

## STATE ELECTRICITY OMBUDSMAN

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### REPRESENTATION No: P 111/09

Appellant : Sri M.C.Joseph ,Director ,  
Gramox Paper&Boards Ltd  
Puthuppady  
Muvattupuzha

Respondent: Kerala State Electricity Board  
*Represented by*  
The Special Officer (Revenue)  
KSE Board VaidyuthiBhavanam  
PATTOM Thiruvananthapuram

### ORDER

Sri M.C.Joseph ,Director , Gramox Paper&Boards Ltd , Puthuppady, Muvattupuzha submitted a representation on 8.11.2009 seeking the following relief:

*Direct Special Officer (Revenue) to calculate rebate in MD charges for the closed period from 15.2.1999 to 14.5.1999 as per Board Order applicable for that period*

Counter statement of the Respondent was obtained and hearing conducted on 24.2.2010. The Appellant is an HT industrial consumer. The plant was shut down from 15.2.1999 to 14.5.1999 due to strike of workers. The Chief Engineer (Com&Tariff) KSEB ordered on 02.05.2008 that rebate on demand charges be allowed to the consumer for the period subject to conditions specified in the BO (FM) 1623/05(Plg.Com.4578/04) dated 21.05.2005 and directed Special Officer accordingly. The Appellant was not satisfied with the said order and sought for rebates as per the BO No Plg.Com.PC/802/84/dated 01.01.1985 which was reported to be in force for the rebate calculation during the closure period. The KSEB did not allow his request. The Appellant moved the CGRF but CGRF upheld the order of Chief Engineer.

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

The issue to be decided in this case is the modality of allowing rebates for the closed down period in 1999.

The Appellant argues that the BO dated 21.05.2005 comes into effect only on the date of order, as specified in the order itself. This can not be made applicable to the closed down period in 1999. The KSEB used to allow rebates prior to 21.05.2005 as per the Order dated 1.1.1985. The Appellant is eligible for rebates as per the order dated 1.1.1985. More over the Hon:High Court had directed the KSEB to allow rebate as per this order when another consumer had approached the Court for rebates for a strike period in 2003 as per WP(C) 10181/2006 on 24.9.2008 .

The Respondent contends that the orders of Hon:High Court on WP(C) 10181/2006 is applicable to that particular consumer. The request of the consumer for rebate was dismissed earlier on 23.4.2001 by the Chief Engineer since the consumer had not produced the required documents. The consumer could submit the certificate dated 15.5.1999 from District Labour Officer only by 11/2007. By that time the modalities for allowing rebate was clarified by the Board vide the order dated 21.5.2005. Hence the rebate was allowed as per the BO dated 21.5.2005.

On a perusal of the BO dated 1.1.1985 it is very clear that the order is intended for calculation of MD charges during power cut periods. The order lays down 'the mode of billing for periods of power cut'. The order speaks of computing billing demands during the periods of power cut 'when there is a change in the percentage of energy available'. The order also directs that 'the bills issued to HT and EHT consumers for consumption during the period of power cut may be revised accordingly'. It is clear that the above Board Order can not be made applicable to strike , lock out etc unless it was modified by the Board. How Respondent used to apply this order for situations of strike , lock out etc is not known.

As such I am not in a position to uphold the request of the Appellant to direct the Respondent to apply the BO dated 1.1.1985 for calculation of rebate for the closed down periods in 1999.

The clause 14 of the agreement dated 15.2.1999 executed by the Appellant with KSEB narrates the situations arising out of Strike, Lock out etc. As per the clause 14, if the consumer is prevented from receiving or using electricity due to strike etc, the minimum revenue payable by the consumer for the month shall be reduced for the period, in proportion to the ability of the consumer to take power. The ability shall be reckoned proportional to the energy consumed during the month in question, in relation to the average consumption for six normal months immediately preceding the said period. This is subject to the condition that the consumer shall be bound to pay the minimum annual revenue guaranteed in the schedule to the agreement.

The Appellant shall be eligible for rebate as per this agreement. A careful reading of the BO dated 21.05.2005 reveal that this order clarifies and elaborates the provisions of the Clause 13 b and 14 of the Appellant agreement . Hence I do not find any thing wrong in the Order dated 02.05.2008 of Chief Engineer directing the Respondent to calculate the rebate in accordance with the conditions specified in Bo dated 21.05.2005 since they are not materially different from the clauses of the agreement.

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 Respondent shall calculate the rebate for the closed period from 15.2.1999 to 14.5.1999 in accordance with the Clause 13 b and 14 of the Agreement dated 15.2.1999 executed by the Appellant, taking recourse to the BO dated 21.05.2005 where ever clarifications are needed.*
2. *No order on costs.*

Dated this the 25<sup>th</sup> day of February 2010 ,

P.PARAMESWARAN  
Electricity Ombudsman

No P 111 /09/ 507 / dated 25.02.2010

Forwarded to: 1. Sri M.C.Joseph ,Director ,  
Gramox Paper&Boards Ltd  
Puthuppady , Muvattupuzha

2.The Special Officer (Revenue)  
KSE Board VaidyuthiBhavanam  
PATTOM Thiruvananthapuram

Copy to :

1. The Secretary,  
Kerala State Electricity Regulatory Commission  
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Thiruvananthapuram 695010
2. The Secretary ,KSE Board,  
VaidyuthiBhavanam ,Thiruvananthapuram 695004
3. The Chairman , CGRF,KSE Board ,  
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