

## STATE ELECTRICITY OMBUDSMAN

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### REPRESENTATION No: P 42/09

*Appellant* : Sri V.P.Prabhakaran  
Managing Partner  
Holy Granites and Bricks Pvt Ltd  
EDAYAR, KANNAVAM , KANNUR Dt

*Respondent*: Kerala State Electricity Board  
*Represented by*  
The Assistant Executive Engineer  
Electrical Sub Division  
KUTHUPARAMBA KANNUR Dt

### ORDER

Sri V.P.Prabhakaran, Managing Partner ,Holy Granites and Bricks Pvt Ltd  
EDAYAR, KANNAVAM , KANNUR Dt submitted a representation on 20.1.2009  
seeking the following relief :

*Direct the Respondent to refund the amount collected from 2002 onwards  
towards the Penalty for non-installation of Capacitors.*

Counter statements of the Respondent was obtained and hearing of both the parties  
conducted on 26.3.2009.

The 3 phase LT Industrial Connection Number NDL2881 with connected load of around  
78KW belonging to the Appellant was inspected by APTS of KSEB in 11/2002 and  
found that required capacitors were not provided for *one 5 HP motor and only 5 KVAR  
compensation was provided for a 12 KVA welding set in stead of the required 9KVAR.*  
The Assistant Engineer charged 30% extra on both FC and CC for the previous 6 months  
and in all the monthly bills since then. The Appellant has claimed that he was made to  
pay extra charges of around Rs 2 Lakhs on this account up to 10/2006. The Respondent  
states that only in 9/2006 the Appellant submitted the necessary test report and there after  
extra charges are not being collected. The CGRF dismissed the Petition by the Consumer  
and upheld the action of the Respondent on 26.8.2008.

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 and the Respondent are summarized below

The Appellant states that he had submitted a test report correcting the fault on 26.11.2002. An amount of Rs 500/- had been paid with it vide receipt number 18/4389. But the Respondent reported that no such Test Report was available in the concerned office and the amount paid was towards processing fee for a new power allocation. According to the Appellant another test report was submitted on 14.11.2004 with an amount of Rs 1000/- towards additional load. On 19.9.2006 another test report was submitted with an amount of Rs 2500/- The Respondent stated that the papers and fees submitted in December 2004 was for additional load of 1.88 KW and the fee was related to it. The test report and other documents submitted on 19.9.2006 clearly stated that *sufficient capacitors were installed* for the motor and the welding set. Hence the penal charges were stopped from 10/2006.

The Appellant stated that current charge was calculated at Rs 4.23 per unit instead of Rs 3.25 in the bills issued to him since the APTS inspection on 13.11.2002. He failed to identify the penal rates for several months and hence could not take follow up corrective action in time. The Respondent informed that the Fixed Charges Energy charges were enhanced by 30% as per the provisions in the Tariff order.

Discussion and Findings:

1. The copies of the documents and the evidences produced by the Appellant to claim that he had produced necessary Test reports to correct the fault in 2002 and 2004 are not seen to be reliable. The contradictions and self defeating nature of these evidences were brought out during the hearing itself. Hence I have to conclude that the Appellant had produced the necessary papers to rectify the defects only by 9/2006.
2. The Tariff Notification of 2002 states as follows on the non-installation of capacitors by Industrial Consumers:  
*Note: 1. For consumers who have not installed ISI approved capacitors of recommended value, the rate applicable shall be higher by 20% (both on fixed and energy charges) than the rates shown above.*  
*2. For welding sets without ISI approved capacitors of recommended value the fixed charge and energy charge shall be higher by 30%.*
3. The penalty envisaged above is obviously related to the non-compensation of reactive power by any consumer. In the case of consumers having large number of Motors and a few welding sets, if one or two equipments are not provided appropriate capacitors, the non-compensation is limited to that fraction of the load. Obviously the penalty for non-compensation has to be in proportion to the defective load only. In the instant case the Respondent has charged penal rates at 30%, which is the highest rate of penalty for the entire load.
4. It is also seen that the Consumer was not given a notice of at least 15 days to rectify the defects. The consumer has stated that he was unaware of any penalty being charged for several months. Even the monthly bills issued during the period do not make any mention that it contains 30% penal charges. This is arbitrary and highly deplorable.

5. There fore in the interest of justice the Respondent has to revise the penal charges in proportion to the non- compensated induction load used by the Consumer. The penal charges at 20% on the pro-rata energy consumption by the 5HP motor and at 30% on the pro-rata energy consumption by the non-compensated portion of welding set load (4/9\*12 KVA) alone shall be realized. Penal charges on the Fixed charges shall also be realized on the above lines. Penal charges on FC and EC shall not be levied for the remaining load.
6. The respondent shall revise all the invoices containing penal charges on this account and refund the excess charges collected from the Appellant in TEN monthly installments by adjustment in the monthly invoices from the month of June 2009 onwards. If the refund is delayed beyond the time limit specified the Appellant shall be eligible for Interest at Twice the Bank Rates from the date of this order.
7. The respondent shall report compliance of this order before 30.6.2009.

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 plea of the Appellant is partially allowed and the refund of excess collected by the Respondent shall be arranged as directed above.*
2. *The Order Number 308028/CGRF/-KKD/2008-09/227 dated 26.8.2008 of CGRF Kozhikode is set aside.*
3. *No order on costs.*

Dated this the 21<sup>st</sup> day of April 2009,

P.PARAMESWARAN  
Electricity Ombudsman

No P 42/09 / 216 / dated 24.4.2009

Forwarded to: : 1 Sri V.P.Prabhakaran  
Managing Partner  
Holy Granites and Bricks Pvt Ltd  
EDAYAR, KANNAVAM , KANNUR Dt  
2. The Assistant Executive Engineer  
Electrical Sub Division  
KUTHUPARAMBA, KANNUR Dt

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 ,  
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