

THE STATE ELECTRICITY OMBUDSMAN

Charangattu Bhavan, Building No.38/2829,
Mamangalam-Anchumana Road,
Edappally, Kochi-682 024
www.keralaeo.org Ph: 0484 2346488, Mob: 91 9539913269
Email: ombudsman.electricity@gmail.com

APPEAL PETITION No. P/016/2022
(Present: Bhuvanendraprasad T.R)
Dated: 31st May, 2022

Appellant : Sri. Sujeesh Kumar.S
Secretary,
Muthalamada (East)
Ksheera Vyavasaya Co-operative Society
Palakkad

Respondent : Asstistant Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Kollengode, Palakkad

ORDER

Background of the case:

Muthalamada (East) Ksheera Vyavasaya Co-operative Society (MEKVCS) the appellant is involved in milk reception from farmers, testing, dispatch of milk to milk union, payment and account keeping at Muthalamada Panchayath. It is the one of the oldest milk co-operative societies in Palakkad district registered under Kerala dairy development board. The appellant is a consumer of Electrical Section, Muthalamada engaging in the collection and storing of milk until its sale to processing units in bulk. The appellant has filed the present petition before this forum with regard to classification of Tariff.

The appellant had approached the Consumer Grievance Redressal Forum (CGRF) in OP No.141/19-20 and OP No.21/21-22 complaining exorbitant bill of Rs.4,15,164/-, the short assessment bill of anomaly in the tariff assignment and wrong classification. The co-operative society was initially provided with V B agricultural tariff which was subsequently changed to VII A Commercial tariff on the basis of observation noted by the audit wing of the licensee. The change in

tariff was effected after the officers of KSEB Ltd had inspected the Milk Society assessing the load details. It was found that major load of the society was being used for the milk chilling plant. The Deputy Chief Engineer (TRAC) had also clarified that the tariff applicable is LT- VII (A). Accordingly, vide order dated 30.06.2020 and 30.12.2021, CGRF had directed that the appellant is liable to pay the bills and also mentioned that the appellant is to approach the Hon'ble Kerala State Electricity Regulatory Commission for a final order in the matter as the issue is in connection with fixation of Tariff.

Arguments of the appellant:

The appellant filed the petition against the action of KSEB Ltd re-categorising them from LT V B agricultural tariff to LT VII A commercial tariff stating the reason that major load of the society was being used for the milk chilling plant. It was submitted that the Ksheera Vyavasaya Co-operative Society, Palakkad is a milk society developed by the poor local milk producers. The milk society is a helping hand to a large number of milk producers which is also assistance to cattle farming. The milk society collects and stores milk until its sale to processing units in bulk.

It was submitted that the milk society was included in the Rashtriya Krishi Vikas Yojana and was provided with bulk milk cooler (BMC) which can reduce the temperature upto 4°C which help in cooling of raw milk to sufficiently low temperature so that the growth of micro-organisms present in milk is checked

The milk society was categorized under LT V B agricultural tariff and subsequently was recategorised under LT VII A commercial tariff stating the reason that major load of the society was being used for the milk chilling plant. KSEB Ltd had also issued an exorbitant bill of Rs.4,15,164/-, the short assessment bill of anomaly in the tariff assignment and wrong classification. The appellant submitted that the action of KSEB Ltd was not correct. Aggrieved by this action of KSEB Ltd, they had approached the Consumer Grievance Redressal Forum requesting that the exorbitant bill may be quashed and the milk society may be categorised under LT V B agricultural tariff.

The CGRF ordered that the appellant is liable to pay the bills and also mentioned that the appellant can approach the Hon'ble Kerala State Electricity Regulatory Commission for a final order in the matter as the issue is in connection with fixation of Tariff.

Aggrieved by the order of the CGRF, they have filed the petition before this forum praying that the requesting that the exorbitant bill be quashed and the milk society may be categorised under LT V B agricultural tariff.

Arguments of the respondent:

The respondent KSEB Ltd submitted that as per Section 62 of Electricity Act, 2003, the power of determination of tariff is vested in the State Regulatory Commission and any decision on the Tariff by any other Forum is highly prejudicial and violation of statute. The authority to adjudicate on the matter of fixing tariff is Kerala State Electricity Regulatory Commission (KSERC) and hence it is submitted that the Appeal is not maintainable before this Authority. It was stated that the appellant may be directed to file a petition before the Hon'ble KSERC, the statutory authority adjudicating matters relating to tariff.

It was submitted that the appellant is basically using electricity for chilling/freezing of milk stored in large tank. The respondent highlighted that the tariff applicable to a consumer is decided/assigned as per the Tariff Orders issued by the Commission. As per the Tariff Order dated 08.07.2019, the tariff applicable to milk chilling plants is LT VII A commercial. As per the Tariff Order dated 21.04.2017, the tariff applicable to freezing plants, cold storages and milk chilling plants is LT VII A commercial. Thus the appellant is liable to pay tariff under LT VII A, as the use of electricity is for chilling/freezing of milk. It was further submitted that the appellant is selling the chilled milk to the processing plants of MILMA where the milk is stored and then pasteurized, processed, packed and sold in the retail market. The chilling of milk at societies is aiding to the storing and processing of milk at MILMA plant thereby reducing the power consumption of the processing plants of MILMA. Hence the processing of milk starts from the milk societies where milk is being chilled. Hence the milk society where the milk is

collected, stored, chilled and sold to processing unit in bulk are not eligible for LT V-B agricultural tariff. The Appellant has stated that the function of the Society is selling of milk locally. The appellant has also admitted that they are using Bulk milk cooler that can cool the milk up to 4°C before despatch to dairy. The Codex Alimentarius (Internationally agreed guidelines for national food control systems), the milk is to be cooled to 4°C in order to reduce transportation cost by regulating transportation of the milk on alternate days or once in a day for two collections. Hence the coolers used in the society are not meant for temporary cooling of milk but for prolonged cooling to prevent deterioration and for preserving for longer duration.

The main purpose of the society itself is commercial. The society collects milk from farmers after paying them a rate. Then the society chills the milk to 4°C and sells the milk to MILMA at a higher rate. The MILMA accepts only the chilled milk as it reduces their chilling cost and also to avoid deterioration. The society earns profit during this process of sale to MILMA. It is to be noted that storing of milk and chilling of milk are dealt within two different categories of tariff by the Hon'ble KSERC. Storing, as its name implies, is simply the keeping of milk in large containers (milk cans) for its transportation to MILMA plant. Chilling is the process of cooling the milk to a desirable temperature (mostly 4°C) thereby increasing its shelf-life and then transporting to MILMA plant. Chilling requires large freezers and consumes more energy.

Therefore, the contention raised in the appeal is baseless, unfounded and fictitious and requested that the petition shall be dismissed as the appellant has no *locus standi* to claim a lower tariff.

Analysis and findings:

The hearing of the case was conducted on 26-05-2022 in the office of the State Electricity Ombudsman, Edappally, Kochi. Sri. Jayakumar.C.K represented the appellant in the hearing and Sri. Vipin.N, Nodal Officer (Litigation), Circle Office, Palakkad represented from the respondent's side. Both the representatives of the parties presented their arguments on the petition.

Accordingly, after examining the appeal petition in detail, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents, considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The Ksheera Vyavasaya Co-operative Society, Muthalamada (East), Palakkad is engaging in the collection and storing of milk until its sale to processing units in bulk. The detail of the existing connected load of the appellant is shown below.

Details existing connected load

Equipments	Nos	Load details (Watts)	Total Load
Tube	31	18	558
Plug	2	60	120
Led	36	6	216
Led	3	18	54
Fan	6	60	360
Motor	2	1119	2238
Cooler	2	14400	28800
TOTAL			32346

From the above load details of the appellant, it is clear that the major load is for the two cooler, which is inturn used for the chilling of milk. As per the Tariff Order issued by the Commission, the tariff currently applicable is VII A commercial as it is the tariff applicable for milk chilling plants. Accordingly, it is viewed that the appellant is liable to remit the bill as raised by KSEB Ltd. It is further ordered the appellant may approach the Hon'ble Kerala State Electricity Regulatory Commission as the issue is in connection with fixation of Tariff

Decision: -

- The appellant is liable to remit the bill as raised by KSEB Ltd.
- The tariff currently applicable is VII A as it is the tariff applicable for milk chilling plants.

- c) the appellant may approach the Hon'ble Kerala State Electricity Regulatory Commission as the issue is in connection with fixation of Tariff

Having concluded and decided as above, it is ordered accordingly.

ELECTRICITY OMBUDSMAN

P/016/2022/ 0166 dated 31.07.2022.

Delivered to:

1. Sri. Sujesh Kumar.S, Secretary, Muthalamada (East), Ksheera Vyavasaya Co-operative Society, Palakkad.
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Kollengode.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSEB Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSEB Ltd, Kozikode - 691 506.