

## STATE ELECTRICITY OMBUDSMAN

Thaanath Building Club Junction Pookkattupadi Road Edappally Toll

KOCHI 682024

[www.keralaeo.org](http://www.keralaeo.org)

Phone 04842575488 +919447226341 Email : info@keralaeo.org

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### REPRESENTATION No: P 144/10

Appellant : Sri Hashim.K.A,  
Muhas Ice, Nambyapuram,  
Palluruthy, Cochin

Respondent: Kerala State Electricity Board  
*Represented by*  
The Assistant Executive Engineer  
Electrical Sub Division, Palluruthy , Cochin

### ORDER

Sri Hashim.K.A, Muhas Ice, Nambyapuram, Palluruthy submitted a representation on 25.6.2010 seeking the following relief :

*To set aside the Order dated 18.5.2010 in OP 120/2010 of CGRF Ernakulam*

Counter statements of the Respondent was obtained and hearing conducted on 12.10.2010 and 28.10.2010.

The Appellant is the proprietor Muhas Ice Plluruthy having an LT three phase connection with consumer no.10622 under Electrical section Palluruthy. The activity was manufacturing of ice originally. Later the complainant claims to have started see food processing in the premises. In the same compound there is another sea food unit with LT three phase connection no 14485 with separate door number etc and named as Rabiya Sea Foods.

On 29/10/2009 an inspection was conducted in the above premises by KSEB officials. It was found that the electric supply from Muhas Ice(10622) was being used for running plate freezers and cold storage installed in the premises of Rabiya Sea Foods(14485).There were two plate freezers , two tunnel freezers and cold storage belonging to Rabiya Sea Foods. Out of the above only two tunnel freezers were connected to the service connection of Rabiya Sea Foods(14485).The two plate freezers and cold storage were connected to the service connection of Muhas Ice (10622). The consumer no: 10622 (Muhas Ice) was connected up to the plate freezers and cold storages

alone. Hence the tariff of Consumer no 10622 was changed to LT VII A. The tariff change was made effective from Dec 2007 onwards and KSEB issued a short assessment bill for Rs 10,38,321/-. The Appellant agitated against the tariff change and short assessment bill and approached CGRF against the same. The CGRF upheld the tariff change and short assessment.

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

The contentions/arguments/points raised by the Appellant in the representation, argument note and during the hearing are summarized below:

There are two electrical connection in the building with separate door numbers (20/550) and (20/550A). Muhas Ice plant is functioning in 20/550A. In both the premises sea food processing activity is going on. Hence both the units are eligible for LT IV Tariff . Merely because of the reason that no sea food processing proceedings activity was going on at the time of inspection it cannot be assumed that there is no processing activity at all in the premises. Since there are two building numbers the connection cannot be treated as given to the very same premises.

In order to issue a short assessment bill the respondent have to establish that the Consumer was under charged. The expression 'established' under Section 24(5) of the Supply Code requires something more than mere assertion or satisfaction of the Licensee. In other words there is a duty cast up on the Licensee to prove that the Consumer was undercharged with some positive evidence. The mahazar present only the situation at the time of inspection. It cannot be considered as a material evidence to substantiate the contention that there was no processing activity from the beginning itself. For all practical purposes both the units are separate units. In both premises sea food processing activity is going on and both the said units are having separate facilities for processing activities. The fact that both units are within the same compound wall do not bar the complainant from running two units in the structure separately.

The contentions/arguments/points raised by the Respondent in the counterstatement , argument note and during the hearing are summarized below:

During the inspection power from the Consumer no 10622 was seen used for the freezing units and cold storages alone. There was no separation between the two connections and there were no partitioning. The ammonia gas compressed in the main compressors under each connection can be interchanged by valve operation. The three condenser pump motors and cooling water pumps connected to the consumer number 10622 were being used for compressors working in Consumer no 14485 for cooling purposes.

It was obvious the two LT three phase connection were being used in the premises to avoid conversion to HT service since the total load of the two connections exceed 100 KVA .

Due to the above mode of availing supply, the danger of electric shock to men working consequent to mal-operation, interconnecting etc are also very high. As per Sec 21 Clause 7 F of the Terms & Conditions of Supply of KSEB taking more than one connection in the same premises for the same purpose and tariff or a continuous process resulting in

production of a single finished product is treated as connection obtained by malpractices/misrepresentation.

Actually the service of Con no 10622 was used as an additional facility provided to supply power to plate freezers and cold storages of M/S Rabiya Sea Food. Sea food processing activity was going on in the premises of Rabiya Sea Foods only .The ice factory can not be converted to freezing plant and sea food processing plant as claimed by the Appellant without major modifications . The consumer had not submitted any revised completion report or wiring modification plan at any time. Until the tariff order of 11/2007 both ice factory and freezing plant had been under LT 4 tariff .

There were two front openings in the building: one for material loading and unloading and another for personal movement. There was more than one access between the buildings with door number 550 and 550 A . Both the connection had been registered in the name of Sri Hashim .

#### Discussion and Findings:

1. The KSERC has clarified that sea food processing unit with freezing and cold storage are to classified under LT IV tariff and the freezing and cold storage unit without sea food processing activity are to be classified under LT VII A.
2. In the instant case the sea food processing unit by name Rabiya Sea food with Consumer no.14485 and the unit called Muhas Ice plant with Consumer no.10622 are working in same building owned by the same person . The ammonia pipe lines, lighting circuits, cooling water pipeline etc are being interconnected and interchanged. Even though technically the two connections are claimed to be provided to two door numbers the connections are integrated for all practical purpose. During the inspection , the Power supply from consumer no 10622 Muhas Ice was seen used exclusively for running plate freezers and cold storages, as a supporting facility to the main sea food processing unit .Hence the change of tariff of Consumer no 10622 Muhas Ice to LT VII A was justified and hence upheld .
3. It is highly irregular to have two LT three phase connections with total connected load exceeding 100 KVA in the same premises. Merely providing a suffixed door number shall not satisfy the definition of the premises in the statutes, namely, Section (2 ee ) of the Kerala Electricity Supply Code 2005. The details of the land building, structure or part of it should be specified in the application or agreements prescribed for grant of electric connection. Obviously the land, building , structure and the functions in it have to be unique and different for them to be two premises. The Appellant has not produced any evidence except the tax receipt to show that the two connection have been provided in two separate and distinct premises. Moreover the electrical interconnection of loads, processes etc defeat the very definition and concept of different premises. Hence it has to concluded that availing two electric connections in the same building used for the same purpose by the same person is irregular.
4. The above irregularities have to be rectified by dismantling one LT three phase connection and bringing down the total load within the limit allowable for LT

- three phase connection as per statues or by converting the whole load to HT service as per rules. The Licensee shall be free to take action against the two service connections, with appropriate notice and opportunity for hearing the Consumer, for the purpose of regularizing the deficiencies.
5. The Licensee shall be entitled to apply LT IV tariff to Consumer no 14485 (Rabiya Sea food) and LT VII tariff to the consumer no10622 (Muhas Ice) until the irregularities noted above are rectified.
  6. The Respondent has changed the tariff of the Consumer no 10622 to LTVII A with effect from Dec 2007 .The Appellant has questioned this by pointing out that the Licensee has to establish with positive evidence that sea food processing activity was not going on in the premises of 10622 from 12/2007. The Respondent has pointed out that the above connection 10622 was given for running an ice plant initially. The conversion of the ice plant to sea food processing unit with or without freezing plant and cold storage, as claimed by the Appellant, involves complete rearrangement and rewiring of the installation .The Appellant has not informed the Licensee of the changes executed with appropriate documents. An electrical power consumer is not permitted to execute such modifications without informing the supplier as per the agreement conditions. The Appellant has not claimed he had taken the Licensee in to confidence before converting the ice plant to a different business unit. Hence the Respondent is not willing to accept the claim that the unit Muhas Ice had been working as a sea food processing plant earlier.
  7. The claim of the Appellant he had been running two separate sea food processing units with distinct freezing and cold storage facilities after dismantling the ice plant has not been substantiated. The claim that the same owner was running two sea foods processing units in the same building, with all separate and distinct facilities and functions, do not stand the test of logic and reasoning. The Appellant has not stated the reason for having two separate units with the same functions in the same building. There should be some reasoning for such a way of functioning. The Appellant has failed to explain the same. Instead the Appellant has tried to cast the responsibility of providing positive evidence for under charging on the Respondent. An independent and impartial evaluation of the circumstances and facts lead to the conclusion that the Appellant had been using the power supply for Muhas Ice 10622 as a support facility to Rabiya Sea Foods from the time of dismantling the Ice plant .It is evident that Consumer 10622 was being used to run freezing plants and cold storages of the main sea food processing unit of Rabiya Sea Food . In other words consumer no 10622 had been used as a support facility for running freezing plant and cold storage alone.
  8. Under the above circumstances I conclude and decide that the Licensee shall be eligible to assess and demand the current charges under LT VII tariff from Consumer no. 10622 Muhas Ice from 12/2007 as per the prevailing tariff order.

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 arguments/claims/points raised by the Appellant in support of the reliefs sought for are devoid of merit and hence the reliefs are not allowed and the representation is dismissed*
2. *No order on costs.*

Dated this the 23rd day of November 2010,

P.PARAMESWARAN  
Electricity Ombudsman

No P 144 /2010/ 713 / dated 27.11.2010

Forwarded to: 1.Sri Hashim.K.A,  
Muhas Ice, Nambyapuram,  
Palluruthy, Cochin  
2. The Assistant Executive Engineer  
Electrical Sub Division, Palluruthy , Cochin

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, Ernakulam

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