

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO. P/074/2014

(Present: Sri. V.V. Sathyarajan)

Dated: 25th May 2015

Appellant : Fr. Sabu Nedunilath,
Secretary,
M/s. Lourdes Society for
Health Care & Research,
Pachalam,
Ernakulam – 682 012.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSEBoard Ltd.,
Vypin, Ernakulam

ORDER

Background:

The appellant is running a hospital – Kristu Jayanthi Hospital, Perumpilly with consumer No. 16898 under Electrical Section, Njarakkal. On 28-05-2013, a short assessment bill amounting to Rs. 2,20,744.00 was issued to the appellant. Against this, the appellant approached the CGRF challenging the short assessment (bill amounting to Rs. 2,20,744.00). The Forum directed the respondents to revise the short assessment under LT VI B tariff (bill dated: 28-05-2013 amounting to Rs. 2,20,744.00) by limiting the period of assessment for 2 years preceding 28-05-2013 i.e. the date of issuance of the bill. The Forum also held that the re-classification of tariff as LT VIII with effect from 05/2013 was in order. Aggrieved against the said order, this appeal petition was filed.

Appellant's arguments

The appellant is running a non profit oriented charitable hospital. M/s Lourdes Society for Health Care & Research is rendering yeoman services to the poor and needy patients. The true copy of the registration certificate under the Travancore-Cochin Literary, Scientific and Charitable Societies Act, 1955 has been produced. The Assistant Engineer, Electrical Section, Njarakkal issued an electricity bill for Rs. 2,20,744.00 along with a calculation statement and a letter dated: 28-05-2013. It is stated therein that wrong application of tariff resulted the short collection of current charges for an amount of Rs. 2,20,744.00 for the billing period from 04/2010 to 05/2013.

The appellant's hospital is not a private hospital. The Kristu Jayanthi Hospital is a charitable hospital constituted and established as a unit of Lourdes Society for Health Care & Research which was registered under Travancore-Cochin Literary, Scientific and Charitable Societies Act, 1955. The appellant has submitted the said Registration Certificate before the KSEB authorities along with the Certificate of Additional District Magistrate, Ernakulam. The

ADM, in his certificate, has mentioned that the above said Lourdes Society is a registered charitable society under the Act of 1955 and that the Kristu Jayanthi Hospital is a unit of the Lourdes Society. All the accounts of the Kristu Jayanthi Hospital have been included in the Income Tax returns filed by the Lourdes Society before the Income Tax authorities. The society has been exempted from the payment of income tax. The Kristu Jayanthi Hospital was covered under tariff LT VI A from the very beginning of the hospital. The tariff applicable to private hospitals registered under Cultural, Scientific and Charitable Societies Act and exempted from payment of income tax is LT VI A.

Respondent's arguments

The Kristu Jayanthi Hospital is a private hospital engaged in treatment of patients on payment of fees/charges. The above said premises is coming under Electrical Section, Njarakkal, with consumer No. 16898 and a connected load 39000 watts under LT VIII tariff. In the audit note of Accountant General, Thiruvananthapuram dated: 09-04-2013, it was pointed out that the tariff applicable to a private hospital is LT VI B tariff and a private hospital registered under Cultural, Scientific and Charitable Societies Act and exempted from payment of Income Tax alone eligible for VI A tariff. The wrong application of tariff resulted in issuance of short assessment bill amounting to Rs. 2,20,744.00. The certificates submitted by the appellant were issued in favour of the Lourdes Society for Health Care and Research, Ernakulam. Hence the appellant was asked to submit certificates which specifically indicated the name of hospital 'Kristu Jayanthi'. But the appellant submitted copies of certificates issued in favour of Lourdes Society. The appellant also submitted a copy of 12 A certificate issued by Income Tax department. The said certificate was also issued in favour of the Lourdes Society for Health Care and Research. Since the certificates called for from the appellant as per letter dated: 20-06-2013 were not submitted, hospital was changed to LT VIII with effect from 05/2013. If there is mistake in categorization or there is under billing, it is always open to rectify the mistake and to demand proper charges from the appellant. The appellant herein, is liable to remit the short assessment bill of Rs. 2,20,774.00.

Analysis and findings

Hearing of the case was conducted on 07-04-2015 in my chamber at Edappally, Kochi. Sri A.P. George represented the appellant and Sri Siby Thomas, Assistant Executive Engineer, appeared for the respondent. Hearing the arguments of the case, perusing the documents produced by the parties and considering all the facts and circumstances of the case, this Authority comes to the following observations and conclusions.

Here, the Secretary, Lourdes Society for Health Care and Research, Ernakulam is the appellant in this case. According to the appellant, the society is running the Kristu Jayanthi Hospital, Njarakkal and the hospital is entitled to be charged only under LT VI A tariff for the charitable institutions. The appellant, therefore, requests to issue order to repay the amount charged under LT VI B from June 2013 onwards. But it can be seen from records that the respondent issued monthly bills to the appellant under VI A tariff from the very beginning of the hospital. Subsequently the tariff was changed to LT VI B based on the report of Accountant General, Thiruvananthapuram and issued short assessment bill for Rs. 2,20,744.00 towards the wrong classification of tariff from 04/2010 to 05/2013.

As per the schedule of tariff, the following premises come under LT VI A:

Premises of religious worship, institutions imparting religious education, government or aided private educational institutions, libraries and reading rooms of educational institutions, convents, Government Hospitals, X-Ray Units, Laboratories and mortuaries attached to government hospitals, Blood banks or IMA/Govt. Hospitals/Local Self Governments, Pirate hospitals registered under Cultural, Scientific and Charitable Societies Act and exempted from payment of income tax.

It is admitted that Kristu Jayanthi Hospital is a private hospital. To get the benefit of tariff rebate (LT VI A), the hospital has to satisfy following two conditions.

1. Registration under Cultural, Scientific and Charitable Societies Act.
2. Exemption from payment of income tax.

It is seen the appellant was specifically requested to produce documents to satisfy the above conditions, But they are not able to produce any certificate in support of their arguments that Kristu Jayanthi Hospital, Njarakkal has been registered under the Charitable Societies Act and that the said hospital has been exempted from payment of income tax. The certificates produced were those issued in favour of Lourdes Society for Health Care and Research, Pachalam, Ernakulam. In the above circumstances, it appears that the appellant's hospital situated at Njarakkal is not eligible for concession tariff under LT VI A, since they have not produced necessary certificates to prove their arguments for the disputed period.

Decision

In view of the above discussion, it is held that the short assessment under LT VI B tariff is in order. The order of the CGRF limiting the period of assessment for two years preceding the date of issuance of the bill is upheld. The appeal petition is dismissed. No order as to costs.

ELECTRICITY OMBUDSMAN

No.P/074/2014/_____ /Dated:_____

Forwarded to:

1. Fr. Sabu Nedunilath, Secretary, M/s. Lourdes Society for Health Care & Research, Pachalam, Ernakulam – 682 012.
2. The Assistant Executive Engineer, Electrical Sub Division, KSEBoard Ltd., Vypin, Ernakulam

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram.
3. The Chairperson, Consumer Grievance Redressal Forum, Power House, Power House Buildings, Cemeterymukku, Ernakulam-682 018