the Hon High Court is not a bar for releasing the excess MD collected from the consumer during the period of 2/2008 to 12/2009, since the dispute before the Hon High Court pertains to the period of 11/05 to 2/08 only. The KSEB contention to wait for the verdict of Hon High Court order is not essential as the KSEB does not have a Case on the matter for the said period of 2/08 to 12/09. Hence it is decided to refund the excess demand charges collected from the consumer from 2/2008 onwards with applicable interest till the day of refund, within 60 days of this order, if not already done.

It has been instructed the respondent, during the Hearing itself, to get instructions from Board and to refund the excess amount at the earliest.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the consumer is allowed to the extent ordered above and as such stands disposed of. No order on costs.

Dated the 11th of February, 2013.

ELECTRICITY OMBUDSMAN.

Ref No. P/240/2011/1578 /Dated 11.02.2013.

Forwarded to: 1). Sri. Reji Varghese,
Director, Saj Flight Services (P) Ltd.
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2).The Special Officer (Revenue)
KSEB, VidyuthiBhavanam,
Pattom, Thiruvananthapuram.

Copy to:

- (1). The Secretary, Kerala state Electricity Regulatory Commission,
KPFCBhavanam, Vellayambalam, Thiruvananthapuram-10.
- (2). The Secretary, KSEBoard,
Vidyuthibhavanam, KSEBoard, Pattom, Thiruvananthapuram-4
- (3). The Chairperson, Consumer Grievance Redressal Forum,
KSEBoard, Vudyuthibhavanam, Kottarakkara.