

STATE ELECTRICITY OMBUDSMAN

Pallikkavil Building, Mamangalam-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

Appeal Petition No: P/280/2012

(Present T P Vivekanandan)

APPELLANT : Sri. P.K. Kerala Varma,
Managing Director,
Narniat Pharmaceuticals & Chemicals Pvt. Ltd.
North Beypore, Kozhikode. Pin – 673 015.

RESPONDENT : Kerala State Electricity Board
(Represented by)

- 1). The Chief Engineer (Commercial & Tariff),
KSEB, Vidyuthibhavanam, Pattom,
Thiruvananthapuram- Pin- 695004.
- 2). The Special Officer (Revenue),
KSEB, Vidyuthibhavanam, Pattom,
Thiruvananthapuram- Pin- 695004.
- 3). The Deputy Chief Engineer
Electrical Circle, KSEB, Gandhi Road,
Kozhikode.

ORDER.

Background of the case: -

M/s Narniat Pharmaceuticals & Chemicals (P) Ltd., Kozhikode is a HT consumer (Con. No. HT. B-5/519) with a contract demand of 65 KVA and is represented by Sri. PK Kerala Varma, the MD. Since the consumer has defaulted in paying electricity charges from the year 1995 onwards, the KSEB has issued notice, demanding to remit a sum of Rs. 19, 72, 291/-, as arrears of electricity charges, vide letter dated 18.03.2005 by the Special Officer, Revenue, KSEB. For the arrears accrued, the service connection to the Firm was disconnected on 11.01.2005 and remained so till date. Meanwhile he requested conversion to LT category in 6/1999 and it was clarified to the party that the request for conversion can be agreed to, only after remitting 50% of the pending dues to the Board. Aggrieved by this decision, the appellant filed a Petition vide, WP No.11426/2005 before the Hon: High Court. The writ petition was disposed of vide Judgment dated 07.04.2005, with the following directions to the KSEB.

- (i). To consider the request of the petitioner for conversion to LT tariff and dispose of the same within a period of two months from the date of receipt of copy of the judgment.
- (ii). To restore the power supply, if the petitioner deposits one half of Rs 9,86,146/- during the pendency of the request for conversion to LT tariff.

But the appellant did not remit the sum as specified by the Hon High Court. Instead he made representations to the Board and to the Govt. seeking rebate of charges during the Power cut period and for Lock out period of his Unit. Further he wants a LT service connection in place of his HT connection and pleaded that, since there was no Power consumption and energy was only used for the Lighting purpose, the minimum demand charges guarantee during this period shall be totally waived. The said petition was disposed of vide proceedings No. HTB 5/519/05-06/3971 dated 8/8/05 of the Special Officer, (Revenue), (SOR) dismissing his request. Aggrieved by the decision, the appellant represented to the Govt. seeking to waive the MD charges, from the bills during his Industrial Unit closure period and to provide LT connection. The Govt. has disposed the petition vide Order dated 4.7.2006 directing to follow the Govt. order in his case.

Subsequent to the orders, the respondent had claimed the arrears of electricity charges for the period of 6/1996 to 1/2005. Later, the Board considered his request and took a decision to grant him LT tariff w.e.f 6/1999 and accordingly his accounts were revised and a notice dated 14.02.2012 was issued to the consumer for Rs. 8, 77, 310/- being the arrears, treating him in HT tariff up to 5/99 and in LT tariff from 6//99 onwards, till the date of disconnection in 1/2005. Still not satisfied, the consumer approached the CGRF, Northern Region, Kozhikode, with the following prayers:

- (i). To issue orders for one time settlement on the basis of actual power consumed from 6/95 to 1/05 and waiver of MD charges treating the whole period as single closure on the basis of certificates from the District Labour officer and industries Department, and to set aside order No. HTB-5/59/SOR/11/12 dated 14/2/2012 of the SOR (KSEB).
- (ii). To direct KSEB not to charge 25% extra for non-installation of TOD meter and transmission losses charged as well as duplication of invoices.

The CGRF has decided that the complaint itself is not maintainable, as the Hon High Court and the Govt. has already considered the issues and released the orders on it and accordingly dismissed the Petition. This appeal petition is filed as the petitioner is aggrieved by the order dated 28th day of March 2012 of CGRF, Kozhikode on the issue stated above among other things.

Arguments of the Appellant: -

Issue No (1). The CGRF Kozhikode has declared the complaint as; “not maintainable” under section 22 of KSEB Regulations 2005, citing the reasons as under;

- (a). Approached the Hon: High Court vide WP (c) No.11426/05 when supply was disconnected.
- (b).Not filed ‘contempt of court’ petition before the Hon: High Court.
- (c).Approached Government of Kerala and obtained order.
- (d).Approached KSEBoard for rectification of their orders.
- (e).Filed petition before Janakeeya Adalath for Redressal of complaints.

The Power Supply to his Firm was disconnected in January 2005. The CGRF did not exist then for the power consumers and the only option before him was to approach the Hon: High Court for (a) Conversion of HT to LT tariff and (b) Quashing the KSEBoard claim of Rs.1972291/-. The

Hon: High Court has ordered KSEB to convert the HT to LT in two months' time and to deposit half of the claim of dues as deposit, to obtain reconnection of supply. The Hon: Court also quashed the huge interest claim and has not accepted the correct dues to KSEB and deposit was meant only to obtain reconnection. Since reconnection of HT supply was not required, the deposit was not made and as on date, the LT supply has been obtained and is in use. Thus the matters before Hon: High Court was totally unrelated to the present complaint before CGRF. The present petition is entirely for different issue regarding waiver of MD charges, faulty claims etc., which have not been considered by the Hon Court and CGRF erred in under-standing the issues and failed to note that those decisions are not challenged before the CGRF.

Issue No (2). This is a SSI unit and our only intention was to settle issues before KSEB amicably and not to antagonize it in any fashion. Filing contempt of Court petition is not easy and the observations of CGRF are not in good taste and totally failed to understand the situation.

Issue No (3). Subsequently the petitioners approached Kerala Govt., who issued a specific G.O. (Rt) No: 189/06/PD dated 4th July 2006 ordering all the concessions granted to sick unit to be extended to the petitioner waiving MD charges for the closure period. We have not challenged before the CGRF this issue and our petition before CGRF is very clear that KSEB is engaged in a game of "Ping Pong" with six claim orders with wide variations and totally deviating from the GO. It is these deviations and false orders that are challenged before the CGRF and this aspect has not been considered by any authority or court of law and CGRF is the first forum to adjudicate the said grievances. To this extend CGRF failed to understand and take the petition on file and so the observation of the CGRF is faulty.

Issue No (4). We have pointed out the mistake in the KSEB's claims and sought to rectify it, which KSEB has failed. When KSEB fails to rectify the errors, the CGRF is the forum to adjudicate and as such the CGRF has to admit the petition and adjudicate. Just because a consumer has represented to the Electricity board about the mistakes they have committed, the powers of CGRF is not nullified or become not maintainable and so rejection of our petition is bad in law.

Issue No (5). We filed petition before the Electricity Adalath held on 13.02.2011, requesting the rectification of KSEB claim orders and to obtain LT connection, but KSEB did not produce the arrears claim as per GO issued and it was decided at the Adalath that the petitioner will call on KSEB on 08. 03.2011 with details and KSEB is required to rectify the mistakes. Accordingly the petitioner called on the SOR, KSEB and presented the details but KSEB did not rectify the error. Hence the matters relating to faulty claims are not considered and settled in the Adalath. So the observations of CGRF are faulty and unjust. It was decided in the Adalath that LT connection to be given immediately and received LT connection and is in use now. In the light of the above it was left to the KSEB by all the Fora, Hon: High Court, Govt. of Kerala and Adalath to claim only for actual power consumed without charging MD charges during the closure. Instead of rectifying the mistakes, KSEB has repeated the faulty claims and issued an order dated 14.02.2012 which is now challenged before CGRF and has to adjudicate the same.

No Forum of Law have established the actual arrears of the consumer, the KSEB can collect from him based on GO, the power cut and the period of closure. Hence it is not justifiable for CGRF to declare the petition as not maintainable. By doing so CGRF is depriving the petitioner justice, fair play and is failing to act as per CGRF Rules 2005. Petitioner prays the appeal before

CGRF may please be restored for speedy disposal setting aside the order dated 28.03. 2012.

Issue No (6). The present issue is only an appeal against SOR, KSEB, order dated 14.02.2012 which has totally violated Hon: High Court, Government and Adalath orders. It is the case of the petitioner that SOR, KSEB has to take into account all the orders issued by all authorities and the clear evidences produced and adjudicate the appeal. Denial to adjudicate the appeal by CGRF and the Ombudsman is a clear act of denial of justice and will cause too much difficulties and financial loss to this petitioner.

Relief sought: -

Hence it is prayed to set aside order No.HTB-5/59/SOR/11-12 dated 14.2.2012 and direct SOR to treat the closed period of factory from 1995 to 2005 as single continuous phase of closure and grant total MD waiver for the period on account of;(1). Disconnection from 7/1995 to 3/1996, (2). Power quota insufficient for even for one hour production, (3). Militant labour problem, (4). Lock out, (5). As per certificate from Govt., (6) as per G O 86/06/PD dated 4.7.2006, totally exempting interest for the actual consumption of power during the period as per the interest free scheme in force now. Set aside the order of CGRF in this case.

Counter Arguments of the Respondent: -

(1). M/S.Narniat Pharmaceuticals & Chemicals (p) Ltd, Kozhikode is a HT consumer with 65 KVA contract demand, for running his factory, under Electrical Circle, Kozhikode. The electric service was disconnected on 11.01.2005 for non-payments of electricity charges. The total arrears up to 06/2011 (including penal interest as on 31.07.2011 amounts to Rs.5, 35, 6877/- (i.e. principal Rs.2243980+ interest at the prevailing rate as on 31.07.2011 Rs.3112897/-).

(2). The consumer had filed WP (C) No.11426/2005 against the arrear notice dated 18.03.2005 issued by the Board. The consumer was also intimated that his HT service can be converted into LT only after remitting 50% of the pending current charges. The WP(C) was disposed by the Hon High Court on 07.04.2005, with the following directions.

(a). Consider the request of the consumer for conversation of the HT supply to LT.

(b). Power supply shall be restored if the petitioner deposits one half of the amount demanded by the Board during the pendency of the request for conversion to LT tariff.

(3). The service connection of the firm remained disconnected from 21.10.1995 to 27.03.1996 as the company was declared lockout w.e.f 20.08.1995. Further the petitioner produced a letter dated 10.07.2007 from the General manager, District Industries Centre, Kozhikode addressed to the consumer that it is presumed that the unit is not working from 1999-2000 onwards. In the meter reading statement furnished by the Asst. Engineer, Electrical Section, Baypore, it is noted that only nominal consumption was recorded during the period from 3/1996 to 1/2005.

(4). The petitioner vide letter dated 31.08.2005 had represented to the Govt. to give rebate on electricity charges during the closure period and to provide LT connection. The petitioner was heard in person by Govt. on 03.05.2006 and issued directions by order No. GO (Rt) No.189/06/PD dated TVPM 04.07.2006 which stipulates as follows;

"In the Govt.order read as 5th paper above, Govt. have waived the MD charges for electricity for the period of closure in respect of all closed industrial units which will be restoring operations on or before 31.03.2006. Since the intention of the firm is to reopen unit urgently and since they have promised that the arrears prior to May 1999 as well as charges for power consumed after

May 1999 will be paid fully if installments facility is given, Govt. order that the concessions announced in GO read as 5th paper above be extended to the firm. It is directed that temporary connection may be considered after the payments of 50% the outstanding dues”.

However the consumer did not remit the 50% of the amount as ordered by the Court, on the pretext that they wanted only the LT connection. It may be noted that the Consumer had failed to comply the orders regarding the payments of arrears of electricity as stipulated in the GO vide (Rt) No.189/06PD. Dated, TVPM 04.07.2006.

(5). The Board in its meeting held on 19.2.2007, had examined the matter in detail and decided to decline the request for temporary connection. The consumer had not restarted the Unit so far. Again, KSEB vide Order dated 14.9.2009 directed that if the firm desired for MD waiver, they should restart the Unit before 31.3.2010 and the dues can be settled @ 9% interest per annum in lump and @ 15% interest p.a. with 6 installments. The consumer has not adhered to the said decision and again applied vide letter dated 28.06.2010 to grant MD waiver during the entire period to clear the dues at the reduced rate of 6% p.a. The Board on 12.01.2011 decided that, if the firm desires to avail MD charges waiver, they shall resume operations before 30.06. 2011. Waiver of MD charges can be considered only from the date of actual disconnection i.e. from 11.01.2005. The consumer did not turn up to remit the arrear as decided by the Board.

(6). As the consumer has represented to the Hon: Minister for Electricity, the Board again has directed to arrive at the arrears, as if the HT connection was deemed to have converted to LT category of supply, as per his request from 06/1999. Accordingly an arrear notice dated 14.02. 2012 was issued to the consumer for Rs. 8, 72, 300/- being the arrears of electricity charges in HT tariff up to 05/99 and LT tariff from 06/99 onwards. Against the arrear notice, the consumer approached the CGRF, Kozhikode. The Forum while dismissing has observed that the petition is not maintainable since the Hon High Court had already passed an order on the matter and orders have also been issued by the Board and the Govt.

(7). As per Gazette notification No.120 , the consumer was directed to install TOD meter from 6/97 onwards and the last date for installation of TOD meter was extended up to 30.11.1998 with due intimation. Lock out of the factory is no excuse for the non-installation of TOD meter. The consumer is liable to pay penalty imposed for non-installation of TOD meter as per rules.

ANALYSIS AND FINDINGS: -

The first hearing of the case was done on 27.07.2012, in my Chamber at Edappally, Kochi and the appellant was present and the respondent's side was represented by Sri R Radhakrishnan, Deputy Chief Engineer, Electric Circle, Kozhikode and Sri P K Gopinathan, SOR, and they have argued the case, mainly on the lines stated above. The respondents were directed to submit the details of the appellant's arrear calculation statement month wise, MD wise waiver if any eligible for the period of 1995 onwards including the power cut & lock out period, dues as on date etc. and the hearing was adjourned. The subsequent hearings were conducted on 16.04. 2013, 07.05.2013, 24.07.2013 and finally on 30.07.2013, in my chamber at Edappally, Kochi and were attended by the petitioner and the other side by Sri. Samsuddin K, Executive Engineer, Kozhikode, Sri. Thankappan, AO, Sri. P Jagandas, SA of the O/o of SRO, KSEB. The hearing was extended to many days, as the 'disputed issue' spread over a long period i.e. from 1995 to till

date was discussed and many orders and decisions of the Board, Govt. and the Hon Court have occurred in the mean period has to be examined and the whole issue has to heard in detail.

On examining the Petition and argument notes filed by the appellant, the statement of facts of the Respondent, perusing the documents and considering all the facts and circumstances of the case, this Forum comes to the following findings and conclusions leading to the decisions.

Analysis on the Issue No.1 to 4 : - (Refer the argument of the appellant given above).

The first point is to decide whether the reliefs sought has been decided by any Court of Law earlier so that it becomes non maintainable before the CGRF & Electricity Ombudsman?: -

(1). Analysis: -

On perusing the whole matter, I find some difference in the issues raised before the Hon High Court and that before the CGRF. Before the Hon High Court, the Court has ordered to consider the appellant's request for change over to LT connection and to effect reconnection of supply (disconnected for dues by KSEB), if the party pays half the electricity arrears (excluding interest portion). But in this case, the prayer of the party is different and is for quashing the order of the SOR dated 14.2.2012 etc. and hence I decide that the Appeal Petition is maintainable before the CGRF. Further I am of the view that, there is no necessity to remand the case to CGRF, since this Authority is the upper Forum and accordingly can decide on the contentions raised on the Appeal Petition filed before this Forum against the decision of CGRF.

Analysis on the Issue No. 5 & 6 : -

The appellant has raised mainly the following;

The rectification of mistakes in the arrear claim of KSEB and the pray to set aside order No.HTB -5/59/SOR/11-12 dated 14.2.2012 of SOR. Direct the SOR to treat the closed period of factory as single continuous phase of closure from 1995 to 2005 and grant total MD waiver for the period on account of; (1). Disconnection from 7/1995 to 3/1996, (2). Power quota insufficient for even for one hour production, (3). Militant labour problem, (4). Lock out, (5). Certificate from Govt., (6) as per G O 86/06/PD dated 4.7.2006, totally exempting interest for the actual consumption of power during the period as per the interest free scheme in force now. Also, to direct KSEB not to charge 25% extra for non-installation of TOD meter and treat the meter reading as due to transmission losses only.

Analysis: -

2.0 The appellant is found as a habitual defaulter in paying the monthly electricity bills, from 7/94 onwards and this is evident from the 5 installments each, issued for remitting the bills of both 7/1994 and 8/1994. Further, he was allowed 10 installments to remit the aggregate of the monthly bills of 1/95 to 3/1995, out of which he remitted one installment and defaulted the remaining. He has stopped the regular monthly bill payments after 6/1995, i.e. both monthly bills and the installments granted of the previous months, as per his request.

2.1 The consumer was having an average consumption of 729 units during the period of 4/1993 to 7/1995 and 66 units per month for the period, 8/1995 to 1/2005. Hence it is clear that the consumer was using electricity during the said period. The appellant's contention that the low consumption is due to 'transmission loss' is misleading, as the same is measured at the sending end of electric supply and it will not be registered on the consumer's meter.

2.2 The consumer is bound to pay the electricity charges at the ruling tariff rate, as per the HT Service connection agreement entered into between him and the licensee (KSEB). The tariff has two parts, namely the Fixed Charges (Demand charges) according to his Connected Load and the Energy Charges which is proportional to the quantum of electrical energy consumed (as recorded in the Meter) by the Party. The consumer cannot unilaterally change the Conditions of Supply of electrical energy to suit his will and argue that he be exempted from paying the Fixed or Demand Charges, under some pretext, when he was actually using the energy at that period.

The Govt. vide its order No. G O (Rt) No. 64/06Pd dated 21/2/2006, has ordered the waiver of minimum demand charges for electricity for the period of closure in respect of all closed industrial units which will be restarting their operation on or before 31/3/2006 and not to Units in operation or in working condition, where power supply is not disconnected.

2.3 The argument of the consumer is that he should be treated as 'under continuous closure' from 6/1995 onwards, the date from which he has defaulted paying the electricity charges, and accordingly he should be granted MD charges waiving, announced by Govt. for the revival of closed Industrial Units. But his unit was not a 'closed' industrial unit but was working though at a low profile. If the consumer was so particular that he does not require electric Power at that time, he could have asked the Supplier (KSEB) to disconnect his electric supply and terminate the connection, if he does not require it anymore, to save from further liabilities. But in this case, the consumer was enjoying the benefit of electricity all along the period till 1/2005, (date of disconnection), may be either for the 'power' to the machineries or for the Lighting purpose of his factory. This is evident from the meter readings obtained of the consumer up to 1/2005.

2.4 After consuming electricity, the consumer cannot ask for rebate or MD waiver, on the pretext that he used only less energy. The Govt. has declared the waiver of Demand Charges, specifically for those consumers whose industrial Units are closed, due to disconnection of supply for not paying the electricity charges and who wish to reopen the Unit. The intention of the Govt. was to revive the sick industrial units, by providing supply to 'closed' Units, so as to strengthen the industrial sector, thereby generating more employment opportunities. Since the consumer's unit was not in 'closed' state, during the period of 4/1996 to 01/2005 and on the contrary has consumed energy during this period. Hence his demand for waiver of MD Charges till 1/2005, is found as not justifiable.

2.5 The appellant has stated in his letter dated 21.9.2007, that there was 'stay order' of Court (in O. P. 534/99) against disconnection of supply. As per the HT service connection Agreement clause 16(b), the consumer is bound to pay the minimum guaranteed amount, even during the period of Lock out. In this case, the party has declared Lock out in 8/1995 and was withdrawn in 12/1995, as per the certificate of the Labor Officer. The consumer has to pay the minimum charges during this period and is not eligible for total rebate during the Lock out period.

2.6 Similarly the consumer's demand for rebate during the Power cut period is found as not reasonable, as the 'power cut' is made applicable to all industrial Units throughout the State and normally nobody is exempted from it. The consumer's 'quota of power' is based on his last year's average energy consumption. If this average is less, his allocation of 'Power quota' will also get reduced. It is noted that the appellant has not used even the quota of Power allotted to him during the power cut period. The consumer was also using less electrical energy, before

and after the power cut period. This suggests me that his actual requirement was less. Hence, I feel that his contention against the power Quota allocation is for argument sake only.

2.7 The appellant pleads to withdraw the 25% extra charged in the Bill for non-installation of TOD (Time of Day) meter. The TOD system was introduced so as to bill the consumer, according to his energy usage at different period of times, namely; (i). Peak period (6.00 pm to 10 pm), (ii). Off peak period (10.00 pm to 6.00 am) and (iii). Normal period (6.00 am to 6.00 pm). The idea was to limit the power usage during the 'peak time' and stretch to other periods, as there was acute Power shortage in the state, especially to meet the power demand of the Peak time. This instruction is applicable to all industrial consumers and as such, it has to be abided by the appellant also. The Board has given notice to the consumer and if he wants any extension of time to provide TOD meter, he should have applied for it, which he has not done. The decision to install TOD meter is a General one and the billing is to be done accordingly. Hence I don't find merit in the argument of the consumer in this matter.

2.8 The appellant had submitted many petitions before the KSE Board and the Government for waiving the minimum demand charges. For the Board, the SOR and the Chairman has issued orders in this regard. And in one petition filed by the consumer to Govt., against the orders of SOR, it was disposed by the Govt. vide G.O.(RT) No 189/06 dated 4.7.2006. The said Govt. order directed the KSEB to give benefit, as per the Govt. Order, granting waiver of MD Charges to closed industrial Units. The appellant's Unit was under 'closure' state from 1/2005 onwards, when its power supply was disconnected and becomes eligible from that month only.

2.9 Moreover, the consumer did not pay half of the arrears, excluding interest, as per the Hon High Court order in WP (C) No.11426/2005, stating that he does not want a reconnection of his disconnected HT power supply. This means that the Govt. order granting waiver of MD Charges to closed industrial Units is not applicable to him because, it is meant for those who wish to restart their Unit by getting their power supply resumed. The appellant wants a separate LT connection and at the same time also wanted to settle the accounts of the old HT connection with concessions announced for a 'restarting Unit' by the Govt., which I find is not correct.

2.10. It is noted that the KSEB vide its order dated 14/9/2009 has directed the petitioner that if he desires for MD waiver, they should restart the firm before 31/3/2010 and arrear can be settled at an interest of 9% p.a. in lump and 15% p.a. in 6 installments. Being not satisfied, the appellant again sent representation dated 28.6.2010 before KSEB to grant MD waiver for the entire period to clear the dues with reduced rate of interest @ 6% per annum. The Board has directed the consumer to resume operation before 30.6.2011 and the waiver of MD charges during the disconnection period can be considered only from the date of disconnection i.e. from 11.1.2005 onwards.

2.11. The party again represented before the Hon. Minister of Electricity on 16.8.2011, praying to implement G.O No.189/6/PD dated 04.07.2006, to entire period of closure, considering it as a single spell and to convert the HT connection to LT from 1999. Considering this, the SOR, KSEB issued the order dated 14.2.2012, specifying the pending dues as follows;

Arrear current charges 6/1995 to 5/1999, (both the MD and CC) = Rs. 269190	
Its Interest @ 6% p.a. up to 29.02.2012	= Rs. 231668
Considering as converted to LT w.e.f. 6/99, then the arrear CC	= Rs. 238732

The interest from 6/1999 @ 6% p.a. up to 29/2/2012. = Rs. 137720
Grant total = Rs. 877310/-

2.12. The KSEB purchased Power from Eastern Region and supplied power to those who are in need of it and is willing to pay at higher rates, during the Power Cut period. It is specifically notified in the Press release that those industrial consumers who do not want it, has to inform KSEB to save from the additional burden. When Board has acted as per rules and if consumer has failed to inform as per the press release, he cannot demand its benefit at a latter date.

2.13. The statement of the appellant that the GM, District Industries Centre has certified vide his letter dated 10.7.2007 as; "no business carried out carried out in the unit for the last five years i.e. before 2001" is found as not correct. He has concluded as; 'Based on the above, it is presumed that the Unit is not working from 1999-2000 onwards.....'.

2.14. In the argument note dated 30.07.2013, filed by the appellant, he raises the following points as the fundamental issue to be decided.

After disconnecting the electric connection on 11.01.2005, the service was reconnected on 3.4.2006 and the factory remained closed due to labor problems and no payment of electricity was made and bills remained outstanding. If the KSEB had disconnected the service after April 1996, as per rules, this issue would not have occurred.

This argument of the appellant does not seem to me as fair. The electric connection was disconnected in 10/1995 for default in paying the electricity bills and it is stated by KSEB that on filing petition to the Hon Minister, he was allowed reconnection by the end of 3/1996. After getting the electric supply back and using it all the period since 4/1996 to 1/2005, arguing now that it should have been disconnected by then itself by KSEB, can be considered for argument sake only and does not sound good.

2.15. It is seen that the Chairman, KSE Board has issued a detailed order dated 10.12.1998, on the petitions filed by the appellant, covering almost all the points raised here.

2.16. Further, the letter dated 12.July 1996 of the appellant, he has stated as follows;
"1. We find no meter reading was taken from 20th August 1995 to 30th March 1996 and therefore the invoices are defective, arbitrary and wrong. There were utilization of Power during the period when power supply was restored but no reading was taken by your staff and hence invoices are defective and wrong.

5. The invoices from August 1995 to December 1995 does not give credit to Lock-out rebate, for which we are entitled.

6. The invoices from January 1996 to June 1996 does not provide rebate for the power cut imposed by the KSEB.....".

These statements clearly prove that the appellant was using electric power during the disputed period. But he demands total exemption of MD charges and to treat him as a 'closed unit', so as to get the benefit of Govt. order issued for the revival of 'closed industrial Units', which is found as not admissible.

2.17. Another thing noted is that the consumer wanted a LT connection in place of a HT connection and made the request in 6/1999 for that. Initially, while availing the electric service connection, the consumer was having a 'contract demand' of 65 KVA and his 'connected load' would have been more than 100 KVA, which necessitated him to take HT connection. Now, if he

wants to change over to LT status, he has to place application for a LT connection from the local Section office by submitting the 'Completion Report of the Wiring installation of equipments (for the reduced Load) in his Unit and has to execute a separate agreement. Also, no new electric connection is usually allowed, till the dues of the previous connection is settled by the party, otherwise, it will become a practice to those with malafide intention to resort to take a fresh connection, after committing dues in another. The appellant has not a contention that he has placed application with 'wiring papers' for a new connection. Without following the rules laid down for conversion of service as above, the consumer cannot demand to convert him to LT category simply and without executing an LT service agreement and furnishing 'Completion report' of the wiring of the Installation of the Unit, from a Licensed Electrical Contractor, on his new connected load. The consumer is not seen done anything for that in 6/1999 or shortly thereafter.

DECISION: -

From the analysis done above and the Findings and conclusions arrived at, I take the following decision.

- (1). The SOR office is found to be very lenient in dealing the issue during the initial period of dispute, i.e. in 1995-06 period when the SOR has lavishly issued installments, for paying the monthly bills of 7/94, 8/94 and 1/95 to 3/95 and this paved the way for piling up of arrears. The granting of installments for monthly bills in succession without citing valid reasons is illegal and arbitrary. Further there was no action taken for issue of notices for disconnecting the supply even when there was further default in the payment of installments allowed and in paying the current month electricity bills. Hence I see lapse and negligence on the part of SOR, in dealing this case, in the initial period.
- (2). The appellant contents that only nominal energy was used by him for the period of 8/1995 to 1/2005 and it is not sufficient to run a factory. The Board has provided the electric supply and it is the consumer who has to use the energy according to his plan and purpose. The Board is not responsible for the 'non-use of energy' by the consumer. The power cut is general to all industrial consumers and the consumer has to go by it. If the consumer wants reduction in electricity charges, he should remove the unwanted load.
- (3). The argument of the appellant that due to power cut and allocation of reduced power quota prevented him from running a factory is not convincing.
- (4). The Party states that the Govt. order dated 4.7.2006, issued on his petition, has ordered full waiver of MD Charges from him. The Govt. order granting MD waiver to closed industrial units was issued for the first time in 2/2006, intended for restarting the closed industrial units and Plantations. But the fact is that the MD waiver is applicable only to the 'closed industrial units' during their period of closure. But the appellant's factory was in service till 1/2005, after getting the reconnection in 3/1996. The consumer has not an argument that his electric supply was disconnected during this period. The party claims that his unit was in 'closed condition' due to labor problem, lock out, power cut etc. But the appellant was using electricity throughout the period of 3/1996 to 1/2005 (and has not paid the electricity charges for the same period), hence not eligible for any benefits as per the Govt. order.
- (5). I find that the KSE Board's decision, vide Order No. HTB-5/59/SOR/11/12 dated 14.2.2012

of the Special Officer (Revenue), has considered his request for converting to LT status from the date of application in 6/1999 and has also allowed 6% interest for the belated period and fixed the liability as Rs. 8, 77, 310, as reasonable. Hence, though the Board has asked to comply with its decision on or before 29.02.2012, to avail the benefit granted in the said Order, I direct the respondent to give extension of time up to 60th day of this order, so that the consumer may get the benefit granted, if he wants to settle a long pending issue. The consumer need not pay any interest for the said amount, during the appeal pending duration before this Forum. The KSEB (Respondents) is directed to issue the Bill for Rs. 8, 77, 310/-, giving 30 days time (Due date) to make the payment. The consumer shall be allowed up to fifteen installments, if requested for by the consumer to pay the Bill, but the installments will carry interest, as per clause 22(8) of the Electricity Supply Code, 2005, from the 'due date' of the Bill to the date of payment of installment. The consumer is liable to pay the whole bill amount or the 1st installment by the 'due date' fixed as per this order. If the consumer defaults in payment, the concession granted and extended by this order will cease to exist, after the specified period of 60 days of this order and KSEB is free to take steps as per rules.

The Appeal Petition filed by the appellant vide No. P/280/ 2012, is found having no merits and is dismissed. Having concluded and decided as above, it is ordered accordingly.

No order on costs.

Dated the 30th September, 2013.

Electricity Ombudsman.

Ref. No. P / 280 / 2012/ 1982/ Dated 30.09.2013.

- Forwarded to
- 1). Sri.P.K. Kerala Varma
Managing Director, Narniat Pharmaceuticals & Chemicals Pvt. Ltd.
North Bepore, Kozhikode.
 - 2). The Chief Engineer (Commercial & Tariff)
KSEB, Vydyuthibhavanam, Pattom, Thiruvananthapuram-4.
 - 3). The Special Officer (Revenue),
KSEB, Vydyuthibhavanam, Pattom, Thiruvananthapuram-4.
 - 4). The Deputy Chief Engineer,
Electrical Circle, KSEB, Gandhi Road,
Kozhikode.
- Copy to :-
- (1). The Secretary, Kerala State Electricity Regulatory Commission,
KPFCBhavanam, Vellayambalam Thiruvananthapuram-10.
 - (2). The Secretary, KSEBoard,
Vydyuthibhavanam, Pattom, Thiruvananthapuram-4.
 - (3). The Chairperson, Consumer Grievance Redressal Forum,
KSEBoard, Vydyuthibhavanam, Gandhi Road, Kozhikode.