

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION NO. P/100/2017  
(Present: A.S.Dasappan)  
Dated 14<sup>th</sup> December 2017

Appellant : Sri. Antony K L,  
M/S Enviro designs Eco Labs, Eco Tower,  
Janatha Jn., Palarivattom,  
Kochi-18, Ernakulam

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division, KSEBL,  
Palarivattom, Kochi.

### **ORDER**

#### **Back ground Of the Case: -**

The appellant is a consumer having consumer No.19319 with LT IV –industrial tariff under Electrical Section, Kaloor. He is running a business firm in the name ‘Enviro designs Eco Labs’ in the ‘Eco Tower’ building, Janatha Junction, Palarivattom, Ernakulam. The appellant has received the connection in October 2007. On 20-03-2017 APTS have conducted an inspection in the premises of the appellant and a Site Mahazar was prepared. As per site mahazar, it was detected that the electricity is being used from the industrial tariff connection (Consumer No19319) for the purpose of water pollution testing and food pollution testing, which is a commercial activity. Hence the tariff was changed to LT VIIA and a short assessment bill amounting Rs. 4,91,718/-was issued on the basis of the site mahazar. Aggrieved against the impugned bill, the appellant submitted an objection before the Assistant Engineer, on 26-03-2017 which was rejected and confirmed the provisional short assessment. Aggrieved by this, the appellant had filed a complaint before the CGRF on 10-05-2017. The CGRF had dismissed the Petition on the ground that the tariff reclassification and subsequent short assessment bill issued by the respondent is in order. Aggrieved by the decision of CGRF, the appellant has submitted the Appeal petition before this Authority on 07.09.2017.

**Arguments of the Appellant: -**

The appellant's firm is an industry having SSI registration and the product is Microbial Culture, and Polyelectrolyte in the proprietary name Bioculture and chemifloc. The subject matter was investigated in detail, during 2010-2011 and Hon. Ombudsman retained our tariff in LT IV A. During 2016, a similar short assessment bill dated 30-05-2016 was given to the appellant. On giving a reply dated 20-06-2016 the short assessment bill was cancelled after inspection by the concerned Assistant Engineer.

The Kerala State Electricity Regulatory Commission have only published the tariff for different category of consumers and have never categorized the products coming under industrial category.

On 20-03-2017 APTS have conducted an inspection in the premises and a Site Mahazar was prepared. On 23-03-2017 a short assessment bill amounting Rs. 4,91,718/- was issued on the basis of the site mahazar. The appellant submitted an objection against the short assessment bill before AE, on 26-03-2017. A final order was issued on 19-04-2017 confirming Rs. 4,91,718/- towards tariff change for last 24-months. The CGRF rejected the petition filed by the appellant. According to the appellant, the claim of Rs. 4,91,718/- is not fair and just and it will not stand before the law for the following reasons:-

1. The subject matter was decided in favour of the appellant by a higher authority Ombudsman earlier on 09-11-2012 vide Order No. P/214/2011/444.
2. The subject matter was again taken up by KSEBL after an inspection on 30-05-2016, against which the appellant had given a reply and the claim of Rs. 19,46,478 was later cancelled.
3. The present claim is related with tariff change and it is overlapping a claim generated on 30-05-2016. Hence it will not be valid because a bill prepared covering the present claim period was cancelled and nullified and hence for the same cause of action another claim is not possible.
4. The appellant's firm is purely an industry. Polyelectrolyte Chemifloc is used for removing pollutants from certain waste waters. It is manufactured from raw materials like ferrous sulphate, Sodium Hydroxide etc. The major input raw material for microbial culture Biofloc is isolated pure bacteria. It is made in to sub culture by adding various nutrients, which will also from a part of input raw material. This process is being done in a confined area where the human accessibility is limited and kept as clean room. The machineries used for this process are Biosafety Cabinet, Hot Air Oven, Centrifuge, Syrological Water Bath, Deep Freezer etc....

After adding nutrients as per the procedure explained above the broth is shifted to incubator. After having sufficient incubation it is converted in to liquid form. The Process flow diagram along with the list of raw materials purchased with tax bill and list of parties to whom the product is sold are also enclosed.

The product is mainly used for purification of contaminated/waste water in a most eco friendly manner without using any other chemicals or detergents. All detergents and chemical manufacturers are categorized in industrial tariff. This industry well coming under stipulation and directives for a manufacturing industry, and hence the tariff may be confirmed in LT IV A. In the CGRF order. CGRF-CR/Comp. No. 16/2017-18/189 dated 14-08-2017 KSEBL argued that "The activity at the premises are bio culture which is purely commercial", which is not correct. In the premises, both production of bio culture and polyelectrolyte is being carried out.

The KSEBL argued that they are giving service connection in LT IV A tariff based on certificate issued from District Industries Development Centre Ernakulam, Government of Kerala on 22-11-2017 in favour of Enviro Designs Eco Labs. During the time of the initial tariff misuse allegation 2011-12, the appellant have submitted DIC certificate dated 06-01-2012, which includes Microbial Culture, but the respondent never considered the same. The appellant have also submitted the Cochin Municipality License [140/C-16/2017-2018) dated 23-05-2017, which states that the license is for "Production of Microbial Culture, and testing of water".

In the CGRF order their first analysis is that the appellant is running an SSI (Small Scale Industry) unit. It clearly shows that appellant's is an Industry. In CGRF Order they stated that 'Being a chemical product not widely used by common people' - is an absurd statement. By this yard stick any unit, producing any product being used in various other industries will not be considered for LT IVA tariff. Alum is an industrial product which is not being widely used by common people, but being used for water and waste water treatment in various factories. Does this mean that alum producing units will not get LT IV A tariff [industrial) for their units?

The process of inspection, objection, petitions, arguments and order are started from March 2017. On 02-06-2017, KSEBL served regular monthly bill (May) in LT VII tariff. From May onwards KSEBL served LT VII Tariff bills. The appellant remit only the LT IVA tariff bills with written objection.

Relief Sought for:

1. Direction may be given to the KSEBL not to disconnect the supply till hearing and disposal of the complaint.
2. The impugned short assessment bill may be cancelled.
3. The tariff may be confirmed in LT IV A industrial tariff.

**Arguments of the respondent:**

The appellant in this appeal is a consumer of the Kerala State Electricity Board Limited under Electrical Section, Kaloor bearing consumer number 19319. Electric supply to the appellant's firm was effected in the year 2007 at LT IV A Industrial tariff, for a connected load of 35,000 Watts. The industrial tariff was given to the appellant's firm as the appellant applied for electricity for running an industrial unit producing an SSI Registration Certificate issued by the Department of Industries, Government of Kerala for the manufacturing of 6 types of Oils viz.

- (i) Essential oils
- (ii) Cardamom Oil
- (iii) Ginger Oil
- (iv) Celery Oil
- (v) Galangal Oil and
- (vi) Nutmeg Oil

with a total capacity of 12 ton. The name of the consumer unit is 'Enviro designs Eco Labs'. The premises of the consumer was inspected by the Anti Power Theft Squad along with staff of Electrical Section, Kaloor on 03-09-2010. The premises of the appellant was in the first floor of a multi-storeyed building. There were 4 electric connections in the first floor bearing numbers 19316, 19317, 19318 and 19319. Connections to consumer numbers 19316 and 19318 were given under domestic tariff I A. Connection to consumer bearing number 19317 is used for common services of the multi-storeyed building under LT VII A, commercial tariff. Tariff of electric connection to consumer number 19316 was changed to LT VII A from LT IA as per the request of the appellant consumer on 25-09-2010 (after the above inspection).

At the time of inspection, the activities undergoing at the premises of consumer bearing number 19319 was testing of various products brought from outside. No kind of manufacturing as stated in the certificate of the Industrial Department or noted in the application for electric connection was seen at the premises during inspection. The request of the inspection team to allow entry to the other floors of the building was not allowed by the staff of the unit present at that time.

As no manufacturing activity was found at the premises of the appellant consumer, the tariff of the appellant consumer was changed to LT VII A and a short assessment bill for Rs. 5,43,575/- was issued on 08-09-2010, for the period from the date of connection to the date of inspection. The connection was availed by the appellant for the production of edible oils on the strength of the certificate issued by the Industrial Department and hence the tariff assigned was LT IV A, industrial. The process which was being carried out were

water pollution testing and food pollution testing which are commercial activities. Hence the tariff of the connection was changed to LT VII A from LT IV A with effect from the date of effecting electric connection i.e., for the period from 08-10-2007 to 08-09-2010. The premises of the consumer was again inspected by the Assistant Executive Engineer on 29-09-2010 and a site mahazar was prepared. The appellant consumer changed the tariff of another electric connection in the same floor of the building from LT 1A domestic to LT VII A - commercial, immediately after the inspection on 25-09-2010. The facts recorded on the site mahazar speaks itself that the findings on the earlier inspection on 03-09-2010 are true and that no manufacturing of edible oil is seen at the premises of consumer bearing number 19319.

Consumer approached the Consumer Grievance Redressal Forum (Central Region) against the short assessment for Rs. 5,43,575/- by filing Complaint No. 49/2010-11. The Forum came to the conclusion that no manufacturing activity is being carried out in the premises, which attracts LT IV tariff. The Forum obtained statements of the front office staff of the firm to the effect that no manufacturing activity is being done at the premises of consumer number 19319.

The Consumer challenged the above order of the Consumer Grievance Redressal Forum by filing Appeal No. 214/2011 before the State Electricity Ombudsman. This Hon'ble Forum after examining the details and the contentions of both parties came to the conclusion that "The fact that the appellant did not permit the visit of the Consumer Grievance Redressal Forum's (Chairperson and Members) to conduct a surprise inspection (in 02/2011) at his premises and also the fact that the consumer had changed the tariff of consumer number 19316 to commercial tariff plan on request, immediately after the APTS inspection, corroborates the Anti Power Theft Squad findings. It suggests me that some other activity might have been going there for some time, invoking a higher rate commercial tariff. Further, it is felt strange to note that even after changing the tariff of consumer number 19316 to LT VII A (commercial) on 25-09-2010. (just after the Anti Power Theft Squad inspection on 03.09.2010) it is seen recording nil consumption for the next six months and very negligible energy recordings thereafter".

This Hon'ble Forum accepted the finding of the Anti Power Theft Squad that the consumer was billing under wrong tariff, but in the absence of any conclusive proof establishing the date of commencement of commercial use, it limited the application of commercial tariff (LT VII A) to a period of 3 months immediately preceding 3 months from the inspection i.e., 06/2010 to 08/2010. But strangely, this Forum ordered to continue the appellant consumer thereafter in LT IV A for the reason that, the respondent has no case after that date. Accordingly the short assessment bill for Rs. 5,43,575/- was quashed with direction to revise it by limiting the short assessment to 06/2010, 07/2010 and 08/2010 vide its order dated 09-11-2012.

The fact of the disposal of the above appeal has not been taken up with the Board by the Assistant Executive Engineer, Electrical Sub Division, Palarivattom, who conducted the appeal before this Hon'ble Ombudsman in time. After the elapse of one year the Chief Engineer (Central), Ernakulam taken up the matter with the Board, on the recommendation of the Regional Audit Officer on 24-12-2013. The Board examined the matter and decided to file a Review Petition on the order for the reason that the order to continue the appellant in LT IV A after 08/2010 is an apparent error as the inspection on 29-10-2010 established that no manufacturing activities were being done using the electrical energy supplied to consumer number 13919 and the finding that the "respondent has no case thereafter".

But the Assistant Executive Engineer, Electrical Sub Division, Palarivattom failed to file the Review Petition as ordered by the Board, even after the Board's Counsel prepared and handed over the draft Review Petition to him. In the meanwhile, he filed the Review Petition on 02-02-2017, after the elapse of 4 1/2 years from the date of the order and the same was dismissed for delay. With no other go, Board decided to comply with the order of this Hon'ble Ombudsman dated 09-11-2012 in Appeal No. P/214/2011.

The premises of the appellant was inspected by the Assistant Engineer and the staff of Electrical Section, Kaloor again on 20-03-2017. The other floors of the building were inspected and floor wise details of activities were noted and a site mahazar also was prepared. The appellant affixed his signature on it in token of the acceptance of the facts noted therein. A brief description of the activities being carried out in different floor is given below:

5<sup>th</sup> floor- Growing bacteria required for waste water treatment (It is sold in liquid form as a commercial item).

4<sup>th</sup> floor- It is a residue lab - Presence of heavy metals in poly electrolyte mix with bacteria in excess of controlled limit is tested here.

3<sup>rd</sup> floor- Instrumentation room. Weighing of materials required for bacteria culture. Mixing and poly electrolyte formation process is carried out here. Hot air oven, flame - photo meters are used here.

2<sup>nd</sup> floor - Incubator for growing bacteria and hot air oven are used here.

1<sup>st</sup> floor - Main Office of the consumer unit is housed here.

As per the display board installed in front of the premises following services are provided by the appellant firm.

1. Environmental clearance for infrastructure projects, mining projects.

2. Environmental audits.
3. Environmental impact assessment.
4. Environmental assessment plan.
5. Design of waste water treatment plans.
6. Design of air pollution control systems.
7. Consultancy for hazardous waste management.
8. Supply of specialized chemicals for waste water treatment.

The profile of the consumer firm is down loaded from website and the same is extracted hereunder.

### Company Profile

The Organization is in the field of various environmental services since 1987.

The Laboratory Division is functioning at Eco Tower, centrally located at Janatha Junction, Palarivattom facing main road to Ernakulam. This is a multi storey building constructed with sophistication in all respects. The laboratory has got its own 100 KVA power transformer, 62.5 KVA generator for uninterrupted power supply, 20 KVA back-up is there for important test instruments and 3 KVA UPS back up for ancillary items like computer, intercom etc.

The chemical Section of the laboratory has got two departments namely Wet Chemistry Lab and Residue Lab. The Wet Chemistry Lab is involved in the testing of general parameters while Residue Lab is fully computerized and equipped with instruments for mainly pesticide residue. Heavy Metal and Several hazardous parameters. The biological Section of the laboratory can undertake all major Microbiological Parameters related to contamination of drinking water, Marine food, Agricultural products etc., The consultancy Division has got highly qualified and experienced chemical, civil and Environmental Engineers with Technical Field Staff. So far the company has designed and implemented more than 250 projects on Wastewater Treatment Systems, Air Pollution Control Systems etc. This company has also undertaken preparation of several Environmental Impact Assessment (EIA) reports, Environmental Management Plans, Environmental Audits etc”.

The promoter of the company ENVIRODESIGNS ECO LABS is Dr. K.L Antony, a Chemical Engineer, who is the appellant in this appeal.

During the inspection on 20-03-2017 it is again confirmed as in the inspection on 03-09-2010, that no production is being carried out by the electricity supplied by the Kerala State Electricity Board Limited which attracts LT IV A tariff. The activities now being done is purely commercial which comes under LT VII A category. The tariff of the appellant consumer was therefore

changed to LT VII A and short assessment bill for Rs.4,91,718/- was "issued to him on 23-03-2017, for a period of 24 months preceding 20-03-2017.

The Hon'ble Consumer Grievance Redressal Forum examined the case in all aspects. The findings of the Forum based on the documents and contentions raised from both sides are:

The certificate issued by the District Industries, Development Centre, Ernakulam on 22-11-2007 in favour of the appellant's firm is for the production of 6 types of edible oils, where as the certificate dated 06-01-2012 is for (i) Essential Oils - 12 ton (2) Microbial Culture -1 ton and (3) Chemifloc - 20 tons.

Raw materials for production are pure culture received from LLMLC Pune, and various nutrients, whereas the products are Microbial Culture & Polyelectrolyte. As per the schedule to the tariff published by the Kerala State Electricity Regulatory Commission dated 27-09-2014 LT IV A tariff is applicable to "general purpose industrial loads".

Though the appellant contented that raw materials are purchased from LLMLC Pune, no invoice of LLMLC could be produced by him. The list of the customers are produced without any supporting sale invoices. Hence it cannot be ascertain that the products bio-culture and chemifloc are sold to the customers by the consumer. Moreover the type of production is not categorized in any category as classified by the Kerala State Electricity Regulatory Commission. Hence the appellant consumer belonged to the category LT VII A.

It is submitted that the appellant is not an industrial manufacturer because Section 6 of the Central Excise Act, 1944 prescribes that every industrial manufacturer shall obtain registration under this Act for manufacturing activities. The said Section is reproduced as below "Any prescribed person who is engaged in -

(a) The production or manufacture or any process of production or manufacture of any specified goods included in the First Schedule and the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), or

(b) The wholesale purchase or sale (whether on his own account or as a broker or commission agent) or the storage of any specified goods included in the First Schedule and the Second Schedule to the Central Excise Tariff Act. 1985 (5 of 1986), shall get himself registered with the proper officer in such manner as may be prescribed". It is further submitted that as per Section 3 of the said Act prescribed excise duty of an industrial product. The said Section reproduced below "There shall be levied and collected in such manner as may be prescribed -



(a) a duty of excise to be called the Central Value Added Tax (CENVAT) on all excisable goods (excluding goods produced or manufactured in special economic zones) which are produced or manufactured in India as, and at the rates, set forth in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);

(b) a special duty of excise, in addition to the duty of excise specified in Clause (a) above, on excisable goods excluding goods produced or manufactured in special economic zones specified in the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) which are produced or manufactured in India, as, and at the rates, set forth in the said Second Schedule".

The appellant not produced Central Excise registration certificate as per Section 6 of the said Act and the Central Excise duty paid receipt before the respondent or the Consumer Grievance Redressal Forum OR to this Authority in the present case and previous case. Thus the contention of the appellant that he is an industrial manufacturer for the production of Microbial culture and poly electrolyte "bio culture and Chemifloc" is totally wrong. In the absence of the above documents the appellant treated as a distributor. The distribution comes under the category of commercial.

It is submitted that the invoice No. 2223408 dated 25-03-2017 and similar documents produced by the appellant are only the KVAT receipt and therein the Central Excise registration number kept in blank. Similarly Column 9 of the said invoices are blank. Thus the respondent submit that the appellant has no registration as per Section 6 of the Central Excise Act 1944 and the appellant has not paid Central Excise duty as per Section 3 of the Central Excise Act, 1944. Thus the respondent submits that the appellant was not engaged in the manufacturing or the manufacturing process as explained in the complaint.

The Hon'ble Consumer Grievance Redressal Forum is right in arriving at the finding that the main activity going on at the appellant premises is commercial and the tariff applicable is LT VII A.

Therefore it is humbly prayed that this Hon'ble Forum may accept this reply and dismiss the petition.

**Analysis and Findings: -**

The Hearing of the case was conducted on 14-11-2017, in my chamber at Edappally. Mr. K.L.Antony and Mr. Shaji Sebastian represented for the appellant and Smt. Latha S, Assistant Executive Engineer, Electrical Sub

Division, Palarivattom and Sri Ramesan K.K., NOL, Ernakulam represented the Respondent's side. On perusing the Petition, the counter statement of the Respondent, the documents submitted and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

The additional demand of power charges, towards the revenue loss due to wrong tariff fixation of the Unit, amounting to Rs. 4,91,718/-, for a period of 24 months was issued to the appellant based on the conclusion that no manufacturing activities are being done using the electrical energy supplied to consumer number 19319. The issue of the reassessment bill and the decision to change the tariff by KSEBL were questioned in the petition filed before CGRF, Ernakulam. The CGRF considered the contentions of the appellant, verified the records and disposed of the petition by dismissing it. The appellant had filed this Appeal Petition contending that the short assessment bill confirmed by the CGRF is not fair and just.

It is the contention of the appellant that a case on the same subject matter was decided by this Authority earlier in favour of the appellant in Order No. P/214/2011 dated 9/11/2012. In the said case, this Authority has analysed the facts as follows;

“It is stated by the respondent that the APTS inspection revealed the main activity undergoing in the consumer No19319 is testing of various products brought from outside and that the applicable tariff of the consumer, considering his purpose of energy use, comes under commercial and not industrial tariff. The responsibility of fixing the correct tariff initially rests with the Respondent only. Hence the question to be answered is whether it comes under industrial or commercial tariff and if it is commercial, from which date it is applicable as the consumer was given a lower tariff by the Licensee itself for the said activity. The activities relating to ‘testing works only’ of various products in a lab, comes under commercial category and do not come under the purview of industrial tariff, as per the existing Tariff provisions. The Licensee's Inspection should conclusively establish what activity is going on there. The actions taken consequent to that inspection would be legally correct and more proper, if the same is supported with a duly prepared site mahazar prepared on inspection. Further, if the consumer uses energy supplied for a specific purpose under a particular tariff for a different purpose not contemplated in the Agreement executed between them and for which higher tariff is applicable, without KSEB's knowledge and approval, surely there is a case of unauthorized use of electricity. But in this case the Appellant cannot be blamed for the wrong tariff as the responsibility of fixing the correct tariff rests with the Respondent only. The production of edible oil is shown in the Industry license issued by the Industrial Dept. and produced for getting the electric connection under LT IV –industrial tariff. The tariff categorization, of different

business activities and according to the purpose of energy use etc. is determined by the Hon: KSERC (Commission), after conducting Public Hearings on the draft tariff proposals and considering the 'National Tariff Policy' announced by the Govt etc. and now a days, it is not at all linked with the Directives or Policies of the Industries Dept.”

The appellants contention is that theirs is purely an industry and the products manufactured are Biofloc 325 and Chemifloc 125. The product Polyelectrolyte Chemifloc is manufactured from raw materials like Ferrous Sulphate, Sodium Hydroxide and the product is used for purification of contaminated waste water and for removing pollutants from certain waste waters. The machineries used for this process are Biosafety Cabinet, Hot Air Oven, Centrifuge, Syrological Water Bath, Deep Freezer etc....

The appellant has also argued that on 30-05-2016, the KSEBL had issued a bill for Rs.19,46,478/- as short assessment bill for the same cause of action and on submitting objection, the Assistant Engineer conducted an inspection in the premises and cancelled the bill. According to the appellant, the issuance of another short assessment bill for Rs.4,91,718/- on the basis of the inspection conducted on 20-03-2017 towards the charge of misclassification of tariff is not sustainable.

The respondent's contention is that industrial tariff was given to the appellant's firm as the appellant applied for electricity for running an industrial unit producing an SSI Registration Certificate issued by the Department of Industries, Government of Kerala for the manufacturing of 6 types of Oils. The certificate issued by the District Industries, Development Centre, Ernakulam on 22-11-2007 in favour of the appellant's firm is for the production of 6 types of edible oils, where as the certificate dated 06-01-2012 is for (1) Essential Oils - 12 ton (2) Microbial Culture -1 ton and (3) Chemifloc - 20 tons.

Further it is contended by the respondent that the appellant is not an industrial manufacturer because Section 6 of the Central Excise Act, 1944 prescribes that every industrial manufacturer shall obtain registration under this Act for manufacturing activities. As per the Section, "Any prescribed person who is engaged in -

(a) the production or manufacture or any process of production or manufacture of any specified goods included in the First Schedule and the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986)". The respondent has also stated that the appellant has no registration as per Section 6 of the Central Excise Act 1944 and the appellant has not paid Central Excise duty as per Section 3 of the Central Excise Act, 1944. Thus the respondent submits that the appellant was not engaged in the manufacturing or the manufacturing process and he is only a distributor.

The appellant has produced few sale tax bills of products sold to various firms. This Authority has inspected the firm to confirm whether the details of products manufacturing in the unit and whether the sales tax bills produced for the products are manufactured in the premises of the consumer no. 19319 itself, as claimed by the appellant. The appellant has also produced a copy of the certificate of license issued by Kochi Corporation which specified the activities of the firm "Production of Microbial Culture, and testing of water".

The question to be answered in this dispute is whether the main activity undergoing in the consumer No19319 is manufacturing or testing of various products brought from outside and that the applicable tariff of the consumer, considering his purpose of energy use, comes under commercial or industrial tariff.

In general terms, Industry implies all the activities that are concerned with the conversion of raw materials into finished goods, whereas commerce focuses on their distribution of goods and services. The term industry is used to denote those activities which involve the use of mechanical appliances and technical skills ie, activities with manufacturing, production and processing of products. Manufacturing is the process of transferring raw materials into ready goods, with the help of machinery. On the other hand production alludes to the process or methods, that converts inputs like raw material or semi finished product or services, to make finished product or services, which may or may not use machinery. Commerce is a business activity, wherein exchange for goods and services for value is done.

The rejection of categorisation under industrial tariff to the appellant by the CGRF is mainly based on the following grounds. The CGRF has observed that the documents submitted by the petitioner are not sufficient to establish that they are carrying out industrial activity. But I am of the opinion that the purchase bills of raw materials and the sale tax bills of the products sold by the appellant shows that there is some manufacturing process by transferring raw materials into a finished product. This Authority inspected premises of the appellant and found that various machineries are being used that converts inputs like raw material to a finished product. At the same time, some commercial works like testing of water is also going on in the premises. From the flow diagram of production of Bioculture (Biofloc) it is seen that a lot of chemical activities are going on in between the mixing of the Media, Nutrients, Effluent water with the standard Culture(enriched bacterial source) and the packing of the product in packing carboys from another mixing unit. It is functioning in different floors in the building. This Authority has confirmed the above functions during the inspection conducted on 24-11-2017.

Further the CGRF has observed that as per the tariff order, the LT IV A tariff is applicable for general purpose industrial loads which include manufacturing units and being a chemical product not widely used by common people, it is

not a general purpose industrial load. But this findings of the CGRF is also not sustainable. The major function in the premises is found as manufacturing of products of Biofloc 325 and Chemifloc 125. These products are commonly used by various firms and factories and also available for common people for purification of waste water and water treatment plants. The absence of Central Excise Registration certificate is not a right reason for the rejection of classification under industrial tariff as the tariff order is not insists any such stipulation for fixing industrial tariffs to manufacturing units. The appellant has produced a SSI certificate dated 06-01-2012 for the production of (1) Essential oils – 12 tons (2) Microbial Culture – 1 ton and Chemifloc – 20 tons. There is no specific definition of ‘general purpose industrial load’ in the tariff order or in the Code and hence the interpretation of the same made by the respondent and CGRF is also not acceptable. In Order No. P/214/2011 dated 9/11/2012 of this Authority, in a petition submitted by this appellant regarding a same nature of dispute, has been allowed LT IV A tariff for the consumer number 19319.

**Decision:**

From the findings and conclusions arrived at as detailed above, I decide to set aside the short assessment bill amounting to Rs. 4,91,718/- issued to the appellant and the consumer number 19319 is retained under LT IV A Industrial Tariff.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the Consumer is allowed as ordered and stands disposed of as such. The order of CGRF in 16/2017-18 dated 14-08-2017 is set aside. No order on costs.

**ELECTRICITY OMBUDSMAN**

Ref. No. P/100/2017/\_\_\_\_\_ /Dated

Forwarded to :

1. Sri.Antony K.L.M/S Enviro designs Eco Labs, Eco Tower, Janatha Junction, Palarivattom, Ernakulam.

2.The Assistant Executive Engineer,Electrical Sub Division, KSEBL,  
Palarivattom, Kochi.

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, CGRF-CR, 220 kV, KSE Board Limited, Substation  
Compound, HMT Colony P.O., Kalamassery, PIN: 683 503.