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REPRESENTATION No: P 75/09

Appellant : M/s Prime Fisheries
No 13/711 Kochangadi
KOCHI 682005

Respondent: Kerala State Electricity Board
Represented by
The Assistant Executive Engineer
Electrical Sub Division
THOPPUMPADI - Kochi

ORDER

M/s Prime Fisheries , No 13/711 Kochangadi ,Kochi submitted a representation on 20.05.2009 seeking the following relief :
Set aside the order No: CGRF-CR/Comp.65/08-09/807 dated 04.05.2009 of CGRF Ernakulam
Direct that the complainant may be continued to be charged under LT IV Industrial tariff

Counter statements of the Respondent was obtained and hearing of both the parties conducted on 4.8.2009.

The Appellant has an LT electric connection under Electrical Section Thoppumpadi with consumer number 14806 . The respondents classified the service connection under LT VII A tariff on the basis that it is a cold storage .The Appellant challenged this in the CGRF .The CGRF upheld the action of the respondent.

The representation with the pleas noted above is submitted to the under signed in the above back ground.

The contentions/arguments/points raised by the Appellant in the representation and during the hearing are summarized below:

The Appellant is a private limited company engaged in Sea Food Processing and export .The Appellant has a single electric connection where sea food processing activity is carried out. The premises have all ultra modern facilities of that of a processing unit like receiving room , processing hall, anteroom, packing material hall etc. The main activity in the industrial unit is procuring raw materials, washing ,icing, beheading, peeling divining, grading etc including storing in cold storage. But the Appellant has no freezing facility and this activity is being out sourced. The petitioners industrial unit is a Sea Food Processing Unit and hence cold storage alone can not be segregated. All the activities except freezing are done in the unit. The Appellant can not be treated as an independent cold storage unit. The Appellant is not carrying out any commercial cold storage activity.

The contentions/arguments/points raised by the Respondent in the counterstatement and during the hearing are summarized below:

The Appellant is running a cold storage unit with LT connection No: 14806.The argument of the Appellant that they are engaged in Sea Food Processing is totally base less. It is clearly mentioned in the certificate of approval of Export Inspection Council of India that Prime Fisheries is an independent cold storage and they are storing frozen products of approved establishments. MPEDA certificate of registration also shows that it is a cold storage.

To verify the claims of the Appellant a site inspection was conducted on 8.6.2009 . It was seen that only cold storage activity is being carried out in the premises. The store contained products of other firms such as M/s Choice Canning Co., M/s Baby Marine International etc. The space marked as processing hall in the lay out plan was vacant. No processing activities were seen carried out. The scene mahazar was witnessed by the employee of the firm.

All the claims of the Appellant that the electric connection number 14806 is not used for an independent cold storage were found to be against facts. The cold storage is used on a commercial basis as the Appellant is a merchant exporter.

Discussion and Findings:

The Kerala State Electricity Regulatory Commission in their Order dated August 29, 2008 disposing a batch of Petitions like DP39/2008 had directed that the Sea Food Processing Units in LT shall be billed under LT IV industrial category and that the LT consumers engaged in the freezing and cold storage activity shall be billed under LT VII A Commercial . In the Order dated April 23, 2009 on the Clarification Petitions on the matter the Commission had clarified that if separate connection is taken for the purpose of cold storage/freezing plant it shall be deemed to be billed under LT VII A commercial. The Commission had also observed that ‘the argument of the Petitioners that the activity of processing and storing being part of an integrated activity it can not be differentiated and categorized separately can not hold good if separate connections are taken for each activity’ .

The most important question to be decided in this case is whether the claim of the Appellant that the service connection 14806 is being used for an integrated Sea Food Processing Unit or for the Cold Storage only.

Even though the Appellant has claimed that sea food processing activity is going on in the premises he could not challenge the evidences provided by the Respondent to prove other wise. The findings of the Respondent in the site inspection that (i) the processing hall was vacant and not in use (ii) no processing activities were done in the premises (iii) the cold storage was being used as a store for the products of other firms etc. were not disputed by the Appellant either during the hearing nor by an argument note. The service connection was given for the purpose of running cold storage . The statement of the Appellant that after setting up 'all the all ultra modern facilities' he had been out-sourcing freezing alone is rather un-believable .The fact that the premises are to be used as independent cold storage had been recorded in the documents like certificate of approval of Export Inspection Council of India , MPEDA certificate of registration etc has also been pointed out. The Appellant had virtually no defense against these contentions .

Hence I have come to the conclusion that the Appellant is trying to establish that they are running a Sea Food Processing Unit to stake the claim for the LT IV tariff only .

It is clear that the Appellant is utilizing the electric connection for running a cold storage using it as a transit point for exporting the frozen products of other producers also.

As such the tariff to be applied for the connection shall be LT VII A Commercial as specifically clarified by the KSERC.

The respondents shall be free to apply the tariff accordingly and realize the arrears outstanding if any .

But as a relief to the consumers to mitigate the effect of tariff shock the respondents are directed to allow installments for the payment pf arrears and interest liberally, provided they pay the regular monthly charges under the LT VII A tariff regularly.

Orders:

Under the circum stances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellant and Respondent on the matter, the representation is disposed off with the following orders:

1. *The representation submitted by the Appellant is devoid of merits and hence dismissed.*
2. *No order on costs.*

Dated this the 6th day of August 2009,

P.PARAMESWARAN
Electricity Ombudsman

No P 75/09/312/ dated 11.08.2009

- Forwarded to:
1. M/s Prime Fisheries
No 13/711 Kochangadi
KOCHI 682005
 2. The Assistant Executive Engineer
Electrical Sub Division
THOPPUMPADI - Kochi

Copy to :

1. The Secretary,
Kerala State Electricity Regulatory Commission
KPFC Bhavanam, Vellayambalam,
Thiruvananthapuram 695010
2. The Secretary ,KSE Board,
VaidyuthiBhavanam ,Thiruvananthapuram 695004
3. The Chairman , CGRF,KSE Board ,
PowerHouse Buildings , ERNAKULAM