

**CONSUMER GRIEVANCE REDRESSAL FORUM
KERALA STATE ELECTRICITY BOARD LTD- SOUTHERN REGION
VYDYUTHI BHAVANAM, KOTTARAKKARA**

Present: 1. Smt.Laila.N.G,Deputy Chief Engineer, Chairperson
2. Sri. Sanjeev Koshy,Executive Engineer, Member II
3. Sri.C.K.Harikumar,Advocate,Member III

Thursday 21st March 2024

OP No.86/2023

Between

Petitioner: Green Fields
Kaippuzhamutta ,
Kumarakom.

And

Respondents: (1) The Special Officer (Revenue)
(2) The Deputy Chief Engineer, Electrical Circle, Kottayam.

ORDER

1. Grievance of the petitioner

The petitioner is running a Four Star Hotel with consumer number LCN 12/5640 under Electrical Section, Thalayazham. Though the licensee have been demanding electricity duty at 10% of the total energy charges the licensee is collecting electricity duty at 10 paise per unit consumed, in accordance with Section 4 & schedule 4 of the Kerala Electricity Duty Act 1963, order of Hon'ble Court dated B/10/2010 in WP(C)30977/2010 filed by the Association of Approved and classified Hotels of Kerala and one of its member hotel. This being so, the differential amount towards electricity duty is being calculated as disputed arrears. In the meantime vide the Kerala Finance Act,2023 was issued and item No.4, Column 3 of 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 17/3/2023. Accordingly since April 2023, the petitioner began paying electricity duty at the rate of 5% of energy charges instead of 10 paise per unit. An arrears/disconnection notice dated 18/11/23 was served to the petitioner to pay an amount of Rs.69,339 as arrears by the respondent and if the amount is not remitted before 4/12/2023, it is stated that the service will be disconnected without further notice. On going through Arrear/Disconnection notice, it is evident that the amount specified in the demand column as well as in the collection column is absolutely wrong. The petitioner is not

aware as to how such amount have been arrived at. Though the petitioner repeatedly conveyed to the licensee 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. As the demand raised by the respondent were unsustainable the petitioner had approached the Hon'ble High Court of Kerala by filing WP(C) No.40425 of 2023. The said case was disposed by the Hon'ble High Court vide judgement dated 04/12/2023 directing the petitioner to approached the Hon'ble Forum. As already submitted the said demand is without any basis and is unsustainable and liable to be set aside. Respondents have not been able to explain so far as to how the demand has arisen. On going through the monthly electricity bills it becomes evident that the respondent have been computing undisputed arrears without any basis, on the guise of delay payment charges, without any fault of the petitioner. Hence it is prayed that the demand for Rs.69,339/- issued by the licensee towards undisputed arrears shall be set aside and may direct the respondents not to demand disputed arrears, computed towards differential amount in electricity duty, till the final disposal of WP © 30977/2010 pending before Hon'ble High Court of Kerala.

2. Version of the respondent

The petitioner is a HT consumer of the licensee with consumer number 1346250007861 under Electrical Section, Thalayazham and the HT Agreement Authority is Electrical Circle, Kottayam. As per HT Agreement executed the licensee is bound to collect current charges including Electricity Duty at 10% of energy charge amount for the quantum of energy consumed. The date of connection of the petitioner is 8/3/2011. The interim order dated 13/10/2010 in WP(C)30977/2010 is not applicable to the petitioner as they were not included in the list of petitioners, which was produced subsequently by Association of Approved and classified Hotels of Kerala on the after effects of aforesaid interim order, Licensee is not bound to extend any reduction in current charge bills (including duty portion) issued by it, unless and otherwise the Tourism Department in Government of Kerala ,pay the short remitted amount as claimed by the petitioner as compensation in advance as per Section 65 of Electricity Act, 2003 or specific Government orders from the Department concerned is required entitling the petitioner to remit 10 paise per unit of energy consumed up to 31.03.2023 and 5% of energy charges with effect from 01/04/2023, in accordance with Electricity Duty Act, 1963 and its subsequent amendments. As there exist no Government orders entitling the petitioner for the said benefits they are bound to remit 10% of the price of energy charges from the date of connection itself.

Though licensee is bound to collect duty amount as per section 4 of the Electricity Act 1963, and its subsequent amendments , however by mistake the short remitted portion of duty was marked as Dispute in licensee's billing software based on aforesaid interim order. An arrear cum Disconnection notice dated 18/11/2023 was send to the petitioner ,due to non-marking of short remitted portion for the period from 11/2022 to 11/2023 amounting Rs.69,339/- as 'Dispute' in the billing software. As far as the licensee is concerned no short remitted amount by the petitioner is to be marked as 'Dispute', since the interim order dated 13/10/2010 in WP© No.30977/2010 is not applicable to the petitioner , as the date of energisation of petitioner is on 08/03/2011, that is after the date of the interim order. The petitioner is not even selected as a beneficiary by the committee envisaged in the Government order dated 11/7/1998, which considered Tourism as an industry. Licensee have no dispute with the petitioner until a writ petition was filed by the petitioner in the Hon.High Court of Kerala vide WP© No.40436/2023. The judgement of this writ petition permits the petitioner to approach the Forum.

The arguments arranged by the petitioner to claim the benefit of interim order are not justifiable and the case may be dismissed devoid of merit and the Hon. Forum may advise the petitioner to avail the benefit of OTS-2023 for the settlement of duty arrears. Even though the OTS period has expired on 31/12/2023 the Hon'ble KSERC has permitted the licensee in extend time period beyond 31/12/23 for small periods (within 31/3/2024) on deserving cases.

3. Analysis and Findings

The hearing of the case was conducted on 30/01/2024. Both petitioner and respondent were present. The Forum heard the matter in detail and views that the case is related to a demand issued by the licensee amounting Rs.69,399/- against electricity duty. The licensee is bound to collect the electricity duty .However by mistake the short remitted portion of duty was marked as dispute in licensee's billing software based on the interim order produced by the petitioner.

4. Decision

Considering the facts and circumstances of the case and after going through the file and other connected documents produced the Forum ordered as follows:-

1. The Forum dismisses the case as the licensee intimated the petitioner that the short remitted duty portion was marked as disputed in licensee's software by mistake
- 2.No order as to cost.

If the petitioner is not satisfied with the above order of this Forum, he is at liberty to prefer appeal before the Electricity Ombudsman within 30 days from the date of receipt of this order.

The address of the Electricity Ombudsman is furnished below.

'The State Electricity Ombudsman, D.H & Foreshore Road Junction, Near Gandhi Square, Ernakulam, Kerala - 682 016. Phone: 0484 2346488'.

Sd/-	Sd/-	Sd/-
C .K.HARIKUMAR	SANJEEV KOSHY	LAILA.N.G
ADVOCATE MEMBER III	EXECUTIVE ENGINEER MEMBER II	DEPUTY CHIEF ENGINEER CHAIRPERSON

Forwarded

Sd/-

CHAIRPERSON
(DEPUTY CHIEF ENGINEER)

No: CGRF/KTR/OP. No.86/2023/72 Dated : 23/03/2024

Delivered to: 1. Green Fields Kaippuzhamutta, Kumarakom.

(2) The Special Officer (Revenue).

Copy to:

1. The Secretary, KSERC, KPFC Bhavanam, Vellayambalam, TVPM.
2. The Deputy Chief Engineer, Electrical Circle, Kottayam.

Office: CGRF(S), Vydyuthi Bhavanam, Kottarakkara, Pin - 691506
Web site: cgrf.kseb.in E- mail: Cgrf.ktra@kseb.in, Phone: 0474 - 2451300