

**CONSUMER GRIEVANCE REDRESSAL FORUM
NORTHERN REGION, KOZHIKODE.**

(Formed under section 42(5) of Electricity Act 2003.)

Vydyuthibhavan, Gandhi Road, Kozhikode -673011

Telephone Number -0495 2367820

Email.cgrfkzd@kseb.in

PRESENT

SAJAMMA. J. PUNNOOR : CHAIRPERSON

ANCY PAUL. C : MEMBER

FRANCIS. A. C : MEMBER

OP 82/2023-24

PETITIONER :-

1. M/s Hillside Nature Resort,
Near NIT, Kariyakulangara,
Mukkam, Kozhikode-673602.

RESPONDENTS :-

1. The Special Officer Revenue,
KSEB Ltd, Vydyuthibhavanam,
Pattom, Thiruvananthapuram.
2. The Assistant Executive Engineer,
Electrical Sub Division, Kunnamangalam,
KSEB Ltd, Kozhikode District.
3. The Assistant Engineer,
Electrical Section, Kattanagal,
KSEB Ltd, Kozhikode District,

ORDER

Complaint:-

The petitioner is a High Tension consumer with consumer No. 24/6055 under Electrical section, Kattanagal. An arrear notice Dated 18-11-2023 for an amount of Rs. 48,065/- has been served to the petitioner by the respondent. The complaint is for setting aside the above arrear notice and for directing the respondents not to demand arrear till the final disposal of WP(C) 30977/2010 which is pending before the Hon'ble High Court of Kerala.

Version of the Petitioner :-

The petitioner is running a 4-star hotel and is member of Association of Approved and classified Hotels of Kerala. The petitioner is also a High Tension electricity consumer of KSEBL taking supply of energy at 11KV. Though the Respondents have been demanding electricity duty at 10% of the total energy charges, they are collecting electricity duty at 10 Paise per unit consumed, in accordance with section 4 and Schedule 4 of the Kerala Electricity Duty Act 1963.

As per notification dated 17-03-2023 of Kerala Finance Act, 2023 The Kerala Electricity Duty Act 1963 was amended and electricity duty at the rate of 10 Paise per unit, was increased to 5% of energy charges with effect from 17-03-2023. Since April 2023, the petitioner paying electricity duty at the rate of 5% of energy charges instead of 10paise per unit.

An arrear/disconnection notice dated 18-11-2023 was served to the petitioner by stating to pay an amount of Rs 48,065/- as arrear and if the amount is not remitted before 04-12-2023 the service will be disconnected without further notice. The amount specified in the demand column as well as in the collection column is absolutely wrong in the arrear notice. A mere examination of the demand and remittance against petitioner's consumer number will reveal that the amounts paid by the petitioner is more than what is stated in the arrear/disconnection notice. So

the demand raised by the respondent vide arrears/disconnection notice is unsustainable and the petitioner is not liable to pay the same. But the respondent threatening the petitioner to pay the differential amount in electricity duty, which has been carry forward as disputed arrears.

The petitioner conveyed the respondent that, being a member of Association of Approved and classified Hotels, they are entitled for the benefit of the order dated 13-10-2010 in WP(C) No. 30977 of 2010 of Hon'ble High Court of Kerala permitting to remit electricity duty at the rate of 10 Paise per unit, at least till March 2023, and that the said Writ Petition is still pending consideration before Hon'ble High Court.

The petitioner requested to set aside the demand for Rs 48,065/- issued by the respondent towards the undisputed arrears till the final disposal of WP(C) No. 30977/2010 pending before Hon'ble High Court of Kerala.

Version of the Respondent :-

The petitioner M/s Hillside Nature Resort represented by Managing Partner Sri. P.N Krishnadas, is a HT IV(B) Commercial live consumer of KSEBL, with consumer No. 24/6055 under Electrical section, Kattanagal. As per HT Agreement executed by the petitioner, KSEBL is bound to collect charges including electricity duty at 10% energy charge amount for quantum of energy consumed.

The interim order dated 13-10-2010 in WP(C) No. 30977 of 2010 is not applicable to the petitioner, since they were not included in the list of petitioners in the writ petition, subsequently produced by Association of Approved and classified Hotels of Kerala on aftermath of the aforesaid interim order. The entire duty portion of the petitioner will come under non disputed category.

The petitioner is a HT IV(B) Commercial consumer and will not come under the purview of interim order dated 13-10-2010. The petitioner has to remit the duty arrears since the date of energisation itself.

An arrear notice amounting to Rs 48,065/- was served to the petitioner. The short remitted duty portion of the petitioner was marked as 'dispute' from the very beginning of its energisation that is from 24-03-2012. Due to this mistake happened on respondents part an accumulated arrear to the tune of Rs 7,33,179/- is also pending against the consumer as duty arrear due to the KSEBL. The same is not reflected in the arrear notice issued.

As per Regulation 133 of Kerala Electricity Supply Code 2014. all payments made by the consumer shall be adjusted in the following order (1) interest on electricity duty arrears, (2) electricity duty arrears, (3) interest on electricity charge arrears, (4) electricity charge arrears, (5) dues of current month.

KSEBL is bound to collect duty amount as per Section 4 of the Kerala Electricity Duty Act 1963 and its subsequent amendments. The arrear notice issued is in order. Remittance made by the consumer is appropriated as per Regulation 133 of Kerala Electricity Supply Code 2014.

WP(C) No. 30977 of 2010 is not applicable to the petitioner, The date of connection was on 24-03-2012 and hence they have no locus standi to claim the benefit of interim order dated 13-10-2010 of the Hon'ble High Court of Kerala. Hence the petition No. 82/2023-24 filed by M/s Hillside Nature Resort may be dismissed with cost.

Additional argument by the petitioner:-

The disconnection notice for Rs 48,065/- dated 18-11-2023 send by the Special Officer Revenue, to the petitioner is absolutely wrong. Because the amount paid by the petitioner towards the bill raised is more than what is reflected in disconnection notice.

The respondent threatening the petitioner to pay the differential amount in electricity duty which has carry forwarded as disputed arrears. The petitioner being a member of Association of Approved and classified Hotels, has been paying electricity duty @10paise per unit as per the order dated 13-10-2010 in WP(C) No. 30977 of 2010 of Hon'ble High Court of Kerala permitting the Association of Approved and classified Hotels to remit electricity duty at the rate of 10 Paise per unit. This Writ Petition is still pending consideration before Hon'ble High Court of Kerala and KSEB can only act in compliance with the order.

The respondent has given the reply by stating that KSEB is not bound to extent reduction in electricity duty unless there is government Order permitting the petitioner to remit 10paise per unit/5% of energy charges as electricity duty. This submission by the respondent will amount to "contempt of court"as there is a direction by Hon'ble High Court of Kerala .

The respondent had no such case till date that the order dated 13-10-2010 in WP(C)No. 30977 of 2010 is not applicable to the petitioner since the date of energisation of the petitioners hotel falls on 24-03-2012. The respondent was only collecting electricity duty at the rate of 10 Paise per unit from 24-03-2012 in compliance with the High Court order till 2023.

It is clear that, respondents couldn't be able to substantiate the demand of Rs. 48,065/- and the said demand needs to be set aside. There is no default/delay on the part of the petitioner in paying electricity bills till date, so the respondents have no authority to demand the same till culmination of WP(C)No. 30977 of 2010.

Analysis and Findings:-

The hearing of the case was conducted on 06-02-2024 at C.G.R.F. Court hall, Kozhikode. The hearing was attended by the petitioner's representative and the respondent.

Having examined the petition in detail and statement of facts of the respondent, considering all the documents submitted and deliberations during the hearing, the Forum has come to the following observations and conclusion leading to the decision.

The respondent stated that the amount Rs. 48,065/- in the arrear notice dated 08-11-2023 corresponds to the electricity duty arrears. Moreover there is pending duty arrears in the tune of Rs. 7,33,179/- in the petitioner's account for which no notice has been issued to the petitioner.

Decision:-

Considering the facts and circumstances, the Forum issues the following orders.

- Since the entire arrear pertains to the electricity duty, this Forum has no Jurisdiction to interfere in this matter. Hence the petition is disposed herewith.
- No cost ordered.

Dated this the 20th day of March 2024.

Sd/-
Francis. A. C
Member

Sd/-
Ancy Paul. C
Member

Sd/-
Sajamma. J. Punnoor
Chairperson.

Endt.on CGRF-NR/OP 82/2023-24/567

Dt 20 / 03 /2024 .

Forwarded to:

1) M/s Hillside Nature Resort,
Near NIT, Kariyakulangara,
Mukkam, Kozhikode-673602

If the petitioner is not satisfied with the above order of this Forum, he is at liberty to prefer appeal before the State Electricity Ombudsman, D.H. Road, Offshore Road Junction Gandhi Square, Eranakulam, Kerala-682016.(Ph: 0484 2346488) within 30 days from date of receipt of this order.

2) The Special Officer Revenue,
KSEB Ltd, Vidyuthibhavanam,
Pattam,Thiruvananthapuram..

Copy submitted to:-

Chief Engineer (Distribution – North), Kozhikode.

Copy to:

1. The Secretary, KSEB Ltd, Vydyuthibhavanam,
Thiruvananthapuram.
2. Deputy Chief Engineer,
Electrical Circle, Kozhikode
Kozhikode. District.
3. The Executive Engineer,
Electrical Division, Balussery,
KSEB Ltd, Kozhikode District.
4. The Assistant Executive Engineer,
Electrical Sub Division, Kunnamangalam,
KSEB Ltd, Kozhikode District,
5. The Assistant Engineer,
Electrical Section, Kattangal,
KSEB Ltd, Kozhikode District,

Forwarded

Sd/-

Chairperson.