

## STATE ELECTRICITY OMBUDSMAN

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### REPRESENTATION No: P 106/09

Appellant : M/s Edathala Polymers (P) Ltd,  
North Edathala ,ALUVA 683564

Respondent: Kerala State Electricity Board  
*Represented by*  
The Deputy Chief Engineer  
Electrical Circle  
Perumbavur

### ORDER

M/s Edathala Polymers (P) Ltd, North Edathala ,Aluva submitted a representation on 26.10.2009 seeking the following relief:

1. *Refix the quota of electricity allotted during the restriction period in 2008*
2. *Refund the excess amounts collected with interest at 22%*

Counter statement of the Respondent was obtained and hearing conducted on 14.01.2010.

The Appellant is an HT Industrial Consumer under Electrical Subdivision Kizhakkambalam with contract demand 275KVA.

KSEB introduced restrictions in power consumption by HT/EHT consumers in July 2008. They were allowed to consume upto 75% of the base average consumption from 24.7.2008 and upto 80% from 10.10.2008 onwards. Consumption over and above this level was to be charged at higher rates. Base average was to be calculated taking the 12 months consumption of the period from 1.4.2007 to 31.3.2008 excluding months of 'nil consumption' as per the BO dated 24.07.2008.

The Appellant states that their plant was shutdown for renovation and expansion during the months of 11/07 to 2/08, both included. Even though the plant was shut down the consumption was not 'nil', due to the transformer loss, lighting loads, renovation works etc. The consumption pattern is given below:

MONTH UNITS

Apr-07	57864
May-07	65382
Jun-07	55896
Jul-07	66324
Aug-07	72126
Sep-07	75384
Oct-07	26694
Nov-07	3072
Dec-07	2808
Jan-08	2712
Feb-08	2790
Mar-08	10008
Apr-08	43710
May-08	63210
Jun-08	72552
Jul-08	71208
Aug-08	62022
Sep-08	80202
Oct-08	84858
Nov-08	99810
Dec-08	62076

Consumption during the shut down periods is less than 5% of the normal consumption.

The Maximum Demand recorded are 21KVA or below during these months.

But the KSEB insisted that the base average shall be calculated excluding the months of 'nil consumption' only adhering to the Board Order dated 24.07.2008. The agreement authority Deputy Chief Engineer was not prepared to review the above using the discretionary authority vested on him by the BO dated 07.08.2008.

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

The Board Order dated 07.08.2008 on the matter had authorized the agreement authority to examine 'special circumstances warranting a different treatment' in fixing base average and to fix quota subject to approval by higher authorities.

The Appellant had given written communication on the shut down in 10/2007 onwards as early as on 31.10.2007 to KSEB. They had produced documentary evidence to prove that production was NIL during the period. Why the base average and quota was not revisited is not explained by the Respondent.

On a perusal of the various records produced by the Appellant and on verification of the consumption pattern given above I am convinced that the factory was practically shut down during the period under question. Merely because some units of electricity were recorded in the meter during the shut down period, a consumer should not be penalized by unrealistic quota and exorbitant penal charges. The KSERC in the letter dated 7.8.2008 approving the power restriction modalities proposed by KSEB in July 2008 had clearly stated that 'in case of variation of consumption by any consumer, KSEB shall fix the quota adopting appropriate formula ensuring that the consumer is allocated his eligible quota based on his average consumption.'

Hence the quota of the Appellant shall be re-fixed excluding the months of shutdown and the monthly dues re-assessed accordingly.

The Appellant has pleaded for interest for the excess payments. Since the calculation of base average initially was done by the officials strictly as per the BO dated 24.07.08 and the only deficiency is that they did not use discretionary authority to revise it, I do not think that the question of over charging the consumer as per clause 24(3) of the Supply Code is relevant here. As such the refund, to be done by adjustment of future current charges, shall not carry any interest.

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 base average of the HT consumer M/s Edathala Polymers (P) Ltd (HT 15/3012) shall be refixed excluding the consumption recorded for 11/2007,12/2007, 1/2008 and 2/2008.*
2. *The quota for imposing power restrictions in 2008- 2009 shall be refixed, the connected invoices revised and excess payments adjusted in TEN future bills*
3. *Interest shall not be payable for the excess realizations if the refund adjustments are commenced within 3months from the date of this order.*
4. *No order on costs.*

Dated this the 15<sup>th</sup> day of January 2010 ,

P.PARAMESWARAN  
Electricity Ombudsman

No P 106/09/ 471 / dated 19.1.2010

- Forwarded to:
1. M/s Edathala Polymers (P) Ltd,  
North Edathala ,ALUVA 683564
  2. The Deputy Chief Engineer  
Electrical Circle  
Perumbavur
  3. The Special Officer (Revenue)  
KSE Board , VaidyuthiBhavanam  
PATTOM , THIRUVANANTHAPURAM

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 ,  
Power House Road ERNAKULAM 682018