

## STATE ELECTRICITY OMBUDSMAN

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### Appeal Petition No: P/351/2013

(Present T P Vivekanandan)

APPELLANT : Smt. Laila Sasikumar  
M/S Saino Polymers (P) Ltd., Vandipetta,  
Thiruvaniyoor, Ernakulum Dt.

RESPONDENT : The Deputy Chief Engineer  
Electrical Circle, KSEB,  
Ernakulum.

### ORDER.

#### BACKGROUND OF THE CASE: -

The appellant is a HT industrial consumer with Cons. No. HTB-12/4472 under Electrical Section, Puthencruz. While being so on 19.11.2012, the consumer was issued with a short assessment bill amounting to Rs.8, 02, 085/- by Special Officer (Revenue), KSEB, Thiruvananthapuram, the penal charges for non-segregation of power and light loads of his industry pertaining to the period of 9/2010 to 10/2012. The aggrieved consumer filed a petition before the CGRF against the short assessment bill issued which was admitted as OP No. CGRF -CR/Comp.110/12-13 and the Forum dismissed the same vide Order dated 25.01.2013. Not satisfied by its decision, the appellant has submitted the Appeal Petition before this Authority.

#### Arguments of the Appellant: -

The appellant has adduced the following arguments in his Appeal Petition

- (1). As per the letter dated 19.11.12 of the Special Officer (Revenue), KSEB, the total connected load in the premises is 288.72 KW and light load is 23.98 KW. The actual connected load is less than 12 KW. Hence segregation of light and power load is not a requirement.
- (2). The impugned short assessment bill issued is prepared without inspection and a site mahazar. The Special Officer (Revenue) has served the same without authority.
- (3). After hearing done on 14/01/2013 and 21/01/2013, the CGRF released the order allowing 20% penalty from November 2012 onwards. The CGRF failed to consider the fact that the lighting load is less than 5% of the total connected load. The Segregation between the light and power load is required only if the light load is more than 5% of the total load. Hence penalization is not required. The KSEB have already conducted inspection and confirmed that the light load is less than 5%. It

was not considered by CGRF. The appellant requests to declare the impugned bill void and null.

During the hearings, the appellant raised the following points;

(a). There is no mahazar to prove that our light load is more than 5% of the total load and as per KSEB's inspection report dated 12.6.2012, the light load is only 12.89 KW out of total 287.8 KW.

Hence there is no excess load.

(b). During 2011-12, as per energy efficiency programme, we have changed the light fittings to CFL.

(c). We have not exceeded 5% consumption for light load use.

(d) In the drawings submitted to KSEB, energy meter is connected to the Light circuits. Energy meter in digital format shown but KSEB failed to take the readings. Hence 20% penalization is not as per Law.

**Arguments of the Respondent: -**

The contentions of the respondent opposing the averments of the respondent are the following. According to the respondents all that are stated by the appellants in its representation are denied as incorrect and false except the facts expressively admitted hereunder.

1). The consumer has executed HT agreement vide Agt. No. ECE/HT-33/06-07/8-11-2006, for a contract demand of 110 KVA and 108.7KW (power load – 93.4KW, light load – 15.3 KW). The consumer has executed supplementary schedule on 21.5.2011 for enhancing the connected load to 303.71KW + 10 KVA (Power load 288.72 KW and light load 23.987 KW).

2). As per the tariff order (Part A, No.9) notified by KSERC (effective from 1-1-2010), in respect of HT (industrial) category, if the connected lighting load is less than or equal to 5% of the connected load for power, the energy for factory lighting can be tapped off from the Power mains without segregation. If the lighting load exceeds this limit, the whole lighting load should be segregated and metered by a sub meter and billed at the tariff prescribed. In such cases the light meter consumption should be charged at extra rate than the normal rate. If the load segregation and sub meter are not provided, the bill amount of the consumer has to be increased by 20%.

3). The consumer's total connected load is 312.711 KW and light load is 23.98 KW. This shows light load is greater than 5% of power load. No segregation of power and light loads were done and also no light load metering was provided in the premises. The appellant was not billed at 20% extra for this non-segregation and non-metering. Based on AG's Audit, Special Officer (Revenue), has billed 20% extra charge for the period from 9/10 onwards and issued an arrear notice for the same.

4). Since the light load of the consumer as per supplementary schedule executed on 21/5/2011 was 23.987 KW, an inspection was conducted in the premises of the consumer on 6/12/12 and the light load is found as 12.089 KW.

5). As per clause 14 (a) of HT agreement, when there is change in connected load, the consumer has to intimate the same to the agreement authority. For regularizing the change in the connected load, revised schedule has to be executed. The consumer has not executed the revised schedule for regularizing their light load as 12.089 KW. Hence the consumer is liable to pay the penalty for non-segregation up to the execution of revised schedule, as the present light load of 12.089 KW will be regularized only from the date of execution of revised schedule.

During the Hearing, the respondent stressed on the following points;

(a). In this case, no site mahazar is required. As per clause 13(b) of Agreement, if the light load exceeds 5% of the power load, the consumer has to segregate the Light load and provide a Sub

meter. In this case the Light load is 8.93% of the total load.

(b) As per clause 14(b), change in connected load was not informed to the Licensee.

(c). As per Inspection done on 6.12.2012, a notice to regularize the load was issued through letter dated 28.12.2012 and the consumer regularized the load on 31.12.2013 only. Hence the consumer is bound to pay the penal charges till 31.12.2013.

Further, it is reported that the Digital Meter provided in the LSB panel for Light loads of the appellant has recorded a Meter reading of 5835 units as on 19.7.2013.

### **Analysis and Findings: -**

The hearing of the case was done on 18.07.2013 and 08.01.2014, in my chamber at Edappally, Ernakulum and the appellant's side was represented by Sri. A.R. Sasikumar and Sri.Shaji Sebastian and the respondent's side by Smt. Pushpa T, Executive Engineer, Electrical Circle, Ernakulam and Sri. C.P.Boban, the Asst. Exe. Engineer, Electrical Sub division, Puthencruz and they have argued the case, mainly on the lines stated above. On examining the Petition filed by the appellant, the Counter statement of the Respondent, perusing the documents filed and considering all the facts and circumstances of the case, this Authority comes to the following Findings and conclusions leading to the decisions thereof.

**1.0.** The respondent's main contention is that, the agreement executed in 5/2011 for additional loads by the consumer, has clearly shown the total connected load as 312.711 KW and the Light Circuits load as 23.98 KW. This fact establishes that the consumer is having more Light Circuit load, i.e. has more than 5% of the total Power load of 288.73 KW, which necessitates the imposition of extra charges on the consumer, for non-segregation of Light load and Power Loads and arranging to wire and metered separately. Further, it is argued that the consumer has regularized her new connected load and Light load only on 31.12.2013 and so the consumer is liable to pay the extra charges till that date.

**1.1.** As per tariff notification dated 27-11-2007, under Part A – EHT and HT Tariff Clause 9 (a) reads; "When the total connected lighting load of the factory is less than or equal to 5% of the connected load for power, it can be tapped off from the power mains without segregation. When the above lighting load exceeds this limit, whole lighting load should be segregated and metered by a sub meter and lighting consumption in excess over 10% of the bulk supply consumption, for power shall be charged at 7 paise extra per KWH for EHT and 25 paise per KWH for HT consumers". As per Clause 9 (c); "If no segregation is made as specified in (a) above the bill amount of the consumer shall be increased for demand and energy charges by 10% and 20% for EHT and HT

consumers respectively”.

**1.2.** In this case, as per agreement executed between KSEB and the appellant on 21.5.2011, the total connected load of her Factory was shown 312.71 KW, i.e. a power load of 288.72KW plus a Light circuit load of 23.987 KW. This means, the light load has exceeded the prescribed 5% limit of the total Power load. But the appellant claims that her actual connected load of Light circuits was less and is around 12 KW only. The appellant was issued the extra Charges bill by KSEB, based on the said schedule to the agreement document, in which the light load was shown as 23.98 KW and the Power load as 288.72 KW. Hence the question to be decided is, whether the consumer is liable to pay any penal charges in this case, for non segregation of Light load and Power load?.

**1.3.** The main argument of the appellant is that the CGRF has failed to consider the fact that the lighting load is less than 5% of the total connected load and the segregation between the light and power load is required only if the light load is more than 5% of the total load. For this, she cites that the Inspection conducted by KSEB on 12.6.2012 has confirmed that her Light circuit load is only 12 KW. She also contents that her Light circuit's actual energy consumption is low (less than 5%) when compared to her total energy consumption.

**1.4.** I have considered the rival contentions in detail. The appellant seriously disputes the quantum of the Light Circuits load connected in his premises. She contents that even though the schematic drawing shows more than 23 KW load, she has connected only less load, which was verified and confirmed by KSEB on 6.12.2012, as just above 12 KW. This fact establishes that the consumer was having less than 5% Light load as on 6.12.2012. Then the question is whether the party was having any excess light load prior to that date or whether the consumer has to be billed as per the Light load of 23 KW, which was submitted to KSEB as the Scheme approved by the Electrical Inspector?

**1.5.** The appellant has raised another argument during hearing that, as per the 'Electric Scheme drawing' submitted to KSEB, energy meters were shown as connected in the light meter circuit and accordingly Digital type Energy meters were provided in all circuits and was accepted by KSEB, but they have not taken the meter readings and hence 20% penalization is not admissible. It is true that the 'Scheme' drawing do contain the energy meters as being provided in every circuit including the Light circuits. But no action was taken by the consumer to calibrate or Test the Meter before its installation. The Board also did not direct the consumer for the same. The energy meters in the 'Electric Scheme drawing' are noted to be the digital type, usually mounted in Panel Boards.

DECISION: -

From the analysis done and the findings and conclusions arrived at, which are detailed above, I take the following decision.

(i). It is seen that the consumer has enhanced her Factory's connected load in 5/2011 and for that purpose, has submitted the details of her connected load in the Light and Power Circuits to KSEB, for their verification and sanction. The Scheme drawing of the Firm's electrical installation, which was approved by the Electrical Inspector, was also submitted to the Board as per rules. From the said details, after issuing notice, the Board could have raised penal bill from that month onwards, if the Light load is more than 5% of the Power Load. But the Board has not preferred any penal bills till 10/2012. There is seen clear lapse and negligence on Board's side to prefer the bills in time. Had the bill been issued in time, the consumer would have known the impact of penalty for non segregation and might have taken appropriate measures. After piling up of penal charges for years together and then raising the arrear bill is not justifiable. Hence he shall be issued one month's extra charges bill when the anomaly is detected and if the party fails to segregate the Load then, the consumer is liable to be penalized at 20% charges as extra.

(ii). But after issuing the arrear bill and arising of dispute, KSEB officials had visited the premises of the appellant on 6.12.2012, and found that the Light load was only 12.089 KW. Though KSEB failed to verify the total connected load existing on that date and also to prepare a site mahazar noting the equipment details and other relevant points found on the inspection date, so as to compare with the office records, the inspection confirmed that the appellant was having the Light circuit load less than 5% of the total load. Hence raising any extra charge bill from 12/2012 onwards is not maintainable.

(iii). The KSEB has left out the specific column provided in the regular monthly invoices, for levy of extra charges, if any, for non segregation of Light loads, for 26 months of 9/2010 to 10/2012 and then has raised the same as an arrear bill. The respondent argues that they are empowered to do so as per clause 37(5) of KSEB T & C of Supply, 2005. This argument cannot be admitted, because had the Licensee raised the extra charges in the subsequent month bill itself, then the consumer would have become aware of it and might have taken steps to avoid the extra charges, by segregating the loads, which is easy. The Clause 37(5) is provided for the Cases of genuine omissions occurred on KSEB's side, so as to recover the electricity charges truly owned by the consumer and that clause should not be used for the piling up of extra

charges and then raising the whole demand as arrears on a latter date. Hence I am of the view that the consumer need be issued only one month's arrear bill to act as notice of the anomaly. Accordingly, I decide that the disputed bill shall be revised to one month of 10/2012 only i.e. the extra charges shall be limited to the month of the origin of the arrear bill issued by KSEB.

(iv). Accordingly the disputed short assessment bill notice dated 19.11.2012 for Rs. 8,02,085/- of SO(R) Thiruvananthapuram is set aside. However, since it is decided to limit the excess bill to one month, the respondent may revise the extra charge bill for the month of 10/2012 only. Further, since it is reported that the Digital type energy Meter provided in the SDB panel for Light Circuit loads of the appellant's Factory has recorded a Meter reading of 5835 units as on 19.7.2013, the respondent is eligible to bill the consumer for this much energy or the energy consumed and recorded on this light Meter till 31.12.2013, if this much units of energy is not accounted earlier. No further light meter billing is allowed after regularization of loads done on 31.12.2013, without any fresh inspection and detection of anomaly, if any.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the consumer is found having merits and is allowed to the extent ordered. The related CGRF order No. CGRF-CR/ Comp. 110/2012-13 dated 25.01.2013 is set aside. No order on costs.

Dated the 31<sup>st</sup> December, 2013,

Electricity Ombudsman.

Ref. No. P/ 351 / 2013/ 2201 /Dated 31-01-2014.

Forwarded to : (1). Smt. Laila Sasikumar  
M/S Saino Polymers (P) Ltd., Vandipetta,  
Thiruvaniyoor, Ernakulum  
: (2). The Deputy Chief Engineer  
Electrical Circle, Power house Buildings, KSEB,  
Kombara, Ernakulum- 682018.

Copt to :- (1).The Secretary, Kerala State Electricity Regulatory Commission,  
KPFChavanam, Vellayambalam, Thiruvananthapuram-10.  
(2).The Secretary, KSEBoard, Vydyuthibhavanam,  
Pattom, Thiruvananthapuram-4  
(3).The Chairperson, Consumer Grievance Redressal Forum,  
KESBoard, Power House, Kombara, Ernakulam-18.