

**THE STATE ELECTRICITY OMBUDSMAN**

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APPEAL PETITION NO. P/29/2016

(Present: V.V. Sathyarajan)

Dated: 25<sup>th</sup> August 2016

Appellant	:	The Secretary Rama Varma Union Club, Union Club Road, Kottayam
Respondent	:	The Assistant Executive Engineer, KSE Board Limited, Electrical Sub Division, Kottayam Central

**ORDER**

**Background of the case:**

The appellant, the Secretary of Rama Varma Union Club of Kottayam is a consumer having 3 service connections (3 phase) with the following consumer numbers, tariff and connected load under Electrical Section, Kottayam.

1. Consumer No. 10545	LT VII A	28.70 kW
2. Consumer No. 11437	LT VII A	10.06 kW
3. Consumer No. 11438	LT VII C	21.56 kW

On 05-10-2015, APTS team inspected the premises and detected that the service connection with consumer No. 11438 issued under VII C tariff is being used for commercial purposes (VII A). Based on the above findings the Assistant Engineer, Electrical Section, Kottayam Central issued a short assessment bill dated 09-10-2015 for Rs. 96,968.00 alleging misuse of tariff.

Aggrieved against this, the appellant filed a complaint before the CGRF, Kottarakkara. The Forum dismissed the petition vide order No. 1644/2015 dated 31-03-2016 upholding the issue of short assessment bill dated 9-10-2015 amounting to Rs. 96,968.00 for a period of one year as per Regulation 152 (3) of Electricity Supply Code 2014 is legal and sustainable. Against the

decisions of the CGRF, the appellant has approached this Authority with this appeal petition.

**Arguments of the appellant:**

The appellant stated that Rama Varma Union Club has 3 buildings with building Nos. XXII/48, XXII/49 and XXII/49A under Kottayam Municipality. These 3 buildings are separate premises. In building No XX11/48, the restaurant, bar hall and card room is functioning and the respondent allotted service connection with consumer No 10545 and LT VII A tariff.

In building No XXII/49 a guest house is functioning and service connection given to this building is 11437 with tariff LT VII A. The guest house is given to our members and affiliated club members for accommodation for their various purposes and this is also a separate building. In building No XXII/49A, indoor badminton court, gymnasium, billiards room and tennis court is functioning. Sports activities are going on in this building with service connection No 11438 and tariff allotted is LT VII C. This is also a separate building.

Following an inspection conducted by the APTS team on 05-10-2015, a short assessment bill of Rs. 96,968.00 (Rupees Ninety Six Thousand Nine Hundred and Sixty Eight) was issued to the appellant on 09-10-2015. Aggrieved against the bill, the appellant submitted objection before the second respondent stating various contentions. Said objection was not considered in its true perspective before disposing the same and hence this complaint.

The appellant submitted that the APTS team did not find any additional load in the appellant's premises and tariff allotted to the service connection with consumer numbers 10545 and 11437 is in order. The finding of the APTS team that the service connection with consumer number 11438 issued under LT VII C tariff was used for commercial activities is against the facts. The club activities including Gymnasium, Billiards room, Tennis Court etc., are functioning in the said building which is evident from the site mahazar itself and other related contemporaneous documents. Even according to the Assistant Engineer, Electrical Section, Kottayam, consumer numbers other than 11438 are functioning in the admissible tariff under LT VII A. The highly ambitious presumption raised by the respondent that the appellant deliberately engaged in misuse of tariff from LT VII (C) category to LT VII Commercial (A) category is denied as utterly false.

The appellant argued that he had never engaged in any acts of misuse tariff. Also Regulation 97 of the Kerala Electricity Supply Code, 2014 clearly stipulates that if a consumer had been wrongly classified in a particular category or the purpose of supply as mentioned in the agreement has changed, the licensee may suo-motu reclassify the consumer under appropriate

category. The appellant in this case shall be informed of the proposed reclassification through notice within a period of thirty days, same is not been adhered to, by the respondents. Resorting to the provisions contained in section 126 is highly arbitrary and unjust, since the same has been done relying on an inadmissible site mahazar. It is suspected that the act of penalizing the complainant had been done, only to suppress the inability and incompetency of the respondent and its officials to reclassify the consumer at the appropriate time. Hence the provisional bill is devoid of any merits and is only to be quashed.

**Arguments of the respondent:**

Rama Varma Union Club is having three consumer Nos. 10545, 11437 and 11438 under Electrical Section, Kottayam Central. The connected load of 10545, 11437 and 11438 are 28.7 kW, 10.06 kW and 21.56 kW respectively. The tariff given to 10545 was under LT VII A. This connection was used for functioning the office room, Cards Room, Restaurant and bar hall. The Tariff given to 11437 was under LTVII (A). This connection was used for members Guest house. The tariff given to 11438 was under LTVII (C). This connection was used for functioning indoor Badminton court, Gymnasium, Billiards room and outdoor tennis court.

On 05-10-2015 the premises was inspected by the APTS Team and found that the service connections with consumer Nos. 10545, 11437 and 11438 are given in the same single premises for the same purpose. Accordingly a site mahazar was prepared with the details of the activities in the club. The appellant obtained 3 service connections -2 under VII A tariff and another in VII C - for the same purpose and which is against Clause 52 of Kerala Electricity Supply Code 2014. On Inspection it is found that the appellant has been using a single standby generator to meet the energy requirements of the aforesaid premises during supply interruption. This clearly reveals that the three service connections existing within the same premises.

Kerala Electricity Supply code 2014 Regulation 134(1) states that "If the licensee establishes either by review or otherwise , that it has undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill and in such cases at least thirty days shall be given to the consumer for making payment of the bill". Hence in accordance with the Regulation a short assessment bill for the period from 10/2013 to 9/2015 was issued on 07-11-2015. The amount of short assessment bill is Rs. 96,968.00 and requested the consumer to file any objection within seven days from the date of the bill. Accordingly the appellant filed an objection before the Assistant Engineer. A hearing was conducted on 27-10-2015 and a final order was issued on 07-11-2015.

The short assessment bill issued to the appellant is legal. In the light of above submission it is requested that petition of the appellant may be rejected.

### **Analysis and Findings**

The hearing of the case was conducted on 12-08-2016 in my chamber at Edappally, and Sri Rony P. Abraham, the representative of the appellant appeared and Sri Babujan S., Assistant Executive Engineer, Electrical Sub Division, Kottayam Central represented for the respondent's side. On examining the petition and argument notes filed by the appellant, the statement of facts of the respondent, perusing all the documents and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

The relevant facts raised in the appeal is against the detection of three service connections issued in favour of the appellant in three buildings having separate building numbers for the common purpose. According to the respondent though the buildings having separate building numbers, the service connection cannot be considered as separate since the three connections are in a single compound. The first two buildings are situated in close proximity and the services are effected under LT VII A tariff. But the third building situated about 3 meters away from these buildings is effected under LT VII C tariff. Further, the inspection team has found that the power requirements of all the three premises are met with a single standby generator set. Hence the respondent contented that the appellant has to avail single point supply.

The site mahazar of the APTS team, Kottayam after inspecting the premises reveals that the premises having consumer numbers 10545 is functioning as restaurant, bar hall and card room and tariff allotted is LT VII A. The service connection with consumer number 11437 is provided for the guest house for accommodating the club members and affiliated club members and tariff is under LT VII A. The premises having service connection with consumer number 11438 is the indoor badminton court, gymnasium, billiards room and tennis court etc, and tariff allotted is under LT VII C. As per site mahazar the respondent issued a short assessment bill for Rs. 96,968.00 alleging misuse of tariff in the service connection of consumer No. 11438.

The appellant's contention is that there is no misuse of tariff in these buildings and there is no excess connected load over and above the sanctioned load. The three connections are used for different purposes and the tariff allotted is as per existing tariff order issued by the Hon'ble Commission. According to the appellant, the contention of the respondent that single point connection has to be availed under LT VII A tariff is totally against the provisions in the Regulations of the Supply Code, 2014.

**The point to be considered in this case is as to whether the appellant is entitled for three separate connections in three separate buildings having separate building numbers, but owned by a single establishment which is used for common purpose of club activities?**

The perusal of the records reveals that even though three buildings are separately numbered by the Local Authorities, the Secretary, Rama Varma Union Club is the registered owner of these three service connections. It is also a fact that these three buildings are housed in a single compound and the activities conducted in all the buildings are for the common activities of the club.

It is also revealed that the alternate power requirements for all the three service connections are met by the use of single generator. So there is no reason to consider these three buildings as separate units. Regulation 52 of Supply Code, 2014 is squarely applicable to this case. **Regulation 52 of Supply Code, 2014 says that “supply shall be given only at one point for the same purpose at the same voltage level in a single premises”.** So there is no reason to interfere with the decisions taken by the inspection team in this regard.

**The second point to be considered in this case is the correctness of the short assessment bill amounting to Rs. 96,968.00 dated 09-10-2015.**

It is admitted that service connection with consumer number 11438 is charged under LT VII C tariff. The other two service connections are in the same premise are charged under LT VII A tariff. **As per tariff order dated 14-08-2014, LT VII C tariff is applicable to cinema theatres, circus, sports and arts club, sailing or swimming clubs and gymnasium having connected load exceeding 2000 Watts.** Here in this case, three service connections are effected in the same premises for club activities where the predominant nature of consumption is for commercial activities and the appellant’s club is not a sports and arts club alone. Hence there is no justification for including the service connection under LT VII C tariff. This being the fact, issue of short assessment bill amounting to Rs. 96,968.00 for a period of one year as per Regulation 152 (2) & (3) of Supply Code, 2014 is applicable in this case.

**As per Regulation 152 (2) and (3) of Kerala Electricity Supply Code, 2014 “the amount of electricity short collected by the licensee, if any, can be realized from the consumer under normal tariff applicable to the period during which such anomalies persisted, without any interest”.** So the short assessment bill issued for Rs. Rs. 96,968.00 dated 09-10-2015 is found legal and valid.

## **Decision**

In view of the above discussions it is concluded that the appellant is hereby directed to avail single point supply as per Regulation 52 of the Supply Code, 2014 and the respondent shall take immediate action on the application made by the appellant in this regard. The respondent is also directed to issue bill for Rs. 96,968.00 to the appellant and 30 days shall be given for making the payment. Installment facilities, if any, requested by the appellant shall be given as per Regulation 135 of Supply Code, 2014.

The appeal is disposed of accordingly. The order of CGRF in OP No. 1644/2015 is modified to the extent as ordered above. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/29/2016/\_\_\_\_\_ /Dated \_\_\_\_\_

Delivered to:

1. The Secretary, Rama Varma Union Club, Union Club Road, Kottayam
2. The Assistant Executive Engineer, KSE Board Limited, Electrical Sub Division,
3. Kottayam Central.

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.