

STATE ELECTRICITY OMBUDSMAN

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REPRESENTATION No: P 100/09

Appellant : Sri Sathar .P
Shalimer Plastimers
NALLALAM , Kozhikode

Respondent: Kerala State Electricity Board
Represented by
The Assistant Executive Engineer
Electrical Sub Division FEROKE 673631

ORDER

Sri Sathar .P, Shalimer Plastimers, Nallalam , Kozhikode submitted a representation on 18.9.2009 seeking the following relief :
The Letter no: DB19/CGRF/09-10/199/28.08.2009 of Assistant Engineer Feroke may be declared void and null.
Instruct KSEB that penal charges for Unauthorised Additional load shall not be collected from the consumer
Instruct KSEB to grant duty exemption to the consumer complying with the Government order.

Counter statements of the Respondent was obtained and hearing of both the parties conducted on 4.11.2009 and 18.11.2009 .
Consumer number 9099 of Feroke KSEB section is an LT industrial connection with sanctioned load 35.239 KW in the name of the Appellant. On 23.7.2004 the APTS of KSEB inspected the premises and found that the actual load in the premises is 40.16KW , comprising 41.5HP motor load, 9.2KW heater load and 0.36KW light load. Bill towards penal charges for Unauthorised Additional Load (UAL) was issued to the consumer and was paid by him . Later on 10.8.2004 the consumer submitted a wiring completion and test report for 36.966 KW and paid AF and Testing Fee. But the follow up action taken by KSEB is not known. KSEB continued to demand the penal charges for UAL every month and the consumer paid it. When consumption towards UAL was treated as excess

over quota consequent to power restrictions in 2008 and high fuel rates were demanded the consumer again submitted a test report for 36.956KW on 15.1.2009 .On inspection by the KSEB staff on 20.1.2009 the load was found to be 41.219KW and the matter was informed to him on 16.2.2009.During inspection on 25.2.2009 the load was found to be reduced to 39.494 KW which was communicated to the Appellant by a letter on 26.2.2009 by Respondent. The Appellant disputed this also and informed on 3.3.2009 that the actual load is only 36.994KW. This was confirmed on inspection on 6.3.2009 and the additional load to the extent of 1.71 KW regularized on 6.3.2009.The letter dated 28.8.2009 of AE Feroke which is disputed by the Appellant is related to the outstanding dues consequent to the above.

The CGRF Kozhikode upheld the actions of the KSEB and held that the UAL could be deemed to have been regularized only on 6.3.2009 and by inference the demands towards the UAL was also upheld.

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 load detected by the APTS is only 46.5HP or 34.689KW which is below sanctioned load. Hence the consumer is not at fault of using excess power. One can depend on the APTS inspection report of 2004 . Since the load has not exceeded 10% of the approved load penal charges can not be realized as per clause 51 of KSEB Terms& conditions of Supply. Even though the consumer had submitted test report and remitted AF & TF on 10.8.2004 KSEB had not taken any action on it which is a serious lapse . The additional load was regularized only in March 2009 by KSEB.The consumer had not used loads in excess and hence the penal charges are to be refunded and the pending demands are to be withdrawn.

The CGRF had directed that the Respondent to get clarification on duty exemption in the light of the GO produced but they have not acted upon that.

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

The details of the actual loads have been noted in the APTS report. There were motors to the extent of 41.5HP , four sets of dual-heaters with 230V10A rating each taking the heating load to 9.2KW and light load noted as 360W.Hence the total load was 40.16KW at the time of APTS inspection . The scene mahazar is signed by the representative of the consumer and copy handed over to him on the spot.

The connected load was almost the same when inspected in January 2009 and subsequently reduced to 36.994 KW by March 2009. The results of all the inspections from January to March 2009 had been communicated to the Appellant.

Discussion and Findings:

The claim of the Appellant that the load detected by the APTS was only 34.685KW is a factual error in calculation. The facts noted in the APTS scene mahazar confirm that the load was 40.16KW.

The Respondent was not able to report on the action taken on the test report of 8/2004 submitted to the office with AF & TF. Whether it was accepted, rejected or returned is not known by the present incumbent. As pointed out by the Appellant, this is a serious flaw on the part of the Respondent.

But the claim of the Appellant that he had actually reduced the load from 8/2004 onwards can not be accepted, on the face of it, since the load was seen to be almost the same, detected by the APTS, even in January 2009. More over the consumer had paid the higher charges related to UAL continuously for more than 60 months. From the documents /communications between the Appellant and the Respondent the only conclusion that can be inferred is that the consumer had actually reduced load only by March 2009. As such I am inclined to uphold the view of the CGRF that the UAL was regularized only in March 2009. The demands issued by Respondent on the matter can not be set aside under this situation.

Regarding the duty exemption the Respondent pointed out that the matter is under the consideration of the Hon:High Court vide OP No: 5888/199A. The Appellant did not challenge the above statement. Hence it is not proper to decide the matter in this forum.

Orders:

Under the circumstances 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 arguments/claims/points raised by the Appellant in support of the reliefs sought for are devoid of merit and hence the reliefs are not allowed and the representation is dismissed*
2. *No order on costs.*

Dated this the 19th day of November 2009 ,

P.PARAMESWARAN
Electricity Ombudsman

No P 100 /09/413/ dated 20.11.2009

- Forwarded to: 1. Sri Sathar .P
Shalimer Plastimers
NALLALAM , Kozhikode
2. The Assistant Executive Engineer
Electrical Sub Division FEROKE 673631

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 ,
VaidyuthiBhavanam Kozhikode