

STATE ELECTRICITY OMBUDSMAN

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REPRESENTATION No: P 148/10

Appellant : Sri Jayachandran , Director
K Four Extrusions
Nangiarkulangara Harippad
Alappuzha Dt 690593

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

ORDER

Sri Jayachandran , Director,K Four Extrusions,Nangiarkulangara submitted a representation on 13.7.2010 seeking the following relief :

- 1. To call for records so as to verify and ascertain the site inspection report and calculations by the Respondents subsequent to 5/10/2009 for issuance of a revised bill in compliance with the order of CGRF*
- 2. To close the entire proceedings against the complainant in connection with the non-installation of capacitor*

Counter statements of the Respondent was obtained and hearing conducted on 12.11.2010. The Appellant also submitted an argument note on 15.11.2010. In the argument note the Appellant pleaded that the Respondent may be directed to issue short assessment bill in accordance with the order dated 16.4.2010 of then CGRF.

The Appellant is an LT industrial consumer with connected load 108 KW.

The Respondent allege that three motors totaling 25 hp load were found to be working without capacitor since January 2007. The KSEB staff noted the matter in their meter reading register but notices were not issued to the Consumer. Again on 05/10/2009 a premises inspection was conducted by the Sub Engineer and found that capacitors were not installed. The Assistant Engineer gave a written intimation to the Consumer to install capacitors as per specifications. The Consumer furnished details of capacitors installed in the premises on 13/11/2009 . The above three motors had no capacitors. Subsequently Respondent issued an invoice amounting to Rs.2,83,733/-on 21/12/2009 containing among other things the penal charges in respect of in-sufficient capacitors . The penal

charges were demanded from January 2007 to August 2009 and the amount was Rs 2,75,259/-.

The Consumer had been agitating against the above demand. The CGRF directed to revise the penal charges by allowing penalization from 05/10/2009, the date of inspection.

The Appellant argues that the Respondent cannot rely upon the old Indian Electricity Act to raise the demand. So also the demand is unsustainable as per Sec 56(2) of Electricity Act 2003. The Appellant also argue that the Exhibit 3 note from the company, produced by the Respondent, is a piece of paper only and it was never issued as a reply to any notice from the Respondent .The Appellant stressed that KSEB had not given any notice on the insufficiency in capacitors at any stage. The Appellant also argue that there was no insufficiency of capacitors in the pant. The capacitor for the 25 HP motor was installed inside the AC drive panel in the adjacent room. Total Power load in the plant is 90KW and 35 KVAR capacitor is required for this. Taking into account the capacitors available inside the AC drive panel which is connected to the Extruder motor, Feeder motor and Haul off motor circuits in the plant, the consumer had connected up sufficient capacitor compensation.

The Respondent claimed that an inspection had been conducted in 2007 and shortage of compensation had been noted down. Again inspection was conducted in 10/2009 and notice was given to the consumer. The consumer had given a statement showing the details of capacitors in the company note slip with company seal etc on 13.11.2009. If the capacitors were actually available and connected up they could have given the details at that time. Hence their claims are not factual.

Discussion and Findings

1. On analysis of the statements and counterstatements of both sides it can be seen that the dispute has boiled down to *whether sufficient capacitors have been provided* inside the AC drive panel or not. The Appellant claim that they had installed and connected up the required capacitors inside the control panel in an adjacent room. But KSEB officials claim that such a capacitor had never been shown to them at any stage of inspection. I do not under stand why the Appellant had not taken initiative to convince the KSEB officials *if the capacitors are available and connected* up to the motors. Even after KSEB issued penal charges demand in 12/2009 the Appellant had not given a specific written report to KSEB substantiating their claims. During the hearing the Appellant could not produce any evidence to show that they had reported the fact to KSEB in writing and sought an inspection to substantiate the claim. Hence I am not inclined to accept the claim of the Appellant that they had provided and connected up sufficient capacitors in their plant. The fact has to be substantiated only by an inspection by the authorities concerned.
2. The claim of the Respondent that the shortage of capacitor compensation had been found out in January 2007 itself is not supported by any documents except for a noting in their own records. They have not issued any notice or intimation to the consumer in 2007. If the claim was true why penal charges was not realized from

January 2007 onwards is not explained. It is unfair to ask the consumer to pay penal charges from 2007 onwards *based upon a noting in the meter reading register* only . I am inclined to concur with the CGRF that penal charges can be realized from October 2009 onwards only, since the claim of inspection on 05/10/2009 only is supported by documents. The objection of the Appellant against the Exhibit 3 statement dated 13/11/2009 cannot be accepted since the statement, which support the contention of the Respondent, has their company seal and signature.

3. The Appellant shall be liable to pay penal charges for non installation of capacitor/in sufficient compensation with effect from the date of inspection i.e. 05/10/2009 as ordered by the CGRF. The penalization *shall continue* until the Appellant install and connect up sufficient capacitors as per standards or convince the Respondent on the existence of sufficient capacitors in the plant.
4. The Respondent is directed to inspect the premises immediately and verify whether the claim of the Appellant that sufficient capacitors have been installed and connected up is true or not. He shall prepare an appropriate site mahazar of inspection. If the claim of the Appellant is true the penalization shall be stopped from the date of the inspection.
5. The argument of the Appellant on the applicability of Section 56(2) of the Electricity Act 2003 and the format of the invoice showing the Section 24(1) erstwhile Indian Electricity Act become irrelevant since the Respondent has instructions to revise the bill as ordered by the CGRF. The Respondent is also directed to issue a consolidated invoice for the penalization up to date, supported by a calculation statement , in appropriate format for the invoice showing there on the relevant Sections of the current statutes .
6. The request of the Appellant dated 15.11.2010 to arrange one more hearing on the 'question of law involved in the case' is not allowed since I do not find any disputes on the question of law in the matter .More over the pleas of the Appellant in the argument note dated 15.11.2010 to set aside the Bill dated 21.12.2009 and 'to issue a revised bill as directed by the CGRF' are allowed .

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 issue a revised short assessment invoice as directed by the CGRF in their order dated 14.6.2010 on Comp.141/2009-10 and shall be entitled to continue the penalization of the consumer as per the directives given above.*
2. *No order on costs.*

Dated this the 18th day of November 2010 ,

P.PARAMESWARAN
Electricity Ombudsman

No P 148 /2010/707 / dated 18.11.2010

Forwarded to: 1. Sri Jayachandran , Director
K Four Extrusions
Nangiarkulangara Harippad
Alappuzha Dt 690593

2. The Assistant Executive Engineer
Electrical Sub Division, Harippad

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 , Ernakulam

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