

**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

Wednesday 31st July,2024

OP No.36/2024

Between

Petitioner: Afsal Musaliar.J,
Managing Partner ,
M/s Suprme traders Musaliar Buildings,
Kollam.

And

Respondents: (1) The Special Officer Revenue, Vydyuthi
Bhavanam, Thiruvananthapuram.
(2) The Deputy Chief Engineer, Electrical Circle,
Kollam.

ORDER

1. Grievance of the petitioner

The petitioner is HT consumer with LCN No.4/4393 at Electrical Section cantonment, Kollam. The petitioners tariff has been found changed from HT IVA to HT IV B commercial by the licensee subsequent to suomotu reclassification of tariff, without any change in the purpose of use or connected load. It is found from the demand note that the tariff is changed to HT IV B from 05-2024. At the same time previous monthly bills from 08.2019 were found revised and additional demand issued for Rs.7,61,968/- Also it is noted that as per Regulation 97 of Kerala Electricity Supply Code-2014, if it is found that a consumer has been wrongly classified in a particular category or the purpose of supply as mentioned in the agreement has changed or the consumption of power has exceeded the limit of that category consequent to revision of tariff order, the licensee may suomotu reclassify the consumer under appropriate category.

(2) The consumer shall be informed of the proposed reclassification through a notice with a notice period of thirty days to file objections, if any
(3) The licensee after due consideration of the reply of the consumer, if any, may reclassify the consumer appropriately. (4) Arrear or excess charges shall be determined based on the actual period of reclassification's or a period of twelve months whichever is lesser.

Hence revision of electricity charges with retrospective effect will cause loss to petitioner , as petitioner cannot revise the price of petitioner's already sold products with retrospective effect. However the petitioner can accommodate a prospective tariff revision. The demand issued is unfair and unjustifiable. Also the demand notice issued on 10.06.2024 was received only on 18.06.2024 and was directed to remit the amount on 19.06.2024. Hence the petitioner prays the Forum to withdraw the demand of Rs.7,61,968/- and issue a correct demand as per regulation.

2. Version of the respondent

M/s. Supreme Traders, Musaliar Buildings, Kollam is a live HT consumer (LCN 4/4393) of HT.IV(A) commercial tariff. Service connection holding 157 KW connected load and 175 KVA Contract Demand under the Electrical Section, Cantonment, Kollam. The agreement authority is Deputy Chief Engineer, Electrical Circle, Kollam.

An inspection has been carried out at the premises of M/s. Supreme Traders by the agreement authority, the second respondent as per the direction of Special Officer (Revenue), the first respondent. The inspection team concluded that the premises of the consumer is being used for multipurpose activities such as bakery and supermarket in separate shops on ground floor, restaurant in first floor, baking portion in second floor. Since the connection is being used for the purpose similar to shopping mall, the tariff has been changed to HT.IV(A) to HT.IV(B) Commercial. As per tariff order of KSERC dated 08.07.2019 published on Kerala Government Gazette dated 30.09.2019, the tariff prescribed to the shopping mall is HT.IV(B) Commercial and hence the tariff has been

changed retrospectively with effect from 08.07.2019 relying the tariff order dated 08.07.2019.

As per the Regulation 134(1) of Kerala Electricity Supply Code 2014 "If the licensee establishes either by review or otherwise, that it has undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill.

In this circumstance, bill from 08/2019 to 04/2024 has been revised and short assessment bills have been issued as per Regulation 134(1) of Kerala Electricity Supply Code 2014.

Tariff of the consumer was revised based on tariff order dated 08.07.2019. The functioning of the premises is like a shopping mall. As per the tariff order dated 08.07.2019, the tariff applicable to shopping mall is HT.IV(B) Commercial. The revision has been effected in the regular bills from 05/2024 and hence a revised arrear notice was issued, pertaining to the previous period.

The pricing of electricity levy of all components including interest on belated payments are in accordance with the regulations framed by the Kerala State Electricity Regulatory Commission. The tariff of the consumer was wrongly classified as HT.IV(A) instead of HT.IV(B). The arrear bill has been issued to the consumer invoking Regulation 134(1) of the Kerala Electricity Supply Code 2014 and hence belated interest was not been demanded in the arrear bill. The interest will only be realized on expiry of due date of the arrear bill.

Here the arrear period of actual reclassification exceeds one year. The undercharged bill amount from 08/2019 can only be realized by invoking Regulation 134(1) of the Kerala Electricity Supply Code 2014. Regulation 97(2) is applicable to arrear amounts which falls below one year. Demand notice dated 20.05.2024 was issued to the consumer with due date 19.06.2024. The contention raised by the petitioner regarding non-compliance of the regulation is baseless.

The Hon'ble Commission in a similar case (M/s. Benet Columan & Co. Ltd. - Wrong application of tariff for a period of 66 months) Vide KSERC order dated 15.11.2021 in RP No.3/2021, ordered to pay the amount as per demand for the entire period with applicable interest. The consumer's contention to invoke Regulation 97(4) is aimed only to limit the period of arrear to one year. Demand cum Disconnection Notice was issued as per the Section 56(1) of Electricity Act 2003 and as per the Regulation 138 and 139 of Kerala Electricity Supply Code 2014. The licensee was not resorted the disconnection procedure due to tariff change but only issued an arrear notice. The monthly bills of every High Tension consumer is not directly delivered to their hands. Instead the bill issue to the registered mail-ID of the consumer. Also the information about the bill is sent as SMS to the registered mobile number of the consumer. In the same manner, the disconnection notice of the consumer is sent to the registered mail-ID and SMS is sent to the registered mobile number. The contention of the petitioner is an exaggeration in arguments hiding the real facts. Hence the respondent prays the Forum to dismiss the petition.

3 Analysis and Findings

The hearing was conducted on 25/07/2024 both the petitioner and the respondent were present and heard the matter in detail. On going through the petition and other documents in the file the Forum viewed that the case is with regard to withdrawal of demand notice of Rs.7,61,968/- issued to Sri.Afsal Musaliyar.J by the licensee. The petitioner argued that the demand issued was against to the Suomotu reclassification of tariff by the licensee as per Regulation 97 of Kerala Electricity Supply Code 2014. ie the arrear amount assessed has to be determined based on the actual period of reclassification or a period of twelve months whichever is lesser and a period of thirty days notice has to be given. Here the Regulation is violated. The respondent argued that the arrear notice was arisen due to the tariff revision of Kerala state Electricity Regulatory commission dated 08/07/2019 published Kerala Government Gazatte dated 30/09/2019 the

tariff prescribed to the shopping mall is HT.IV B commercial and the tariff has been changed retrospectively with effect from 08/07/2019.

The Forum viewed that the amount was short collected as per Regulation 134 (1) of Kerala Electricity supply code 2014 which stipulates that If the licensee establishes either by review or otherwise, that it has undercharged the consumer, the licensee may recover the amount so under charged from the consumer by issuing a bill and in such cases at least thirty days shall be given to the consumer for making payment of the bill “ Also the Hon’ble commission in a similar case (M/s Bennet Columan & Co, Ltd, wrong application of tariff for a period of 66 months) Vide KSERC order dated 15/11/2021 in RP No.3/2021, ordered to pay the amount as per demand for the entire period with applicable interest. The consumer’s contention to invoke Regulation 97 (4) is aimed only to limit the period of arrear to one year. Hence the petitioner is liable to pay the bill.

DECISION

Considering the facts and circumstances of the case mentioned above the Forum ordered as follows.

1. The petitioner is liable to pay the bill. The bill issued is legal and sustainable. The respondent is directed to allow suitable installments for making payment if the petitioner desires.
2. No order as to cost.

sd/-

C .K.HARIKUMAR
ADVOCATE
MEMBER III

sd/-

SANJEEV KOSHY
EXECUTIVE ENGINEER
MEMBER II

sd/-

LAILA.N.G
DEPUTY CHIEF ENGINEER
CHAIRPERSON

Forwarded
Sd/-
CHAIRPERSON
(DEPUTY CHIEF ENGINEER)

No: CGRF/KTR/OP No. 36/2024/ 210 Dated :02/08/2024

Delivered to:

1. Afsal Musaliar.J, Managing Partner ,
M/s Suprerme traders Musaliar Buildings, Kollam.
2. The Special Officer Revennue, Vydyuthi Bhavanam,
Thiruvananthapuram.

Copy to:-

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