

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/020/2016

(Present: V.V. Sathyarajan)

Dated: 30th June 2016

Appellant : Sri. Alex Thomas,
Managing Director,
B' Canti Homes (P) Ltd.,
Jawahar Nagar,
Thiruvananthapuram.

Respondent : The Assistant Executive Engineer,
KSE Board Limited,
Electrical Sub Division,
Vellayambalam,
Thiruvananthapuram.

ORDER**Background of the case:**

The appellant, Sri Alex Thomas, is the Managing Director of B' Canti Homes (P) Ltd, who is an applicant for HT supply to the building, B' Canti River Park Apartments under Electrical Section, Vellayambalam for a total connected load of 315 kVA. The respondent had sanctioned an estimate amounting to Rs. 29,71,000.00 for giving HT supply to the appellant's premises. This estimate was included an amount of Rs. 2,70,100.00 towards the 10% supervision charges for the work. It is alleged that the licensee had collected unauthorized amounts by way of supervision charges which is illegal and unauthorized..

The appellant insists that the material cost and some extraneous costs need not be taken for calculating the 10% Supervision charge by the licensee. Hence the appellant prays to issue orders to refund such amounts collected by licensee with interest, since realizing Supervision charges as 10% of the capital costs were never authorized by any Act or Rules and Regulations created by the KSERC.

Against the collection of Rs. 2,70,100.00 towards the supervision charges for the HT supply, the appellant preferred a complaint before the CGRF (South), Kottarakara, pleading to refund the amount collected as 10% supervision charges with interest. The CGRF has found that the Board is empowered and bound to supervise the entire work up to the metering point and as such they empowered to realize 10% of the cost as supervision charges as authorized by KSERC and hence dismissed the petition vide order OP No. 1579/2015 dated 29-01-2016. Aggrieved against the above order, the appellant has approached this Authority with this appeal petition seeking relief with a plea to refund Rs. 2,53,617.00 collected in excess towards supervision charges along with interest at twice the bank rate with effect from the date of collection.

Arguments of the appellant:

The question of law involved in this dispute is whether the Distribution Licensee could retain an excess amount collected and create unjust enrichment. Also whether the Consumer Grievance Redressal Forum (South) had acted judiciously while ordering complaint OP. No. 1579/2015 that, there is no merit in the case and disposed it, while the work was executed after coming into force of Supply code, 2014 and also violating the provisions under Supply Code, 2005. The licensee had collected unauthorized amounts by way of supervision charges which is illegal and unauthorized. This appellant herein is the applicant for HT electricity supply to the building "B' Canti River Park Apartments under the geographical jurisdiction of Electrical Section, Vellayambalam for a total load of 315 kVA. This appeal is filed in the capacity as a consumer defined under Clause 2(g) of KSERC CGRF & EO Regulations.

1. The Executive Engineer, Electrical Division, Thiruvananthapuram sanctioned an estimate amounting to Rs. 29,71,000.00 for HT electricity supply to the building "B' Canti River Park Apartments". This estimate was included with items which are not to be included so as to escalate the estimate amount, with the intention of collecting higher amounts as 10 supervision charges than authorised. Under statutes, the licensee shall provide the required service line etc after collecting the reasonable expenses in advance under an estimate. "The consumer is also entitled to elect to provide the electric line and electrical plant required for his exclusive HT electricity supply under Clause 8(9) of Supply Code, 2005. Thereby this appellant elected to provide the service line etc and provided it accordingly. The licensee collected Rs. 2,70,100.00 towards 10% supervision charges for that work.

2. This electricity supply is for a maximum load of 315 kVA. Therefore, electricity supply should be under HT under Clause 4(5) (a) of Supply Code, 2005 and subsequent regulations came in to force. Therefore, the expenses for this electricity supply include only the electric line and electric plant exclusively required for this electricity supply as required under Clause 8 (1) (d) of Supply Code, 2005. However, in the estimate, the licensee also included the

cost of HT/ LT indoor substation and connected electrical installations, which this appellant had provided under the Terms and Conditions of Supply, which is illegal. Moreover, the licensee has collected the cost of electric line and electrical plant which, this appellant purchased at his expenses. Thereby, the estimate is illegal due to the reasons as detailed hereunder.

- a) There is no dispute at all that, the items under Part A of the estimate is provided by this appellant. Item No 1 under Part A of estimate is the cost of extensible RMU which was purchased by the appellant at his expenses. Therefore, 10% on the cost of it is not realizable by the licensee towards supervision charges.
- b) The materials required for earthing vide item No.2 were also purchased and provided by the appellant, there by collection of 10% of it is also not permissible.
- c) Transportation of RMU to the location of erection vide item No.3 was also at the expense of this appellant, thereby collection of 10% of it also not permissible.
- d) Item No.4 includes the labour charges for erection and the licensee is eligible for collection of 10% of such expenses, which is Rs. 1,100.00.
- e) Item No.5 is labour charges for tracing cable etc. The distributing main of the licensee is cut and this RMU is placed there. The labour for excavation of cable cutting and connecting it with the RMU includes in labour charges for erecting RMU. Therefore an additional item under lump sum quantities is not at all required. Therefore, 10% on it is also not permissible.
- f) Therefore the only amount realizable by the licensee under Part A of estimate is only Rs. 1,100.00. Moreover, The rate for providing an extensible RMU as approved by the State Regulatory Commission vide item No, 3 of the order dated 03-01-2013 in OP. No. 32/2012 is only Rs. 4,33,210.00. However the costs of RMU and erection charges are not shown separately. Here under Exhibit P1 estimate this amount is Rs. 5,76,255.00 which is not at all permissible, since the licensee shall collect only the amounts approved by the State Regulatory Commission. This escalated amount is included in the estimate with the sole intention of collecting higher supervision charges.

Part-B of Exhibit P1 estimate – Done by the applicant

- a. Item No. 1 to 5 (315 kVA transformer, 11 kV load break switch, supplying and fixing main panel, metering panel and common facility panel, supplying laying LT cables, erection of transformer including

earthing), is the expenses for providing HT/LT indoor substation and the essentials for supplying LT electricity to different independent in the building. These were provided by this appellant at his expenses as required under Clause 13 of KSEB Terms and Conditions of Supply at his expenses, that too subject to CEA (M r S & E S) Regulations 2010, which is also mandated under the above KSEB Regulation. This substation and electrical installations in the building is not part of the distribution system of the licensee like the service line and hence the licensee has no role in providing this. Therefore collection of 10% on the cost off items 1 to 5 under Part B of estimate is impermissible.

- b. Item No. 2 is the cost of 11 kV load break switch which is also part of the HT/LT indoor substation provided by this appellant under Clause 13 of KSEB Terms and Conditions of Supply at his expenses as above. This was also purchased by this appellant. Thereby 10% on the cost of it is also not permissible.
- c. Item No. 6, 7 ,8, 9 and 12 are cost of 300 sq mm cable, 150 sq mm cable, and end termination to it and cost of GI pipe. These items were purchased by this appellant at his expenses. Thereby, collection of 10% on it is also not permissible.
- d. Item No. 10 & 11 cable laying charges end termination charges, which are to be done under the supervision of the licensee. Therefore 10 of these expenses are permissible.
- e. There is no work as such as tar cutting only. It is a work for taking cable trench along or across roads. The labour charge for taking cable trench, laying and placing cable in the cable trench and refilling the trench and ramming soil etc include in the charges of cable laying charges vide item No. 10 under Part B of estimate. Therefore this item of work of tar cutting charges alone is impermissible and 10% upon it is also impermissible.
- f. PTCC approval is only notice seeking permission for laying HT cable in the vicinity of Telegraph utilities or for shifting of Telegraph utilities enabling HT cable laying. It is only paper work undertaken by the concerned Assistant Engineer as required under Electricity Act, 2003. Here, there were no such requirements and no shifting of electricity utilities was required and hence no expenditure has incurred. Hence even a notice was ever issued to the Telegraph Authorities. Therefore, the amount included as item No. 14 towards provision for PTCC approval is impermissible.

3. The reasonable expenses incurred by the licensee in this HT electricity supply are the expenses for supervision of erection of RMU, laying of UG cable and the works of cable end terminations only.

4. Therefore the supervision charges realizable by the licensee

- a) 10% of labour charges for erecting of RMU vide item no 4 of part B of estimate $11000 \times 10 / 100 = 1100.00$
- b) 10% of labour charges for laying 10 m of 300 sq mm XLPE cable $7430 \times 10 / 100 = 743.00$
- c) 10% of labour charges for laying 240 m of 150sq mm XLPE cable $162480 \times 10 / 100 = 16248.00$
- d) 10% of labour charges for making 300 sq mm cable end termination $1804 \times 10 / 100 = 180.00$
- e) 10% of labour charges for making 150 sq mm cable end termination $1722 \times 10 / 100 = 172.00$. Total supervision charges $743 + 16248 + 140 + 172 = 17483.00$ Amount to be refunded $270100 - 17483 = 253617.00$

5. The Estimate was sanctioned while supply Code 2005 was in force. However, the work was carried out and supply commenced while the work was commenced and completed while Supply Code, 2014 was in force. The schedule of estimate for the above periods were approved for the sole purpose of estimating the cost of works in which materials/ equipments are supplied by the licensee and work is executed by it and supervised by it. This particular works includes only providing the service and the equipments specifically required for this electricity supply. In the Supply Code, 2014 there is not an equivalent provision to Clause 8(9) of Supply Code, 2005, in which the consumer is entitled to provide required service line and equipment specifically required for this supply. Later the Hon'ble State Regulatory Commission had issued an order equivalent to Clause 8(9) of Supply Code, 2005. Supervision is always done by human being and the supervision charges eligible is only 10% of the labour charges for erecting of service line and the equipments specifically required for this electricity. No other cost is realizable by the licensee under the mandated provision under Section 46 of Electricity Act, 2003 since no expense is incurred by the licensee.

6. Due to the above reasons and other to be urged during the hearing, collection of Rs. 2,70100.00 towards supervision charges for this HT electricity supply is illegal. The amount realizable towards supervision charges is only Rs. 17,483.00. Therefore, the licensee shall refund the balance amount of Rs. 2,53,617.00 with interest at twice the bank rate with effect from date of collection of such amounts.

Nature of relief sought from the Ombudsman

1. To hold and declare that, collection of 10% supervision charges on the items purchased by the appellant is impermissible.
2. To hold and declare that collection of 10% supervision charges on the expenses of HT/LT indoor substation and the electrical installation provided by the appellant in the building at his expenses is impermissible.
3. To hold and declare that, 10% supervision charge, which the licensee eligible to collect are on the expenses on labour charge for erecting the RMU, laying HT UG cable and making its end terminations.
4. To issue orders to refund Rs. 2,53,617.00 collected in excess towards supervision charges along with interest at twice the bank rate with effect from the date of collection.
5. To pay the cost and expenses of the petition which the Hon'ble Forum may find it adequate.
6. Such other relief the complainant prays for, during the course of appeal

Arguments of the respondent:

Per contra the respondent raised the following arguments.

1. The claim of the appellant in the representation to return the excess supervision charge of Rs. 2,53,617.00 is bogus. His claim before CGRF, Kottarakkara in O.P. No. 1579/2015 was dismissed. Thus it is very clear that the appellant is claiming refund of different amount at different times, shows that his claim is bogus.
2. The appellant is not permitted to raise new and different claim in the representation which is not raised in the complaint before the CGRF.
3. The statement of the appellant that the KSEB included unauthorized amounts as departmental charges (Supervision charges) also in the statement is misleading. An application for power requirement to the tune of 315 kVA was received from Sri. Alex Thomas, the appellant, for his multi-storied high rise building named 'B' Canti River Park Apartments, Vellayambalam, under Electrical Section, Vellayambalam. As per Regulation 5 of the Supply Code, 2005 read with regulation 5(5) of KSEB Terms and conditions of supply 2005, for loads of 50 kVA and above, connection to a multi-storied building shall be effected only after installation of separate transformer by the consumer. The

applicant chooses to provide electric line/plant under Regulation 8(9) of the Supply Code, 2005 and he was bound to pay 10% supervision charges to the licensee. The methodology of calculation of supervision charges is fixed by the KSERC in the order dated 28-08-2009. Accordingly estimate for giving supply to the above building was prepared based on the guidelines provided under Regulation 13 of KSEB Terms and Conditions of Supply, 2005. The expenses reasonably incurred by the Board for giving electric supply to the appellant's building were met by the appellant. After completing the works and observing all the formalities as per rules in force, the electricity supply was provided. The appellant admitted the estimate, remitted the amount, availed electric supply after executing the agreement estopped from challenging it at this belated stage.

4. The statement of the appellant that the licensee prepared the estimate under some ingenious principles devised by it without authority is misconceived. KSEB has provided supply as per Regulation 4(2) (a), 4(5) (a), Regulation 8(1) (c) and 8(5) of Supply Code, since the requirement of the appellant is separate LT connections to separate units in a multi-storied building. The estimate was prepared as per Regulation 4 and 5(8) of Kerala State Electricity Board Terms and Conditions of Supply 2005 read with provisions of supply code 2005 with relevant orders issued from time to time. The work include tapping 11 kV supply at the Maruthankuzhi Structure using extensile type RMU, extending the 11 kV feeder up to the premises of the appellant by laying 3x300 mm² UG cable 260 Mts. The estimate was prepared as per the schedule of rates approved by the State Regulatory Commission. The estimate for Rs. 29,71,000.00 was sanctioned by the Executive Engineer, Electrical Division, Thiruvananthapuram. The applicant remitted the amount. After completing the works and observing all the formalities as per rules in force, the transformer was energized.

5. Clause 11(2) & 13(2) @ of KSEB Terms and Conditions of Supply 2005 deals with technical requirements and installation standards. Expenses for all essentials up to metering point have to be borne by the applicant for the exclusive electricity supply to him. The estimate was sanctioned based on Board Orders in force at that time. The Board Order mentioned is misquoted by the appellant since no such stipulation in the B.O and the same was not applicable at the time of sanctioning the estimate to the appellant. Clause 44(2) defines the point of commencement of supply. Clause 25 states that "The Board shall provide its own fuse units/cut-outs for Low Tension consumers and circuit breakers or HT fuses for High Tension consumers, and these shall remain the property of the Board and must on no account be operated, handled or removed by anyone who is not an employee of the Board...". Regulation 25(4) of the KSEB Terms and Conditions of Supply, 2005 stipulated that the board shall have the right to use the metering point of any consumer for effecting supply to other consumers in the neighbourhood. Permission to lay cables under, across or over the consumer's premises or for fixing

apparatus upon the said premises by the Board for the public purposes shall be deemed to be implied and vested with the Board. The right of ownership has been endorsed under Regulation 22(1) of the KSEB Terms and Conditions of Supply, 2005 which says "The ownership of the service lines, even if the cost is borne by the consumer rests with the board. This will be applicable for lines constructed by the consumer paying supervision charges to the Board." The supervision charge @ 10% is provided in Regulation 8 (9) of the Electricity Supply Code, 2005.

6. The statement of the appellant that no service of the KSEB is needed and KSEB never supervised that work is against clause 6(2) and 8(9) of the Supply Code, 2005 and hence denied. The items 315 kVA transformer, load break switch, supply and fixing main panel and metering panel, LT cable of sizes, erection of transformer, earthing etc are provided at the cost of the appellant for their exclusive electricity supply. Though the above works were got executed by a contractor, the licensee has to supervise all the works which are coming before the metering of the supply, for that the supervision charges are allowed as provided in Regulation 8 (9) of the Electricity Supply Code, 2005. The licensee has energized the installations only after getting the approval from the Electrical Inspectorate.

7. 260 m of 3x300sq mm XLPE cable, 3x300 mm² XLPE end termination, cable laying charges of 3x300 mm² cable, provision for doing end joints of the sanctioned estimate were borne by the appellant only for the exclusive electric supply to the appellant's building. The supervision charges were collected as per rules.

8. The road restoration works is a part of the works for providing power supply to the appellant's building. Hence the whole works are to be supervised by the licensee for which supervision charges are allowed in Regulation 8 (9) of the Electricity Supply Code, 2005.

9. The laying of GI pipe is also to be supervised to ascertain the construction requirement as per rules. Hence this also to be supervised at the cost of the applicant, as the work is exclusively for the power supply to the appellant.

10. The fees to be paid for PTCC approval before energizing the HT cable also to be borne by the applicant. Hence the corresponding amount was included in the estimate.

11&12. The claim is bogus and the appellant is not entitled to get any amount from the Licensee. The sanctioned estimate of the Executive Engineer Electrical Division, Thiruvananthapuram is in order as supervision charge @ 10% is provided in Regulation 8 (9) of the Electricity Supply Code, 2005. The CGRF in its order dated 30-01-2016 in O.P. No. 1579/2016 dismissed the complaint finding that the Board is empowered and bound to supervise the entire work

up to the incoming terminal of the cut-out and as such they are empowered to realize 10% of the cost as supervision charges as authorized by the Kerala State Electricity Regulatory Commission. The Appellant has accepted the estimate, remitted the amount and enjoying the electricity is estopped from challenging the validity of the estimate at this belated stage. It is prayed that this appeal may be dismissed with cost to the appellant.

Analysis and Findings: -

The hearing of the case was conducted on 22-06-2016, in the Court Hall of CGRF, Kottarakkara, and the appellant was represented by his representative, Sri. Anandakuttan Nair, and the respondent by Sri. Ansalam J., the Assistant Executive Engineer, Electrical Sub Division, Vellayambalam and they have argued the case, mainly on the lines stated above. On examining the Appeal Petition and argument note filed by the appellant, the statement of facts and argument note of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings leading to the decisions thereof.

The issue involved in this appeal petition arises due to the collection of 10% of supervision charges from appellant for providing service connection to the premises. The appellant alleges that, the cost estimates prepared by KSEB to collect the 'cost of works required to provide the electric Supply' to the appellant is against the rules and is arbitrary. The appellant contends that the licensee has collected unauthorized amounts as supervision charges upon the cost of materials, plants, accessories, labour charges and other items, which were actually incurred by the appellant himself and upon which no supervision of the license is required or necessary. But the respondent claims that, since the schedule of rates for the distribution works were approved by the Commission, was not comprehensive and hence order No. KSERC/Supply Code/2/140/2005/dated 26-10-2005, of the Commission approving a methodology for arriving at the estimate amount was followed. As such the cost estimate of the works of the appellant which was prepared based on such methodology was correct and in order, says the respondent.

The scheme of electrical works in any High rise building has to be approved by the Electrical Inspector is the rule. As per Regulation 29 (1) & (2) of Central Electricity Authority (measures relating to safety and electric supply) Regulation, 2010, the works shall be executed through a "*licensed contractor under the direct supervision of a person holding a certificate of competency (and by a person holding a permit) issued or recognized by the State Government*" and under Sub Clause (2), it reads that, "*no electrical Installation work which has been carried out in contravention of sub rule (1) shall be connected with the work of the supplier*". The appellant argues that the distribution licensee, KSEB, who is also the supplier, shall not supervise the works of electrical installation in any building. The appellant insists that, KSEB is not authorized or qualified or

mandated to supervise such works or is the duty of it and hence KSEB is not at all entitled to collect 10% as supervision charges on the cost of electrical works in a high rise building.

In appeal petitions Nos. P/288/2012, P/312/2012, P/319/2012, P/332/2012, P/320/2012 & P/329/2012 which involves similar issues of the same nature, this Authority had analyzed and discussed the issues as follows:

“Under Section 46 of Electricity Act, 2003, the licensee shall collect only reasonably incurred expenses for the electricity applied for and at the rate of cost of works, as authorized by the Regulatory Commission for giving that supply. The methodology approved by the Commission for distribution works, for the preparation of estimate and collection of supervision charges as stated above is applicable when the work is executed by the KSEB using its materials. In other cases, where the applicant chooses to provide the electric line and electrical plant required for the work by himself, whether this methodology (the Supervision charges as 10% of the whole cost of the work) could be adopted, is the crucial question.

The point to be decided in this case is whether the licensee is entitled to collect supervision charges @ 10% on the whole cost of works of electrical installations of the high-rise building, when the material and labour was supplied by the consumer?

Referring, Regulation 8(9) Supply Code, 2005, - Supply where electric line/substation is provided by the appellant- ***“Where the applicant does not require the licensee to provide electric line or electric plant but choose to provide them himself, he shall pay 10% of the expense as supervision charges to the licensee for providing such services and get the work executed by a licensed wiring contractor. The licensee shall supervise the works of the applicant and provide guidance in technical matters and matters relating to safety”.***

The said Regulation specifically entrust the licensee to supervise the work of the appellant (electrical line/sub-station and electric plant) and also to provide the guidance in technical matters in this regard. It reads as; ***the licensee shall supervise the works of the applicant and provide guidance in technical matters and matters relating to safety.*** As such, the licensee is supposed to provide the details like, the specification of the 11 kV cable to be purchased viz. their size, capacity rating, type (XLPE or PVC), the specifications of the energy meter, the circuit breaker specifications and its settings, which should be graded so that, it operates before the protective devices in the Board’s supplying station operate etc. The Electrical inspector will verify the suitability of the electrical design with regard to load, safety and specifications of the work. But the licensee can give information based on the fault level of

the feedings substation and the minimum size of cables to be provided, the Circuit Breaker Rupturing capacity level requirement etc. As such, it is bounded under Regulation 8(9) of the Supply Code, to supervise the whole electrical works by the Licensee and issue the guidance needed.

Also, it is better to refer Regulation 11 of KSEB T & C of Supply; (1) Apparatus of HT/EHT consumers & LT Power consumers (2) HT consumers requiring supply of 750 kVA and above as well as all indoor substations must provide suitable circuit breakers/fuse switches on the supply side fitted with automatic overload protective devices so adjusted that they operate before the protective devices in the Boards Supplying station operate. (3) The circuit breakers/ switches for units must be of sufficient rupturing capacity to be specified by the Board and the Inspectorate to protect the consumers' installation under short circuit conditions. (4) HT/EHT consumers and LT (Power) consumer shall consult the Board, in their own interest before ordering HT switch gear or apparatus and deciding the layout thereof. Here it is specifically directed to collect technical details stated as above from the Licensee, KSEB, to ensure a safe Electrical Supply System.

In the case of high-rise buildings, the appellants claim that, the work is executed by the consumer himself through a licensed Wiring contractor and under the supervision of a wiring supervisor and hence KSEB has not any right to supervise and therefore cannot demand any supervision charges thereof. The wiring supervisor is authorized to supervise the wiring for 'Light and Power' circuits only of the building. The cable laying and the installation works of Indoor Transformer are to be done under the supervision of KSEB. Further, the wiring Supervisor is the lowest qualified person, to supervise the electrical wiring works done by an Electrical contractor. A higher qualified person, approved by the Government and who have acquired Degree/Diploma in Electrical Engineering and had undergone training, are also authorized persons to perform in their area of jurisdiction, as per Central Electricity Authority (measures relating to safety and electric supply) Regulations, 2010, vide Chapter II- Clauses (3), (7) and (29).

The above referred rules make it clear that the wiring installation work can be supervised by either a person holding a certificate of competency like a Degree or Diploma in Electrical Engineering or person holding a permit (like wiring supervisor) issued by the Govt. The Rules make the stress on the point that, all the electrical wiring works should be supervised at least by an approved wiring supervisor and not by 'wiring supervisor alone'. Other competent and qualified persons under clause (7) referred above are also eligible. Hence in such a case, the KSEB can also supervise the electrical works of a High rise building. Moreover, Regulation 8(9) of Electricity Supply Code, 2005, specifically authorize and directs the licensee, that it should inspect the works of the applicant and provide guidance in technical matters and matters

relating to safety, when the applicant himself provides the electric Line/substation. However, in case, the wiring of light and power circuits were claimed as being done under a Wiring Supervisor and if KSEB does not oppose it, it can be deleted from the cost estimates.

The Commission vide its order dated 3rd Jan: 2013 in OP 32/2012, has approved the cost estimate for the installation of RMU's. In it, for arriving at the cost of RMU's, 16% charges (including 10% charge) on the material cost, the transportation and labour costs were added to determine the cost of the electric plant, RMU. The Commission has levied 10% on the whole amount thus arrived at, as the supervision charge, to calculate the estimated cost of the RMU equipment, to be recovered from the prospective consumers, wherever it is required. Further, the Regulation for Street Light installation is as follows;

Reg. 8 (8) Supply for street lights Licensee shall provide electric supply for street lights on request from local bodies on realization of cost of installation.....Local bodies shall have the option to provide their own street lighting installation and avail power through metered supply in which case capital and maintenance works will be carried out by the local body under the supervision of the licensee. A supervision charge not exceeding 10% of capital cost shall be levied by the licensee in such cases.

This clause states that, even in the case of Local Bodies which provide their own street lights and where the capital and maintenance works are carried out by the Local Bodies itself, the licensee is authorized to collect 10% of the capital cost, on both material and the labour, as supervision charges. This Regulation corroborates the findings that the Licensee can levy the supervision charges on the capital cost including materials, even if it is supplied by the party. For the above reasons, I am of the view that the 'supervision charges' that can be levied in a High rise building, is on the total cost of the electrical installation work executed by the consumer, including the material and a labour (both supplied by the party) and not on the labour charges of cable laying alone, as contented by the appellant. However, since the wiring works of 'Light and Power' circuits of the building was reported as supervised by the Wiring supervisor only, which is not contested by KSEB, the works related to Sub Distribution Boards may be exempted from collecting the supervision charges.

In the case of high-rise building the High Tension (HT) Cables which are to be laid under public road and the licensee is not the road repairing authority, it never supervises the road restoration works. Therefore, the KSEB is not entitled to collect 10% supervision charges on road restoration charges, which are included as road cutting charges. Hence the collection of 10% supervision charges on the road cutting charges is found as not justifiable.

Under Section 69 of Electricity Act, if any electrical line is to be placed within close proximity to any Telecom line, the license shall inform the Telecom Authority so as to protect the Telegraphic line from the induction of currents from the Licensee's supply. The KSEB may be required to deposit amount with Telecom for this purpose in certain cases and is a statutory obligation to get the PTCC approval. No supervision of KSEB is taking place in this matter. If any shifting of Telecom line takes place or protective devices are installed, the expenses for that has to be remitted to them, which shall only be collected from the applicant. In such cases, KSEB is not supervising the work. Hence, collection 10% supervision charge on PTCC approval cost is not legitimate.

It is improper to include an item such as "other miscellaneous charges" in estimate and KSEB is not authorized to collect such an unspecified amount or 10% supervision charges thereof. Hence, collection of amount on the item "other miscellaneous charges" is not in order. However, if any amount is paid by KSEB towards other agencies to get their approval or permission to complete the work of the appellant, it has to be reimbursed by the consumers."

The Kerala Electricity Supply Code, 2014 came into force on 1st April 2014. In Schedule 2 of the Code under the heading 'Model estimated rates for distribution works' the cost of the works in the distribution sector for which specific rates are not given shall be the grand total of

- I (a) Cost of materials as per cost data,
- (b) Charge 16% of (a)
- (c) Transportation charge,
- (d) The labour charges and

Total cost of work is [(a) + (b) + (c) + (d)]

- II Supervision charges 10% of transportation and labour charges

Grand Total (I + II)

The Commission in its Notification No. 934/CEX/KSERC/14 dated 23-09-2014, the following shall be substituted namely, "Supervision charges 10 % I(c) + I(d). So the supervision charges shall be collected at the rate of 10% of transportation charge [I(c)] and labour charges [I(d)].

Decision

On an overall view of the facts and evidences produced by both sides it is hereby directed the respondent to revise the supervision charges as described above and also to refund the excess amount so collected along with interest at the bank rate as on the date of remittance as per provisions in Supply Code,

2014. This shall be done at any rate within a period 30 days from the date of receipt of this order.

Having concluded and decided as above it is ordered accordingly. The appeal petition is found having some merits and is allowed to the extent as ordered. The order of CGRF in OP No. 1579/2015 dated 29-01-2016 is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/020/2016/_____ /Dated:_____

Delivered to:

1. Sri. Alex Thomas, Managing Director, B' Canti Homes (P) Ltd., Jawahar Nagar, Thiruvananthapuram.
2. The Assistant Executive Engineer, KSE Board Limited, Electrical Sub Division, Vellayambalam, Thiruvananthapuram.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.